

SALVAGE VEHICLES AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This bill modifies the Motor Vehicle Business Regulation Act by amending provisions relating to salvage vehicles.

Highlighted Provisions:

This bill:

- ▶ provides that a person may offer for sale, sell, or exchange a vehicle with a salvage certificate at or through a motor vehicle auction to:

- an out-of-state or out-of-country purchaser that is authorized to do business in the domestic or foreign jurisdiction in which the person is domiciled or registered to do business; and

- an in-state purchaser that is registered to do business in Utah and has a Utah sales and use tax license;

- ▶ provides that an operator of a motor vehicle auction may only offer for sale, sell, or exchange five vehicles with salvage certificates at or through a motor vehicle auction in any 12 month period to an in-state purchaser that does not have a salvage vehicle buyer license;

- ▶ authorizes the Tax Commission to impose an administrative entrance fee not to exceed \$10 on certain persons that enter a motor vehicle auction for certain purposes;

- ▶ provides that a purchaser of a vehicle with a salvage certificate shall title the vehicle within 15 days of the purchase if the purchaser does not have a salvage vehicle buyer license;

30 ▶ provides that an operator of a motor vehicle auction may not offer for sale, sell, or
31 exchange additional vehicles with a salvage certificate to a purchaser if notified
32 that the purchaser has not titled previously purchased vehicles with a salvage
33 certificate;

34 ▶ requires an operator of a motor vehicle auction to:
35 • keep a record of the sale of each salvage vehicle;
36 • retain the record of the sale of each salvage vehicle for five years and make it
37 available for inspection by the Motor Vehicle Enforcement Division; and
38 • stamp "For Export Only" on the vehicle title if the buyer is an out-of-country
39 buyer;

40 ▶ provides that a person who violates the requirement to title a vehicle with a salvage
41 certificate within 15 days of purchasing the vehicle at a motor vehicle auction is
42 guilty of a class C misdemeanor;

43 ▶ provides that a person who violates the requirement to title a vehicle with a salvage
44 certificate within 15 days of purchasing the vehicle at a motor vehicle auction is
45 subject to certain civil penalties; and

46 ▶ makes technical changes.

47 **Monies Appropriated in this Bill:**

48 None

49 **Other Special Clauses:**

50 None

51 **Utah Code Sections Affected:**

52 AMENDS:

53 **41-3-201**, as last amended by Laws of Utah 2008, Chapter 388

54 **41-3-201.7**, as enacted by Laws of Utah 2007, Chapter 70

55 **41-3-701**, as last amended by Laws of Utah 2008, Chapter 388

56 **41-3-702**, as last amended by Laws of Utah 2007, Chapter 322

57

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

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

60 **41-3-201. Licenses required -- Restitution -- Education.**

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

63 (2) A person may not act as any of the following without having procured a license
64 issued by the administrator:

- 65 (a) a dealer;
- 66 (b) salvage vehicle buyer;
- 67 (c) salesperson;
- 68 (d) manufacturer;
- 69 (e) transporter;
- 70 (f) dismantler;
- 71 (g) distributor;
- 72 (h) factory branch and representative;
- 73 (i) distributor branch and representative;
- 74 (j) crusher;
- 75 (k) remanufacturer; or
- 76 (l) body shop.

77 (3) (a) ~~[A]~~ Except as provided in Subsection (3)(c), a person may not bid on or
78 purchase a vehicle with a salvage certificate as defined in Section 41-1a-1001 at or through a
79 motor vehicle auction unless the person is a licensed salvage vehicle buyer.

80 (b) ~~[A]~~ Except as provided in Subsection (3)(c), a person may not offer for sale, sell,
81 or exchange a vehicle with a salvage certificate as defined in Section 41-1a-1001 at or through
82 a motor vehicle auction except to a licensed salvage vehicle buyer.

83 (c) A person may offer for sale, sell, or exchange a vehicle with a salvage certificate as
84 defined in Section 41-1a-1001 at or through a motor vehicle auction:

85 (i) to an out-of-state or out-of-country purchaser not licensed under this section, but

86 that is authorized to do business in the domestic or foreign jurisdiction in which the person is
87 domiciled or registered to do business; and

88 (ii) subject to the restriction in Subsection (3)(d), to an in-state purchaser not licensed
89 under this section that:

90 (A) is registered to do business in Utah; and

91 (B) has a Utah sales tax license.

92 (d) An operator of a motor vehicle auction may only offer for sale, sell, or exchange
93 five vehicles with a salvage certificate as defined in Section 41-1a-1001 at or through a motor
94 vehicle auction in any 12 month period to an in-state purchaser that does not have a salvage
95 vehicle buyer license issued in accordance with Subsection 41-3-202(15).

96 (e) (i) An in-state purchaser of a vehicle with a salvage certificate as defined in
97 Section 41-1a-1001 that is purchased at or through a motor vehicle auction shall title the
98 vehicle within 15 days of the purchase if the purchaser does not have a salvage vehicle buyer
99 license, dealer license, body shop license, or dismantler license issued in accordance with
100 Section 41-3-202.

101 (ii) An operator of a motor vehicle auction may not offer for sale, sell, or exchange
102 additional vehicles with a salvage certificate as defined in Section 41-1a-1001 at or through a
103 motor vehicle auction to a purchaser if notified that the purchaser has not titled previously
104 purchased vehicles with a salvage certificate as required under Subsection (3)(e)(i).

105 (f) The commission may impose an administrative entrance fee established in
106 accordance with the procedures and requirements of Section 63J-1-303 not to exceed \$10 on a
107 person not holding a license described in Subsection (3)(e)(i) that enters the physical premises
108 of a motor vehicle auction for the purpose of viewing available salvage vehicles prior to an
109 auction.

110 (4) (a) An operator of a motor vehicle auction shall keep a record of the sale of each
111 salvage vehicle.

112 (b) A record described under Subsection (4)(a) shall contain:

113 (i) the purchaser's name and address; and

114 (ii) the year, make, and vehicle identification number for each salvage vehicle sold.

115 (c) An operator of a motor vehicle auction shall:

116 (i) retain the record described in this Subsection (4) for five years from the date of
117 sale; and

118 (ii) make a record described in this Subsection (4) available for inspection by the
119 division at the location of the motor vehicle auction during normal business hours.

120 (5) (a) An operator of a motor vehicle auction that sells a salvage vehicle to a person
121 that is an out-of-country buyer shall:

122 (i) stamp on the face of the title so as not to obscure the name, date, or mileage
123 statement the words "FOR EXPORT ONLY" in all capital, black letters; and

124 (ii) stamp in each unused reassignment space on the back of the title the words "FOR
125 EXPORT ONLY."

126 (b) The words "FOR EXPORT ONLY" shall be:

127 (i) at least two inches wide; and

128 (ii) clearly legible.

129 [~~4~~] (6) A supplemental license shall be secured by a dealer, manufacturer,
130 remanufacturer, transporter, dismantler, crusher, or body shop for each additional place of
131 business maintained by the licensee.

132 [~~5~~] (7) A person who has been convicted of any law relating to motor vehicle
133 commerce or motor vehicle fraud may not be issued a license unless full restitution regarding
134 those convictions has been made.

135 [~~6~~] (8) (a) The division may not issue a license to a new applicant for a new or used
136 motor vehicle dealer license, a new or used motorcycle dealer license, or a small trailer dealer
137 license unless the new applicant completes an eight-hour orientation class approved by the
138 division that includes education on motor vehicle laws and rules.

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

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

142 (d) (i) The division shall approve:

143 (A) providers of the orientation class; and

144 (B) costs of the orientation class.

145 (ii) A provider of an orientation class shall submit the orientation class curriculum to
146 the division for approval prior to teaching the orientation class.

147 Section 2. Section **41-3-201.7** is amended to read:

148 **41-3-201.7. Supplemental license for additional place of business restrictions --**
149 **Exception.**

150 (1) Subject to the requirements of Subsection (2), a supplemental license for an
151 additional place of business issued pursuant to Subsection 41-3-201[~~(4)~~] (6) may only be
152 issued to a dealer if the dealer is:

153 (a) licensed in accordance with Section 41-3-202;

154 (b) bonded in accordance with Section 41-3-205; and

155 (c) in compliance with existing rules promulgated by the administrator of the division
156 under Section 41-3-105.

157 (2) (a) Except as provided in Subsections (2)(c) and (3), a supplemental license for an
158 additional place of business issued pursuant to Subsection 41-3-201[~~(4)~~] (6) for a new motor
159 vehicle dealer may not be issued for an additional place of business that is beyond the
160 geographic specifications outlined as the area of responsibility in the dealer's franchise
161 agreement.

162 (b) A new motor vehicle dealer shall provide the administrator with a copy of the
163 portion of the new motor vehicle dealer's franchise agreement identifying the dealer's area of
164 responsibility before being issued a supplemental license for an additional place of business.

165 (c) The restrictions under [~~Subsection~~] Subsections (2)(a) and (b) do not apply to a
166 new motor vehicle dealer if the license for an additional place of business is being issued for
167 the sale of used motor vehicles.

168 (3) The provisions of Subsection (2) do not apply if the additional place of business is
169 a trade show or exhibition if:

- 170 (a) there are five or more dealers participating in the trade show or exhibition; and
- 171 (b) the trade show or exhibition takes place at a location other than the principal place
- 172 of business of one of the dealers participating in the trade show or exhibition.

173 Section 3. Section **41-3-701** is amended to read:

174 **41-3-701. Violations as misdemeanors.**

175 (1) Except as otherwise provided in this chapter, any person who violates this chapter

176 is guilty of a class B misdemeanor.

177 (2) (a) [~~A~~] (i) Except as provided in Subsection (2)(a)(ii), a person who violates

178 Section 41-3-201 is guilty of a class A misdemeanor.

179 (ii) A person who violates the requirement to title a vehicle with a salvage certificate

180 within 15 days of purchasing the vehicle at a motor vehicle auction under Subsection

181 41-3-201(3)(e) is guilty of a class C misdemeanor.

182 (b) Once a person has met the criteria for the offense of acting as a dealer without a

183 license, each additional motor vehicle the person sells, displays for sale, offers for sale or

184 exchange, or leases in that 12-month period without becoming licensed under Section

185 41-3-202 is a separate violation.

186 (3) A person who violates Section 41-3-301 is guilty of a class A misdemeanor unless

187 the selling dealer complies with the requirements of Section 41-3-403.

188 (4) A person who violates Section 41-3-207.5 is guilty of a class A misdemeanor.

189 Section 4. Section **41-3-702** is amended to read:

190 **41-3-702. Civil penalty for violation.**

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

192 violations under this chapter:

193 (a) Level I:

194 (i) failing to display business license;

195 (ii) failing to surrender license of salesperson because of termination, suspension, or

196 revocation;

197 (iii) failing to maintain a separation from nonrelated motor vehicle businesses at

- 198 licensed locations;
- 199 (iv) issuing a temporary permit improperly;
- 200 (v) failing to maintain records;
- 201 (vi) selling a new motor vehicle to a nonfranchised dealer or leasing company without
- 202 licensing the motor vehicle;
- 203 (vii) special plate violation; and
- 204 (viii) failing to maintain a sign at a principal place of business.
- 205 (b) Level II:
- 206 (i) failing to report sale;
- 207 (ii) dismantling without a permit;
- 208 (iii) manufacturing without meeting construction or vehicle identification number
- 209 standards;
- 210 (iv) withholding customer license plates; or
- 211 (v) selling a motor vehicle on consecutive days of Saturday and Sunday.
- 212 (c) Level III:
- 213 (i) operating without a principal place of business;
- 214 (ii) selling a new motor vehicle without holding the franchise;
- 215 (iii) crushing a motor vehicle without proper evidence of ownership;
- 216 (iv) selling from an unlicensed location;
- 217 (v) altering a temporary permit;
- 218 (vi) refusal to furnish copies of records;
- 219 (vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;
- 220 (viii) advertising violation;
- 221 (ix) failing to separately identify the fees required by Title 41, Chapter 1a, Motor
- 222 Vehicle Act; and
- 223 (x) encouraging or conspiring with unlicensed persons to solicit for prospective
- 224 purchasers[-]; and
- 225 (xi) failing to title a vehicle with a salvage certificate that is purchased at or through a

226 motor vehicle auction within 15 days of the purchase as required under Subsection
227 41-3-201(3)(e).

228 (2) (a) The schedule of civil penalties for violations of Subsection (1) is:

229 (i) Level I: \$25 for the first offense, \$100 for the second offense, and \$250 for the
230 third and subsequent offenses;

231 (ii) Level II: \$100 for the first offense, \$250 for the second offense, and \$1,000 for the
232 third and subsequent offenses; and

233 (iii) Level III: \$250 for the first offense, \$1,000 for the second offense, and \$5,000 for
234 the third and subsequent offenses.

235 (b) When determining under this section if an offense is a second or subsequent
236 offense, only prior offenses committed within the 12 months prior to the commission of the
237 current offense may be considered.

238 (3) The following are civil violations in addition to criminal violations under Section
239 41-1a-1008:

240 (a) knowingly selling a salvage vehicle, as defined in Section 41-1a-1001, without
241 disclosing that the salvage vehicle has been repaired or rebuilt;

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

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

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

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

249 (b) reasonable [~~attorneys'~~] attorney fees and costs of the action.

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