

**Effective 5/12/2015**

**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) "Executive director" means the executive director of the Department of Commerce.
- (8)
  - (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.
- (9) "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.
- (10) "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.
- (11) "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.
- (12) "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.
- (13) "Mile" means 5,280 feet.
- (14) "Motor home" means a self-propelled vehicle, primarily designed as a temporary dwelling for travel, recreational, or vacation use.
- (15)
  - (a) "Motor vehicle" means:
    - (i) a travel trailer;
    - (ii) except as provided in Subsection (15)(b), a motor vehicle as defined in Section 41-3-102;
    - (iii) a semitrailer as defined in Section 41-1a-102;
    - (iv) a trailer 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; and
    - (iii) a small trailer as defined in Section 41-3-102.
- (16) "New motor vehicle" means a motor vehicle as defined in Subsection (15) that has never been titled or registered and has been driven less than 7,500 miles, unless the motor vehicle is a trailer, travel trailer, or semitrailer, in which case the mileage limit does not apply.
- (17) "New motor vehicle dealer" is a person who is licensed under Subsection 41-3-202(1)(a) to sell new motor vehicles.
- (18) "Notice" or "notify" includes both traditional written communications and all reliable forms of electronic communication unless expressly prohibited by statute or rule.
- (19) "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.
- (20) "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.
- (21)
  - (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.
- (22)
- (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.
- (23) "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.
- (24) "Serve" or "served," unless expressly indicated otherwise by statute or rule, includes any reliable form of communication.
- (25) "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.
- (26) "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.
- (27) "Written," "write," "in writing," or other variations of those terms shall include all reliable forms of electronic communication.

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