

Senator Stephen H. Urquhart proposes the following substitute bill:

SALVAGE AND NONREPAIRABLE VEHICLE AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill modifies provisions relating to salvage and nonrepairable vehicles.

Highlighted Provisions:

This bill:

- ▶ provides that a vehicle that has been issued a nonrepairable certificate may not be registered;
- ▶ requires an operator of a motor vehicle auction, for a vehicle with a salvage certificate purchased at a motor vehicle auction, to electronically apply for a salvage certificate of title and provide evidence of compliance with certain requirements;
- ▶ provides that a vehicle sold at or through a motor vehicle auction to an out-of-state purchaser with a nonrepairable or salvage certificate may not be certificated in Utah until the vehicle has been certificated out-of-state;
- ▶ prohibits a person who has been convicted of any law relating to motor vehicle commerce or motor vehicle fraud from purchasing a vehicle with a salvage or nonrepairable certificate;
- ▶ provides that a person or purchaser who is not licensed as a salvage vehicle buyer:
 - may not bid on or purchase more than five salvage vehicles with a nonrepairable or salvage certificate in any 12-month period;



26 • may not offer for sale, sell, or exchange more than two vehicles with a salvage
27 certificate in any 12-month period to a person not licensed as a salvage vehicle
28 buyer; or

29 • may not offer for sale, sell, or exchange a vehicle with a nonrepairable
30 certificate to a person not licensed as a salvage vehicle buyer;

31 ▶ provides that an operator of a motor vehicle auction, a dealer, or a consignor may
32 not sell a vehicle with a nonrepairable or salvage certificate to certain buyers if the
33 Motor Vehicle Division has informed the operator of the motor vehicle auction, the
34 dealer, or the consignor in writing that the buyer is prohibited from purchasing a
35 vehicle with a nonrepairable or salvage certificate;

36 ▶ provides penalties for the knowing or intentional concealment, removal, destruction,
37 or alteration of a disclosure statement or of a branded certificate of title;

38 ▶ establishes a private cause of action for certain owners who violate the requirement
39 to disclose that a vehicle is a salvage vehicle; and

40 ▶ makes technical corrections.

41 **Money Appropriated in this Bill:**

42 None

43 **Other Special Clauses:**

44 None

45 **Utah Code Sections Affected:**

46 AMENDS:

47 **41-1a-202**, as last amended by Laws of Utah 2008, Chapter 36

48 **41-1a-1004**, as last amended by Laws of Utah 2009, Chapter 168

49 **41-1a-1008**, as renumbered and amended by Laws of Utah 1992, Chapter 1

50 **41-3-201**, as last amended by Laws of Utah 2012, Chapter 390

51 ENACTS:

52 **41-1a-1008.5**, Utah Code Annotated 1953



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

55 Section 1. Section **41-1a-202** is amended to read:

56 **41-1a-202. Definitions -- Vehicles exempt from registration -- Registration of**

57 **vehicles after establishing residency.**

58 (1) In this section:

59 (a) "Domicile" means the place:

60 (i) where an individual has a fixed permanent home and principal establishment;

61 (ii) to which the individual if absent, intends to return; and

62 (iii) in which the individual and his family voluntarily reside, not for a special or
63 temporary purpose, but with the intention of making a permanent home.

64 (b) (i) "Resident" means any of the following:

65 (A) an individual who:

66 (I) has established a domicile in this state;

67 (II) regardless of domicile, remains in this state for an aggregate period of six months
68 or more during any calendar year;

69 (III) engages in a trade, profession, or occupation in this state or who accepts
70 employment in other than seasonal work in this state and who does not commute into the state;

71 (IV) declares himself to be a resident of this state for the purpose of obtaining a driver
72 license or motor vehicle registration; or

73 (V) declares himself a resident of Utah to obtain privileges not ordinarily extended to
74 nonresidents, including going to school, or placing children in school without paying
75 nonresident tuition or fees; or

76 (B) any individual, partnership, limited liability company, firm, corporation,
77 association, or other entity that:

78 (I) maintains a main office, branch office, or warehouse facility in this state and that
79 bases and operates a motor vehicle in this state; or

80 (II) operates a motor vehicle in intrastate transportation for other than seasonal work.

81 (ii) "Resident" does not include any of the following:

82 (A) a member of the military temporarily stationed in Utah;

83 (B) an out-of-state student, as classified by the institution of higher education, enrolled
84 with the equivalent of seven or more quarter hours, regardless of whether the student engages
85 in a trade, profession, or occupation in this state or accepts employment in this state; and

86 (C) an individual domiciled in another state or a foreign country that:

87 (I) is engaged in public, charitable, educational, or religious services for a government

88 agency or an organization that qualifies for tax-exempt status under Internal Revenue Code
89 Section 501(c)(3);

90 (II) is not compensated for services rendered other than expense reimbursements; and
91 (III) is temporarily in Utah for a period not to exceed 24 months.

92 (2) Registration under this chapter is not required for any:

93 (a) vehicle registered in another state and owned by a nonresident of the state or
94 operating under a temporary registration permit issued by the division or a dealer authorized by
95 this chapter, driven or moved upon a highway in conformance with the provisions of this
96 chapter relating to manufacturers, transporters, dealers, lien holders, or interstate vehicles;

97 (b) vehicle driven or moved upon a highway only for the purpose of crossing the
98 highway from one property to another;

99 (c) implement of husbandry, whether of a type otherwise subject to registration or not,
100 that is only incidentally operated or moved upon a highway;

101 (d) special mobile equipment;

102 (e) vehicle owned or leased by the federal government;

103 (f) motor vehicle not designed, used, or maintained for the transportation of passengers
104 for hire or for the transportation of property if the motor vehicle is registered in another state
105 and is owned and operated by a nonresident of this state;

106 (g) vehicle or combination of vehicles designed, used, or maintained for the
107 transportation of persons for hire or for the transportation of property if the vehicle or
108 combination of vehicles is registered in another state and is owned and operated by a
109 nonresident of this state and if the vehicle or combination of vehicles has a gross laden weight
110 of 26,000 pounds or less;

111 (h) trailer of 750 pounds or less unladen weight and not designed, used, and maintained
112 for hire for the transportation of property or person;

113 (i) manufactured home or mobile home;

114 (j) off-highway vehicle currently registered under Section 41-22-3 if the off-highway
115 vehicle is:

116 (i) being towed;

117 (ii) operated on a street or highway designated as open to off-highway vehicle use; or

118 (iii) operated in the manner prescribed in Subsections 41-22-10.3(1) through (3);

119 (k) off-highway implement of husbandry operated in the manner prescribed in
120 Subsections 41-22-5.5(3) through (5);

121 (l) modular and prebuilt homes conforming to the uniform building code and presently
122 regulated by the United States Department of Housing and Urban Development that are not
123 constructed on a permanent chassis;

124 (m) electric assisted bicycle defined under Section 41-6a-102;

125 (n) motor assisted scooter defined under Section 41-6a-102; or

126 (o) electric personal assistive mobility device defined under Section 41-6a-102.

127 (3) Unless otherwise exempted under Subsection (2), registration under this chapter is
128 required for any motor vehicle, combination of vehicles, trailer, semitrailer, or vintage vehicle
129 within 60 days of the owner establishing residency in this state.

130 (4) A motor vehicle that is registered under Section 41-3-306 is exempt from the
131 registration requirements of this part for the time period that the registration under Section
132 41-3-306 is valid.

133 (5) A vehicle that has been issued a nonrepairable certificate may not be registered
134 under this chapter.

135 Section 2. Section **41-1a-1004** is amended to read:

136 **41-1a-1004. Certificate of title -- Salvage vehicles.**

137 (1) If the division is able to ascertain the fact, at the time application is made for initial
138 registration or transfer of ownership of a salvage vehicle, the title shall be branded:

139 (a) rebuilt and restored to operation;

140 (b) in a flood and restored to operation; or

141 (c) not restored to operation.

142 (2) (a) (i) Except as provided in Subsection (2)(b), before the sale of a vehicle for
143 which a salvage certificate or branded title has been issued, the seller shall provide the
144 prospective purchaser with written notification that a salvage certificate or a branded title has
145 been issued for the vehicle.

146 (ii) If the vehicle is a salvage vehicle, the notification shall be as required in Section
147 41-1a-1005.3.

148 (b) The requirement to provide written notification under Subsection (2)(a) does not
149 apply if the prospective purchaser is:

150 (i) a licensed motor vehicle dealer whose primary business is auctioning salvage motor
151 vehicles to licensed salvage vehicle buyers; or

152 (ii) an insurance company, if the sale of the vehicle is the result of a total loss
153 settlement.

154 (3) (a) An advertisement for the sale of a vehicle for which a salvage certificate or
155 branded title has been issued shall disclose that a salvage certificate or branded title has been
156 issued for the vehicle.

157 (b) The advertisement disclosure under Subsection (3)(a) shall:

158 (i) be displayed at least as prominently as the description of the advertised vehicle is
159 displayed; and

160 (ii) use the words "salvage certificate" or "branded title" in the advertisement.

161 Section 3. Section **41-1a-1008** is amended to read:

162 **41-1a-1008. Criminal penalty for violation.**

163 [It] (1) Except as provided in Subsection (2) or unless otherwise provided, it is a class
164 A misdemeanor to knowingly violate Sections 41-1a-1001 through 41-1a-1007[~~, unless another~~
165 penalty is specifically provided].

166 (2) An owner who is not a manufacturer, dealer, motor vehicle auction, or consignor to
167 a motor vehicle auction not licensed under Section 41-3-201 and who knowingly or
168 intentionally conceals, removes, destroys, or alters a disclosure statement or of a certificate of
169 title branded under Section 41-3-201 or Sections 41-1a-1004 through 41-1a-1005.3 is a:

170 (a) class A misdemeanor; or

171 (b) third degree felony if the person has previously been convicted two or more times
172 of knowingly or intentionally concealing, removing, destroying, or altering a disclosure
173 statement or a certificate of title branded under Section 41-3-201 or Sections 41-1a-1004
174 through 41-1a-1005.3.

175 (3) Criminal penalties under this chapter are not exclusive, but are in addition to those
176 under Section 76-10-1801.

177 (4) Each vehicle sold, offered for sale, or displayed for sale in violation of Section
178 41-1a-1005.3 shall be a separate offense.

179 Section 4. Section **41-1a-1008.5** is enacted to read:

180 **41-1a-1008.5. Private cause of action.**

181 (1) Any owner who is not a manufacturer, dealer, motor vehicle auction, or consignor
182 to a motor vehicle auction not licensed under Section 41-3-201 and who violates Section
183 41-1a-1005.3 is liable to the purchaser for:

184 (a) actual damages if the purchaser elects to retain the salvage vehicle, or the value of
185 the consideration paid for the salvage vehicle if the purchaser elects rescission;

186 (b) the costs of the action and reasonable attorney fees;

187 (c) up to three times the value of the actual damages or the consideration as exemplary
188 damages; and

189 (d) other equitable relief, including rescission and restitution, the court determines to
190 be proper in addition to damages and costs.

191 (2) Actual damages include:

192 (a) the difference between the actual market value of the salvage vehicle or
193 nonconforming vehicle at the time of purchase and the contract price;

194 (b) towing;

195 (c) repair;

196 (d) storage expenses;

197 (e) rental of substitute transportation;

198 (f) food and lodging expenses;

199 (g) lost wages;

200 (h) finance charges;

201 (i) sales or use tax;

202 (j) other governmental fees;

203 (k) lease charges; and

204 (l) other incidental and consequential damages.

205 (3) The remedies provided in this section are not exclusive but are in addition to any
206 other remedies provided by law.

207 Section 5. Section **41-3-201** is amended to read:

208 **41-3-201. Licenses required -- Restitution -- Education.**

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

211 (2) A person may not act as any of the following without having procured a license

212 issued by the administrator:

- 213 (a) a dealer;
- 214 (b) salvage vehicle buyer;
- 215 (c) salesperson;
- 216 (d) manufacturer;
- 217 (e) transporter;
- 218 (f) dismantler;
- 219 (g) distributor;
- 220 (h) factory branch and representative;
- 221 (i) distributor branch and representative;
- 222 (j) crusher;
- 223 (k) remanufacturer; or
- 224 (l) body shop.

225 (3) (a) Except as provided in Subsection (3)(c), a person may not bid on or purchase a
226 vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001 at or
227 through a motor vehicle auction unless the person is a licensed salvage vehicle buyer.

228 (b) Except as provided in Subsection (3)(c), a person may not offer for sale, sell, or
229 exchange a vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001
230 at or through a motor vehicle auction except to a licensed salvage vehicle buyer.

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

233 (i) to an out-of-state or out-of-country purchaser not licensed under this section, but
234 that is authorized to do business in the domestic or foreign jurisdiction in which the person is
235 domiciled or registered to do business;

236 (ii) subject to the restrictions in Subsection (3)(d), to an in-state purchaser not licensed
237 under this section that:

238 (A) has a valid business license in Utah; and

239 (B) has a Utah sales tax license; and

240 (iii) to a crusher.

241 (d) (i) An operator of a motor vehicle auction shall verify that an in-state purchaser not
242 licensed under this section has the licenses required in Subsection (3)(c)(ii).

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

247 (iii) The five vehicle limitation under this Subsection (3)(d) applies to each Utah sales
248 tax license and not to each person with the authority to use a sales tax license.

249 (iv) An operator of a motor vehicle auction may not sell a vehicle with a nonrepairable
250 certificate as defined in Section 41-1a-1001 to a purchaser otherwise allowed to purchase a
251 vehicle under Subsection (3)(c)(ii).

252 (e) For a vehicle with a salvage certificate purchased under Subsection (3)(c)(ii), an
253 operator of a motor vehicle auction shall:

254 (i) (A) until Subsection (3)(e)(i)(B) applies, make application for a salvage certificate
255 of title on behalf of the Utah purchaser within seven days of the purchase if the purchaser does
256 not have a salvage vehicle buyer license, dealer license, body shop license, or dismantler
257 license issued in accordance with Section 41-3-202; ~~and~~ or

258 (B) beginning on or after the date that the Motor Vehicle Division has implemented the
259 Motor Vehicle Division's GenTax system, make application electronically, in a form and time
260 period approved by the Motor Vehicle Division, for a salvage certificate of title to be issued in
261 the name of the purchaser;

262 (ii) give to the purchaser a disclosure printed on a separate piece of paper that states:

263 "THIS DISCLOSURE STATEMENT MUST BE GIVEN BY THE SELLER TO THE
264 BUYER EVERY TIME THIS VEHICLE IS RESOLD WITH A SALVAGE CERTIFICATE

265 Vehicle Identification Number (VIN)

266 Year: Make: Model:

267 SALVAGE VEHICLE--NOT FOR RESALE WITHOUT DISCLOSURE

268 WARNING: THIS SALVAGE VEHICLE MAY NOT BE SAFE FOR OPERATION

269 UNLESS PROPERLY REPAIRED. SOME STATES MAY REQUIRE AN INSPECTION

270 BEFORE THIS VEHICLE MAY BE REGISTERED. THE STATE OF UTAH MAY

271 REQUIRE THIS VEHICLE TO BE PERMANENTLY BRANDED AS A REBUILT

272 SALVAGE VEHICLE. OTHER STATES MAY ALSO PERMANENTLY BRAND THE

273 CERTIFICATE OF TITLE.

274 _____
275 Signature of Purchaser Date": and
276 (iii) if applicable, provide evidence to the Motor Vehicle Division of:
277 (A) payment of sales taxes on taxable sales in accordance with Section 41-1a-510;
278 (B) the identification number inspection required under Section 41-1a-511; and
279 (C) the odometer disclosure statement required under Section 41-1a-902.
280 (f) The Motor Vehicle Division shall include a link to the disclosure statement
281 described in Subsection (3)(e)(ii) on its website.

282 [(f)] (g) The commission may impose an administrative entrance fee established in
283 accordance with the procedures and requirements of Section 63J-1-504 not to exceed \$10 on a
284 person not holding a license described in Subsection (3)(e)(i) that enters the physical premises
285 of a motor vehicle auction for the purpose of viewing available salvage vehicles prior to an
286 auction.

287 (h) A vehicle sold at or through a motor vehicle auction to an out-of-state purchaser
288 with a nonrepairable or salvage certificate may not be certificated in Utah until the vehicle has
289 been certificated out-of-state.

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

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

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

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

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

296 (i) provide the record described in Subsection (4)(a) electronically in a method
297 approved by the division to the division within two business days of the completion of the
298 motor vehicle auction;

299 (ii) retain the record described in this Subsection (4) for five years from the date of
300 sale; and

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

303 (5) (a) If applicable, an operator of a motor vehicle auction shall comply with the
304 reporting requirements of the National Motor Vehicle Title Information System overseen by

305 the United States Department of Justice if the person sells a vehicle with a salvage certificate to
306 an in-state purchaser under Subsection (3)(c)(ii).

307 (b) The Motor Vehicle Division shall include a link to the National Motor Vehicle
308 Title Information System on its website.

309 (6) (a) An operator of a motor vehicle auction that sells a salvage vehicle to a person
310 that is an out-of-country buyer shall:

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

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

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

316 (i) at least two inches wide; and

317 (ii) clearly legible.

318 (7) A supplemental license shall be secured by a dealer, manufacturer, remanufacturer,
319 transporter, dismantler, crusher, or body shop for each additional place of business maintained
320 by the licensee.

321 (8) (a) A person who has been convicted of any law relating to motor vehicle
322 commerce or motor vehicle fraud may not be issued a license or purchase a vehicle with a
323 salvage or nonrepairable certificate unless full restitution regarding those convictions has been
324 made.

325 (b) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a
326 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (8)(a) if
327 the division has informed the operator of the motor vehicle auction, the dealer, or the consignor
328 in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or
329 salvage certificate under Subsection (8)(a).

330 (9) (a) The division may not issue a license to a new applicant for a new or used motor
331 vehicle dealer license, a new or used motorcycle dealer license, or a small trailer dealer license
332 unless the new applicant completes an eight-hour orientation class approved by the division
333 that includes education on motor vehicle laws and rules.

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

335 (c) The class shall be completed by the new applicant and the applicant's partners,

336 corporate officers, bond indemnitors, and managers.

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

338 (A) providers of the orientation class; and

339 (B) costs of the orientation class.

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

342 (iii) A provider of an orientation class shall include in the orientation materials:

343 (A) ethics training;

344 (B) motor vehicle title and registration processes;

345 (C) provisions of Title 13, Chapter 5, Unfair Practices Act, relating to motor vehicles;

346 (D) Department of Insurance requirements relating to motor vehicles;

347 (E) Department of Public Safety requirements relating to motor vehicles;

348 (F) federal requirements related to motor vehicles as determined by the division; and

349 (G) any required disclosure compliance forms as determined by the division.

350 (10) A person or purchaser described in Subsection (3)(c)(ii):

351 (a) may not purchase more than five salvage vehicles with a nonrepairable or salvage
352 certificate as defined in Section 41-1a-1001 in any 12-month period;

353 (b) may not, without first complying with Section 41-1a-705, offer for sale, sell, or
354 exchange more than two vehicles with a salvage certificate as defined in Section 41-1a-1001 in
355 any 12-month period to a person not licensed under this section; and

356 (c) may not, without first complying with Section 41-1a-705, offer for sale, sell, or
357 exchange a vehicle with a nonrepairable certificate as defined in Section 41-1a-1001 to a
358 person not licensed under this section.

359 (11) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a
360 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (10)(a) if
361 the division has informed the operator of the motor vehicle auction, the dealer, or the consignor
362 in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or
363 salvage certificate under Subsection (10)(a).