

1 **MOTOR VEHICLE BUSINESS REGULATION -**
2 **PENALTIES**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: David Clark**

6 **This act modifies the Motor Vehicles Code by changing the civil penalty for an**
7 **advertising violation from a Level II penalty to a Level III penalty. This act takes effect**
8 **July 1, 2003.**

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

10 AMENDS:

11 **41-3-702**, as last amended by Chapter 249, Laws of Utah 2000

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

13 Section 1. Section **41-3-702** is amended to read:

14 **41-3-702. Civil penalty for violation.**

15 (1) The following are civil violations under this chapter and are in addition to criminal
16 violations under this chapter:

17 (a) Level I:

18 (i) failure to display business license;

19 (ii) failure to surrender license of salesperson because of termination, suspension, or
20 revocation;

21 (iii) failure to maintain a separation from nonrelated motor vehicle businesses at
22 licensed locations;

23 (iv) issuing a temporary permit improperly;

24 (v) failure to maintain records;

25 (vi) selling a new motor vehicle to a nonfranchised dealer or leasing company without
26 licensing the motor vehicle;

27 (vii) special plate violation; and



- 28 (viii) failure to maintain a sign at principal place of business.
- 29 (b) Level II:
- 30 (i) failure to report sale;
- 31 [~~(ii) advertising violation;~~]
- 32 [~~(iii)~~] (ii) dismantling without a permit;
- 33 [~~(iv)~~] (iii) manufacturing without meeting construction or vehicle identification
- 34 number standards;
- 35 [~~(v)~~] (iv) withholding customer license plates; or
- 36 [~~(vi)~~] (v) selling a motor vehicle on consecutive days of Saturday and Sunday.
- 37 (c) Level III:
- 38 (i) operating without a principal place of business;
- 39 (ii) selling a new motor vehicle without holding the franchise;
- 40 (iii) crushing a motor vehicle without proper evidence of ownership;
- 41 (iv) selling from an unlicensed location;
- 42 (v) altering a temporary permit;
- 43 (vi) refusal to furnish copies of records; [~~and~~]
- 44 (vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles[-]; and
- 45 (viii) advertising violation.
- 46 (2) (a) The schedule of civil penalties for violations of Subsection (1) is:
- 47 (i) Level I: \$25 for the first offense, \$100 for the second offense, and \$250 for the third
- 48 and subsequent offenses;
- 49 (ii) Level II: \$100 for the first offense, \$250 for the second offense, and \$1,000 for the
- 50 third and subsequent offenses; and
- 51 (iii) Level III: \$250 for the first offense, \$1,000 for the second offense, and \$5,000 for
- 52 the third and subsequent offenses.
- 53 (b) When determining under this section if an offense is a second or subsequent
- 54 offense, only prior offenses committed within the 12 months prior to the commission of the
- 55 current offense may be considered.
- 56 (3) The following are civil violations in addition to criminal violations under Section
- 57 41-1a-1008:
- 58 (a) knowingly selling a salvage vehicle, as defined in Section 41-1a-1001, without

59 disclosing that the salvage vehicle has been repaired or rebuilt;

60 (b) knowingly making a false statement on a vehicle damage disclosure statement, as
61 defined in Section 41-1a-1001; or

62 (c) fraudulently certifying that a damaged motor vehicle is entitled to an unbranded
63 title, as defined in Section 41-1a-1001, when it is not.

64 (4) The civil penalty for a violation under Subsection (3) is:

65 (a) not less than \$1,000, or treble the actual damages caused by the person, whichever
66 is greater; and

67 (b) reasonable attorneys' fees and costs of the action.

68 (5) A civil action may be maintained by a purchaser or by the administrator.

69 Section 2. **Effective date.**

70 This act takes effect on July 1, 2003.

Legislative Review Note

as of 2-5-03 9:22 AM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0258

Motor Vehicle Business Regulation-Penalties

10-Feb-03

11:33 AM

State Impact

This bill would generate an additional \$3,000 to the General Fund from fines.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
General Fund	\$0	\$0	\$3,000	\$3,000
TOTAL	\$0	\$0	\$3,000	\$3,000

Individual and Business Impact

Advertising violator will pay larger fines.

Office of the Legislative Fiscal Analyst