

Representative Christine R. Fox-Finlinson proposes to substitute the following bill:

RECREATIONAL VEHICLE STANDARDS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: George Mantes

AN ACT RELATING TO MOTOR VEHICLES; AMENDING DEFINITIONS; REPEALING CERTAIN CONSTRUCTION STANDARDS FOR RECREATIONAL VEHICLES, DEALER LICENSING, ENFORCEMENT BY THE DEPARTMENT OF COMMERCE, AND ASSOCIATED PENALTIES; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

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

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

13-20-2, as last amended by Chapter 4, Laws of Utah 1993

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

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

41-3-407, as enacted by Chapter 163, Laws of Utah 1993

REPEALS:

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

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

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

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

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

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

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

13-14-102. Definitions.

As used in this chapter:

1 (1) "Board" means the Utah Motor Vehicle Franchise Advisory Board created in Section
2 13-14-103.

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

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

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

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

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

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

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

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

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

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

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

24 (b) an intermediate distributor; and

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

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

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

31 ~~[(9)]~~ (10) "Motor vehicle" means:

- 1 (a) a travel trailer [~~as defined in Section 41-1a-102~~];
- 2 (b) a motor vehicle as defined in Section 41-3-102;
- 3 (c) a semitrailer as defined in Section 41-1a-102; [~~and~~]
- 4 (d) a trailer as defined in Section 41-1a-102; and
- 5 (e) a recreational vehicle.

6 [~~(10)~~] (11) "New motor vehicle" has the same meaning as defined in Section 41-3-102.

7 [~~(11)~~] (12) "New motor vehicle dealer" is a person who is licensed under Subsection
8 41-3-202(1)(a).

9 [~~(12)~~] (13) "Recreational vehicle" [~~has the same meaning as defined in Section 41-20-1~~
10 ~~excluding the term "truck camper."~~] means a vehicular unit other than a mobile home, primarily
11 designed as a temporary dwelling for travel, recreational, or vacation use, which is either
12 self-propelled or pulled by another vehicle. "Recreational vehicle" includes a travel trailer, a
13 camping trailer, a motor home, a fifth wheel trailer, and a van.

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

- 16 (i) the county in which a dealership is to be established or relocated; and
- 17 (ii) the area within a ten aeronautical miles radius from the site of the new or relocated
18 dealership.

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

- 20 (i) the county in which the dealership is to be established or relocated; and
- 21 (ii) the area within a 35 aeronautical miles radius from the site of the new or relocated
22 dealership.

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

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

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

29b **h** 13-14-201. Prohibited acts by franchisors -- Disclosures.

29c (1) A franchisor may not in this state:

29d (a) require a franchisee to order or accept delivery of any new motor vehicle, part,
29e accessory, equipment, or other item not otherwise required by law that is not voluntarily ordered by
29f the
franchisee;

29g (b) require a franchisee to participate monetarily in any advertising campaign or contest, or
29h purchase any promotional materials, display devices, or display decorations or materials;

29i (c) require a franchisee to change the capital structure of the franchisee's dealership or the
29j means by or through which the franchisee finances the operation of the franchisee's dealership, if the
29k dealership at all times meets reasonable capital standards determined by and applied in a
29l nondiscriminatory manner by the franchisor;

29m (d) require a franchisee to refrain from participating in the management of, investment in, or
29n acquisition of any other line of new motor vehicles or related products, if:

29o (i) the franchisee maintains a reasonable line of credit for each make or line of vehicles; and

29p (ii) complies with reasonable capital and facilities requirements of the franchisor;

29q (e) require a franchisee to prospectively agree to a release, assignment, novation, waiver, or
29r estoppel that would:

29s (i) relieve a franchisor from any liability imposed by this chapter; or

29t (ii) require any controversy between the franchisee and a franchisor to be referred to a third
29u party if the decision by the third party would be binding;

29v (f) require a franchisee to change the location of the principal place of business of the
29w franchisee's dealership or make any substantial alterations to the dealership premises, if the change or
29x alterations would be unreasonable;

29y (g) coerce or attempt to coerce a franchisee to join, contribute to, or affiliate with an
advertising
29z association;

29aa (h) require, coerce, or attempt to coerce a franchisee to enter into an agreement with the
29ab franchisor or do any other act that is unfair or prejudicial to the franchisee, by threatening to cancel a
29ac franchise agreement or other contractual agreement or understanding existing between the franchisor
29ad and franchisee;

29ae (i) adopt, change, establish, modify, or implement a plan or system for the allocation, **h**

29af **h** scheduling, or delivery of new motor vehicles, parts, or accessories to its franchisees so that the plan or
29ag system is not fair, reasonable, and equitable;

29ah (j) increase the price of any new motor vehicle that the franchisee has ordered from the
29ai franchisor and for which there exists at the time of the order a bona fide sale to a retail purchaser if the
29aj order was made prior to the franchisee's receipt of an official written price increase notification;

29ak (k) fail to indemnify and hold harmless its franchisee against any judgment for damages
29al or settlement approved in writing by the franchisor:

29am (i) including court costs and attorneys' fees arising out of actions, claims, or proceedings
29an including those based on:

29ao (A) strict liability;

29ap (B) negligence;

29aq (C) misrepresentation;

29ar (D) express or implied warranty;

29as (E) revocation as described in Section 70A-2-608; or
29at (F) rejection as described in Section 70A-2-602; and

29au (ii) to the extent the judgment or settlement relates to alleged defective or negligent actions by
29av the franchisor;

29aw (l) threaten or coerce a franchisee to waive or forbear its right to protest the establishment or
29ax relocation of a same line-make franchisee in the relevant market area of the affected franchisee;

29ay (m) fail to ship monthly to a franchisee, if ordered by the franchisee, the number of new motor
29az vehicles of each make, series, and model needed by the franchisee to achieve a percentage of total
new
29ba vehicle sales of each make, series, and model equitably related to the total new vehicle production or
29bb importation being achieved nationally at the time of the order by each make, series, and model covered
29bc under the franchise agreement;

29bd (n) require or otherwise coerce a franchisee to under-utilize the franchisee's existing facilities;

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

- 29bj **h** (p) engage in the distribution, sale, offer for sale, or lease of a new motor vehicle to purchasers
- 29bk who acquire the vehicle in this state except through a franchisee with whom the franchisor has
- 29bl established a written franchise agreement, if the franchisor's trade name, trademark, service mark, or
- 29bm related characteristic is an integral element in the distribution, sale, offer for sale, or lease;
- 29bn (q) engage in the distribution or sale of a recreational vehicle which is manufactured, rented,
- 29bo sold, or offered for sale in this state without being constructed in accordance with the standards set by
- 29bp the American National Standards Institute for recreational vehicles and evidenced by a seal or plate
- 29bq attached to the vehicle; [or]
- 29br (r) authorize or permit a person to perform warranty service repairs on motor vehicles,
- 29bs except warranty service repairs:
- 29bt (i) by a franchisee with whom the franchisor has entered into a franchise agreement for the sale
- 29bu and service of the franchisor's motor vehicles; or
- 29bv (ii) on owned motor vehicles by a person or government entity who has purchased new motor
- 29bw vehicles pursuant to a franchisor's or manufacturer's fleet discount program[-];
- 29bx **(s) FAIL TO PROVIDE A FRANCHISEE WITH A WRITTEN FRANCHISE AGREEMENT; OR**
- 29by **(t) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CHAPTER, UNREASONABLY FAIL**
- 29bz **OR REFUSE TO OFFER TO ITS SAME LINE MAKE FRANCHISED DEALERS ALL MODELS**
- 29ca **MANUFACTURED FOR THAT LINE MAKE, OR UNREASONABLY REQUIRE A DEALER TO PAY ANY**
- 29cb **EXTRA FEE, REMODEL, RENOVATE, RECONDITION THE DEALER'S EXISTING FACILITIES, OR**
- 29cc **PURCHASE UNREASONABLE ADVERTISING DISPLAYS OR OTHER MATERIALS AS A PREREQUISITE**
- 29cd **TO RECEIVING A MODEL OR SERIES OF VEHICLES, EXCEPT THAT A RECREATIONAL VEHICLE**
- 29ce **MANUFACTURER MAY SPLIT A LINE MAKE BETWEEN MOTOR HOME AND TRAVEL TRAILER**
- 29cf **PRODUCTS.**
- 29cg (2) Notwithstanding Subsection (1)(r), a franchisor may authorize or permit a person to perform
- 29ch warranty service repairs on motor vehicles if the warranty services is for a franchisor of recreational
- 29ci vehicles.
- 29cj (3) Subsection (1)(a) does not prevent the franchisor from requiring that a franchisee carry a
- 29ck reasonable inventory of:
- 29cl (a) new motor vehicle models offered for sale by the franchisor; and
- 29cm (b) parts to service the repair of the new motor vehicles. **h**

29cn ~~h~~ (4) Subsection (1)(d) does not prevent a franchisor from:

29co (a) requiring that a franchisee maintain separate sales personnel or display space; or

29cp (b) refusing to permit a combination of new motor vehicle lines, if justified by reasonable
29cq **business considerations.**

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

30 Section ~~h~~ [2] 3 ~~h~~ . Section 13-20-2 is amended to read:

31 **13-20-2. Definitions.**

1 As used in this chapter:

2 (1) "Consumer" means an individual who has entered into an agreement or contract for the
3 transfer, lease, or purchase of a new motor vehicle other than for purposes of resale, or sublease,
4 during the duration of the period defined under Section 13-20-5.

5 (2) "Manufacturer" means manufacturer, importer, distributor, or anyone who is named
6 as the warrantor on an express written warranty on a motor vehicle.

7 (3) "Motor home" means a self-propelled vehicular unit, primarily designed as a temporary
8 dwelling for travel, recreational, and vacation use.

9 [~~3~~] (4) (a) "Motor vehicle" includes:

10 (i) a motor home, as defined in this section [~~41-20-1~~], but only the self-propelled vehicle
11 and chassis sold in this state; and

12 (ii) a motor vehicle, as defined in Section 41-1a-102, sold in this state.

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

14 (i) those portions of a motor home designated, used, or maintained primarily as a mobile
15 dwelling, office, or commercial space;

16 (ii) farm tractor, motorcycle, road tractor, or truck tractor as defined in Section 41-1a-102;

17 (iii) mobile home as defined in Section 41-1a-102; or

18 (iv) any motor vehicle with a gross laden weight of over 12,000 pounds.

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

20 **41-1a-102. Definitions.**

21 As used in this chapter:

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

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

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

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

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

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

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

- 2 (a) rebuilt and restored to operation;
- 3 (b) flooded and restored to operation; or
- 4 (c) not restored to operation.

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

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

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

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

- 14 (a) as a carrier for hire, compensation, or profit; or
- 15 (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the
16 owner's commercial enterprise.

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

18 (13) "Dealer" means a person engaged or licensed to engage in the business of buying,
19 selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on
20 conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place
21 of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

22 (14) "Division" means the Motor Vehicle Division of the commission, created in Section
23 41-1a-106.

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

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

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

- 31 (i) farm products, including livestock and its products, poultry and its products,

1 floricultural and horticultural products;

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

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

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

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

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

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

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

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

20 (b) "Identification number" includes a vehicle identification number, state assigned
21 identification number, hull identification number, and motor serial number.

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

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

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

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

31 (26) "Jurisdiction" means a state, district, province, political subdivision, territory, or

1 possession of the United States or any foreign country.

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

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

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

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

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

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

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

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

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

20 (b) A person who engages in intrastate business within this state and operates in that
21 business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in
22 interstate commerce, maintains any vehicle in this state as the home station of that vehicle is
23 considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

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

27 (36) "Off-highway implement of husbandry" has the same meaning as provided in Section
28 41-22-2.

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

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

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

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

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

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

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

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

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

20 (43) "Pneumatic tire" means every tire in which compressed air is designed to support the
21 load.

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

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

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

1 (47) "Recreational vehicle" has the same meaning as provided in Section 13-14-102.

2 [~~(47)~~] (48) "Registration" means a document issued by a jurisdiction that allows operation
3 of a vehicle or vessel on the highways or waters of this state for the time period for which the
4 registration is valid and that is evidence of compliance with the registration requirements of the
5 jurisdiction.

6 [~~(48)~~] (49) (a) "Registration year" means a 12 consecutive month period commencing with
7 the completion of all applicable registration criteria.

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

10 [~~(49)~~] (50) "Repair or replacement" means the restoration of vehicles, vessels, or outboard
11 motors to a sound working condition by substituting any inoperative part of the vehicle, vessel,
12 or outboard motor, or by correcting the inoperative part.

13 [~~(50)~~] (51) "Road tractor" means every motor vehicle designed and used for drawing other
14 vehicles and constructed so it does not carry any load either independently or any part of the
15 weight of a vehicle or load that is drawn.

16 [~~(51)~~] (52) "Sailboat" has the same meaning as provided in Section 73-18-2.

17 [~~(52)~~] (53) "Security interest" means an interest that is reserved or created by a security
18 agreement to secure the payment or performance of an obligation and that is valid against third
19 parties.

20 [~~(53)~~] (54) "Semitrailer" means every vehicle without motive power designed for carrying
21 persons or property and for being drawn by a motor vehicle and constructed so that some part of
22 its weight and its load rests or is carried by another vehicle.

23 [~~(54)~~] (55) "Special group license plate" means a type of license plate designed for a
24 particular group of people or a license plate authorized and issued by the division in accordance
25 with Section 41-1a-408.

26 [~~(55)~~] (56) (a) "Special interest vehicle" means a vehicle used for general transportation
27 purposes and that is:

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

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

31 (b) In making his determination under Subsection (56)(a), the division director shall give

1 special consideration to:

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

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

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

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

9 [(56)] (57) "Special mobile equipment" means every vehicle not designed or used
10 primarily for the transportation of persons or property and incidentally operated or moved over the
11 highways, including farm tractors, road construction or maintenance machinery, ditch-digging
12 apparatus, well-boring apparatus, and concrete mixers.

13 [(57)] (58) "Specially constructed vehicle" means every vehicle of a type required to be
14 registered in this state, not originally constructed under a distinctive name, make, model, or type
15 by a generally recognized manufacturer of vehicles, and not materially altered from its original
16 construction.

17 [(58)] (59) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

18 [(59)] (60) (a) "Total fleet miles" means the total number of miles operated in all
19 jurisdictions during the preceding year by power units.

20 (b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the
21 number of miles that those vehicles were towed on the highways of all jurisdictions during the
22 preceding year.

23 [(60)] (61) "Trailer" means a vehicle without motive power designed for carrying persons
24 or property and for being drawn by a motor vehicle and constructed so that no part of its weight
25 rests upon the towing vehicle.

26 [(61)] (62) "Transferee" means a person to whom the ownership of property is conveyed
27 by sale, gift, or any other means except by the creation of a security interest.

28 [(62)] (63) "Transferor" means a person who transfers his ownership in property by sale,
29 gift, or any other means except by creation of a security interest.

30 [(63)] (64) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a [trailer]
31 portable vehicle without motive power, designed as a temporary dwelling for travel, recreational,

1 [and] or vacation use that does not require a special highway movement [~~permits~~] permit when
2 drawn by a self-propelled motor vehicle.

3 [~~(64)~~] (65) "Truck tractor" means a motor vehicle designed and used primarily for drawing
4 other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and
5 load that is drawn.

6 [~~(65)~~] (66) "Vehicle" includes a motor vehicle, trailer, travel trailer, semitrailer,
7 off-highway vehicle, manufactured home, and mobile home.

8 [~~(66)~~] (67) "Vessel" has the same meaning as provided in Section 73-18-2.

9 [~~(67)~~] (68) "Vintage vehicle" has the same meaning as provided in Section 41-21-1.

10 [~~(68)~~] (69) "Waters of this state" has the same meaning as provided in Section 73-18-2.

11 [~~(69)~~] (70) "Weighmaster" means a person, association of persons, or corporation
12 permitted to weigh vehicles under this chapter.

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

14 **41-3-102. Definitions.**

15 As used in this chapter:

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

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

21 (3) "Auction" means a dealer engaged in the business of auctioning motor vehicles, either
22 owned or consigned, to the general public.

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

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

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

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

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

31 (i) whose business in whole or in part involves selling new, used, or new and used motor

1 vehicles; and

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

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

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

8 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any
9 12-month period.

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

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

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

19 (13) "Division" means the Motor Vehicle Enforcement Division created in Section
20 41-3-104.

21 (14) "Factory branch" means a branch office maintained by a person who manufactures
22 or assembles motor vehicles for sale to distributors, motor vehicle dealers, or who directs or
23 supervises the factory branch's representatives.

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

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

31 (17) "Manufacturer" means a person engaged in the business of constructing or assembling

1 new motor vehicles, ownership of which is customarily transferred by a manufacturer's statement
2 or certificate of origin, or a person who constructs three or more new motor vehicles in any
3 12-month period.

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

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

7 (i) self-propelled; or

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

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

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

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

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

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

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

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

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

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

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

29 (23) "Remanufacturer" means a person who reconstructs used motor vehicles subject to
30 registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style and
31 appearance of the motor vehicle or who constructs or assembles motor vehicles from used or new

1 and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more motor
2 vehicles in any 12-month period.

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

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

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

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

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

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

14 (29) "Wholesale motor vehicle auction" means a dealer primarily engaged in the business
15 of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by this or any
16 other jurisdiction.

17 Section 5. Section **41-3-407** is amended to read:

18 **41-3-407. Definitions.**

19 As used in Sections 41-3-406 through 41-3-414:

20 (1) "Buyback vehicle" means a motor vehicle with an alleged nonconformity that has been
21 replaced or repurchased by a manufacturer as the result of a court judgment, arbitration, or any
22 voluntary agreement entered into between the manufacturer or its agent and a consumer.

23 (2) "Consumer" means an individual who has entered into an agreement or contract for the
24 transfer, lease, or purchase of a new motor vehicle other than for the purposes of resale, or
25 sublease, during the duration of the period defined under Section 13-20-5.

26 (3) "Manufacturer" means any manufacturer, importer, distributor, or anyone who is
27 named as the warrantor on an express written warranty on a motor vehicle.

28 (4) (a) "Motor vehicle" includes:

29 (i) a motor home, as defined in Section ~~[41-20-1]~~ 13-20-2, but only the self-propelled
30 vehicle and chassis; and

31 (ii) a motor vehicle, as defined in Section 41-1a-102.

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

2 (i) those portions of a motor home designated, used, or maintained primarily as a mobile
3 dwelling, office, or commercial space;

4 (ii) farm tractor, motorcycle, road tractor, or truck tractor as defined in Section 41-1a-102;

5 (iii) mobile home as defined in Section 41-1a-102; or

6 (iv) any motor vehicle with a gross laden weight of over 12,000 pounds.

7 (5) "Nonconforming vehicle" means a buyback vehicle that has been investigated and
8 evaluated pursuant to Title 13, Chapter 20, New Motor Vehicles Warranties Act, or a similar law
9 of another state or federal government.

10 (6) (a) "Nonconformity" means a defect, malfunction, or condition that fails to conform
11 to the express warranty, or substantially impairs the use, safety, or value of a motor vehicle.

12 (b) "Nonconformity" does not include a defect, malfunction, or condition that results from
13 an accident, abuse, neglect, modification, or alteration of a motor vehicle by a person other than
14 the manufacturer, its authorized agent, or a dealer.

15 (7) "Seller" means any person selling, auctioning, leasing, or exchanging a motor vehicle.

16 (8) "Violation" means each failure to comply with the obligations imposed by Sections
17 41-3-406 through 41-3-413. In the case of multiple failures to comply resulting from a single
18 transaction, each failure to comply is a separate violation.

19 **Section 6. Repealer.**

20 This act repeals:

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

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

23 **Section 41-20-3, Department of Commerce to enforce chapter -- Powers.**

24 **Section 41-20-4, Department of Commerce to enforce chapter -- Powers.**

25 **Section 41-20-5, Department of Commerce to enforce chapter -- Powers.**