

AUTO DEALERSHIP LICENSE AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim F. Coleman

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the licensing of a new motor vehicle dealer.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a direct-sale manufacturer license;
- ▶ creates a direct-sale manufacturer salesperson license;
- ▶ permits a direct-sale manufacturer licensee to act as a dealer under certain conditions;
- ▶ permits a direct-sale manufacturer salesperson licensee to act as a salesperson for one direct-sale manufacturer under certain conditions;
- ▶ exempts a direct-sale manufacturer from the provisions of the New Automobile Franchise Act; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 28 **41-3-102**, as last amended by Laws of Utah 2014, Chapter 237
- 29 **41-3-103**, as last amended by Laws of Utah 2010, Chapter 393
- 30 **41-3-105**, as last amended by Laws of Utah 2010, Chapter 393
- 31 **41-3-201**, as last amended by Laws of Utah 2017, Chapter 153
- 32 **41-3-201.7**, as last amended by Laws of Utah 2017, Chapter 153
- 33 **41-3-202**, as last amended by Laws of Utah 2009, Chapter 78
- 34 **41-3-203**, as renumbered and amended by Laws of Utah 1992, Chapter 234
- 35 **41-3-204**, as last amended by Laws of Utah 2008, Chapter 388
- 36 **41-3-206**, as last amended by Laws of Utah 2008, Chapter 388
- 37 **41-3-209**, as last amended by Laws of Utah 2012, Chapter 145
- 38 **41-3-210**, as last amended by Laws of Utah 2007, Chapter 322
- 39 **41-3-702**, as last amended by Laws of Utah 2017, Chapter 153

40 ENACTS:

41 **13-14-108**, Utah Code Annotated 1953



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

44 Section 1. Section **13-14-108** is enacted to read:

45 **13-14-108. Applicability.**

46 The provisions of this chapter do not apply to a person licensed as a direct-sale
47 manufacturer under Title 41, Chapter 3, Motor Vehicle Business Regulation Act.

48 Section 2. Section **41-3-102** is amended to read:

49 **41-3-102. Definitions.**

50 As used in this chapter:

51 (1) "Administrator" means the motor vehicle enforcement administrator.

52 (2) "Agent" means a person other than a holder of any dealer's or salesperson's license
53 issued under this chapter, who for salary, commission, or compensation of any kind, negotiates
54 in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any
55 other person in any 12-month period.

56 (3) "Auction" means a dealer engaged in the business of auctioning motor vehicles,
57 either owned or consigned, to the general public.

58 (4) "Authorized service center" means an entity that:

59 (a) is in the business of repairing exclusively the motor vehicles of the same line-make
60 as the motor vehicles a single direct-sale manufacturer sells, displays for sale, or offers for sale
61 or exchange;

62 (b) the direct-sale manufacturer described in Subsection (4)(a) authorizes to complete
63 warranty repair work for motor vehicles that the direct-sale manufacturer sells, displays for
64 sale, or offers for sale or exchange; and

65 (c) conducts business primarily from a commercial repair facility that is permanently
66 located in the state.

67 [~~4~~] (5) "Board" means the advisory board created in Section 41-3-106.

68 [~~5~~] (6) "Body shop" means a business engaged in rebuilding, restoring, repairing, or
69 painting primarily the body of motor vehicles damaged by collision or natural disaster.

70 [~~6~~] (7) "Commission" means the State Tax Commission.

71 [~~7~~] (8) "Crusher" means a person who crushes or shreds motor vehicles subject to
72 registration under Title 41, Chapter 1a, Motor Vehicle Act, to reduce the useable materials and
73 metals to a more compact size for recycling.

74 [~~8~~] (9) (a) "Dealer" means a person:

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

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

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

80 (10) "Direct-sale manufacturer" means a person that:

81 (a) is a manufacturer and a dealer;

82 (b) sells, displays for sale, or offers for sale or exchange only motor vehicles of the
83 person's own line-make;

84 (c) manufactures motor vehicles that are exclusively propelled through the use of
85 electricity, a hydrogen fuel cell, or another non-fossil fuel source; and

86 (d) is not a franchise holder.

87 (11) "Direct-sale manufacturer salesperson" means an individual who for a salary,
88 commission, or compensation of any kind, is employed either directly, indirectly, regularly, or
89 occasionally by a direct-sale manufacturer to sell, purchase, or exchange or to negotiate for the

90 sale, purchase, or exchange of a motor vehicle manufactured by the direct-sale manufacturer
91 who employs the individual.

92 [~~(9)~~] (12) (a) "Dismantler" means a person engaged in the business of dismantling
93 motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the
94 resale of parts or for salvage.

95 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any
96 12-month period.

97 [~~(10)~~] (13) "Distributor" means a person who has a franchise from a manufacturer of
98 motor vehicles to distribute motor vehicles within this state and who in whole or in part sells or
99 distributes new motor vehicles to dealers or who maintains distributor representatives.

100 [~~(11)~~] (14) "Distributor branch" means a branch office similarly maintained by a
101 distributor for the same purposes a factory branch is maintained.

102 [~~(12)~~] (15) "Distributor representative" means a person and each officer and employee
103 of the person engaged as a representative of a distributor or distributor branch of motor
104 vehicles to make or promote the sale of the distributor or the distributor branch's motor
105 vehicles, or for supervising or contacting dealers or prospective dealers of the distributor or the
106 distributor branch.

107 [~~(13)~~] (16) "Division" means the Motor Vehicle Enforcement Division created in
108 Section [41-3-104](#).

109 [~~(14)~~] (17) "Factory branch" means a branch office maintained by a person who
110 manufactures or assembles motor vehicles for sale to distributors, motor vehicle dealers, or
111 who directs or supervises the factory branch's representatives.

112 [~~(15)~~] (18) "Factory representative" means a person and each officer and employee of
113 the person engaged as a representative of a manufacturer of motor vehicles or by a factory
114 branch to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or
115 for supervising or contacting the dealers or prospective dealers of the manufacturer or the
116 factory branch.

117 [~~(16)~~] (19) "Franchise" means a contract or agreement between a dealer and a
118 manufacturer of new motor vehicles or [~~its~~] a manufacturer's distributor or factory branch by
119 which the dealer is authorized to sell any specified make or makes of new motor vehicles.

120 (20) (a) "Franchise holder" means a manufacturer who:

121 (i) previously had a franchised dealer in the United States;
 122 (ii) currently has a franchised dealer in the United States; or
 123 (iii) is the successor owner of, under legal or practical common ownership or common
 124 control with, or in a partnership, joint venture, or similar arrangement with a manufacturer who
 125 previously had or currently has a franchised dealer in the United States.

126 (b) "Franchise holder" does not include a manufacturer described in Subsection
 127 (20)(a)(i) or (ii), if at all times during the franchised dealer's existence, the manufacturer had
 128 legal or practical common ownership or common control with the franchised dealer.

129 (21) "Line-make" means motor vehicles that are offered for sale, lease, or distribution
 130 under a common name, trademark, service mark, or brand name of the manufacturer.

131 ~~[(17)]~~ (22) "Manufacturer" means a person engaged in the business of constructing or
 132 assembling new motor vehicles, ownership of which is customarily transferred by a
 133 manufacturer's statement or certificate of origin, or a person who constructs three or more new
 134 motor vehicles in any 12-month period.

135 ~~[(19)]~~ (23) (a) "Motor vehicle" means a vehicle that is:

136 (i) self-propelled;
 137 (ii) a trailer, travel trailer, or semitrailer; or
 138 (iii) an off-highway vehicle or small trailer.

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

140 (i) mobile homes as defined in Section 41-1a-102;
 141 (ii) trailers of 750 pounds or less unladen weight;
 142 (iii) farm tractors and other machines and tools used in the production, harvesting, and
 143 care of farm products; and
 144 (iv) park model recreational vehicles as defined in Section 41-1a-102.

145 ~~[(18)]~~ (24) "Motorcycle" has the same meaning as defined in Section 41-1a-102.

146 ~~[(20)]~~ (25) "New motor vehicle" means a motor vehicle that:

147 (a) has never been titled or registered; and
 148 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven
 149 less than 7,500 miles[~~, unless the motor vehicle is an off-highway vehicle, small trailer, trailer,~~
 150 ~~travel trailer, or semitrailer, in which case the mileage limit does not apply].~~

151 ~~[(21)]~~ (26) "Off-highway vehicle" has the same meaning as provided in Section

152 41-22-2.

153 ~~[(22)]~~ (27) "Pawnbroker" means a person whose business is to lend money on security
154 of personal property deposited with him.

155 ~~[(23)]~~ (28) (a) "Principal place of business" means, except as provided in Subsection
156 (28)(b), a site or location in this state:

157 ~~[(a)]~~ (i) devoted exclusively to the business for which the dealer, manufacturer,
158 remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses
159 incidental to them;

160 ~~[(b)]~~ (ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely
161 indicate the boundary and to admit a definite description with space adequate to permit the
162 display of three or more new, or new and used, or used motor vehicles and sufficient parking
163 for the public; and

164 ~~[(c)]~~ (iii) that includes a permanent enclosed building or structure large enough to
165 accommodate the office of the establishment and to provide a safe place to keep the books and
166 other records of the business, at which the principal portion of the business is conducted and
167 the books and records kept and maintained.

168 (b) "Principal place of business" means, with respect to a direct-sale manufacturer, the
169 direct-sale manufacturer's showroom.

170 ~~[(24)]~~ (29) "Remanufacturer" means a person who reconstructs used motor vehicles
171 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style
172 and appearance of the motor vehicle or who constructs or assembles motor vehicles from used
173 or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or
174 more motor vehicles in any 12-month period.

175 ~~[(25)]~~ (30) "Salesperson" means an individual who for a salary, commission, or
176 compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by
177 any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to
178 negotiate for the sale, purchase, or exchange of motor vehicles.

179 ~~[(26)]~~ (31) "Semitrailer" has the same meaning as defined in Section 41-1a-102.

180 (32) "Showroom" means a site or location in the state at which a direct-sale
181 manufacturer conducts business as a direct-sale manufacturer in accordance with the provisions
182 of this chapter.

183 ~~[(27)]~~ (33) "Small trailer" means a trailer that has an unladen weight of more than 750
184 pounds, but less than 2,000 pounds.

185 ~~[(28)]~~ (34) "Special equipment" includes a truck mounted crane, cherry picker, material
186 lift, post hole digger, and a utility or service body.

187 ~~[(29)]~~ (35) "Special equipment dealer" means a new or new and used motor vehicle
188 dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle
189 weight of 12,000 or more pounds and installing special equipment on the incomplete motor
190 vehicle.

191 ~~[(30)]~~ (36) "Trailer" has the same meaning as defined in Section 41-1a-102.

192 ~~[(31)]~~ (37) "Transporter" means a person engaged in the business of transporting motor
193 vehicles as described in Section 41-3-202.

194 ~~[(32)]~~ (38) "Travel trailer" has the same meaning as provided in Section 41-1a-102.

195 ~~[(33)]~~ (39) "Used motor vehicle" means a vehicle that:

196 (a) has been titled and registered to a purchaser other than a dealer; or

197 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven
198 7,500 or more miles~~[, unless the vehicle is a trailer, or semitrailer, in which case the mileage~~
199 ~~limit does not apply]~~.

200 ~~[(34)]~~ (40) "Wholesale motor vehicle auction" means a dealer primarily engaged in the
201 business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by
202 this or any other jurisdiction.

203 Section 3. Section 41-3-103 is amended to read:

204 **41-3-103. Exceptions to "dealer" definition -- Dealer licensed in other state --**
205 **Direct-sale manufacturer -- Direct-sale manufacturer salesperson.**

206 Under this chapter:

207 (1) (a) An insurance company, bank, finance company, company registered as a title
208 lender under Title 7, Chapter 24, Title Lending Registration Act, company registered as a check
209 casher or deferred deposit lender under Title 7, Chapter 23, Check Cashing and Deferred
210 Deposit Lending Registration Act, public utility company, commission impound yard, federal
211 or state governmental agency, or any political subdivision of any of them or any other person
212 coming into possession of a motor vehicle as an incident to its regular business, that sells the
213 motor vehicle under contractual rights that it may have in the motor vehicle is not considered a

214 dealer.

215 (b) A person who sells or exchanges only those motor vehicles that the person has
216 owned for over 12 months is not considered a dealer.

217 (2) (a) A person engaged in leasing motor vehicles is not considered as coming into
218 possession of the motor vehicles incident to the person's regular business.

219 (b) A pawnbroker engaged in selling, exchanging, or pawning motor vehicles is
220 considered as coming into possession of the motor vehicles incident to the person's regular
221 business and must be licensed as a used motor vehicle dealer.

222 (3) A person currently licensed as a dealer or salesperson by another state or country
223 and not currently under license suspension or revocation by the administrator may only sell
224 motor vehicles in this state to licensed dealers, dismantlers, or manufacturers, and only at their
225 places of business.

226 (4) Except as otherwise expressly provided:

227 (a) a direct-sale manufacturer is subject to the same provisions under this chapter as a
228 new motor vehicle dealer; and

229 (b) a direct-sale manufacturer salesperson is subject to the same provisions under this
230 chapter as a salesperson.

231 (5) Notwithstanding any provision of this chapter to the contrary, a direct-sale
232 manufacturer may sell motor vehicles of the direct-sale manufacturer's own line-make without
233 a franchise.

234 Section 4. Section **41-3-105** is amended to read:

235 **41-3-105. Administrator's powers and duties -- Administrator and investigators**
236 **to be law enforcement officers.**

237 (1) The administrator may make rules to carry out the purposes of this chapter and
238 Sections **41-1a-1001** through **41-1a-1007** according to the procedures and requirements of Title
239 63G, Chapter 3, Utah Administrative Rulemaking Act.

240 (2) (a) The administrator may employ clerks, deputies, and assistants necessary to
241 discharge the duties under this chapter and may designate the duties of those clerks, deputies,
242 and assistants.

243 (b) The administrator, assistant administrator, and all investigators shall be law
244 enforcement officers certified by peace officer standards and training as required by Section

245 53-13-103.

246 (3) (a) The administrator may investigate any suspected or alleged violation of:

247 (i) this chapter;

248 (ii) Title 41, Chapter 1a, Motor Vehicle Act;

249 (iii) any law concerning motor vehicle fraud; or

250 (iv) any rule made by the administrator.

251 (b) The administrator may bring an action in the name of the state against any person to
252 enjoin a violation found under Subsection (3)(a).

253 (4) (a) The administrator may prescribe forms to be used for applications for licenses.

254 (b) The administrator may require information from the applicant concerning the
255 applicant's fitness to be licensed.

256 (c) Each application for a license shall contain:

257 (i) if the applicant is an individual, the name and residence address of the applicant and
258 the trade name, if any, under which the applicant intends to conduct business;

259 (ii) if the applicant is a partnership, the name and residence address of each partner,
260 whether limited or general, and the name under which the partnership business will be
261 conducted;

262 (iii) if the applicant is a corporation, the name of the corporation, and the name and
263 residence address of each of its principal officers and directors;

264 (iv) a complete description of the principal place of business, including:

265 (A) the municipality, with the street and number, if any;

266 (B) if located outside of any municipality, a general description so that the location can
267 be determined; and

268 (C) any other places of business operated and maintained by the applicant in
269 conjunction with the principal place of business;

270 (v) if the application is for a new motor vehicle dealer's license, the name of each
271 motor vehicle the applicant has been enfranchised to sell or exchange, the name and address of
272 the manufacturer or distributor who has enfranchised the applicant, and the ~~[names and
273 addresses of the individuals]~~ name and address of each individual who will act as

274 ~~[salespersons]~~ a salesperson under authority of the license;

275 (vi) at least five years of business history;

276 (vii) the federal tax identification number issued to the dealer; ~~[and]~~
277 (viii) the sales and use tax license number issued to the dealer under Title 59, Chapter
278 12, Sales and Use Tax Act~~[-];~~ and
279 (ix) if the application is for a direct-sale manufacturer's license:
280 (A) the name of each motor vehicle the applicant will sell, display for sale, or offer for
281 sale or exchange;
282 (B) the name and address of each individual who will act as a direct-sale manufacturer
283 salesperson under authority of the license;
284 (C) a complete description of the direct-sale manufacturer's authorized service center,
285 including the address and any other place of business the applicant operates and maintains in
286 conjunction with the authorized service center;
287 (D) a sworn statement that the applicant complies with each qualification for a
288 direct-sale manufacturer under this chapter;
289 (E) a sworn statement that if at any time the applicant fails to comply with a
290 qualification for a direct-sale manufacturer under this chapter, the applicant will inform the
291 division in writing within 10 business days after the day on which the noncompliance occurs;
292 and
293 (F) an acknowledgment that if the applicant fails to comply with a qualification for a
294 direct-sale manufacturer under this chapter, the administrator will revoke the applicant's
295 direct-sale manufacturer license in accordance with Subsection [41-3-209\(4\)\(b\)](#).
296 (5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement
297 Administrator, State of Utah," to authenticate the acts of the administrator's office.
298 (6) (a) The administrator may require that ~~[the]~~ a licensee erect or post signs or devices
299 on the licensee's principal place of business and any other sites, equipment, or locations
300 operated and maintained by the licensee in conjunction with the licensee's business.
301 (b) The signs or devices shall state the licensee's name, principal place of business,
302 type and number of licenses, and any other information that the administrator considers
303 necessary to identify the licensee.
304 (c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah
305 Administrative Rulemaking Act, determining allowable size and shape of signs or devices,
306 ~~[their]~~ lettering and other details of signs or devices, and ~~[their]~~ location of signs or devices.

307 (7) (a) The administrator shall provide for quarterly meetings of the advisory board and
308 may call special meetings.

309 (b) Notices of all meetings shall be sent to each member not fewer than five days [~~prior~~
310 ~~to~~] before the meeting.

311 (8) The administrator, the officers and inspectors of the division designated by the
312 commission, and peace officers shall:

313 (a) make arrests upon view and without warrant for any violation committed in their
314 presence of any of the provisions of this chapter, or Title 41, Chapter 1a, Motor Vehicle Act;

315 (b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is
316 being operated in violation of any provision of Title 41, Chapter 1a, Motor Vehicle Act, require
317 the driver of the vehicle to stop, exhibit the person's driver license and the registration card
318 issued for the vehicle, and submit to an inspection of the vehicle, the license plates, and
319 registration card;

320 (c) serve all warrants relating to the enforcement of the laws regulating the operation of
321 motor vehicles, trailers, and semitrailers;

322 (d) investigate traffic accidents and secure testimony of any witnesses or persons
323 involved; and

324 (e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

325 (9) The administrator may contract with a public prosecutor to provide additional
326 prosecution of this chapter.

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

328 **41-3-201. Licenses required -- Restitution -- Education.**

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

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

333 (a) a dealer;

334 (b) salvage vehicle buyer;

335 (c) salesperson;

336 (d) manufacturer;

337 (e) transporter;

- 338 (f) dismantler;
- 339 (g) distributor;
- 340 (h) factory branch and representative;
- 341 (i) distributor branch and representative;
- 342 (j) crusher;
- 343 (k) remanufacturer; or
- 344 (l) body shop.

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

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

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

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

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

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

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

360 (iii) to a crusher.

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

363 (ii) An operator of a motor vehicle auction may only offer for sale, sell, or exchange
364 five vehicles with a salvage certificate as defined in Section 41-1a-1001 at or through a motor
365 vehicle auction in any 12-month period to an in-state purchaser that does not have a salvage
366 vehicle buyer license issued in accordance with Subsection 41-3-202[(15)](17).

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

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

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

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

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

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

383 "THIS DISCLOSURE STATEMENT MUST BE GIVEN BY THE SELLER TO THE
384 BUYER EVERY TIME THIS VEHICLE IS RESOLD WITH A SALVAGE CERTIFICATE
385 Vehicle Identification Number (VIN)

386 Year: Make: Model:

387 SALVAGE VEHICLE--NOT FOR RESALE WITHOUT DISCLOSURE

388 WARNING: THIS SALVAGE VEHICLE MAY NOT BE SAFE FOR OPERATION
389 UNLESS PROPERLY REPAIRED. SOME STATES MAY REQUIRE AN INSPECTION
390 BEFORE THIS VEHICLE MAY BE REGISTERED. THE STATE OF UTAH MAY
391 REQUIRE THIS VEHICLE TO BE PERMANENTLY BRANDED AS A REBUILT
392 SALVAGE VEHICLE. OTHER STATES MAY ALSO PERMANENTLY BRAND THE
393 CERTIFICATE OF TITLE.

394 _____
395 Signature of Purchaser Date"; and

396 (iii) if applicable, provide evidence to the Motor Vehicle Division of:

397 (A) payment of sales taxes on taxable sales in accordance with Section 41-1a-510;

398 (B) the identification number inspection required under Section 41-1a-511; and

399 (C) the odometer disclosure statement required under Section 41-1a-902.

400 (f) The Motor Vehicle Division shall include a link to the disclosure statement
401 described in Subsection (3)(e)(ii) on its website.

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

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

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

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

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

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

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

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

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

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

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

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

428 (c) Except as provided in Subsection (5)(d), before releasing possession of a salvage
429 vehicle purchased at a motor vehicle auction to a person not licensed under this part or certified
430 as a tow truck operator under Title 72, Chapter 9, Part 6, Tow Truck Provisions, and if the

431 person claiming the vehicle is a person other than the purchaser of the vehicle, the motor
432 vehicle auction operator shall create a record that shall contain:

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

435 (ii) the year, make, and vehicle identification number of the claimed vehicle;

436 (iii) a written statement from the person claiming the vehicle indicating the location
437 where the salvage vehicle will be delivered; and

438 (iv) verification that the claimant has authorization from the purchaser to claim the
439 vehicle.

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

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

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

446 and

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

449 (6) (a) If applicable, an operator of a motor vehicle auction shall comply with the
450 reporting requirements of the National Motor Vehicle Title Information System overseen by
451 the United States Department of Justice if the person sells a vehicle with a salvage certificate to
452 an in-state purchaser under Subsection (3)(c)(ii).

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

455 (7) (a) An operator of a motor vehicle auction that sells a salvage vehicle to a person
456 that is an out-of-country buyer shall:

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

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

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

462 (i) at least two inches wide; and

463 (ii) clearly legible.

464 (8) A [~~supplemental license shall be secured by a~~] dealer, manufacturer,
465 remanufacturer, transporter, dismantler, crusher, or body shop shall obtain a supplemental
466 license, in accordance with Section 41-3-201.7 for each additional place of business maintained
467 by the licensee.

468 (9) (a) A person who has been convicted of any law relating to motor vehicle
469 commerce or motor vehicle fraud may not be issued a license or purchase a vehicle with a
470 salvage or nonrepairable certificate unless full restitution regarding those convictions has been
471 made.

472 (b) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a
473 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (9)(a) if
474 the division has informed the operator of the motor vehicle auction, the dealer, or the consignor
475 in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or
476 salvage certificate under Subsection (9)(a).

477 (10) (a) The division may not issue a license to a new applicant for a new or used
478 motor vehicle dealer license, a direct-sale manufacturer license, a new or used motorcycle
479 dealer license, or a small trailer dealer license unless the new applicant completes an eight-hour
480 orientation class approved by the division that includes education on motor vehicle laws and
481 rules.

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

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

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

486 (A) providers of the orientation class; and

487 (B) costs of the orientation class.

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

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

491 (A) ethics training;

492 (B) motor vehicle title and registration processes;

- 493 (C) provisions of Title 13, Chapter 5, Unfair Practices Act, relating to motor vehicles;
 494 (D) Department of Insurance requirements relating to motor vehicles;
 495 (E) Department of Public Safety requirements relating to motor vehicles;
 496 (F) federal requirements related to motor vehicles as determined by the division; and
 497 (G) any required disclosure compliance forms as determined by the division.

498 (11) A person or purchaser described in Subsection (3)(c)(ii):

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

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

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

507 (12) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a
 508 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (11)(a) if
 509 the division has informed the operator of the motor vehicle auction, the dealer, or the consignor
 510 in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or
 511 salvage certificate under Subsection (11)(a).

512 Section 6. Section 41-3-201.7 is amended to read:

513 **41-3-201.7. Supplemental license for additional place of business restrictions --**

514 **Exception.**

515 (1) (a) Subject to the requirements of Subsection (2), the administrator may issue a
 516 supplemental license for an additional place of business [issued pursuant to] under Subsection
 517 41-3-201(8) ~~[may only be issued]~~ to a dealer if the dealer is:

518 (i) licensed in accordance with Section 41-3-202;

519 (ii) bonded in accordance with Section 41-3-205; and

520 (iii) in compliance with existing rules promulgated by the administrator of the division
 521 under Section 41-3-105.

522 (b) ~~[A]~~ The administrator may issue a supplemental license for a permanent additional
 523 place of business [may only be issued] to a used motor vehicle dealer if:

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

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

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

530 (2) (a) Except as provided in Subsections (2)(c) and (3), a supplemental license for an
531 additional place of business issued pursuant to Subsection 41-3-201(8) for a new motor vehicle
532 dealer may not be issued for an additional place of business that is beyond the geographic
533 specifications outlined as the area of responsibility in the dealer's franchise agreement.

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

537 (c) The restrictions under Subsections (2)(a) and (b) do not apply to a new motor
538 vehicle dealer if:

539 (i) the license for an additional place of business is being issued for the sale of used
540 motor vehicles[-]; or

541 (ii) the dealer is a direct-sale manufacturer.

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

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

545 (b) the trade show or exhibition takes place at a location other than the principal place
546 of business of one of the dealers participating in the trade show or exhibition.

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

549 Section 7. Section 41-3-202 is amended to read:

550 **41-3-202. Licenses -- Classes and scope.**

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

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

- 555 (b) offer for sale, sell, or exchange used motor vehicles;
- 556 (c) operate as a body shop; and
- 557 (d) dismantle motor vehicles.
- 558 (2) A used motor vehicle dealer's license permits the licensee to:
- 559 (a) offer for sale, sell, or exchange used motor vehicles;
- 560 (b) operate as a body shop; and
- 561 (c) dismantle motor vehicles.
- 562 (3) A direct-sale manufacturer's license permits the licensee to:
- 563 (a) offer for sale, sell, or exchange new motor vehicles of the same line-make that the
- 564 direct-sale manufacturer manufactures;
- 565 (b) offer for sale, sell, or exchange used motor vehicles;
- 566 (c) operate as a body shop;
- 567 (d) dismantle motor vehicles; and
- 568 (e) establish and maintain:
- 569 (i) a showroom; and
- 570 (ii) an authorized service center that performs repair work exclusively on motor
- 571 vehicles of the same line-make as the direct-sale manufacturer offers for sale.
- 572 [~~3~~] (4) A new motorcycle, off-highway vehicle, and small trailer dealer's license
- 573 permits the licensee to:
- 574 (a) offer for sale, sell, or exchange new motorcycles, off-highway vehicles, or small
- 575 trailers if the licensee possesses a franchise from the manufacturer of the motorcycle,
- 576 off-highway vehicle, or small trailer offered for sale, sold, or exchanged by the licensee;
- 577 (b) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, or small
- 578 trailers; and
- 579 (c) dismantle motorcycles, off-highway vehicles, or small trailers.
- 580 [~~4~~] (5) A used motorcycle, off-highway vehicle, and small trailer dealer's license
- 581 permits the licensee to:
- 582 (a) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, and small
- 583 trailers; and
- 584 (b) dismantle motorcycles, off-highway vehicles, or small trailers.
- 585 [~~5~~] (6) (a) Except as provided in Subsection [~~5~~] (6)(b), a salesperson's license

586 permits the licensee to act as a motor vehicle salesperson and is valid for employment with
587 only one dealer at a time.

588 (b) A licensee that has been issued a salesperson's license and that is employed by a
589 dealer that operates as a wholesale motor vehicle auction may be employed by more than one
590 dealer that operates as a wholesale motor vehicle auction at a time.

591 (7) (a) A direct-sale manufacturer salesperson's license permits the licensee to act as a
592 direct-sale manufacturer salesperson for one direct-sales manufacturer.

593 (b) A direct-sale manufacturer salesperson licensee may not simultaneously hold a
594 salesperson's license.

595 [~~(6)~~] (8) (a) A manufacturer's license permits the licensee to construct or assemble
596 motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, at an
597 established place of business and to remanufacture motor vehicles.

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

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

602 [~~(7)~~] (9) A transporter's license permits the licensee to transport or deliver motor
603 vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, from a
604 manufacturing, assembling, or distributing point or from a dealer, to dealers, distributors, or
605 sales agents of a manufacturer or remanufacturer, to or from detail or repair shops, and to
606 financial institutions or places of storage from points of repossession.

607 [~~(8)~~] (10) A dismantler's license permits the licensee to dismantle motor vehicles
608 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the purpose of
609 reselling parts or for salvage, or selling dismantled or salvage vehicles to a crusher or other
610 dismantler.

611 [~~(9)~~] (11) A distributor or factory branch and distributor branch's license permits the
612 licensee to sell and distribute new motor vehicles, parts, and accessories to their franchised
613 dealers.

614 [~~(10)~~] (12) A representative's license, for factory representatives or distributor
615 representatives permits the licensee to contact the licensee's authorized dealers for the purpose
616 of making or promoting the sale of motor vehicles, parts, and accessories.

617 ~~[(11)]~~ (13) (a) (i) A remanufacturer's license permits the licensee to construct,
618 reconstruct, assemble, or reassemble motor vehicles subject to registration under Title 41,
619 Chapter 1a, Motor Vehicle Act, from used or new motor vehicles or parts.

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

622 (b) Under rules made by the administrator, the licensee may issue and install vehicle
623 identification numbers on remanufactured motor vehicles.

624 ~~[(12)]~~ (14) A crusher's license permits the licensee to engage in the business of
625 crushing or shredding motor vehicles subject to registration under Title 41, Chapter 1a, Motor
626 Vehicle Act, for the purpose of reducing the useable materials and metals to a more compact
627 size for recycling.

628 ~~[(13)]~~ (15) A body shop's license permits the licensee to rebuild, restore, repair, or
629 paint primarily the body of motor vehicles damaged by collision or natural disaster, and to
630 dismantle motor vehicles.

631 ~~[(14)]~~ (16) A special equipment dealer's license permits the licensee to:

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

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

636 (c) operate as a body shop; and

637 (d) dismantle motor vehicles.

638 ~~[(15)]~~ (17) (a) A salvage vehicle buyer license permits the licensee to bid on or
639 purchase a vehicle with a salvage certificate as defined in Section [41-1a-1001](#) at any motor
640 vehicle auction.

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

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

646 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
647 administrator shall make rules establishing qualifications of an applicant for a salvage vehicle

648 buyer license. The criteria shall include:

- 649 (i) business history;
- 650 (ii) salvage vehicle qualifications;
- 651 (iii) ability to properly handle and dispose of environmental hazardous materials
- 652 associated with salvage vehicles; and
- 653 (iv) record in demonstrating compliance with the provisions of this chapter.

654 Section 8. Section 41-3-203 is amended to read:

655 **41-3-203. Licenses -- Form -- Seal -- Custody of salesperson's license -- Display of**
656 **salesperson and dealer licenses -- Licensee's pocket card.**

657 (1) (a) The administrator shall prescribe the form of each license and the seal of [his]
658 the administrator's office shall be imprinted on each license.

659 (b) The administrator shall deliver or mail the license of each salesperson [shall be
660 delivered or mailed] to the dealer employing the salesperson and [it shall be kept in the custody
661 and control of the dealer and conspicuously displayed] the dealer shall keep the license in the
662 dealer's custody and control and conspicuously display the license in the dealer's place of
663 business.

664 (c) Each licensee shall display conspicuously [his] the licensee's own license in [his]
665 the licensee's place of business.

666 (d) In addition to the other provisions of this section, each direct-sale manufacturer
667 licensee shall display conspicuously the licensee's own license in each of the licensee's:

- 668 (i) showrooms; and
- 669 (ii) authorized service centers.

670 (2) (a) The administrator shall prepare and deliver a pocket card, certifying that the
671 person whose name is on the card is licensed under this chapter.

672 (b) Each salesperson's card shall also contain the name and address of the dealer
673 employing [him] the salesperson.

674 (c) Each salesperson shall on request display [his] the salesperson's pocket card.

675 Section 9. Section 41-3-204 is amended to read:

676 **41-3-204. Licenses -- Principal place of business as prerequisite -- Change of**
677 **location -- Relinquishment on loss of principal place of business.**

678 (1) (a) The following licensees must maintain a principal place of business:

- 679 (i) dealers;
- 680 (ii) special equipment dealers;
- 681 (iii) manufacturers;
- 682 (iv) transporters;
- 683 (v) remanufacturers;
- 684 (vi) dismantlers;
- 685 (vii) crushers;
- 686 (viii) body shops; and
- 687 (ix) distributors who:
 - 688 (A) are located within the state; or
 - 689 (B) have a branch office within the state.

690 (b) The administrator may not issue a license under Subsection (1)(a) to an applicant
 691 who does not have a principal place of business.

692 (c) If a licensee changes the location of ~~[his]~~ the licensee's principal place of business,
 693 ~~[he]~~ the licensee shall immediately notify the administrator and the administrator shall issue a
 694 new license ~~[shall be granted]~~ for the unexpired portion of the term of the original license at no
 695 additional fee.

696 (d) In addition to the other requirements of this section, if a direct-sale manufacturer
 697 licensee changes the location of an authorized service center of the licensee, the licensee shall
 698 immediately notify the administrator and the administrator shall issue a new license for the
 699 unexpired portion of the term of the original license at no additional fee.

700 (2) (a) If a licensee loses possession of a principal place of business, the license is
 701 automatically suspended and he shall immediately notify the administrator and upon demand
 702 by the administrator deliver the license, pocket cards, special plates, and temporary permits to
 703 the administrator.

704 (b) The administrator shall hold the licenses, cards, plates, and permits until the
 705 licensee obtains:

- 706 (i) a principal place of business[-]; and
- 707 (ii) if the licensee is a direct-sale manufacturer, an authorized service center.

708 Section 10. Section **41-3-206** is amended to read:

709 **41-3-206. Duration of licenses -- Expiration date -- Renewal.**

710 (1) Except as provided in Subsection (2), each license issued under this chapter expires
711 on June 30 of each year and may be renewed upon application and payment of a fee required
712 under Section 41-3-601, if the license has not been suspended or revoked.

713 (2) A motor vehicle salesperson's license expires as provided under Subsection (1) or
714 when the salesperson terminates employment with the dealer with whom he is licensed,
715 whichever comes first.

716 (3) (a) ~~[Beginning July 1, 1999, the]~~ The division may not renew a license for a new or
717 used motor vehicle dealer's license, a direct-sale manufacturer's license, a new or used
718 motorcycle dealer's license, or a small trailer dealer's license unless the renewal applicant
719 completes a three-hour class approved by the division that includes education on new motor
720 vehicle laws and rules.

721 (b) The approved costs of the class shall be paid by the renewal applicant.

722 (c) The class shall be completed by the renewal applicant or any designated
723 representative of the renewal applicant dealer.

724 (d) The division shall approve:

725 (i) the class providers; and

726 (ii) costs of the class.

727 Section 11. Section 41-3-209 is amended to read:

728 **41-3-209. Administrator's findings -- Suspension and revocation of license.**

729 (1) If the administrator finds that an applicant is not qualified to receive a license, a
730 license may not be granted.

731 ~~[(2)(a) On December 1, 2010, the administrator shall suspend the license of a
732 salesperson who fails to submit to the division fingerprints as required under Subsection
733 41-3-205.5(1)(b) on or before November 30, 2010.]~~

734 ~~[(b) If]~~ (2) (a) Subject to Subsection (4)(b), if the administrator finds that there is
735 reasonable cause to deny, suspend, or revoke a license issued under this chapter, the
736 administrator shall deny, suspend, or revoke the license.

737 ~~[(c)]~~ (b) Reasonable cause for denial, suspension, or revocation of a license includes, in
738 relation to the applicant or license holder or any of ~~[its]~~ the applicant or license holder's
739 partners, officers, or directors:

740 (i) lack of a principal place of business or authorized service center as required by this

741 chapter;

742 (ii) lack of a sales tax license required under Title 59, Chapter 12, Sales and Use Tax
743 Act;

744 (iii) lack of a bond in effect as required by this chapter;

745 (iv) current revocation or suspension of a dealer, dismantler, auction, or salesperson
746 license issued in another state;

747 (v) nonpayment of required fees;

748 (vi) making a false statement on any application for a license under this chapter or for
749 special license plates;

750 (vii) a violation of any state or federal law involving motor vehicles;

751 (viii) a violation of any state or federal law involving controlled substances;

752 (ix) charges filed with any county attorney, district attorney, or U.S. attorney in any
753 court of competent jurisdiction for a violation of any state or federal law involving motor
754 vehicles;

755 (x) a violation of any state or federal law involving fraud;

756 (xi) a violation of any state or federal law involving a registerable sex offense under
757 Section 77-41-106; or

758 (xii) having had a license issued under this chapter revoked within five years from the
759 date of application.

760 ~~[(d)]~~ (c) Any action taken by the administrator under Subsection (2)(c)(ix) shall remain
761 in effect until a final resolution is reached by the court involved or the charges are dropped.

762 (3) If the administrator finds that an applicant is not qualified to receive a license under
763 this section, the administrator shall provide the applicant written notice of the reason for the
764 denial.

765 (4) (a) If the administrator finds that the license holder has been convicted by a court of
766 competent jurisdiction of violating any of the provisions of this chapter or any rules made by
767 the administrator, or finds other reasonable cause, the administrator may, by complying with
768 the emergency procedures of Title 63G, Chapter 4, Administrative Procedures Act:

769 ~~[(a)]~~ (i) suspend the license on terms and for a period of time the administrator finds
770 reasonable; or

771 ~~[(b)]~~ (ii) revoke the license.

772 **(b) If the administrator finds reasonable cause as described in Subsection (2) to revoke**
773 **a direct-sale manufacturer license, the administrator shall revoke the license 90 days after the**
774 **day on which the noncompliance occurs, unless the licensee cures the noncompliance before**
775 **the license is revoked.**

776 (5) (a) After suspending or revoking a license, the administrator may take reasonable
777 action to:

- 778 (i) notify the public that the licensee is no longer in business; and
- 779 (ii) prevent the former licensee from violating the law by conducting business without
780 a license.

781 (b) Action under Subsection (5)(a) may include signs, banners, barriers, locks,
782 bulletins, and notices.

783 (c) Any business being conducted incidental to the business for which the former
784 licensee was licensed may continue to operate subject to the preventive action taken under this
785 subsection.

786 Section 12. Section **41-3-210** is amended to read:

787 **41-3-210. License holders -- Prohibitions and requirements.**

788 (1) The holder of any license issued under this chapter may not:

789 (a) intentionally publish, display, or circulate any advertising that is misleading or
790 inaccurate in any material fact or that misrepresents any of the products sold, manufactured,
791 remanufactured, handled, or furnished by a licensee;

792 (b) intentionally publish, display, or circulate any advertising without identifying the
793 seller as the licensee by including in the advertisement the full name under which the licensee
794 is licensed or the licensee's number assigned by the division;

795 (c) violate this chapter or the rules made by the administrator;

796 (d) violate any law of the state respecting commerce in motor vehicles or any rule
797 respecting commerce in motor vehicles made by any licensing or regulating authority of the
798 state;

799 (e) engage in business as a new motor vehicle dealer, special equipment dealer, used
800 motor vehicle dealer, motor vehicle crusher, or body shop without having in effect a bond as
801 required in this chapter;

802 (f) act as a dealer, dismantler, crusher, manufacturer, transporter, remanufacturer, or

803 body shop without maintaining a principal place of business;

804 (g) unless the licensee is a special equipment dealer who sells a new special equipment
805 motor vehicle with a gross vehicle weight of 12,000 or more pounds after installing special
806 equipment on the motor vehicle:

807 ~~[(g)]~~ (i) engage in a business respecting the selling or exchanging of new or new and
808 used motor vehicles for which ~~[he]~~ the licensee is not licensed~~[-including selling or~~
809 ~~exchanging]; and~~

810 (i) unless the licensee is a direct-sale manufacturer, sell or exchange a new motor
811 vehicle for which the licensee does not have a franchise[-but this Subsection (1)(g) does not
812 apply to a special equipment dealer who sells a new special equipment motor vehicle with a
813 gross vehicle weight of 12,000 or more pounds after installing special equipment on the motor
814 vehicle];

815 (h) dismantle or transport to a crusher for crushing or other disposition any motor
816 vehicle without first obtaining a dismantling or junk permit under Section [41-1a-1009](#),
817 [41-1a-1010](#), or [41-1a-1011](#);

818 (i) as a new motor vehicle dealer, special equipment dealer, or used motor vehicle
819 dealer fail to give notice of sales or transfers as required in Section [41-3-301](#);

820 (j) advertise or otherwise represent, or knowingly allow to be advertised or represented
821 on ~~[his]~~ the licensee's behalf or at ~~[his]~~ the licensee's place of business, that no down payment
822 is required in connection with the sale of a motor vehicle when a down payment is required and
823 the buyer is advised or induced to finance a down payment by a loan in addition to any other
824 loan financing the remainder of the purchase price of the motor vehicle;

825 (k) as a crusher, crush or shred a motor vehicle brought to the crusher without
826 obtaining proper evidence of ownership of the motor vehicle; proper evidence of ownership is
827 a certificate of title endorsed according to law or a dismantling or junk permit issued under
828 Section [41-1a-1009](#), [41-1a-1010](#), or [41-1a-1011](#);

829 (l) as a manufacturer or remanufacturer assemble a motor vehicle that does not comply
830 with construction, safety, or vehicle identification number standards fixed by law or rule of any
831 licensing or regulating authority;

832 (m) as anyone other than a salesperson or a direct-sale manufacturer salesperson
833 licensed under this chapter, be present on a dealer display space and contact prospective

834 customers to promote the sale of the dealer's vehicles;

835 (n) sell, display for sale, or offer for sale motor vehicles at any location other than the
836 principal place of business or additional places of business licensed under this chapter; this
837 provision is construed to prevent dealers, salespersons, or any other representative of a
838 dealership from selling, displaying, or offering motor vehicles for sale from their homes or
839 other unlicensed locations;

840 (o) (i) as a dealer, dismantler, body shop, or manufacturer, maintain a principal place of
841 business or additional place of business that shares any common area with a business or
842 activity not directly related to motor vehicle commerce; or

843 (ii) maintain any places of business that share any common area with another dealer,
844 dismantler, body shop, or manufacturer;

845 (p) withhold delivery of license plates obtained by the licensee on behalf of a customer
846 for any reason, including nonpayment of any portion of the vehicle purchase price or down
847 payment;

848 (q) issue a temporary permit for any vehicle that has not been sold by the licensee;

849 (r) alter a temporary permit in any manner;

850 (s) operate any principal place of business or additional place of business in a location
851 that does not comply with local ordinances, including zoning ordinances;

852 (t) sell, display for sale, offer for sale, or exchange any new motor vehicle if the
853 licensee does not:

854 (i) have a new motor vehicle dealer's license or a direct-sale manufacturer's license
855 under Section 41-3-202; and

856 (ii) unless the licensee is a direct-sale manufacturer, possess a franchise from the
857 manufacturer of the new motor vehicle sold, displayed for sale, offered for sale, or exchanged
858 by the licensee; [~~or~~]

859 (u) as a new motor vehicle dealer or used motor vehicle dealer, encourage or conspire
860 with any person who has not obtained a salesperson's or a direct-sale manufacturer
861 salesperson's license to solicit for prospective purchasers[~~;~~]; or

862 (v) as a direct-sale manufacturer, engage in business as a direct-sale manufacturer
863 without having an authorized service center.

864 (2) (a) If a new motor vehicle is constructed in more than one stage, such as a motor

865 home, ambulance, or van conversion, the licensee shall advertise, represent, sell, and exchange
866 the vehicle as the make designated by the final stage manufacturer, except in those specific
867 situations where the licensee:

868 (i) possesses a franchise from the initial or first stage manufacturer, presumably the
869 manufacturer of the motor vehicle's chassis[-]; or

870 (ii) manufactured the initial or first stage of the motor vehicle.

871 (b) Sales of multiple stage manufactured motor vehicles shall include the transfer to the
872 purchaser of a valid manufacturer's statement or certificate of origin from each manufacturer
873 under Section 41-3-301.

874 (3) Each licensee, except salespersons, shall maintain and make available for
875 inspection by peace officers and employees of the division:

876 (a) a record of every motor vehicle bought, or exchanged by the licensee or received or
877 accepted by the licensee for sale or exchange;

878 (b) a record of every used part or used accessory bought or otherwise acquired;

879 (c) a record of every motor vehicle bought or otherwise acquired and wrecked or
880 dismantled by the licensee;

881 (d) all buyers' orders, contracts, odometer statements, temporary permit records,
882 financing records, and all other documents related to the purchase, sale, or consignment of
883 motor vehicles; and

884 (e) a record of the name and address of the person to whom any motor vehicle or motor
885 vehicle body, chassis, or motor vehicle engine is sold or otherwise disposed of and a
886 description of the motor vehicle by year, make, and vehicle identification number.

887 (4) Each licensee required by this chapter to keep records shall:

888 (a) be kept by the licensee at least for five years; and

889 (b) furnish copies of those records upon request to any peace officer or employee of the
890 division during reasonable business hours.

891 (5) A manufacturer, distributor, distributor representative, or factory representative
892 may not induce or attempt to induce by means of coercion, intimidation, or discrimination any
893 dealer to:

894 (a) accept delivery of any motor vehicle, parts, or accessories or any other commodity
895 or commodities, including advertising material not ordered by the dealer;

896 (b) order or accept delivery of any motor vehicle with special features, appliances,
897 accessories, or equipment not included in the list price of the motor vehicle as publicly
898 advertised by the manufacturer;

899 (c) order from any person any parts, accessories, equipment, machinery, tools,
900 appliances, or any other commodity;

901 (d) enter into an agreement with the manufacturer, distributor, distributor
902 representative, or factory representative of any of them, or to do any other act unfair to the
903 dealer by threatening to cancel any franchise or contractual agreement between the
904 manufacturer, distributor, distributor branch, or factory branch and the dealer;

905 (e) refuse to deliver to any dealer having a franchise or contractual arrangement for the
906 retail sale of new and unused motor vehicles sold or distributed by the manufacturer,
907 distributor, distributor branch or factory branch, any motor vehicle, publicly advertised for
908 immediate delivery within 60 days after the dealer's order is received; or

909 (f) unfairly, without regard to the equities of the dealer, cancel the franchise of any
910 motor vehicle dealer; the nonrenewal of a franchise or selling agreement without cause is a
911 violation of this subsection and is an unfair cancellation.

912 (6) A dealer may not assist an unlicensed dealer or salesperson in unlawful activity
913 through active or passive participation in sales, or by allowing use of his facilities or dealer
914 license number, or by any other means.

915 (7) (a) The holder of any new motor vehicle dealer or direct-sale manufacturer license
916 issued under this chapter may not sell any new motor vehicle to:

917 (i) another dealer licensed under this chapter who does not hold a valid franchise for
918 the make of new motor vehicles sold, unless the selling dealer licenses and titles the new motor
919 vehicle to the purchasing dealer; or

920 (ii) any motor vehicle leasing or rental company located within this state, or who has
921 any branch office within this state, unless the dealer licenses and titles the new motor vehicle to
922 the purchasing, leasing, or rental company.

923 (b) Subsection (7)(a)(i) does not apply to the sale of a new incomplete motor vehicle
924 with a gross vehicle weight of 12,000 or more pounds to a special equipment dealer licensed
925 under this chapter.

926 (8) A dealer licensed under this chapter may not take on consignment any new motor

927 vehicle from anyone other than a new motor vehicle dealer, factory, or distributor who is
928 licensed and, if required, franchised to distribute or sell that make of motor vehicle in this or
929 any other state.

930 (9) A body shop licensed under this chapter may not assist an unlicensed body shop in
931 unlawful activity through active or passive means or by allowing use of its facilities, name,
932 body shop number, or by any other means.

933 (10) A used motor vehicle dealer licensed under this chapter may not advertise, offer
934 for sale, or sell a new motor vehicle that has been driven less than 7,500 miles by obtaining a
935 title only to the vehicle and representing it as a used motor vehicle.

936 (11) (a) Except as provided in Subsection (11)(c), or in cases of undue hardship or
937 emergency as provided by rule by the division, a dealer or salesperson licensed under this
938 chapter may not, on consecutive days of Saturday and Sunday, sell, offer for sale, lease, or offer
939 for lease a motor vehicle.

940 (b) Each day a motor vehicle is sold, offered for sale, leased, or offered for lease in
941 violation of Subsection (11)(a) and each motor vehicle sold, offered for sale, leased, or offered
942 for lease in violation of Subsection (11)(a) shall constitute a separate offense.

943 (c) The provisions of Subsection (11)(a) shall not apply to a dealer participating in a
944 trade show or exhibition if:

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

946 (ii) the trade show or exhibition takes place at a location other than the principal place
947 of business of one of the dealers participating in the trade show or exhibition.

948 (12) For purposes of imposing the sales and use tax under Title 59, Chapter 12, Sales
949 and Use Tax Act, a licensee issuing a temporary permit under Section [41-3-302](#) shall separately
950 identify the fees required by Title 41, Chapter 1a, Motor Vehicle Act.

951 (13) (a) A dismantler or dealer engaged in the business of dismantling motor vehicles
952 for the sale of parts or salvage shall identify any vehicles or equipment used by the dismantler
953 or dealer for transporting parts or salvage on the highways.

954 (b) The identification required under Subsection (13)(a) shall:

955 (i) include the name, address, and license number of the dismantler or dealer; and

956 (ii) be conspicuously displayed on both sides of the vehicle or equipment in clearly
957 legible letters and numerals not less than two inches in height.

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

959 **41-3-702. Civil penalty for violation.**

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

962 (a) Level I:

963 (i) failing to display business license;

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

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

968 (iv) issuing a temporary permit improperly;

969 (v) failing to maintain records;

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

972 (vii) special plate violation;

973 (viii) failing to maintain a sign at a principal place of business; [~~and~~] or

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

977 (b) Level II:

978 (i) failing to report sale;

979 (ii) dismantling without a permit;

980 (iii) manufacturing without meeting construction or vehicle identification number
981 standards;

982 (iv) withholding customer license plates;

983 (v) selling a motor vehicle on consecutive days of Saturday and Sunday; or

984 (vi) failing to record and report the sale of a salvage vehicle at a motor vehicle auction
985 as described in Section [41-3-201](#).

986 (c) Level III:

987 (i) operating without a principal place of business;

988 (ii) selling a new motor vehicle as a dealer who is not a direct-sale manufacturer

989 without holding the franchise;

990 (iii) crushing a motor vehicle without proper evidence of ownership;

991 (iv) selling from an unlicensed location;

992 (v) altering a temporary permit;

993 (vi) refusal to furnish copies of records;

994 (vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;

995 (viii) advertising violation;

996 (ix) failing to separately identify the fees required by Title 41, Chapter 1a, Motor

997 Vehicle Act;

998 (x) encouraging or conspiring with unlicensed persons to solicit for prospective

999 purchasers; [~~and~~] or

1000 (xi) selling, offering for sale, or displaying for sale or exchange a vehicle, vessel, or

1001 outboard motor in violation of Section [41-1a-705](#).

1002 (2) (a) The schedule of civil penalties for violations of Subsection (1) is:

1003 (i) Level I: \$25 for the first offense, \$100 for the second offense, and \$250 for the third

1004 and subsequent offenses;

1005 (ii) Level II: \$100 for the first offense, \$250 for the second offense, and \$1,000 for the

1006 third and subsequent offenses; and

1007 (iii) Level III: \$250 for the first offense, \$1,000 for the second offense, and \$5,000 for

1008 the third and subsequent offenses.

1009 (b) When determining under this section if an offense is a second or subsequent

1010 offense, only prior offenses committed within the 12 months [~~prior to~~] before the commission

1011 of the current offense may be considered.

1012 (3) The following are civil violations in addition to criminal violations under Section

1013 [41-1a-1008](#):

1014 (a) knowingly selling a salvage vehicle, as defined in Section [41-1a-1001](#), without

1015 disclosing that the salvage vehicle has been repaired or rebuilt;

1016 (b) knowingly making a false statement on a vehicle damage disclosure statement, as

1017 defined in Section [41-1a-1001](#); or

1018 (c) fraudulently certifying that a damaged motor vehicle is entitled to an unbranded

1019 title, as defined in Section [41-1a-1001](#), when it is not.

- 1020 (4) The civil penalty for a violation under Subsection (3) is:
- 1021 (a) not less than \$1,000, or treble the actual damages caused by the person, whichever
- 1022 is greater; and
- 1023 (b) reasonable attorney fees and costs of the action.
- 1024 (5) A civil action may be maintained by a purchaser or by the administrator.

Legislative Review Note
Office of Legislative Research and General Counsel