

## **Used Motor Vehicle and Parts Commission Report By ADR Staff**

Chairman John Longacre convened the March 11, 2014, session of the Used Motor Vehicle and Parts Commission. Following roll call and approval of the February meeting minutes, Longacre called on Commission Director John Maile for the Director's report.

Director Maile deferred to Legislative Liaison Curt Roggow for the legislative update. Mr. Roggow noted that three bills were of primary interest to the Commission. Senate Bill 1588 [Dahm] that proposed merging the UMV&PC with the MVC was not heard in committee and is now dead. House Bill 3368 [Echols] is the Vehicle Condition Disclosure Act. The bill resulted from a 2011 Civil Appeals Court case in which the court ruled that a salesman's verbal disclosure negated the "as-is" condition of a vehicle sale. Echols' intent is to provide support for the dealers in non-warranty sales. According to Roggow, Echols will not be pushing the bill this session, but the issue will likely be revisited next year. SB 792, the Car Crusher bill, is currently in a holding pattern and will be promoted at an opportune time. Roggow went on to say that a large number of legislators will not be seeking re-election and the 2015 session of the state legislature will see the largest freshman class of senators and representatives in the state's history.

Chairman Longacre then called on Chief Investigator John Lancaster for his report. Lancaster reported that staff completed 18 inspections during February and handled 27 complaints. Of the complaints, nine were related to title issues; eight to contract issues; five to mechanical and five to miscellaneous issues. The Commission staff held six informal hearings involving Champlin Motors, Quik Credit/Fairway Motors, Ardmore Auto Works, Car King Motorsports, Amana Car Sales, and Legacy Homes. In addition, 17 dealers attended the education program. Lancaster reported that staff continues to pursue wholesale dealer inspections and noted that some of the informal hearings involved wholesale dealers. In addition, when staff finds violations during the course of an inspection, the erring dealer is encouraged to attend the off-site education class when it is in their area.

Applicants for a new license and dealers involved in significant rule violations are required to attend the Commission's education program as a part of acquiring or maintaining a state license. These education sessions are being held in conference room at 2401 NW 23, Oklahoma City. Classes are held on Monday prior to the Commission meeting on the second Tuesday of each month. The sessions run from 9 a.m. to about noon or 1 p.m. You are asked to make reservations so staff can be prepared to accommodate you. Call the Commission at 405-521-3600 to make your reservations.

The Commissioners then addressed two formal hearings and one consent agreement. In the first hearing, the respondent Gary Sorrels of C&G Autos is a wholesale dealer who has consigned vehicles to a retail dealer for sale to the public through a public auction. After hearing

the evidence, Commissioners determined unintentional violations had occurred and assessed a fine of \$50 against Mr. Sorrels.

The Consent Agreement involved Jack Tucker of Tucker Motor Company. Mr. Tucker was the retail dealer consignee associated with Mr. Sorrels. Mr. Tucker admitted to running Mr. Sorrels' vehicles through public auctions and agreed to the \$50 fine assessed by the Commissioners.

In the second hearing, the respondent, Kent Lee of Lee's Used Autos, LP, allegedly sold vehicles from an unlicensed location and rebuilt vehicles without a rebuilder's license over a multi-year period. After hearing the evidence, the Commissioners went into Executive Session. Following return to open meeting, Mr. Lee was assessed a fine of \$4,000 for sales conducted at a non-licensed location and \$1,000 for rebuilding without a license.

Maile then presented the Executive Director's report. With regard to the two-year licensing initiative, Maile noted that Virginia has an optional two-year license structure and that Texas has recently moved to a mandatory two-year license. He suggested that, if the Commission pursues legislation in 2015 for multi-year licensing authority, a fee increase be enacted at that time. Other considerations in the multi-year licensing issue would be the requirement to move to a multi-year bond and to accomplish a state database change in order to handle two-year licenses.

Continuing his report, Maile addressed metal dealer plates. The current rule allows the use of used dealer metal plates for demonstrating, transporting, and normal business use. "Normal business use" is subject to broad interpretation resulting in inconsistent enforcement of the law. Commissioners recommended changing the rule to mirror the Motor Vehicle Commission language exempting new vehicle salespersons from any restrictions on the use of metal dealer plates.

Maile then addressed the floor-plan / consignment arrangements being promoted by an Oklahoma City dealer. Maile reported that he had reviewed the dealership's proposed agreements prior to their implementation. His opinion was that the proposal represented a floor-plan arrangement which was outside the authority of the UMV&PC. Commissioners expressed concern that the arrangement was bordering on sales at an unlicensed location since the title passes directly from the original dealer to the purchaser. The dealer on whose lot the sale actually occurs is never documented on the title or the bill of sale. Commissioners directed staff to again review the agreement and the governing rule's language with the objective of amplifying and clarifying the consignment language.