

28 either owned or consigned, to the general public.

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

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

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

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

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

37 (i) whose business in whole or in part involves selling new, used, or new and used
38 motor vehicles or off-highway vehicles; and

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

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

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

45 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any
46 12-month period.

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

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

52 (12) "Distributor representative" means a person and each officer and employee of the
53 person engaged as a representative of a distributor or distributor branch of motor vehicles to
54 make or promote the sale of the distributor or the distributor branch's motor vehicles, or for
55 supervising or contacting dealers or prospective dealers of the distributor or the distributor
56 branch.

57 (13) "Division" means the Motor Vehicle Enforcement Division created in Section
58 41-3-104.

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

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

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

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

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

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

77 (i) self-propelled; or

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

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

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

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

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

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

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

88 [~~(21)~~] (22) "Pawnbroker" means a person whose business is to lend money on security
89 of personal property deposited with him.

90 [~~(22)~~] (23) "Principal place of business" means a site or location in this state:

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

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

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

101 [~~(23)~~] (24) "Remanufacturer" means a person who reconstructs used motor vehicles
102 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style
103 and appearance of the motor vehicle or who constructs or assembles motor vehicles from used
104 or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or
105 more motor vehicles in any 12-month period.

106 [~~(24)~~] (25) "Salesperson" means an individual who for a salary, commission, or
107 compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by
108 any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to
109 negotiate for the sale, purchase, or exchange of motor vehicles.

110 [~~(25)~~] (26) "Semitrailer" has the same meaning as defined in Section 41-1a-102.

111 [~~(26)~~] (27) "Small trailer" means a trailer that has an unladen weight of more than 750
112 pounds, but less than 2,000 pounds.

113 [~~(27)~~] (28) "Special equipment" includes a truck mounted crane, cherry picker, material
114 lift, post hole digger, and a utility or service body.

115 [~~(28)~~] (29) "Special equipment dealer" means a new or new and used motor vehicle
116 dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle
117 weight of 12,000 or more pounds and installing special equipment on the incomplete motor
118 vehicle.

119 [~~(29)~~] (30) "Trailer" has the same meaning as defined in Section 41-1a-102.

120 [~~(30)~~] (31) "Transporter" means a person engaged in the business of transporting motor

121 vehicles as described in Section 41-3-202.

122 [~~(31)~~] (32) "Travel trailer" has the same meaning as provided in Section 41-1a-102.

123 [~~(32)~~] (33) "Used motor vehicle" means a vehicle that has been titled and registered to
124 a purchaser other than a dealer or has been driven 7,500 or more miles, unless the vehicle is a
125 trailer, or semitrailer, in which case the mileage limit does not apply.

126 [~~(33)~~] (34) "Wholesale motor vehicle auction" means a dealer primarily engaged in the
127 business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by
128 this or any other jurisdiction.

129 Section 2. Section **41-3-202** is amended to read:

130 **41-3-202. Licenses -- Classes and scope.**

131 (1) A new motor vehicle dealer's license permits the licensee to:

132 (a) offer for sale, sell, or exchange new motor vehicles if the licensee possesses a
133 franchise from the manufacturer of the motor vehicle offered for sale, sold, or exchanged by the
134 licensee;

135 (b) offer for sale, sell, or exchange used motor vehicles;

136 (c) operate as a body shop; and

137 (d) dismantle motor vehicles.

138 (2) A used motor vehicle dealer's license permits the licensee to:

139 (a) offer for sale, sell, or exchange used motor vehicles;

140 (b) operate as a body shop; and

141 (c) dismantle motor vehicles.

142 (3) A new motorcycle, off-highway vehicle, and small trailer dealer's license permits
143 the licensee to:

144 (a) offer for sale, sell, or exchange new motorcycles, off-highway vehicles, or small
145 trailers if the licensee possesses a franchise from the manufacturer of the motorcycle,
146 off-highway vehicle, or small trailer offered for sale, sold, or exchanged by the licensee;

147 (b) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, or small
148 trailers; and

149 (c) dismantle motorcycles, off-highway vehicles, or small trailers.

150 (4) A used motorcycle, off-highway vehicle, and small trailer dealer's license permits
151 the licensee to:

152 (a) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, and small
153 trailers; and

154 (b) dismantle motorcycles, off-highway vehicles, or small trailers.

155 (5) A salesperson's license permits the licensee to act as a motor vehicle salesperson
156 and is valid for employment with only one dealer at a time.

157 (6) (a) A manufacturer's license permits the licensee to construct or assemble motor
158 vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, at an established
159 place of business and to remanufacture motor vehicles.

160 (b) Under rules made by the administrator, the licensee may issue and install vehicle
161 identification numbers on manufactured motor vehicles.

162 (c) The licensee may franchise and appoint dealers to sell manufactured motor vehicles
163 by notifying the division of the franchise or appointment.

164 (7) A transporter's license permits the licensee to transport or deliver motor vehicles
165 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, from a manufacturing,
166 assembling, or distributing point or from a dealer, to dealers, distributors, or sales agents of a
167 manufacturer or remanufacturer, to or from detail or repair shops, and to financial institutions
168 or places of storage from points of repossession.

169 (8) A dismantler's license permits the licensee to dismantle motor vehicles subject to
170 registration under Title 41, Chapter 1a, Motor Vehicle Act, for the purpose of reselling parts or
171 for salvage, or selling dismantled or salvage vehicles to a crusher or other dismantler.

172 (9) A distributor or factory branch and distributor branch's license permits the licensee
173 to sell and distribute new motor vehicles, parts, and accessories to their franchised dealers.

174 (10) A representative's license, for factory representatives or distributor representatives
175 permits the licensee to contact his authorized dealers for the purpose of making or promoting
176 the sale of motor vehicles, parts, and accessories.

177 (11) (a) (i) A remanufacturer's license permits the licensee to construct, reconstruct,
178 assemble, or reassemble motor vehicles subject to registration under Title 41, Chapter 1a,
179 Motor Vehicle Act, from used or new motor vehicles or parts.

180 (ii) Evidence of ownership of parts and motor vehicles used in remanufacture shall be
181 available to the division upon demand.

182 (b) Under rules made by the administrator, the licensee may issue and install vehicle

183 identification numbers on remanufactured motor vehicles.

184 (12) A crusher's license permits the licensee to engage in the business of crushing or
185 shredding motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act,
186 for the purpose of reducing the useable materials and metals to a more compact size for
187 recycling.

188 (13) A body shop's license permits the licensee to rebuild, restore, repair, or paint
189 primarily the body of motor vehicles damaged by collision or natural disaster, and to dismantle
190 motor vehicles.

191 (14) A special equipment dealer's license permits the licensee to:

192 (a) buy incomplete new motor vehicles with a gross vehicle weight of 12,000 or more
193 pounds from a new motor vehicle dealer and sell the new vehicle with the special equipment
194 installed without a franchise from the manufacturer;

195 (b) offer for sale, sell, or exchange used motor vehicles;

196 (c) operate as a body shop; and

197 (d) dismantle motor vehicles.

198 (15) (a) A salvage vehicle buyer license permits the licensee to bid on or purchase a
199 vehicle with a salvage certificate as defined in Section 41-1a-1001 at any motor vehicle
200 auction.

201 (b) A salvage vehicle buyer license may only be issued to a motor vehicle dealer,
202 dismantler, or body shop who qualifies under rules made by the division and is licensed in any
203 state as a motor vehicle dealer, dismantler, or body shop.

204 (c) The division may not issue more than two salvage vehicle buyer licenses to any one
205 dealer, dismantler, or body shop.

206 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
207 administrator shall make rules establishing qualifications of an applicant for a salvage vehicle
208 buyer license. The criteria shall include:

209 (i) business history;

210 (ii) salvage vehicle qualifications;

211 (iii) ability to properly handle and dispose of environmental hazardous materials
212 associated with salvage vehicles; and

213 (iv) record in demonstrating compliance with the provisions of this chapter.

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

215 **41-3-205. Licenses -- Bonds required -- Maximum liability -- Action against**
216 **surety -- Loss of bond.**

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

219 (i) \$50,000 for a motor vehicle dealer's license;

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

221 (iii) \$1,000 for a motorcycle, off-highway vehicle, or small trailer dealer's or crusher's
222 license; or

223 (iv) \$10,000 for a body shop's license.

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

226 (c) The form of the bond:

227 (i) shall be approved by the attorney general;

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

230 (iii) may be continuous in form.

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

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

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

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

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

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

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

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

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

253 Section 4. Section **41-3-601** is amended to read:

254 **41-3-601. Fees.**

255 (1) To pay for administering and enforcing this chapter, the administrator shall collect
256 fees determined by the commission under Section 63-38-3.2 for each of the following:

- 257 (a) new motor vehicle dealer's license;
258 (b) used motor vehicle dealer's license;
259 (c) new motorcycle, off-highway vehicle, and small trailer dealer;
260 (d) used motorcycle, off-highway vehicle, and small trailer dealer;
261 (e) motor vehicle salesperson's license;
262 (f) motor vehicle salesperson's transfer or reissue fee;
263 (g) motor vehicle manufacturer's license;
264 (h) motor vehicle transporter's license;
265 (i) motor vehicle dismantler's license;
266 (j) motor vehicle crusher's license;
267 (k) motor vehicle remanufacturer's license;
268 (l) body shop's license;
269 (m) distributor or factory branch and distributor branch's license;
270 (n) representative's license;
271 (o) dealer plates;
272 (p) dismantler plates;
273 (q) manufacturer plates;
274 (r) transporter plates;
275 (s) damaged plate replacement;

- 276 (t) in-transit permits;
- 277 (u) loaded demonstration permits;
- 278 (v) additional place of business; and
- 279 (w) special equipment dealer's license.

280 (2) To pay for training certified vehicle inspectors and enforcement under Sections
281 41-1a-1001 through 41-1a-1008, the State Tax Commission shall establish and the
282 administrator shall collect inspection fees determined by the commission under Section
283 63-38-3.2.

284 (3) (a) At the time of application, the administrator shall collect a fee of \$200 for each
285 salvage vehicle buyer license.

286 (b) The administrator may retain a portion of the fee under Subsection (3)(a) to offset
287 the administrator's actual costs of administering and enforcing salvage vehicle buyer licenses.

Legislative Review Note
as of 2-7-03 2:17 PM

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 HB0253

Powersport Dealer Association Amendments

12-Feb-03

11:29 AM

State Impact

Can be handled within existing budgets.

Individual and Business Impact

No significant impact.

Office of the Legislative Fiscal Analyst