

SALVAGE VEHICLE AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill amends provisions related to buying and selling a salvage vehicle at a motor vehicle auction.

Highlighted Provisions:

This bill:

- ▶ requires a motor vehicle auction operator to securely store a salvage vehicle sold at auction until the vehicle is possessed by the purchaser;
- ▶ requires a motor vehicle auction operator to maintain certain records;
- ▶ provides penalties for violations; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-3-201, as last amended by Laws of Utah 2013, Chapter 463

41-3-201.7, as last amended by Laws of Utah 2012, Chapter 390

41-3-702, as last amended by Laws of Utah 2012, Chapters 379 and 390

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

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

30 **41-3-201. Licenses required -- Restitution -- Education.**

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

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

- 35 (a) a dealer;
- 36 (b) salvage vehicle buyer;
- 37 (c) salesperson;
- 38 (d) manufacturer;
- 39 (e) transporter;
- 40 (f) dismantler;
- 41 (g) distributor;
- 42 (h) factory branch and representative;
- 43 (i) distributor branch and representative;
- 44 (j) crusher;
- 45 (k) remanufacturer; or
- 46 (l) body shop.

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

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

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

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

56 that is authorized to do business in the domestic or foreign jurisdiction in which the person is
57 domiciled or registered to do business;

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

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

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

62 (iii) to a crusher.

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

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

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

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

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

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

80 (B) beginning on or after the date that the Motor Vehicle Division has implemented the
81 Motor Vehicle Division's GenTax system, make application electronically, in a form and time
82 period approved by the Motor Vehicle Division, for a salvage certificate of title to be issued in

110 with a nonrepairable or salvage certificate may not be certificated in Utah until the vehicle has
111 been certificated out-of-state.

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

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

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

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

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

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

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

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

125 (5) (a) An operator of a motor vehicle auction shall store a salvage vehicle sold at
126 auction in a secure facility until the salvage vehicle is claimed as provided in this section.

127 (b) Beginning at the time of purchase and until the salvage vehicle is claimed, the
128 motor vehicle auction operator may collect a daily storage fee for the secure storage of each
129 salvage vehicle sold at auction.

130 (c) Except as provided in Subsection (5)(d), before releasing possession of a salvage
131 vehicle purchased at a motor vehicle auction to a person not licensed under this part or certified
132 as a tow truck operator under Title 72, Chapter 9, Part 6, Tow Truck Provisions, and if the
133 person claiming the vehicle is a person other than the purchaser of the vehicle, the motor
134 vehicle auction operator shall create a record that shall contain:

135 (i) the name and address, as verified by government issued identification, of the person
136 claiming the vehicle;

137 (ii) the year, make, and vehicle identification number of the claimed vehicle;
138 (iii) a written statement from the person claiming the vehicle indicating the location
139 where the salvage vehicle will be delivered; and

140 (iv) verification that the claimant has authorization from the purchaser to claim the
141 vehicle.

142 (d) If the salvage vehicle is claimed by a transporter or a tow truck operator, the
143 transporter or the tow truck operator shall submit to the motor vehicle auction operator a
144 written record on any release forms indicating the location where the salvage vehicle will be
145 delivered if delivered within the state.

146 (e) An operator of a motor vehicle auction shall:

147 (i) retain the record described in Subsection (5)(c) for five years from the date of sale;
148 and

149 (ii) make the record available for inspection by the division at the location of the motor
150 vehicle auction during normal business hours.

151 ~~[(5)]~~ (6) (a) If applicable, an operator of a motor vehicle auction shall comply with the
152 reporting requirements of the National Motor Vehicle Title Information System overseen by
153 the United States Department of Justice if the person sells a vehicle with a salvage certificate to
154 an in-state purchaser under Subsection (3)(c)(ii).

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

157 ~~[(6)]~~ (7) (a) An operator of a motor vehicle auction that sells a salvage vehicle to a
158 person that is an out-of-country buyer shall:

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

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

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

164 (i) at least two inches wide; and

165 (ii) clearly legible.

166 [~~(7)~~] (8) A supplemental license shall be secured by a dealer, manufacturer,
167 remanufacturer, transporter, dismantler, crusher, or body shop for each additional place of
168 business maintained by the licensee.

169 [~~(8)~~] (9) (a) A person who has been convicted of any law relating to motor vehicle
170 commerce or motor vehicle fraud may not be issued a license or purchase a vehicle with a
171 salvage or nonrepairable certificate unless full restitution regarding those convictions has been
172 made.

173 (b) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a
174 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection [~~(8)~~]
175 (9)(a) if the division has informed the operator of the motor vehicle auction, the dealer, or the
176 consignor in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable
177 or salvage certificate under Subsection [~~(8)~~] (9)(a).

178 [~~(9)~~] (10) (a) The division may not issue a license to a new applicant for a new or used
179 motor vehicle dealer license, a new or used motorcycle dealer license, or a small trailer dealer
180 license unless the new applicant completes an eight-hour orientation class approved by the
181 division that includes education on motor vehicle laws and rules.

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

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

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

186 (A) providers of the orientation class; and

187 (B) costs of the orientation class.

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

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

- 191 (A) ethics training;
- 192 (B) motor vehicle title and registration processes;
- 193 (C) provisions of Title 13, Chapter 5, Unfair Practices Act, relating to motor vehicles;
- 194 (D) Department of Insurance requirements relating to motor vehicles;
- 195 (E) Department of Public Safety requirements relating to motor vehicles;
- 196 (F) federal requirements related to motor vehicles as determined by the division; and
- 197 (G) any required disclosure compliance forms as determined by the division.

198 ~~[(10)]~~ (11) A person or purchaser described in Subsection (3)(c)(ii):

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

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

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

207 ~~[(11)]~~ (12) An operator of a motor vehicle auction, a dealer, or a consignor may not sell
208 a vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection ~~[(10)]~~
209 (11)(a) if the division has informed the operator of the motor vehicle auction, the dealer, or the
210 consignor in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable
211 or salvage certificate under Subsection ~~[(10)]~~ (11)(a).

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

213 **41-3-201.7. Supplemental license for additional place of business restrictions --**
214 **Exception.**

215 (1) (a) Subject to the requirements of Subsection (2), a supplemental license for an
216 additional place of business issued pursuant to Subsection 41-3-201~~[(7)]~~(8) may only be issued
217 to a dealer if the dealer is:

218 (i) licensed in accordance with Section 41-3-202;
219 (ii) bonded in accordance with Section 41-3-205; and
220 (iii) in compliance with existing rules promulgated by the administrator of the division
221 under Section 41-3-105.

222 (b) A supplemental license for a permanent additional place of business may only be
223 issued to a used motor vehicle dealer if:

224 (i) the dealer independently satisfies the bond requirements under Section 41-3-205 for
225 the permanent additional place of business;

226 (ii) the dealer is in compliance with existing rules promulgated by the administrator of
227 the division under Section 41-3-105; and

228 (iii) the permanent additional place of business meets all the requirements for a
229 principal place of business.

230 (2) (a) Except as provided in Subsections (2)(c) and (3), a supplemental license for an
231 additional place of business issued pursuant to Subsection 41-3-201[~~(7)~~](8) for a new motor
232 vehicle dealer may not be issued for an additional place of business that is beyond the
233 geographic specifications outlined as the area of responsibility in the dealer's franchise
234 agreement.

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

238 (c) The restrictions under Subsections (2)(a) and (b) do not apply to a new motor
239 vehicle dealer if the license for an additional place of business is being issued for the sale of
240 used motor vehicles.

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

243 (a) there are five or more dealers participating in the trade show or exhibition; and

244 (b) the trade show or exhibition takes place at a location other than the principal place

245 of business of one of the dealers participating in the trade show or exhibition.

246 (4) A supplemental license for a temporary additional place of business issued to a
247 used motor vehicle dealer may not be for longer than 10 consecutive days.

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

249 **41-3-702. Civil penalty for violation.**

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

252 (a) Level I:

253 (i) failing to display business license;

254 (ii) failing to surrender license of salesperson because of termination, suspension, or
255 revocation;

256 (iii) failing to maintain a separation from nonrelated motor vehicle businesses at
257 licensed locations;

258 (iv) issuing a temporary permit improperly;

259 (v) failing to maintain records;

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

262 (vii) special plate violation; ~~and~~

263 (viii) failing to maintain a sign at a principal place of business[-]; and

264 (ix) failing to store a salvage vehicle purchased at a motor vehicle auction in a secure
265 location until the purchaser or a transporter has provided the proper documentation to take
266 possession of the salvage vehicle.

267 (b) Level II:

268 (i) failing to report sale;

269 (ii) dismantling without a permit;

270 (iii) manufacturing without meeting construction or vehicle identification number
271 standards;

- 272 (iv) withholding customer license plates; [or]
- 273 (v) selling a motor vehicle on consecutive days of Saturday and Sunday[-]; or
- 274 (vi) failing to record and report the sale of a salvage vehicle at a motor vehicle auction

275 as described in Section [41-3-201](#).

- 276 (c) Level III:
 - 277 (i) operating without a principal place of business;
 - 278 (ii) selling a new motor vehicle without holding the franchise;
 - 279 (iii) crushing a motor vehicle without proper evidence of ownership;
 - 280 (iv) selling from an unlicensed location;
 - 281 (v) altering a temporary permit;
 - 282 (vi) refusal to furnish copies of records;
 - 283 (vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;
 - 284 (viii) advertising violation;
 - 285 (ix) failing to separately identify the fees required by Title 41, Chapter 1a, Motor
 - 286 Vehicle Act;
 - 287 (x) encouraging or conspiring with unlicensed persons to solicit for prospective
 - 288 purchasers; and
 - 289 (xi) selling, offering for sale, or displaying for sale or exchange a vehicle, vessel, or
 - 290 outboard motor in violation of Section [41-1a-705](#).

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

- 292 (i) Level I: \$25 for the first offense, \$100 for the second offense, and \$250 for the third
- 293 and subsequent offenses;
- 294 (ii) Level II: \$100 for the first offense, \$250 for the second offense, and \$1,000 for the
- 295 third and subsequent offenses; and
- 296 (iii) Level III: \$250 for the first offense, \$1,000 for the second offense, and \$5,000 for
- 297 the third and subsequent offenses.
- 298 (b) When determining under this section if an offense is a second or subsequent

299 offense, only prior offenses committed within the 12 months prior to the commission of the
300 current offense may be considered.

301 (3) The following are civil violations in addition to criminal violations under Section
302 41-1a-1008:

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

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

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

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

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

312 (b) reasonable attorney fees and costs of the action.

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