

## Part 1 General Administration

### 13-14-101 Title -- Legislative purpose.

- (1) This chapter shall be cited as the "New Automobile Franchise Act."
- (2) The Legislature finds that:
  - (a) The distribution and sales of new motor vehicles through franchise arrangements in the state vitally affects the general economy of the state, the public interest, and the public welfare. A substantial inequality of bargaining power between motor vehicle franchisors and motor vehicle franchisees enables a franchisor:
    - (i) to compel a franchisee to execute agreements that contain terms and conditions that a franchisee generally would not be agreed to absent the compulsion and duress that arise out of the inequality of bargaining power; and
    - (ii) in some cases to terminate a franchise without good cause, or to force a franchisee out of business by the use of unfair practices.
  - (b) Termination of franchises, without good cause or by unfair means:
    - (i) diminishes competition and, as a result, leads to higher retail prices and fewer purchase options;
    - (ii) adversely affects communities that depend on a franchisee to make available motor vehicles for sale or lease and to provide warranty work and other services related to vehicles; and
    - (iii) undercuts expectations of consumers concerning the availability of future services including warranty work from the franchisee.
  - (c) To promote the public welfare and in the exercise of the state's police powers, it is necessary to establish statutory guidelines regulating the relationship between franchisors and franchisees in the motor vehicle industry.

Enacted by Chapter 277, 1996 General Session

### ***Superseded 10/1/2024***

### 13-14-102 Definitions.

As used in this chapter:

- (1) "Advisory board" or "board" means the Utah Motor Vehicle Franchise Advisory Board created in Section 13-14-103.
- (2) "Affected municipality" means an incorporated city or town:
  - (a) that is located in the notice area; and
  - (b)
    - (i) within which a franchisor is proposing a new or relocated dealership that is within the relevant market area of an existing dealership of the same line-make owned by another franchisee; or
    - (ii) within which an existing dealership is located and a franchisor is proposing a new or relocated dealership within the relevant market area of that existing dealership of the same line-make.
- (3) "Affiliate" has the meaning set forth in Section 16-10a-102.
- (4) "Aftermarket product" means any product or service not included in the franchisor's suggested retail price of the new motor vehicle, as that price appears on the label required by 15 U.S.C. Sec. 1232(f).
- (5) "Dealership" means a site or location in this state:

- (a) at which a franchisee conducts the business of a new motor vehicle dealer; and
  - (b) that is identified as a new motor vehicle dealer's principal place of business for licensing purposes under Section 41-3-204.
- (6) "Department" means the Department of Commerce.
- (7) "Do-not-drive order" means an order issued by a franchisor that instructs an individual not to operate a motor vehicle of the franchisor's line-make due to a recall.
- (8) "Executive director" means the executive director of the Department of Commerce.
- (9)
- (a) "Franchise" or "franchise agreement" means a written agreement, or in the absence of a written agreement, then a course of dealing or a practice for a definite or indefinite period, in which:
    - (i) a person grants to another person a license to use a trade name, trademark, service mark, or related characteristic; and
    - (ii) a community of interest exists in the marketing of new motor vehicles, new motor vehicle parts, and services related to the sale or lease of new motor vehicles at wholesale or retail.
  - (b) "Franchise" or "franchise agreement" includes a sales and service agreement.
- (10) "Franchisee" means a person with whom a franchisor has agreed or permitted, in writing or in practice, to purchase, sell, or offer for sale new motor vehicles manufactured, produced, represented, or distributed by the franchisor.
- (11) "Franchisor" means a person who has, in writing or in practice, agreed with or permits a franchisee to purchase, sell, or offer for sale new motor vehicles manufactured, produced, assembled, represented, or distributed by the franchisor, and includes:
  - (a) the manufacturer, producer, assembler, or distributor of the new motor vehicles;
  - (b) an intermediate distributor; and
  - (c) an agent, officer, or field or area representative of the franchisor.
- (12) "Lead" means the referral by a franchisor to a franchisee of a potential customer whose contact information was obtained from a franchisor's program, process, or system designed to generate referrals for the purchase or lease of a new motor vehicle, or for service work related to the franchisor's vehicles.
- (13) "Line-make" means:
  - (a) for other than a recreational vehicle, the motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the franchisor; or
  - (b) for a recreational vehicle, a specific series of recreational vehicle product that:
    - (i) is identified by a common series trade name or trademark;
    - (ii) is targeted to a particular market segment, as determined by decor, features, equipment, size, weight, and price range;
    - (iii) has a length and floor plan that distinguish the recreational vehicle from other recreational vehicles with substantially the same decor, features, equipment, size, weight, and price;
    - (iv) belongs to a single, distinct classification of recreational vehicle product type having a substantial degree of commonality in the construction of the chassis, frame, and body; and
    - (v) a franchise agreement authorizes a dealer to sell.
- (14) "Mile" means 5,280 feet.
- (15) "Motor home" means a self-propelled vehicle, primarily designed as a temporary dwelling for travel, recreational, or vacation use.
- (16)
- (a) "Motor vehicle" means:
    - (i) except as provided in Subsection (16)(b), a trailer;

- (ii) a travel trailer;
  - (iii) except as provided in Subsection (16)(b), a motor vehicle as defined in Section 41-3-102;
  - (iv) a semitrailer as defined in Section 41-1a-102; and
  - (v) a recreational vehicle.
- (b) "Motor vehicle" does not include:
- (i) a motorcycle as defined in Section 41-1a-102;
  - (ii) an off-highway vehicle as defined in Section 41-3-102;
  - (iii) a small trailer;
  - (iv) a trailer that:
    - (A) is not designed for human habitation; and
    - (B) has a gross vehicle weight rating of less than 26,000 pounds;
  - (v) a mobile home as defined in Section 41-1a-102;
  - (vi) a trailer of 750 pounds or less unladen weight; and
  - (vii) a farm tractor or other machine or tool used in the production, harvesting, or care of a farm product.
- (17) "New motor vehicle" means a motor vehicle that:
- (a) has never been titled or registered; and
  - (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven less than 7,500 miles.
- (18) "New motor vehicle dealer" is a person who is licensed under Subsection 41-3-202(1) to sell new motor vehicles.
- (19) "Notice" or "notify" includes both traditional written communications and all reliable forms of electronic communication unless expressly prohibited by statute or rule.
- (20) "Notice area" means the geographic area that is:
- (a) within a radius of at least six miles and no more than 10 miles from the site of an existing dealership; and
  - (b) located within a county with a population of at least 225,000.
- (21) "Primary market area" means:
- (a) for an existing dealership, the geographic area established by the franchisor that the existing dealership is intended to serve; or
  - (b) for a new or relocated dealership, the geographic area proposed by the franchisor that the new or relocated dealership is intended to serve.
- (22) "Recall" means a determination by a franchisor or the National Highway Traffic Safety Administration that a motor vehicle has a safety-related defect or fails to meet a federal safety or emissions standard.
- (23) "Recall repair" means any diagnostic work, labor, or part necessary to resolve an issue that is the basis of a recall.
- (24)
- (a) "Recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is either self-propelled or pulled by another vehicle.
  - (b) "Recreational vehicle" includes:
    - (i) a travel trailer;
    - (ii) a camping trailer;
    - (iii) a motor home;
    - (iv) a fifth wheel trailer; and
    - (v) a van.
- (25)

- (a) "Relevant market area," except with respect to recreational vehicles, means:
  - (i) as applied to an existing dealership that is located in a county with a population of less than 225,000:
    - (A) the county in which the existing dealership is located; and
    - (B) the area within a 15-mile radius of the existing dealership; or
  - (ii) as applied to an existing dealership that is located in a county with a population of 225,000 or more, the area within a 10-mile radius of the existing dealership.
- (b) "Relevant market area," with respect to recreational vehicles, means:
  - (i) the county in which the dealership is to be established or relocated; and
  - (ii) the area within a 35-mile radius from the site of the existing dealership.
- (26) "Sale, transfer, or assignment" means any disposition of a franchise or an interest in a franchise, with or without consideration, including a bequest, inheritance, gift, exchange, lease, or license.
- (27) "Serve" or "served," unless expressly indicated otherwise by statute or rule, includes any reliable form of communication.
- (28) "Site-control agreement" means an agreement, however denominated and regardless of the agreement's form or of the parties to the agreement, that has the effect of:
  - (a) controlling in any way the use and development of the premises upon which a franchisee's business operations are located;
  - (b) requiring a franchisee to establish or maintain an exclusive dealership facility on the premises upon which the franchisee's business operations are located; or
  - (c) restricting the ability of the franchisee or, if the franchisee leases the dealership premises, the franchisee's lessor to transfer, sell, lease, develop, redevelop, or change the use of some or all of the dealership premises, whether by sublease, lease, collateral pledge of lease, right of first refusal to purchase or lease, option to purchase or lease, or any similar arrangement.
- (29) "Small trailer" means the same as that term is defined in Section 41-3-102.
- (30) "Stop-sale order" means an order issued by a franchisor that prohibits a franchisee from selling or leasing a certain used motor vehicle of the franchisor's line-make, which then or thereafter is in the franchisee's inventory, due to a recall.
- (31) "Trailer" means the same as that term is defined in Section 41-3-102.
- (32) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.
- (33) "Used motor vehicle" means a motor vehicle that:
  - (a) has been titled and registered to a purchaser other than a franchisee; or
  - (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles.
- (34) "Value of a used motor vehicle" means the average trade-in value for a used motor vehicle of the same year, make, and model as reported in a recognized, independent third-party used motor vehicle guide.
- (35) "Written," "write," "in writing," or other variations of those terms shall include all reliable forms of electronic communication.

Amended by Chapter 367, 2020 General Session

**Effective 10/1/2024**  
**13-14-102 Definitions.**

As used in this chapter:

- (1) "Affected municipality" means an incorporated city or town:
  - (a) that is located in the notice area; and
  - (b)
    - (i) within which a franchisor is proposing a new or relocated dealership that is within the relevant market area of an existing dealership of the same line-make owned by another franchisee; or
    - (ii) within which an existing dealership is located and a franchisor is proposing a new or relocated dealership within the relevant market area of that existing dealership of the same line-make.
- (2) "Affiliate" has the meaning set forth in Section 16-10a-102.
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    - (i) a person grants to another person a license to use a trade name, trademark, service mark, or related characteristic; and
    - (ii) a community of interest exists in the marketing of new motor vehicles, new motor vehicle parts, and services related to the sale or lease of new motor vehicles at wholesale or retail.
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  - (iii) has a length and floor plan that distinguish the recreational vehicle from other recreational vehicles with substantially the same decor, features, equipment, size, weight, and price;
  - (iv) belongs to a single, distinct classification of recreational vehicle product type having a substantial degree of commonality in the construction of the chassis, frame, and body; and
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    - (ii) a travel trailer;
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    - (iii) a small trailer;
    - (iv) a trailer that:
      - (A) is not designed for human habitation; and
      - (B) has a gross vehicle weight rating of less than 26,000 pounds;
    - (v) a mobile home as defined in Section 41-1a-102;
    - (vi) a trailer of 750 pounds or less unladen weight; and
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      - (A) the county in which the existing dealership is located; and
      - (B) the area within a 15-mile radius of the existing dealership; or
    - (ii) as applied to an existing dealership that is located in a county with a population of 225,000 or more, the area within a 10-mile radius of the existing dealership.
  - (b) "Relevant market area," with respect to recreational vehicles, means:
    - (i) the county in which the dealership is to be established or relocated; and
    - (ii) the area within a 35-mile radius from the site of the existing dealership.
- (25) "Sale, transfer, or assignment" means any disposition of a franchise or an interest in a franchise, with or without consideration, including a bequest, inheritance, gift, exchange, lease, or license.
- (26) "Serve" or "served," unless expressly indicated otherwise by statute or rule, includes any reliable form of communication.
- (27) "Site-control agreement" means an agreement, however denominated and regardless of the agreement's form or of the parties to the agreement, that has the effect of:
  - (a) controlling in any way the use and development of the premises upon which a franchisee's business operations are located;
  - (b) requiring a franchisee to establish or maintain an exclusive dealership facility on the premises upon which the franchisee's business operations are located; or
  - (c) restricting the ability of the franchisee or, if the franchisee leases the dealership premises, the franchisee's lessor to transfer, sell, lease, develop, redevelop, or change the use of some or all of the dealership premises, whether by sublease, lease, collateral pledge of lease, right of first refusal to purchase or lease, option to purchase or lease, or any similar arrangement.
- (28) "Small trailer" means the same as that term is defined in Section 41-3-102.
- (29) "Stop-sale order" means an order issued by a franchisor that prohibits a franchisee from selling or leasing a certain used motor vehicle of the franchisor's line-make, which then or thereafter is in the franchisee's inventory, due to a recall.
- (30) "Trailer" means the same as that term is defined in Section 41-3-102.
- (31) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that

does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

- (32) "Used motor vehicle" means a motor vehicle that:
  - (a) has been titled and registered to a purchaser other than a franchisee; or
  - (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles.
- (33) "Value of a used motor vehicle" means the average trade-in value for a used motor vehicle of the same year, make, and model as reported in a recognized, independent third-party used motor vehicle guide.
- (34) "Written," "write," "in writing," or other variations of those terms shall include all reliable forms of electronic communication.

Amended by Chapter 507, 2024 General Session

**13-14-103 Utah Motor Vehicle Franchise Advisory Board -- Creation -- Appointment of members -- Alternate members -- Chair -- Quorum -- Conflict of interest.**

- (1) There is created within the department the Utah Motor Vehicle Franchise Advisory Board that consists of:
  - (a) the executive director or the executive director's designee; and
  - (b) 11 members appointed by the executive director, with the concurrence of the governor as follows:
    - (i) one recreational motor vehicle franchisee;
    - (ii) three new motor vehicle franchisees from different congressional districts in the state;
    - (iii) three members representing motor vehicle franchisors registered by the department pursuant to Section 13-14-105;
    - (iv) three members of the general public, none of whom shall be related to any franchisee; and
    - (v) one representative of the Utah League of Cities and Towns.
- (2)
  - (a) The executive director shall appoint, with the concurrence of the governor, five alternate members, with one alternate from each of the designations described in Subsections (1)(b)(i) through (v), except that the new motor vehicle franchisee alternate for the designation under Subsection (1)(b)(ii) may be from any congressional district.
  - (b) An alternate shall take the place of a regular advisory board member from the same designation at a meeting of the advisory board where that regular advisory board member is absent or otherwise disqualified from participating in the advisory board meeting.
- (3)
  - (a)
    - (i) Members of the advisory board appointed under Subsections (1)(b) and (2) are appointed for a term of four years.
    - (ii) No specific term applies to the executive director or the executive director's designee.
  - (b) The executive director may adjust the term of members who were appointed to the advisory board prior to July 1, 2001, by extending the unexpired term of a member for up to two additional years in order to insure that approximately half of the members are appointed every two years.
  - (c) In the event of a vacancy on the advisory board of a member appointed under Subsection (1)(b) or (2), the executive director with the concurrence of the governor, shall appoint an individual to complete the unexpired term of the member whose office is vacant.
  - (d) A member may not be appointed to more than two consecutive terms.



- (4)
  - (a) The executive director or the executive director's designee is the chair of the advisory board.
  - (b) The department shall keep a record of all hearings, proceedings, transactions, communications, and recommendations of the advisory board.
- (5)
  - (a) Four or more members of the advisory board constitute a quorum for the transaction of business.
  - (b) The action of a majority of a quorum present is considered the action of the advisory board.
- (6)
  - (a) A member of the advisory board may not participate as a board member in a proceeding or hearing:
    - (i) involving the member's licensed business or employer; or
    - (ii) when a member, a member's business or family, or employer has a pecuniary interest in the outcome or other conflict of interest concerning an issue before the advisory board.
  - (b) If a member of the advisory board is disqualified under Subsection (6)(a), the executive director shall select the appropriate alternate member to act on the issue before the advisory board as provided in Subsection (2).
- (7) Except for the executive director or the executive director's designee, an individual may not be appointed or serve on the advisory board while holding any other elective or appointive state or federal office.
- (8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (9) The department shall provide necessary staff support to the advisory board.

Amended by Chapter 268, 2015 General Session

***Superseded 10/1/2024***

**13-14-104 Powers and duties of the advisory board and the executive director.**

- (1)
  - (a) Except as provided in Subsection 13-14-106(3), the advisory board shall make recommendations to the executive director on the administration and enforcement of this chapter, including adjudicative and rulemaking proceedings.
  - (b) The executive director shall:
    - (i) consider the advisory board's recommendations; and
    - (ii) issue any rules or final decisions by the department.
- (2) The executive director, in consultation with the advisory board, shall make rules for the administration of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3)
  - (a) An adjudicative proceeding under this chapter shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
  - (b) In an adjudicative proceeding under this chapter, any order issued by the executive director:
    - (i) shall comply with Section 63G-4-208, whether the proceeding is a formal or an informal adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act; and

- (ii) if the order modifies or rejects a finding of fact in a recommendation from the advisory board, shall be made on the basis of information learned from the executive director's:
  - (A) personal attendance at the hearing; or
  - (B) review of the record developed at the hearing.
- (4) The executive director's decision under this section shall be made available to the public.

Amended by Chapter 268, 2015 General Session

***Effective 10/1/2024***

**13-14-104 Powers and duties of the executive director.**

- (1) The executive director shall:
  - (a) administer and enforce this chapter; and
  - (b) make rules for the administration of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2)
  - (a) An adjudicative proceeding under this chapter shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
  - (b) In an adjudicative proceeding under this chapter, any order issued by the executive director shall comply with Section 63G-4-208, whether the proceeding is a formal or an informal adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.
- (3) The executive director's decision under this section shall be made available to the public.

Amended by Chapter 507, 2024 General Session

**13-14-105 Registration -- Fees.**

- (1) A franchisee or franchisor doing business in this state shall:
  - (a) annually register or renew its registration with the department in a manner established by the department; and
  - (b) pay an annual registration fee in an amount determined by the department in accordance with Sections 13-1-2 and 63J-1-504.
- (2) The department shall register or renew the registration of a franchisee or franchisor if the franchisee or franchisor complies with this chapter and rules made by the department under this chapter.
- (3) A franchisee or franchisor registered under this section shall comply with this chapter and any rules made by the department under this chapter including any amendments to this chapter or the rules made after a franchisee or franchisor enter into a franchise agreement.
- (4) The fee imposed under Subsection (1)(b) shall be collected by the department and deposited into the Commerce Service Account created by Section 13-1-2.
- (5) Notwithstanding Subsection (1), an agent, officer, or field or area representative of a franchisor does not need to be registered under this section if the franchisor is registered under this section.

Amended by Chapter 278, 2010 General Session

***Superseded 10/1/2024***

**13-14-106 Administrative proceedings commenced by the agency.**

- (1) Except as provided in Subsection (3), after a hearing and after receipt of the advisory board's recommendation, if the executive director finds that a person has violated this chapter or any rule made under this chapter, the executive director may:
  - (a) issue a cease and desist order; and
  - (b) assess an administrative fine.
- (2)
  - (a) In determining the amount and appropriateness of an administrative fine under Subsection (1), the executive director shall consider:
    - (i) the gravity of the violation;
    - (ii) any history of previous violations; and
    - (iii) any attempt made by the person to retaliate against another person for seeking relief under this chapter or other federal or state law relating to the motor vehicle industry.
  - (b) In addition to any other action permitted under Subsection (1), the department may file an action with a court seeking to enforce the executive director's order and pursue the executive director's assessment of a fine in an amount not to exceed \$5,000 for each day a person violates an order of the executive director.
- (3)
  - (a) In addition to the grounds for issuing an order on an emergency basis listed in Subsection 63G-4-502(1), the executive director may issue an order on an emergency basis if the executive director determines that irreparable damage is likely to occur if immediate action is not taken.
  - (b) In issuing an emergency order under Subsection (3)(a) the executive director shall comply with the requirements of Subsections 63G-4-502(2) and (3).

Amended by Chapter 382, 2008 General Session

***Effective 10/1/2024***

**13-14-106 Administrative proceedings commenced by the agency.**

- (1) Except as provided in Subsection (3), after a hearing, if the executive director finds that a person has violated this chapter or any rule made under this chapter, the executive director may:
  - (a) issue a cease and desist order; and
  - (b) assess an administrative fine.
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  - (a) In determining the amount and appropriateness of an administrative fine under Subsection (1), the executive director shall consider:
    - (i) the gravity of the violation;
    - (ii) any history of previous violations; and
    - (iii) any attempt made by the person to retaliate against another person for seeking relief under this chapter or other federal or state law relating to the motor vehicle industry.
  - (b) In addition to any other action permitted under Subsection (1), the department may file an action with a court seeking to enforce the executive director's order and pursue the executive director's assessment of a fine in an amount not to exceed \$5,000 for each day a person violates an order of the executive director.
- (3)
  - (a) In addition to the grounds for issuing an order on an emergency basis listed in Subsection 63G-4-502(1), the executive director may issue an order on an emergency basis if the

executive director determines that irreparable damage is likely to occur if immediate action is not taken.

- (b) In issuing an emergency order under Subsection (3)(a) the executive director shall comply with the requirements of Subsections 63G-4-502(2) and (3).

Amended by Chapter 507, 2024 General Session

***Superseded 10/1/2024***

**13-14-107 Administrative proceedings -- Request for agency action.**

- (1)
  - (a) A person may commence an adjudicative proceeding in accordance with this chapter and Title 63G, Chapter 4, Administrative Procedures Act to:
    - (i) remedy a violation of this chapter;
    - (ii) obtain approval of an act regulated by this chapter; or
    - (iii) obtain any determination that this chapter specifically authorizes that person to request.
  - (b) A person shall commence an adjudicative proceeding by filing a request for agency action in accordance with Section 63G-4-201.
- (2) After receipt of the advisory board's recommendation, the executive director shall apportion in a fair and equitable manner between the parties any costs of the adjudicative proceeding, including reasonable attorney fees.

Amended by Chapter 382, 2008 General Session

***Effective 10/1/2024***

**13-14-107 Administrative proceedings -- Request for agency action.**

- (1)
  - (a) A person may commence an adjudicative proceeding in accordance with this chapter and Title 63G, Chapter 4, Administrative Procedures Act to:
    - (i) remedy a violation of this chapter;
    - (ii) obtain approval of an act regulated by this chapter; or
    - (iii) obtain any determination that this chapter specifically authorizes that person to request.
  - (b) A person shall commence an adjudicative proceeding by filing a request for agency action in accordance with Section 63G-4-201.
- (2) The executive director shall apportion in a fair and equitable manner between the parties any costs of the adjudicative proceeding, including reasonable attorney fees.

Amended by Chapter 507, 2024 General Session

**13-14-108 Applicability.**

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

Enacted by Chapter 387, 2018 General Session