

## Part 1 Administration

### 41-3-101 Short title.

This chapter is known as the Motor Vehicle Business Regulation Act.

Enacted by Chapter 234, 1992 General Session

### 41-3-102 Definitions.

As used in this chapter:

- (1) "Administrator" means the motor vehicle enforcement administrator.
- (2) "Agent" means a person other than a holder of any dealer's or salesperson's license issued under this chapter, who for salary, commission, or compensation of any kind, negotiates in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any other person in any 12-month period.
- (3) "Auction" means a dealer engaged in the business of auctioning motor vehicles, either owned or consigned, to the general public.
- (4) "Board" means the advisory board created in Section 41-3-106.
- (5) "Body shop" means a business engaged in rebuilding, restoring, repairing, or painting primarily the body of motor vehicles damaged by collision or natural disaster.
- (6) "Commission" means the State Tax Commission.
- (7) "Crusher" means a person who crushes or shreds motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to reduce the useable materials and metals to a more compact size for recycling.
- (8)
  - (a) "Dealer" means a person:
    - (i) whose business in whole or in part involves selling new, used, or new and used motor vehicles or off-highway vehicles; and
    - (ii) who sells, displays for sale, or offers for sale or exchange three or more new or used motor vehicles or off-highway vehicles in any 12-month period.
  - (b) "Dealer" includes a representative or consignee of any dealer.
- (9)
  - (a) "Dismantler" means a person engaged in the business of dismantling motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the resale of parts or for salvage.
  - (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any 12-month period.
- (10) "Distributor" means a person who has a franchise from a manufacturer of motor vehicles to distribute motor vehicles within this state and who in whole or in part sells or distributes new motor vehicles to dealers or who maintains distributor representatives.
- (11) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.
- (12) "Distributor representative" means a person and each officer and employee of the person engaged as a representative of a distributor or distributor branch of motor vehicles to make or promote the sale of the distributor or the distributor branch's motor vehicles, or for supervising or contacting dealers or prospective dealers of the distributor or the distributor branch.
- (13) "Division" means the Motor Vehicle Enforcement Division created in Section 41-3-104.

- (14) "Factory branch" means a branch office maintained by a person who manufactures or assembles motor vehicles for sale to distributors, motor vehicle dealers, or who directs or supervises the factory branch's representatives.
- (15) "Factory representative" means a person and each officer and employee of the person engaged as a representative of a manufacturer of motor vehicles or by a factory branch to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or for supervising or contacting the dealers or prospective dealers of the manufacturer or the factory branch.
- (16) "Franchise" means a contract or agreement between a dealer and a manufacturer of new motor vehicles or its distributor or factory branch by which the dealer is authorized to sell any specified make or makes of new motor vehicles.
- (17) "Manufacturer" means a person engaged in the business of constructing or assembling new motor vehicles, ownership of which is customarily transferred by a manufacturer's statement or certificate of origin, or a person who constructs three or more new motor vehicles in any 12-month period.
- (18) "Motorcycle" has the same meaning as defined in Section 41-1a-102.
- (19)
  - (a) "Motor vehicle" means a vehicle that is:
    - (i) self-propelled;
    - (ii) a trailer, travel trailer, or semitrailer; or
    - (iii) an off-highway vehicle or small trailer.
  - (b) "Motor vehicle" does not include:
    - (i) mobile homes as defined in Section 41-1a-102;
    - (ii) trailers of 750 pounds or less unladen weight;
    - (iii) farm tractors and other machines and tools used in the production, harvesting, and care of farm products; and
    - (iv) park model recreational vehicles as defined in Section 41-1a-102.
- (20) "New motor vehicle" means a motor vehicle that has never been titled or registered and has been driven less than 7,500 miles, unless the motor vehicle is an off-highway vehicle, small trailer, trailer, travel trailer, or semitrailer, in which case the mileage limit does not apply.
- (21) "Off-highway vehicle" has the same meaning as provided in Section 41-22-2.
- (22) "Pawnbroker" means a person whose business is to lend money on security of personal property deposited with him.
- (23) "Principal place of business" means a site or location in this state:
  - (a) devoted exclusively to the business for which the dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses incidental to them;
  - (b) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely indicate the boundary and to admit a definite description with space adequate to permit the display of three or more new, or new and used, or used motor vehicles and sufficient parking for the public; and
  - (c) that includes a permanent enclosed building or structure large enough to accommodate the office of the establishment and to provide a safe place to keep the books and other records of the business, at which the principal portion of the business is conducted and the books and records kept and maintained.
- (24) "Remanufacturer" means a person who reconstructs used motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style and appearance of the motor vehicle or who constructs or assembles motor vehicles from used or

new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more motor vehicles in any 12-month period.

- (25) "Salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles.
- (26) "Semitrailer" has the same meaning as defined in Section 41-1a-102.
- (27) "Small trailer" means a trailer that has an unladen weight of more than 750 pounds, but less than 2,000 pounds.
- (28) "Special equipment" includes a truck mounted crane, cherry picker, material lift, post hole digger, and a utility or service body.
- (29) "Special equipment dealer" means a new or new and used motor vehicle dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle weight of 12,000 or more pounds and installing special equipment on the incomplete motor vehicle.
- (30) "Trailer" has the same meaning as defined in Section 41-1a-102.
- (31) "Transporter" means a person engaged in the business of transporting motor vehicles as described in Section 41-3-202.
- (32) "Travel trailer" has the same meaning as provided in Section 41-1a-102.
- (33) "Used motor vehicle" means a vehicle that has been titled and registered to a purchaser other than a dealer or has been driven 7,500 or more miles, unless the vehicle is a trailer, or semitrailer, in which case the mileage limit does not apply.
- (34) "Wholesale motor vehicle auction" means a dealer primarily engaged in the business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by this or any other jurisdiction.

Amended by Chapter 237, 2014 General Session

**41-3-103 Exceptions to "dealer" definition -- Dealer licensed in other state.**

Under this chapter:

- (1)
  - (a) An insurance company, bank, finance company, company registered as a title lender under Title 7, Chapter 24, Title Lending Registration Act, company registered as a check casher or deferred deposit lender under Title 7, Chapter 23, Check Cashing and Deferred Deposit Lending Registration Act, public utility company, commission impound yard, federal or state governmental agency, or any political subdivision of any of them or any other person coming into possession of a motor vehicle as an incident to its regular business, that sells the motor vehicle under contractual rights that it may have in the motor vehicle is not considered a dealer.
  - (b) A person who sells or exchanges only those motor vehicles that the person has owned for over 12 months is not considered a dealer.
- (2)
  - (a) A person engaged in leasing motor vehicles is not considered as coming into possession of the motor vehicles incident to the person's regular business.
  - (b) A pawnbroker engaged in selling, exchanging, or pawning motor vehicles is considered as coming into possession of the motor vehicles incident to the person's regular business and must be licensed as a used motor vehicle dealer.
- (3) A person currently licensed as a dealer or salesperson by another state or country and not currently under license suspension or revocation by the administrator may only sell motor

vehicles in this state to licensed dealers, dismantlers, or manufacturers, and only at their places of business.

Amended by Chapter 393, 2010 General Session

**41-3-104 Division creation -- Administrator appointed.**

- (1) There is created within the commission the Motor Vehicle Enforcement Division with the powers and duties provided in this chapter.
- (2) The division shall be administered by the motor vehicle enforcement administrator.
- (3) The administrator shall be appointed by the commission and is subject to the commission's supervision and direction.

Enacted by Chapter 234, 1992 General Session

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

- (1) The administrator may make rules to carry out the purposes of this chapter and Sections 41-1a-1001 through 41-1a-1007 according to the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2)
  - (a) The administrator may employ clerks, deputies, and assistants necessary to discharge the duties under this chapter and may designate the duties of those clerks, deputies, and assistants.
  - (b) The administrator, assistant administrator, and all investigators shall be law enforcement officers certified by peace officer standards and training as required by Section 53-13-103.
- (3)
  - (a) The administrator may investigate any suspected or alleged violation of:
    - (i) this chapter;
    - (ii) Title 41, Chapter 1a, Motor Vehicle Act;
    - (iii) any law concerning motor vehicle fraud; or
    - (iv) any rule made by the administrator.
  - (b) The administrator may bring an action in the name of the state against any person to enjoin a violation found under Subsection (3)(a).
- (4)
  - (a) The administrator may prescribe forms to be used for applications for licenses.
  - (b) The administrator may require information from the applicant concerning the applicant's fitness to be licensed.
  - (c) Each application for a license shall contain:
    - (i) if the applicant is an individual, the name and residence address of the applicant and the trade name, if any, under which the applicant intends to conduct business;
    - (ii) if the applicant is a partnership, the name and residence address of each partner, whether limited or general, and the name under which the partnership business will be conducted;
    - (iii) if the applicant is a corporation, the name of the corporation, and the name and residence address of each of its principal officers and directors;
    - (iv) a complete description of the principal place of business, including:
      - (A) the municipality, with the street and number, if any;
      - (B) if located outside of any municipality, a general description so that the location can be determined; and

- (C) any other places of business operated and maintained by the applicant in conjunction with the principal place of business;
  - (v) if the application is for a new motor vehicle dealer's license, the name of each motor vehicle the applicant has been enfranchised to sell or exchange, the name and address of the manufacturer or distributor who has enfranchised the applicant, and the names and addresses of the individuals who will act as salespersons under authority of the license;
  - (vi) at least five years of business history;
  - (vii) the federal tax identification number issued to the dealer; and
  - (viii) the sales and use tax license number issued to the dealer under Title 59, Chapter 12, Sales and Use Tax Act.
- (5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement Administrator, State of Utah," to authenticate the acts of the administrator's office.
- (6)
- (a) The administrator may require that the licensee erect or post signs or devices on the licensee's principal place of business and any other sites, equipment, or locations operated and maintained by the licensee in conjunction with the licensee's business.
  - (b) The signs or devices shall state the licensee's name, principal place of business, type and number of licenses, and any other information that the administrator considers necessary to identify the licensee.
  - (c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, determining allowable size and shape of signs or devices, their lettering and other details, and their location.
- (7)
- (a) The administrator shall provide for quarterly meetings of the advisory board and may call special meetings.
  - (b) Notices of all meetings shall be sent to each member not fewer than five days prior to the meeting.
- (8) The administrator, the officers and inspectors of the division designated by the commission, and peace officers shall:
- (a) make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this chapter, or Title 41, Chapter 1a, Motor Vehicle Act;
  - (b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is being operated in violation of any provision of Title 41, Chapter 1a, Motor Vehicle Act, require the driver of the vehicle to stop, exhibit the person's driver license and the registration card issued for the vehicle and submit to an inspection of the vehicle, the license plates, and registration card;
  - (c) serve all warrants relating to the enforcement of the laws regulating the operation of motor vehicles, trailers, and semitrailers;
  - (d) investigate traffic accidents and secure testimony of witnesses or persons involved; and
  - (e) investigate reported thefts of motor vehicles, trailers, and semitrailers.
- (9) The administrator may contract with a public prosecutor to provide additional prosecution of this chapter.

Amended by Chapter 393, 2010 General Session

**41-3-106 Board -- Creation and composition -- Appointment, terms, compensation, and expenses of members -- Meetings -- Quorum -- Powers and duties -- Officers' election and duties -- Voting.**

- (1)
  - (a) There is created an advisory board of five members that shall assist and advise the administrator in the administration and enforcement of this chapter.
  - (b) The members shall be appointed by the governor from among the licensed motor vehicle manufacturers, distributors, factory branch and distributor branch representatives, dealers, dismantlers, transporters, remanufacturers, and body shops.
  - (c)
    - (i) Except as required by Subsection (1)(c)(ii), each member shall be appointed for a term of four years or until his successor is appointed and qualified.
    - (ii) Notwithstanding the requirements of Subsection (1)(c)(i), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
  - (d) Three members of the board shall be selected as follows:
    - (i) one from new motor vehicle dealers;
    - (ii) one from used motor vehicle dealers; and
    - (iii) one from manufacturers, transporters, dismantlers, crushers, remanufacturers, and body shops.
  - (e) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
    - (i) Section 63A-3-106;
    - (ii) Section 63A-3-107; and
    - (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
  - (f) A majority of the members of the board constitutes a quorum and may act upon and resolve in the name of the board any matter, thing, or question referred to it by the administrator, or that the board has power to determine.
  - (g) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (2)
  - (a) The board shall on the first day of each July, or as soon thereafter as practicable, elect a chair, vice chair, secretary, and assistant secretary from among its members, who shall each hold office until his successor is elected.
  - (b) As soon as the board elects its officers, the elected secretary shall certify the results of the election to the administrator.
  - (c) The chair shall preside at all meetings of the board and the secretary shall make a record of the proceedings, which shall be preserved in the office of the administrator.
  - (d) If the chair is absent from any meeting of the board, his duties shall be discharged by the vice chair, and if the secretary is absent, his duties shall be discharged by the assistant secretary.
  - (e) All members of the board may vote on any question, matter, or thing that properly comes before it.

Amended by Chapter 286, 2010 General Session  
Amended by Chapter 324, 2010 General Session

**41-3-107 Attorney general -- Duty to render opinions and to represent or appear for administrator or board.**

The attorney general shall:

- (1) represent the administrator, the division, and the board;
- (2) give opinions on all questions of law relating to the interpretation of this chapter or arising out of the administration of this chapter; and
- (3) appear on behalf of the administrator, the division, or the board in all actions brought by or against the administrator, the division, or board, whether under the provisions of this chapter or otherwise.

Renumbered and Amended by Chapter 234, 1992 General Session

**41-3-108 Copies of records and papers -- Admissibility in evidence.**

Certified copies of all records and papers prepared in the office of the administrator under seal of the administrator are admissible in evidence in any case in the same manner as the original.

Amended by Chapter 4, 1993 General Session

**41-3-109 Adjudicative proceedings -- Hearings.**

- (1) The commission, the division, the board, and the administrator shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in all adjudicative proceedings conducted under the authority of this chapter and Sections 41-1a-1001 through 41-1a-1008.
- (2) The administrator may request the attendance of the board at any hearing, or the administrator may direct that any hearing be held before the board.

Amended by Chapter 382, 2008 General Session

**41-3-110 Motor Vehicle Enforcement Division Temporary Permit Restricted Account.**

- (1) As used in this section, "account" means the Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by this section.
- (2) There is created within the General Fund a restricted account known as the Motor Vehicle Enforcement Division Temporary Permit Restricted Account.
- (3)
  - (a) The account shall be funded from the fees deposited into the account in accordance with Section 41-3-601.
  - (b) The fees described in Subsection (3)(a) shall be paid to the division, which shall deposit them into the account.
- (4) The Legislature may appropriate the funds in the account to the commission to cover the costs of the division.
- (5) In accordance with Section 63J-1-602.2, appropriations made to the commission from the account are nonlapsing.

Enacted by Chapter 93, 2015 General Session