

**MOTOR VEHICLE BUSINESS REGULATIONS**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: Greg J. Curtis**

AN ACT RELATING TO MOTOR VEHICLES; AMENDING DEALER LICENSING PROVISIONS; REQUIRING CERTAIN EDUCATION FOR DEALERS; AMENDING DEALER BOND PROVISIONS; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

**41-3-201**, as renumbered and amended by Chapter 234, Laws of Utah 1992

**41-3-205**, as last amended by Chapter 165, Laws of Utah 1998

**41-3-206**, as enacted by Chapter 234, Laws of Utah 1992

**41-3-404**, as renumbered and amended by Chapter 234, Laws of Utah 1992

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

Section 1. Section **41-3-201** is amended to read:

**41-3-201. Licenses required -- Restitution -- Education.**

(1) As used in this section, "new applicant" means a person who is applying for a license that the person has not been issued during the previous licensing year.

~~[(1)]~~ (2) A person may not act as any of the following without having procured a license issued by the administrator: a dealer, salesperson, manufacturer, transporter, dismantler, distributor, factory branch and representative, distributor branch and representative, crusher, remanufacturer, and body shop.

~~[(2)]~~ (3) A supplemental license shall be secured by a dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop for each additional place of business maintained by him.

(4) A person who has been convicted of any law relating to motor vehicle commerce or motor vehicle fraud may not be issued a license unless full restitution regarding those convictions has been made.

(5) (a) Beginning July 1, 1999, the division may not issue a license to a new applicant for

a new or used motor vehicle dealer license unless the new applicant completes an eight-hour orientation class approved by the division that includes education on motor vehicle laws and rules.

(b) The approved costs of the orientation class shall be paid by the new applicant.

(c) The class shall be completed by the new applicant and the applicant's partners, corporate officers, bond indemnitors, and managers.

(d) The division shall approve:

(i) providers of the orientation class; and

(ii) costs of the orientation class.

Section 2. Section **41-3-205** is amended to read:

**41-3-205. Licenses -- Bonds required -- Maximum liability -- Action against surety --**

**Loss of bond.**

(1) (a) Before a dealer's, special equipment dealer's, crusher's, or body shop's license is issued the applicant shall file with the administrator a corporate surety bond in the amount of:

(i) [~~\$20,000~~] \$50,000 for a motor vehicle dealer's license [~~or~~];

(ii) \$20,000 for a special equipment dealer's license;

~~[(ii)]~~ (iii) \$1,000 for a motorcycle or small trailer dealer's or crusher's license; or

~~[(iii)]~~ (iv) \$10,000 for a body shop's license.

(b) The corporate surety shall be licensed to do business within the state and have a rating of at least B+ by the A.M. Best Company.

(c) The form of the bond:

(i) shall be approved by the attorney general;

(ii) shall be conditioned upon the applicant's conducting business as a dealer without fraud [~~or~~], fraudulent representation [~~and~~], or without violating [this chapter] Section 41-3-210; and

(iii) may be continuous in form.

(d) The total aggregate [~~annual~~] liability on the bond to all persons making claims, regardless of the number of claimants or the number of years a bond remains in force, may not exceed the amount of the bond.

(2) A cause of action under Subsection (1) may not be maintained against a surety unless:

(a) a claim is filed in writing with the administrator within one year after the cause of action arose; and

(b) the action is commenced within two years after the claim was filed with the administrator.

(3) A person making a claim on the bond shall be awarded attorneys' fees in cases successfully prosecuted or settled against the surety or principal if the bond has not been depleted.

(4) (a) (i) If a dealer, body shop, or crusher loses possession of the bond required by this chapter, the dealer, body shop, or crusher license is automatically suspended.

(ii) All licenses, pocket cards, temporary permits, and special plates issued to the licensee shall be immediately returned to the administrator.

(b) A dealer, body shop, or crusher may not continue to use or permit to be used licenses, pocket cards, temporary permits, or special plates until the required bond is on file with the administrator and the license has been reinstated.

(5) A representative or consignee of a dealer is not required to file a bond if the dealer for whom the representative or consignee acts fully complies with the provisions of this chapter.

Section 3. Section **41-3-206** is amended to read:

**41-3-206. Duration of licenses -- Expiration date -- Renewal.**

(1) Except as provided in Subsection (2), each license issued under this chapter expires on June 30 of each year and may be renewed upon application and payment of a fee required under Section 41-3-601, if the license has not been suspended or revoked.

(2) A motor vehicle salesperson's license expires as provided under Subsection (1) or when the salesperson terminates employment with the dealer with whom he is licensed, whichever comes first.

(3) (a) Beginning July 1, 1999, the division may not renew a license for a new or used motor vehicle dealer's license unless the renewal applicant completes a three-hour class approved by the division that includes education on new motor vehicle laws and rules.

(b) The approved costs of the class shall be paid by the renewal applicant.

(c) The class shall be completed by the renewal applicant or any designated representative

of the renewal applicant dealer.

(d) The division shall approve:

(i) the class providers; and

(ii) costs of the class.

Section 4. Section **41-3-404** is amended to read:

**41-3-404. Right of action against dealer, salesperson, crusher, body shop, or surety on bond.**

(1) A person may maintain an action against a dealer, crusher, or body shop on the corporate surety bond if:

(a) the person suffers a loss or damage because of:

(i) fraud;

(ii) fraudulent representation; or

(iii) a violation of[:] Section 41-3-210; and

~~[(A) this chapter;]~~

~~[(B) any law respecting commerce in motor vehicles; or]~~

~~[(C) a rule respecting commerce in motor vehicles made by a licensing or regulating authority; and]~~

(b) the loss or damage results from the action of:

(i) a licensed dealer;

(ii) a licensed dealer's salesperson acting on behalf of the dealer or within the scope of the salesperson's employment;

(iii) a licensed crusher; or

(iv) a body shop.

(2) Successive recovery against a surety on a bond is permitted, but the total aggregate [annual] liability on the bond to all persons making claims, regardless of the number of claimants or the number of years a bond remains in force, may not exceed the amount of the bond.

(3) A cause of action may not be maintained against any surety under any bond required under this chapter except as provided in Section 41-3-205.

