

1 **AUTOMOBILE FRANCHISE ACT AND MOTOR**
2 **VEHICLE ACT AMENDMENTS**

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Christine R. Fox-Finlinson**

6 AN ACT RELATING TO COMMERCE AND TRADE AND MOTOR VEHICLES;
7 AMENDING THE DEFINITIONS IN THE NEW AUTOMOBILE FRANCHISE ACT AND
8 THE MOTOR VEHICLE ACT RELATING TO FRANCHISEES, FRANCHISORS,
9 RECREATIONAL VEHICLES, MOTOR HOMES, AND TRAILERS; AND MAKING
10 TECHNICAL CHANGES.

11 This act affects sections of Utah Code Annotated 1953 as follows:

12 AMENDS:

13 **13-14-102**, as last amended by Chapter 162, Laws of Utah 1997

14 **13-14-201**, as last amended by Chapter 162, Laws of Utah 1997

15 **41-1a-102**, as last amended by Chapter 360, Laws of Utah 1997

16 **41-3-102**, as last amended by Chapter 7, Laws of Utah 1995

17 REPEALS:

18 **41-20-1**, as last amended by Chapter 293, Laws of Utah 1990

19 **41-20-2**, as last amended by Chapter 293, Laws of Utah 1990

20 **41-20-3**, as last amended by Chapter 293, Laws of Utah 1990

21 **41-20-4**, as last amended by Chapter 313, Laws of Utah 1994

22 **41-20-5**, as last amended by Chapter 241, Laws of Utah 1991

23 *Be it enacted by the Legislature of the state of Utah:*

24 Section 1. Section **13-14-102** is amended to read:

25 **13-14-102. Definitions.**

26 As used in this chapter:

27 (1) "Board" means the Utah Motor Vehicle Franchise Advisory Board created in Section

1 13-14-103.

2 (2) "Dealership" means a site or location in this state:

3 (a) at which a franchisee conducts the business of a new motor vehicle dealer; and

4 (b) that is identified as a new motor vehicle dealer's principal place of business for
5 licensing purposes under Section 41-3-204.

6 (3) "Department" means the Department of Commerce.

7 (4) "Executive director" means the executive director of the Department of Commerce.

8 (5) "Franchise" or "franchise agreement" means a written agreement, for a definite or
9 indefinite period, in which:

10 (a) a person grants to another person a license to use a trade name, trademark, service
11 mark, or related characteristic; and

12 (b) a community of interest exists in the marketing of new motor vehicles, new motor
13 vehicle parts, and services related to the sale or lease of new motor vehicles at wholesale or retail.

14 (6) "Franchisee" means a person [~~to~~] with whom a franchisor has agreed or permitted, in
15 writing or in practice, to purchase, sell, or offer for sale new motor [vehicle-dealer franchise is
16 issued] vehicles manufactured, produced, represented, or distributed by the franchisor.

17 (7) "Franchisor" means a person who [~~grants a~~] has, in writing or in practice, agreed with
18 or permits a franchisee to purchase, sell, or offer for sale new motor [vehicle franchise to another
19 person] vehicles manufactured, produced, represented, or distributed by the franchisor, and
20 includes:

21 (a) the manufacturer or distributor [~~that has issued the franchise~~] of the new motor
22 vehicles;

23 (b) an intermediate distributor; and

24 (c) an agent, officer, or field or area representative of the franchisor.

25 (8) "Line-make" means the motor vehicles that are offered for sale, lease, or distribution
26 under a common name, trademark, service mark, or brand name of the franchisor, or manufacturer
27 of the motor vehicle.

28 (9) "Motor home" means a self-propelled vehicle, primarily designed as a temporary
29 dwelling for travel, recreational, or vacation use.

30 [(9)] (10) "Motor vehicle" means:

31 (a) a travel trailer [~~as defined in Section 41-1a-102~~];

1 (b) a motor vehicle as defined in Section 41-3-102;

2 (c) a semitrailer as defined in Section 41-1a-102; [and]

3 (d) a trailer as defined in Section 41-1a-102; and

4 (e) a recreational vehicle.

5 [(10)] (11) "New motor vehicle" has the same meaning as defined in Section 41-3-102.

6 [(11)] (12) "New motor vehicle dealer" is a person who is licensed under Subsection
7 41-3-202(1)(a).

8 [(12)] (13) "Recreational vehicle" [~~has the same meaning as defined in Section 41-20-1~~
9 ~~excluding the term "truck camper."~~] means a vehicular unit other than a mobile home, primarily
10 designed as a temporary dwelling for travel, recreational, or vacation use, which is either
11 self-propelled ~~h~~ [or is mounted on] ~~h~~ or pulled by another vehicle, including but not limited to a travel
12 trailer, a camping trailer, a motor home, a fifth wheel trailer, and a van.

13 [(13)] (14) (a) "Relevant market area," except [for] with respect to recreational vehicles,
14 means:

15 (i) the county in which a dealership is to be established or relocated; and

16 (ii) the area within a ten aeronautical miles radius from the site of the new or relocated
17 dealership.

18 (b) "Relevant market area," [~~for the sale of~~] with respect to recreational vehicles, means:

19 (i) the county in which the dealership is to be established or relocated; and

20 (ii) the area within a 35 aeronautical miles radius from the site of the new or relocated
21 dealership.

22 [(14)] (15) "Sale, transfer, or assignment" means any disposition of a franchise or an
23 interest in a franchise, with or without consideration, including a bequest, inheritance, gift,
24 exchange, lease, or license.

25 (16) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle
26 without motive power, designed as a temporary dwelling for travel, recreational, or vacation use
27 that does not require a special highway movement permit when drawn by a self-propelled motor
28 vehicle.

29 Section 2. Section **13-14-201** is amended to read:

30 **13-14-201. Prohibited acts by franchisors -- Disclosures.**

31 (1) A franchisor may not in this state:

1 (a) require a franchisee to order or accept delivery of any new motor vehicle, part,
2 accessory, equipment, or other item not otherwise required by law that is not voluntarily ordered
3 by the franchisee;

4 (b) require a franchisee to participate monetarily in any advertising campaign or contest,
5 or purchase any promotional materials, display devices, or display decorations or materials;

6 (c) require a franchisee to change the capital structure of the franchisee's dealership or the
7 means by or through which the franchisee finances the operation of the franchisee's dealership,
8 if the dealership at all times meets reasonable capital standards determined by and applied in a
9 nondiscriminatory manner by the franchisor;

10 (d) require a franchisee to refrain from participating in the management of, investment in,
11 or acquisition of any other line of new motor vehicles or related products, if:

12 (i) the franchisee maintains a reasonable line of credit for each make or line of vehicles;
13 and

14 (ii) complies with reasonable capital and facilities requirements of the franchisor;

15 (e) require a franchisee to prospectively agree to a release, assignment, novation, waiver,
16 or estoppel that would:

17 (i) relieve a franchisor from any liability imposed by this chapter; or

18 (ii) require any controversy between the franchisee and a franchisor to be referred to a third
19 party if the decision by the third party would be binding;

20 (f) require a franchisee to change the location of the principal place of business of the
21 franchisee's dealership or make any substantial alterations to the dealership premises, if the change
22 or alterations would be unreasonable;

23 (g) coerce or attempt to coerce a franchisee to join, contribute to, or affiliate with an
24 advertising association;

25 (h) require, coerce, or attempt to coerce a franchisee to enter into an agreement with the
26 franchisor or do any other act that is unfair or prejudicial to the franchisee, by threatening to cancel
27 a franchise agreement or other contractual agreement or understanding existing between the
28 franchisor and franchisee;

29 (i) adopt, change, establish, modify, or implement a plan or system for the allocation,
30 scheduling, or delivery of new motor vehicles, parts, or accessories to its franchisees so that the
31 plan or system is not fair, reasonable, and equitable;

1 (j) increase the price of any new motor vehicle that the franchisee has ordered from the
2 franchisor and for which there exists at the time of the order a bona fide sale to a retail purchaser
3 if the order was made prior to the franchisee's receipt of an official written price increase
4 notification;

5 (k) fail to indemnify and hold harmless its franchisee against any judgment for damages
6 or settlement approved in writing by the franchisor:

7 (i) including court costs and attorneys' fees arising out of actions, claims, or proceedings
8 including those based on:

9 (A) strict liability;

10 (B) negligence;

11 (C) misrepresentation;

12 (D) express or implied warranty;

13 (E) revocation as described in Section 70A-2-608; or

14 (F) rejection as described in Section 70A-2-602; and

15 (ii) to the extent the judgment or settlement relates to alleged defective or negligent actions
16 by the franchisor;

17 (l) threaten or coerce a franchisee to waive or forbear its right to protest the establishment
18 or relocation of a same line-make franchisee in the relevant market area of the affected franchisee;

19 (m) fail to ship monthly to a franchisee, if ordered by the franchisee, the number of new
20 motor vehicles of each make, series, and model needed by the franchisee to achieve a percentage
21 of total new vehicle sales of each make, series, and model equitably related to the total new vehicle
22 production or importation being achieved nationally at the time of the order by each make, series,
23 and model covered under the franchise agreement;

24 (n) require or otherwise coerce a franchisee to under-utilize the franchisee's existing
25 facilities;

26 (o) fail to include in any franchise agreement the following language or language to the
27 effect that: "If any provision in this agreement contravenes the laws or regulations of any state or
28 other jurisdiction where this agreement is to be performed, or provided for by such laws or
29 regulations, the provision is considered to be modified to conform to such laws or regulations, and
30 all other terms and provisions shall remain in full force.";

31 (p) engage in the distribution, sale, offer for sale, or lease of a new motor vehicle to

1 purchasers who acquire the vehicle in this state except through a franchisee with whom the
2 franchisor has established a written franchise agreement, if the franchisor's trade name, trademark,
3 service mark, or related characteristic is an integral element in the distribution, sale, offer for sale,
4 or lease;

5 (q) engage in the distribution or sale of a recreational vehicle which is manufactured,
6 rented, sold, or offered for sale in this state without being constructed in accordance with the
7 standards set by the American National Standards Institute for recreational vehicles and evidenced
8 by a seal or plate attached to the vehicle; [or]

9 (r) authorize or permit a person to perform warranty service repairs on motor vehicles,
10 except warranty service repairs:

11 (i) by a franchisee with whom the franchisor has entered into a franchise agreement for
12 the sale and service of the franchisor's motor vehicles; or

13 (ii) on owned motor vehicles by a person or government entity who has purchased new
14 motor vehicles pursuant to a franchisor's or manufacturer's fleet discount program; ^h [or] ^h

15 (s) fail to provide a franchisee with a written franchise agreement ^h ;

15a **(t) UNREASONABLY FAIL OR REFUSE TO OFFER TO ITS SAME LINE MAKE FRANCHISED**
15b **DEALERS ALL MODELS MANUFACTURED FOR THAT LINE MAKE, OR REQUIRE A DEALER TO PAY**
15c **ANY EXTRA FEE, REMODEL, RENOVATE, OR RECONDITION THE DEALER'S EXISTING FACILITIES,**
OR
15d **PURCHASE UNREASONABLE ADVERTISING DISPLAYS OR OTHER MATERIALS AS A PREREQUISITE**
15e **TO RECEIVING A MODEL OR SERIES OF VEHICLES, EXCEPT THAT A RECREATIONAL VEHICLE**
15f **MANUFACTURER MAY SPLIT A LINE-MAKE BETWEEN MOTORIZED AND NON-MOTORIZED**
15g **PRODUCTS** ^h .

16 (2) Notwithstanding Subsection (1)(r), a franchisor may authorize or permit a person to
17 perform warranty service repairs on motor vehicles if the warranty services is for a franchisor of
18 recreational vehicles.

19 (3) Subsection (1)(a) does not prevent the franchisor from requiring that a franchisee carry
20 a reasonable inventory of:

21 (a) new motor vehicle models offered for sale by the franchisor; and

22 (b) parts to service the repair of the new motor vehicles.

23 (4) Subsection (1)(d) does not prevent a franchisor from:

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- 24 (a) requiring that a franchisee maintain separate sales personnel or display space; or
25 (b) refusing to permit a combination of new motor vehicle lines, if justified by reasonable
26 business considerations.

27 (5) Upon the written request of any franchisee, a franchisor shall disclose in writing to the
28 franchisee the basis on which new motor vehicles, parts, and accessories are allocated, scheduled,
29 and delivered among the franchisor's dealers of the same line-make.

30 Section 3. Section **41-1a-102** is amended to read:

31 **41-1a-102. Definitions.**

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1 As used in this chapter:

2 (1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

3 (2) "Actual weight" means the actual unladen weight of a vehicle or combination of
4 vehicles as operated and certified to by a weighmaster.

5 (3) "Affidavit of Mobile Home Affixture" means the affidavit of affixture described in
6 Title 59, Chapter 2, Part 6, Mobile Homes.

7 (4) "All-terrain type I vehicle" has the same meaning provided in Section 41-22-2.

8 (5) "All-terrain type II vehicle" has the same meaning provided in Section 41-22-2.

9 (6) "Amateur radio operator" means any person licensed by the Federal Communications
10 Commission to engage in private and experimental two-way radio operation on the amateur band
11 radio frequencies.

12 (7) "Branded title" means a title certificate that is labeled:

13 (a) rebuilt and restored to operation;

14 (b) flooded and restored to operation; or

15 (c) not restored to operation.

16 (8) "Camper" means any structure designed, used, and maintained primarily to be mounted
17 on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling,
18 sleeping place, commercial space, or facilities for human habitation or for camping.

19 (9) "Certificate of title" means a document issued by a jurisdiction to establish a record
20 of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

21 (10) "Certified scale weigh ticket" means a weigh ticket that has been issued by a
22 weighmaster.

23 (11) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or
24 maintained for the transportation of persons or property that operates:

25 (a) as a carrier for hire, compensation, or profit; or

26 (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the
27 owner's commercial enterprise.

28 (12) "Commission" means the State Tax Commission.

29 (13) "Dealer" means a person engaged or licensed to engage in the business of buying,
30 selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on
31 conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place

1 of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

2 (14) "Division" means the Motor Vehicle Division of the commission, created in Section
3 41-1a-106.

4 (15) "Essential parts" means all integral and body parts of a vehicle of a type required to
5 be registered in this state, the removal, alteration, or substitution of which would tend to conceal
6 the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

7 (16) "Farm tractor" means every motor vehicle designed and used primarily as a farm
8 implement for drawing plows, mowing machines, and other implements of husbandry.

9 (17) (a) "Farm truck" means a truck used by the owner or operator of a farm solely for his
10 own use in the transportation of:

11 (i) farm products, including livestock and its products, poultry and its products,
12 floricultural and horticultural products;

13 (ii) farm supplies, including tile, fence, and every other thing or commodity used in
14 agricultural, floricultural, horticultural, livestock, and poultry production; and

15 (iii) livestock, poultry, and other animals and things used for breeding, feeding, or other
16 purposes connected with the operation of a farm.

17 (b) "Farm truck" does not include the operation of trucks by commercial processors of
18 agricultural products.

19 (18) "Fleet" means one or more commercial vehicles.

20 (19) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this
21 state from another state, territory, or country other than in the ordinary course of business by or
22 through a manufacturer or dealer, and not registered in this state.

23 (20) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles,
24 equipped for operation, to which shall be added the maximum load to be carried.

25 (21) "Highway" or "street" means the entire width between property lines of every way
26 or place of whatever nature when any part of it is open to the public, as a matter of right, for
27 purposes of vehicular traffic.

28 (22) (a) "Identification number" means the identifying number assigned by the
29 manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard
30 motor.

31 (b) "Identification number" includes a vehicle identification number, state assigned

1 identification number, hull identification number, and motor serial number.

2 (23) "Implement of husbandry" means every vehicle designed or adapted and used
3 exclusively for an agricultural operation and only incidentally operated or moved upon the
4 highways.

5 (24) (a) "In-state miles" means the total number of miles operated in this state during the
6 preceding year by fleet power units.

7 (b) If fleets are composed entirely of trailers or semitrailers, "in-state miles" means the
8 total number of miles that those vehicles were towed on Utah highways during the preceding year.

9 (25) "Interstate vehicle" means any commercial vehicle operated in more than one state,
10 province, territory, or possession of the United States or foreign country.

11 (26) "Jurisdiction" means a state, district, province, political subdivision, territory, or
12 possession of the United States or any foreign country.

13 (27) "Lienholder" means a person with a security interest in particular property.

14 (28) "Manufactured home" means a structure that is built on a permanent chassis,
15 transportable in one or more sections, and is designed to be used as a dwelling with or without a
16 permanent foundation when connected to required utilities.

17 (29) "Manufacturer" means a person engaged in the business of constructing,
18 manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard
19 motors for the purpose of sale or trade.

20 (30) "Mobile home" means a structure transportable in one or more sections with the
21 plumbing, heating, and electrical systems contained intact within the structure.

22 (31) "Motorboat" has the same meaning as provided in Section 73-18-2.

23 (32) "Motorcycle" means a motor vehicle having a saddle for the use of the rider and
24 designed to travel on not more than three wheels in contact with the ground.

25 (33) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and
26 operation on the highways.

27 (b) "Motor vehicle" does not include an off-highway vehicle.

28 (34) (a) "Nonresident" means a person who is not a resident of this state as defined by
29 Section 41-1a-202, and who does not engage in intrastate business within this state and does not
30 operate in that business any motor vehicle, trailer, or semitrailer within this state.

31 (b) A person who engages in intrastate business within this state and operates in that

1 business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in
2 interstate commerce, maintains any vehicle in this state as the home station of that vehicle is
3 considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

4 (35) "Odometer" means a device for measuring and recording the actual distance a vehicle
5 travels while in operation, but does not include any auxiliary odometer designed to be periodically
6 reset.

7 (36) "Off-highway implement of husbandry" has the same meaning as provided in Section
8 41-22-2.

9 (37) "Off-highway vehicle" has the same meaning as provided in Section 41-22-2.

10 (38) "Operate" means to drive or be in actual physical control of a vehicle or to navigate
11 a vessel.

12 (39) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel
13 supply, used to propel a vessel.

14 (40) (a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel,
15 or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security
16 interest.

17 (b) If a vehicle is the subject of an agreement for the conditional sale or installment sale
18 or mortgage of the vehicle with the right of purchase upon performance of the conditions stated
19 in the agreement and with an immediate right of possession vested in the conditional vendee or
20 mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee,
21 mortgagor, or debtor is considered the owner for the purposes of this chapter.

22 (c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner
23 until the lessee exercises his option to purchase the vehicle.

24 (41) "Personalized license plate" means a license plate that has displayed on it a
25 combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to
26 the vehicle by the division.

27 (42) (a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured,
28 remanufactured, or materially altered to provide an open cargo area.

29 (b) "Pickup truck" includes motor vehicles with the open cargo area covered with a
30 camper, camper shell, tarp, removable top, or similar structure.

31 (43) "Pneumatic tire" means every tire in which compressed air is designed to support the

1 load.

2 (44) "Preceding year" means a period of 12 consecutive months fixed by the division that
3 is within 16 months immediately preceding the commencement of the registration or license year
4 in which proportional registration is sought. The division in fixing the period shall conform it to
5 the terms, conditions, and requirements of any applicable agreement or arrangement for the
6 proportional registration of vehicles.

7 (45) "Public garage" means every building or other place where vehicles or vessels are
8 kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

9 (46) "Reconstructed vehicle" means every vehicle of a type required to be registered in this
10 state that is materially altered from its original construction by the removal, addition, or
11 substitution of essential parts, new or used.

11a **h (47) "RECREATIONAL VEHICLE" HAS THE SAME MEANING AS PROVIDED IN SECTION**
11b **13-14-102. h**

12 **h [(47)] (48) h** "Registration" means a document issued by a jurisdiction that allows operation of
12a a
13 vehicle or vessel on the highways or waters of this state for the time period for which the
14 registration is valid and that is evidence of compliance with the registration requirements of the
15 jurisdiction.

16 **h [(48)] (49) h** (a) "Registration year" means a 12 consecutive month period commencing with the
17 completion of all applicable registration criteria.

18 (b) For administration of a multistate agreement for proportional registration the division
19 may prescribe a different 12-month period.

20 **h [(49)] 50 h** "Repair or replacement" means the restoration of vehicles, vessels, or outboard
21 motors to a sound working condition by substituting any inoperative part of the vehicle, vessel,
22 or outboard motor, or by correcting the inoperative part.

23 **h [(50)] (51) h** "Road tractor" means every motor vehicle designed and used for drawing other
24 vehicles and constructed so it does not carry any load either independently or any part of the
25 weight of a vehicle or load that is drawn.

26 **h [(51)] (52) h** "Sailboat" has the same meaning as provided in Section 73-18-2.

27 **h [(52)] (53) h** "Security interest" means an interest that is reserved or created by a security

28 agreement to secure the payment or performance of an obligation and that is valid against third
29 parties.

30 ~~h~~ [(53)] (54) ~~h~~ "Semitrailer" means every vehicle without motive power designed for carrying
31 persons or property and for being drawn by a motor vehicle and constructed so that some part of

1 its weight and its load rests or is carried by another vehicle.

2 (54) "Special group license plate" means a type of license plate designed for a particular
3 group of people or a license plate authorized and issued by the division in accordance with Section
4 41-1a-408.

5 (55) (a) "Special interest vehicle" means a vehicle used for general transportation purposes
6 and that is:

7 (i) 20 years or older from the current year; or

8 (ii) a make or model of motor vehicle recognized by the division director as having unique
9 interest or historic value.

10 (b) In making his determination under Subsection (55)(a), the division director shall give
11 special consideration to:

12 (i) a make of motor vehicle that is no longer manufactured;

13 (ii) a make or model of motor vehicle produced in limited or token quantities;

14 (iii) a make or model of motor vehicle produced as an experimental vehicle or one
15 designed exclusively for educational purposes or museum display; or

16 (iv) a motor vehicle of any age or make that has not been substantially altered or modified
17 from original specifications of the manufacturer and because of its significance is being collected,
18 preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

19 (56) "Special mobile equipment" means every vehicle not designed or used primarily for
20 the transportation of persons or property and incidentally operated or moved over the highways,
21 including farm tractors, road construction or maintenance machinery, ditch-digging apparatus,
22 well-boring apparatus, and concrete mixers.

23 (57) "Specially constructed vehicle" means every vehicle of a type required to be
24 registered in this state, not originally constructed under a distinctive name, make, model, or type
25 by a generally recognized manufacturer of vehicles, and not materially altered from its original
26 construction.

27 (58) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

28 (59) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions
29 during the preceding year by power units.

30 (b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the
31 number of miles that those vehicles were towed on the highways of all jurisdictions during the

1 preceding year.

2 (60) "Trailer" means a vehicle without motive power designed for carrying persons or
3 property and for being drawn by a motor vehicle and constructed so that no part of its weight rests
4 upon the towing vehicle.

5 (61) "Transferee" means a person to whom the ownership of property is conveyed by sale,
6 gift, or any other means except by the creation of a security interest.

7 (62) "Transferor" means a person who transfers his ownership in property by sale, gift, or
8 any other means except by creation of a security interest.

9 (63) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a [trailer] portable
10 vehicle without motive power, designed as a temporary dwelling for travel, recreational, [and] or
11 vacation use that does not require a special highway movement [permits] permit when drawn by
12 a self-propelled motor vehicle.

13 (64) "Truck tractor" means a motor vehicle designed and used primarily for drawing other
14 vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load
15 that is drawn.

16 (65) "Vehicle" includes a motor vehicle, trailer, travel trailer, semitrailer, off-highway
17 vehicle, manufactured home, and mobile home.

18 (66) "Vessel" has the same meaning as provided in Section 73-18-2.

19 (67) "Vintage vehicle" has the same meaning as provided in Section 41-21-1.

20 (68) "Waters of this state" has the same meaning as provided in Section 73-18-2.

21 (69) "Weighmaster" means a person, association of persons, or corporation permitted to
22 weigh vehicles under this chapter.

23 Section 4. Section **41-3-102** is amended to read:

24 **41-3-102. Definitions.**

25 As used in this chapter:

26 (1) "Administrator" means the motor vehicle enforcement administrator.

27 (2) "Agent" means a person other than a holder of any dealer's or salesperson's license
28 issued under this chapter, who for salary, commission, or compensation of any kind, negotiates
29 in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any other
30 person in any 12-month period.

31 (3) "Auction" means a dealer engaged in the business of auctioning motor vehicles, either

1 owned or consigned, to the general public.

2 (4) "Board" means the advisory board created in Section 41-3-106.

3 (5) "Body shop" means a business engaged in rebuilding, restoring, repairing, or painting
4 primarily the body of motor vehicles damaged by collision or natural disaster.

5 (6) "Commission" means the State Tax Commission.

6 (7) "Crusher" means a person who crushes or shreds motor vehicles subject to registration
7 under Title 41, Chapter 1a, Motor Vehicle Act, to reduce the useable materials and metals to a
8 more compact size for recycling.

9 (8) (a) "Dealer" means a person:

10 (i) whose business in whole or in part involves selling new, used, or new and used motor
11 vehicles; and

12 (ii) who sells, displays for sale, or offers for sale or exchange three or more new or used
13 motor vehicles in any 12-month period.

14 (b) "Dealer" includes a representative or consignee of any dealer.

15 (9) (a) "Dismantler" means a person engaged in the business of dismantling motor vehicles
16 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the resale of parts or for
17 salvage.

18 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any
19 12-month period.

20 (10) "Distributor" means a person who has a franchise from a manufacturer of motor
21 vehicles to distribute motor vehicles within this state and who in whole or in part sells or
22 distributes new motor vehicles to dealers or who maintains distributor representatives.

23 (11) "Distributor branch" means a branch office similarly maintained by a distributor for
24 the same purposes a factory branch is maintained.

25 (12) "Distributor representative" means a person and each officer and employee of the
26 person engaged as a representative of a distributor or distributor branch of motor vehicles to make
27 or promote the sale of the distributor or the distributor branch's motor vehicles, or for supervising
28 or contacting dealers or prospective dealers of the distributor or the distributor branch.

29 (13) "Division" means the Motor Vehicle Enforcement Division created in Section
30 41-3-104.

31 (14) "Factory branch" means a branch office maintained by a person who manufactures

1 or assembles motor vehicles for sale to distributors, motor vehicle dealers, or who directs or
2 supervises the factory branch's representatives.

3 (15) "Factory representative" means a person and each officer and employee of the person
4 engaged as a representative of a manufacturer of motor vehicles or by a factory branch to make
5 or promote the sale of the manufacturer's or factory branch's motor vehicles, or for supervising or
6 contacting the dealers or prospective dealers of the manufacturer or the factory branch.

7 (16) "Franchise" means a contract or agreement between a dealer and a manufacturer of
8 new motor vehicles or its distributor or factory branch by which the dealer is authorized to sell any
9 specified make or makes of new motor vehicles.

10 (17) "Manufacturer" means a person engaged in the business of constructing or assembling
11 new motor vehicles, ownership of which is customarily transferred by a manufacturer's statement
12 or certificate of origin, or a person who constructs three or more new motor vehicles in any
13 12-month period.

14 (18) "Motorcycle" has the same meaning as defined in Section 41-1a-102.

15 (19) (a) "Motor vehicle" means a vehicle intended primarily for use and operation on the
16 highway that is:

17 (i) self-propelled; or

18 (ii) a trailer, travel trailer, or semitrailer.

19 (b) "Motor vehicle" does not include:

20 (i) mobile homes as defined in Section 41-1a-102;

21 (ii) trailers of 750 pounds or less unladen weight; and

22 (iii) farm tractors and other machines and tools used in the production, harvesting, and care
23 of farm products.

24 (20) "New motor vehicle" means a motor vehicle that has never been titled or registered
25 and has been driven less than 7,500 miles, unless the motor vehicle is a trailer, travel trailer, or
26 semitrailer, in which case the mileage limit does not apply.

27 (21) "Pawnbroker" means a person whose business is to lend money on security of
28 personal property deposited with him.

29 (22) "Principal place of business" means a site or location in this state:

30 (a) devoted exclusively to the business for which the dealer, manufacturer, remanufacturer,
31 transporter, dismantler, crusher, or body shop is licensed, and businesses incidental to them;

1 (b) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely indicate
2 the boundary and to admit a definite description with space adequate to permit the display of three
3 or more new, or new and used, or used motor vehicles; and

4 (c) that includes a permanent enclosed building or structure large enough to accommodate
5 the office of the establishment and to provide a safe place to keep the books and other records of
6 the business, at which the principal portion of the business is conducted and the books and records
7 kept and maintained.

8 (23) "Remanufacturer" means a person who reconstructs used motor vehicles subject to
9 registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style and
10 appearance of the motor vehicle or who constructs or assembles motor vehicles from used or new
11 and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more motor
12 vehicles in any 12-month period.

13 (24) "Salesperson" means an individual who for a salary, commission, or compensation
14 of any kind, is employed either directly, indirectly, regularly, or occasionally by any new motor
15 vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to negotiate for the
16 sale, purchase, or exchange of motor vehicles.

17 (25) "Semitrailer" has the same meaning as defined in Section 41-1a-102.

18 (26) "Small trailer" means a trailer that has an unladen weight of more than 750 pounds,
19 but less than 2,000 pounds.

20 (27) "Trailer" has the same meaning as defined in Section 41-1a-102.

21 (28) "Transporter" means a person engaged in the business of transporting motor vehicles
22 as described in Section 41-3-202.

23 (29) "Travel trailer" has the same meaning as defined in Section 41-1a-102.

24 ~~[(29)]~~ (30) "Wholesale motor vehicle auction" means a dealer primarily engaged in the
25 business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by this
26 or any other jurisdiction.

27 **Section 5. Repealer.**

28 This act repeals:

29 **Section 41-20-1, Definitions.**

30 **Section 41-20-2, Department of Commerce to enforce chapter -- Powers.**

31 **Section 41-20-3, Rental, sale, or lease of recreational vehicle -- Evidence of compliance**

1 with standard.

2 Section 41-20-4, Registration of recreational vehicle dealers -- Penalty for
3 nonregistration.

4 Section 41-20-5, Unlawful conduct -- Penalty.

4a h Section 6. Coordination clause.

4b IF THIS BILL AND S.B. 143, RECREATIONAL VEHICLE STANDARDS, BOTH PASS, IT IS THE INTENT

4c OF THE LEGISLATURE THAT THE AMENDMENTS TO SUBSECTION 13-14-102(13) IN THIS BILL

4d SUPERCEDE THE AMENDMENTS TO SUBSECTION 13-14-102(12) IN S.B. 143. h

Legislative Review Note
as of 2-13-98 10:28 AM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel