

**Effective 7/1/2023**

**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) "Authorized service center" means an entity that:
  - (a) is in the business of repairing exclusively the motor vehicles of the same line-make as the motor vehicles a single direct-sale manufacturer manufactures;
  - (b) the direct-sale manufacturer described in Subsection (4)(a) authorizes to complete warranty repair work for motor vehicles that the direct-sale manufacturer sells, displays for sale, or offers for sale or exchange; and
  - (c) conducts business primarily from an enclosed commercial repair facility that is permanently located in the state.
- (5) "Board" means the advisory board created in Section 41-3-106.
- (6) "Body shop" means a person engaged in rebuilding, restoring, repairing, or painting the body of motor vehicles for compensation.
- (7) "Commission" means the State Tax Commission.
- (8) "Crusher" means a person who crushes or shreds motor vehicles subject to registration under Chapter 1a, Motor Vehicle Act, to reduce the useable materials and metals to a more compact size for recycling.
- (9)
  - (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.
- (10) "Direct-sale manufacturer" means a person:
  - (a) that is both a manufacturer and a dealer;
  - (b) that is:
    - (i) an electric vehicle manufacturer; or
    - (ii) a low-volume manufacturer;
  - (c) that is not a franchise holder;
  - (d) that is domiciled in the United States; and
  - (e) whose chief officers direct, control, and coordinate the person's activities as a direct-sale manufacturer from a physical location in the United States.
- (11) "Direct-sale manufacturer salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by a direct-sale manufacturer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of a motor vehicle manufactured by the direct-sale manufacturer who employs the individual.
- (12)

- (a) "Dismantler" means a person engaged in the business of dismantling motor vehicles subject to registration under 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.
- (13) "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.
- (14) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.
- (15) "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.
- (16) "Division" means the Motor Vehicle Enforcement Division created in Section 41-3-104.
- (17) "Electric vehicle manufacturer" means a person that, in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person's own line-make that are:
  - (a) exclusively propelled through the use of electricity, a hydrogen fuel cell, or another non-fossil fuel source;
  - (b)
    - (i) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less; or
    - (ii) trucks with a gross vehicle weight rating of 14,000 pounds or less; and
  - (c) manufactured by the person.
- (18) "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.
- (19) "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.
- (20) "Fleet transaction" means a licensee's sale of one or more motor vehicles to a manufacturer-approved current fleet customer under the manufacturer's fleet program.
- (21)
  - (a) "Franchise" means a contract or agreement between a dealer and a manufacturer of new motor vehicles or a manufacturer's distributor or factory branch by which the dealer is authorized to sell any specified make or makes of new motor vehicles.
  - (b) "Franchise" includes a contract or agreement described in Subsection (21)(a) regardless of whether the contract or agreement is subject to Title 13, Chapter 14, New Automobile Franchise Act, Title 13, Chapter 35, Powersport Vehicle Franchise Act, or neither.
- (22)
  - (a) "Franchise holder" means a manufacturer who:
    - (i) previously had a franchised dealer in the United States;
    - (ii) currently has a franchised dealer in the United States;
    - (iii) is a successor to another manufacturer who previously had or currently has a franchised dealer in the United States;
    - (iv) is a material owner of another manufacturer who previously had or currently has a franchised dealer in the United States;

- (v) is under legal or common ownership, or practical control, with another manufacturer who previously had or currently has a franchised dealer in the United States; or
  - (vi) is in a partnership, joint venture, or similar arrangement for production of a commonly owned line-make with another manufacturer who previously had or currently has a franchised dealer in the United States.
- (b) "Franchise holder" does not include a manufacturer described in Subsection (22)(a), if at all times during the franchised dealer's existence, the manufacturer had legal or practical common ownership or common control with the franchised dealer.
- (23) "Low-volume manufacturer" means a manufacturer who:
- (a) in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person's own line make that are:
    - (i)
      - (A) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less; or
      - (B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and
    - (ii) manufactured by the person; and
  - (b) constructs no more than 325 new motor vehicles in any 12-month period.
- (24) "Line-make" means motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer.
- (25) "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.
- (26) "Material owner" means a person who possesses, directly or indirectly, the power to direct, or cause the direction of, the management, policies, or activities of another person:
- (a) through ownership of voting securities;
  - (b) by contract or credit arrangement; or
  - (c) in another way not described in Subsections (26)(a) and (b).
- (27)
- (a) "Motor vehicle" means a vehicle that is:
    - (i) self-propelled;
    - (ii) a trailer;
    - (iii) a travel trailer;
    - (iv) a semitrailer;
    - (v) an off-highway vehicle; or
    - (vi) a 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) a farm tractor or other machine or tool used in the production, harvesting, or care of a farm product; and
    - (iv) park model recreational vehicles as defined in Section 41-1a-102.
- (28) "Motorcycle" means the same as that term is defined in Section 41-1a-102.
- (29) "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.
- (30) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

- (31) "Pawnbroker" means a person whose business is to lend money on security of personal property deposited with him.
- (32)
- (a) "Principal place of business" means a site or location in this state:
- (i) devoted exclusively to the business for which the dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses incidental to them;
  - (ii) 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
  - (iii) 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.
- (b) "Principal place of business" means, with respect to a direct-sale manufacturer, the direct-sale manufacturer's showroom, which shall comply with the requirements of Subsection (32) (a).
- (33) "Remanufacturer" means a person who reconstructs used motor vehicles subject to registration under 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.
- (34) "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.
- (35) "Semitrailer" means the same as that term is defined in Section 41-1a-102.
- (36) "Showroom" means a site or location in the state that a direct-sale manufacturer uses for the direct-sale manufacturer's business, including the display and demonstration of new motor vehicles that are exclusively of the same line-make that the direct-sale manufacturer manufactures.
- (37) "Small trailer" means a trailer that has an unladen weight of:
- (a) more than 750 pounds; and
  - (b) less than 2,000 pounds.
- (38) "Special equipment" includes a truck mounted crane, cherry picker, material lift, post hole digger, and a utility or service body.
- (39) "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.
- (40) "Trailer" means the same as that term is defined in Section 41-1a-102.
- (41) "Transporter" means a person engaged in the business of transporting motor vehicles as described in Section 41-3-202.
- (42) "Travel trailer" means the same as that term is defined in Section 41-1a-102.
- (43) "Used motor vehicle" means a vehicle that:
- (a) has been titled and registered to a purchaser other than a dealer; or
  - (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles.

(44) "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 63, 2023 General Session