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MOTOR VEHICLE BUSINESS REGULATION

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: George Mantes

AN ACT RELATING TO MOTOR VEHICLES; PROVIDING DEFINITIONS; AMENDING PROVISIONS RELATING TO MOTOR VEHICLE BUSINESS REGULATION; AND PROVIDING PENALTIES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

- 41-3-102**, as last amended by Chapter 7, Laws of Utah 1995
- 41-3-202**, as renumbered and amended by Chapter 234, Laws of Utah 1992
- 41-3-204**, as renumbered and amended by Chapter 234, Laws of Utah 1992
- 41-3-205**, as renumbered and amended by Chapter 234, Laws of Utah 1992
- 41-3-209**, as renumbered and amended by Chapter 234, Laws of Utah 1992
- 41-3-210**, as last amended by Chapter 7, Laws of Utah 1995
- 41-3-601**, as last amended by Chapter 28, Laws of Utah 1995

ENACTS:

41-3-703, Utah Code Annotated 1953

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

Section 1. Section **41-3-102** is amended to read:

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.

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

3 (4) "Board" means the advisory board created in Section 41-3-106.

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

6 (6) "Commission" means the State Tax Commission.

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

10 (8) (a) "Dealer" means a person:

11 (i) whose business in whole or in part involves selling new, used, or new and used motor
12 vehicles; and

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

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

16 (9) (a) "Dismantler" means a person engaged in the business of dismantling motor vehicles
17 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the resale of parts or for
18 salvage.

19 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any
20 12-month period.

21 (10) "Distributor" means a person who has a franchise from a manufacturer of motor
22 vehicles to distribute motor vehicles within this state and who in whole or in part sells or
23 distributes new motor vehicles to dealers or who maintains distributor representatives.

24 (11) "Distributor branch" means a branch office similarly maintained by a distributor for
25 the same purposes a factory branch is maintained.

26 (12) "Distributor representative" means a person and each officer and employee of the
27 person engaged as a representative of a distributor or distributor branch of motor vehicles to make
28 or promote the sale of the distributor or the distributor branch's motor vehicles, or for supervising
29 or contacting dealers or prospective dealers of the distributor or the distributor branch.

30 (13) "Division" means the Motor Vehicle Enforcement Division created in Section
31 41-3-104.

1 (14) "Factory branch" means a branch office maintained by a person who manufactures
2 or assembles motor vehicles for sale to distributors, motor vehicle dealers, or who directs or
3 supervises the factory branch's representatives.

4 (15) "Factory representative" means a person and each officer and employee of the person
5 engaged as a representative of a manufacturer of motor vehicles or by a factory branch to make
6 or promote the sale of the manufacturer's or factory branch's motor vehicles, or for supervising or
7 contacting the dealers or prospective dealers of the manufacturer or the factory branch.

8 (16) "Franchise" means a contract or agreement between a dealer and a manufacturer of
9 new motor vehicles or its distributor or factory branch by which the dealer is authorized to sell any
10 specified make or makes of new motor vehicles.

11 (17) "Manufacturer" means a person engaged in the business of constructing or assembling
12 new motor vehicles, ownership of which is customarily transferred by a manufacturer's statement
13 or certificate of origin, or a person who constructs three or more new motor vehicles in any
14 12-month period.

15 (18) "Motorcycle" has the same meaning as defined in Section 41-1a-102.

16 (19) (a) "Motor vehicle" means a vehicle intended primarily for use and operation on the
17 highway that is:

18 (i) self-propelled; or

19 (ii) a trailer or semitrailer.

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

21 (i) mobile homes as defined in Section 41-1a-102;

22 (ii) trailers of 750 pounds or less unladen weight; and

23 (iii) farm tractors and other machines and tools used in the production, harvesting, and care
24 of farm products.

25 (20) "New motor vehicle" means a motor vehicle that has never been titled or registered
26 and has been driven less than 7,500 miles, unless the motor vehicle is a trailer, or semitrailer, in
27 which case the mileage limit does not apply.

28 (21) "Pawnbroker" means a person whose business is to lend money on security of
29 personal property deposited with him.

30 (22) "Principal place of business" means a site or location in this state:

31 (a) devoted exclusively to the business for which the dealer, manufacturer, remanufacturer,

1 transporter, dismantler, crusher, or body shop is licensed, and businesses incidental to them;

2 (b) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely indicate
3 the boundary and to admit a definite description with space adequate to permit the display of three
4 or more new, or new and used, or used motor vehicles; and

5 (c) that includes a permanent enclosed building or structure large enough to accommodate
6 the office of the establishment and to provide a safe place to keep the books and other records of
7 the business, at which the principal portion of the business is conducted and the books and records
8 kept and maintained.

9 (23) "Remanufacturer" means a person who reconstructs used motor vehicles subject to
10 registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style and
11 appearance of the motor vehicle or who constructs or assembles motor vehicles from used or new
12 and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more motor
13 vehicles in any 12-month period.

14 (24) "Salesperson" means an individual who for a salary, commission, or compensation
15 of any kind, is employed either directly, indirectly, regularly, or occasionally by any new motor
16 vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to negotiate for the
17 sale, purchase, or exchange of motor vehicles.

18 (25) "Semitrailer" has the same meaning as defined in Section 41-1a-102.

19 (26) "Small trailer" means a trailer that has an unladen weight of more than 750 pounds,
20 but less than 2,000 pounds.

21 (27) "Special equipment" includes a truck mounted crane, cherry picker, material lift, post
22 hole digger, and a utility or service body.

23 (28) "Special equipment dealer" means a new or new and used motor vehicle dealer
24 engaged in the business of buying new incomplete motor vehicles with a gross vehicle weight of
25 12,000 or more pounds and installing special equipment on the incomplete motor vehicle.

26 [~~27~~] (29) "Trailer" has the same meaning as defined in Section 41-1a-102.

27 [~~28~~] (30) "Transporter" means a person engaged in the business of transporting motor
28 vehicles as described in Section 41-3-202.

29 (31) "Used motor vehicle" means a vehicle that has been titled and registered to a
30 purchaser other than a dealer or has been driven 7,500 or more miles, unless the vehicle is a trailer,
31 or semitrailer, in which case the mileage limit does not apply.

1 [(29)] (32) "Wholesale motor vehicle auction" means a dealer primarily engaged in the
2 business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by this
3 or any other jurisdiction.

4 Section 2. Section **41-3-202** is amended to read:

5 **41-3-202. Licenses -- Classes and scope.**

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

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

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

10 (c) operate as a body shop; and

11 (d) dismantle motor vehicles.

12 (2) A used motor vehicle dealer's license permits the licensee to:

13 (a) offer for sale, sell, or exchange used motor vehicles;

14 (b) operate as a body shop; and

15 (c) dismantle motor vehicles.

16 (3) A new motorcycle and small trailer dealer's license permits the licensee to:

17 (a) offer for sale, sell, or exchange new motorcycles or small trailers if the licensee
18 possesses a franchise from the manufacturer of the motorcycle or small trailer offered for sale,
19 sold, or exchanged by the licensee;

20 (b) offer for sale, sell, or exchange used motorcycles or small trailers; and

21 (c) dismantle motorcycles or small trailers.

22 (4) A used motorcycle and small trailer dealer's license permits the licensee to:

23 (a) offer for sale, sell, or exchange used motorcycles and small trailers; and

24 (b) dismantle motorcycles or small trailers.

25 (5) A salesperson's license permits the licensee to act as a motor vehicle salesperson and
26 is valid for employment with only one dealer at a time.

27 (6) (a) A manufacturer's license permits the licensee to construct or assemble motor
28 vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, at an established
29 place of business and to remanufacture motor vehicles.

30 (b) Under rules of the division the licensee may issue and install vehicle identification
31 numbers on manufactured motor vehicles.

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

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

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

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

13 (10) A representative's license, for factory representatives or distributor representatives
14 permits the licensee to contact his authorized dealers for the purpose of making or promoting the
15 sale of motor vehicles, parts, and accessories.

16 (11) (a) (i) A remanufacturer's license permits the licensee to construct, reconstruct,
17 assemble, or reassemble motor vehicles subject to registration under Title 41, Chapter 1a, Motor
18 Vehicle Act, from used or new motor vehicles or parts.

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

21 (b) Under rules of the administrator, the licensee may issue and install vehicle
22 identification numbers on remanufactured motor vehicles.

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

26 (13) A body shop's license permits the licensee to rebuild, restore, repair, or paint
27 primarily the body of motor vehicles damaged by collision or natural disaster, and to dismantle
28 motor vehicles.

29 (14) A special equipment dealer's license permits the licensee to:

30 (a) buy incomplete new motor vehicles with a gross vehicle weight of 12,000 or more
31 pounds from a new motor vehicle dealer and sell the new vehicle with the special equipment

1 installed without a franchise from the manufacturer;

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

3 (c) operate as a body shop; and

4 (d) dismantle motor vehicles.

5 Section 3. Section **41-3-204** is amended to read:

6 **41-3-204. Licenses -- Principal place of business as prerequisite -- Change of location**
7 **-- Relinquishment on loss of principal place of business.**

8 (1) (a) The following licensees must maintain a principal place of business: dealers, special
9 equipment dealers, manufacturers, transporters, remanufacturers, dismantlers, crushers, and body
10 shops.

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

13 (c) If a licensee changes the location of his principal place of business, he shall
14 immediately notify the administrator and a new license shall be granted for the unexpired portion
15 of the term of the original license at no additional fee.

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

20 (b) The administrator shall hold the licenses, cards, plates, and permits until the licensee
21 obtains a principal place of business.

22 Section 4. Section **41-3-205** is amended to read:

23 **41-3-205. Licenses -- Bonds required -- Maximum liability -- Action against surety**
24 **-- Loss of bond.**

25 (1) (a) Before a dealer's, special equipment dealer's, crusher's, or body shop's license is
26 issued the applicant shall file with the administrator a corporate surety bond in the amount of:

27 (i) \$20,000 for a motor vehicle dealer's license or special equipment dealer's license;

28 (ii) \$1,000 for a motorcycle or small trailer dealer's or crusher's license; or

29 (iii) \$10,000 for a body shop's license.

30 (b) The corporate surety shall be licensed to do business within the state.

31 (c) The form of the bond:

- 1 (i) shall be approved by the attorney general;
- 2 (ii) shall be conditioned upon the applicant's conducting business as a dealer without fraud
- 3 or fraudulent representation and without violating this chapter; and
- 4 (iii) may be continuous in form.
- 5 (d) The total aggregate annual liability on the bond to all persons making claims may not
- 6 exceed the amount of the bond.

7 (2) A cause of action under Subsection (1) may not be maintained against a surety unless:

8 (a) a claim is filed in writing with the administrator within one year after the cause of

9 action arose; and

10 (b) the action is commenced within two years after the claim was filed with the

11 administrator.

12 (3) A person making a claim on the bond shall be awarded attorneys' fees in cases

13 successfully prosecuted or settled against the surety or principal if the bond has not been depleted.

14 (4) (a) (i) If a dealer, body shop, or crusher loses possession of the bond required by this

15 chapter, the dealer, body shop, or crusher license is automatically suspended.

16 (ii) All licenses, pocket cards, temporary permits, and special plates issued to the licensee

17 shall be immediately returned to the administrator.

18 (b) A dealer, body shop, or crusher may not continue to use or permit to be used licenses,

19 pocket cards, temporary permits, or special plates until the required bond is on file with the

20 administrator and the license has been reinstated.

21 (5) A representative or consignee of a dealer is not required to file a bond if the dealer for

22 whom the representative or consignee acts fully complies with the provisions of this chapter.

23 Section 5. Section **41-3-209** is amended to read:

24 **41-3-209. Administrator's findings -- Suspension and revocation of license.**

25 (1) If the administrator finds that an applicant is not qualified to receive a license, a license

26 may not be granted.

27 (2) (a) If the administrator finds that there is reasonable cause to deny, suspend, or revoke

28 a license issued under this chapter, the administrator shall deny, suspend, or revoke the license.

29 (b) Reasonable cause for denial, suspension, or revocation of a license includes, in relation

30 to the applicant or license holder or any of its partners, officers, or directors:

31 (i) lack of a principal place of business;

- 1 (ii) lack of a sales tax license required under Title 59, Chapter 12, Sales and Use Tax Act;
- 2 (iii) lack of a bond in effect as required by this chapter;
- 3 (iv) a violation of any state or federal law regarding motor vehicles;
- 4 (v) current revocation or suspension of a dealer, dismantler, auction, or salesperson license
- 5 issued in another state;
- 6 (vi) nonpayment of required fees;
- 7 (vii) making a false statement on any application for a license under this chapter or for
- 8 special license plates; [or]

9 (viii) [~~conviction of~~] a violation of any state or federal law regarding controlled
 10 substances; or

11 **§ [(ix) a violation of any state or federal law involving motor vehicles, fraud, or**
 11a **controlled**
 12 **substances if charges have been filed, but do not have a final disposition.**

13 ~~—— (c) Under Subsection (2)(b)(ix), the administrator may deny or suspend the license until~~
 14 ~~**a final disposition is obtained.**~~

14a **(ix) CHARGES FILED WITH ANY COUNTY ATTORNEY, DISTRICT ATTORNEY, OR U.S.**
 14b **ATTORNEY IN ANY COURT OF COMPETENT JURISDICTION FOR A VIOLATION OF ANY STATE OR**
 14c **FEDERAL LAW INVOLVING THE USE OF A MOTOR VEHICLE.**

14d **(c) ANY ACTION TAKEN BY THE ADMINISTRATOR UNDER SUBSECTION (2)(b)(ix) SHALL**
 14e **REMAIN IN EFFECT UNTIL A FINAL RESOLUTION IS REACHED BY THE COURT INVOLVED OR THE**
 14f **CHARGES ARE DROPPED. §**

15 (3) If the administrator finds that the license holder has been convicted by a court of
 16 competent jurisdiction of violating any of the provisions of this chapter or any rules made by the
 17 administrator, or finds other reasonable cause, the administrator may, by complying with the
 18 emergency procedures of Title 63, Chapter 46b, Administrative Procedures Act:

- 19 (a) suspend the license on terms and for a period of time he finds reasonable; or
- 20 (b) revoke the license.

21 (4) (a) After suspending or revoking a license, the administrator may take reasonable
 22 action to:

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

26 (b) Action under Subsection (4)(a) may include signs, banners, barriers, locks, bulletins,
27 and notices.

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

30 Section 6. Section **41-3-210** is amended to read:

31 **41-3-210. License holders -- Prohibitions.**

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

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

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

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

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

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

14 (f) act as a dealer, dismantler, crusher, manufacturer, transporter, remanufacturer, or body
15 shop without maintaining a principal place of business;

16 (g) engage in a business respecting the selling or exchanging of new or new and used
17 motor vehicles for which he is not licensed, including selling or exchanging a new motor vehicle
18 for which the licensee does not have a franchise, but this Subsection (1)(g) does not apply to a
19 special equipment dealer who sells a new special equipment motor vehicle with a gross vehicle
20 weight of 12,000 or more pounds after installing special equipment on the motor vehicle;

21 (h) dismantle or transport to a crusher for crushing or other disposition any motor vehicle
22 without first obtaining a dismantling or junk permit under Section 41-1a-1009, 41-1a-1010, or
23 41-1a-1011;

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

26 (j) advertise or otherwise represent, or knowingly allow to be advertised or represented on
27 his behalf or at his place of business, that no down payment is required in connection with the sale
28 of a motor vehicle when a down payment is required and the buyer is advised or induced to finance
29 a down payment by a loan in addition to any other loan financing the remainder of the purchase
30 price of the motor vehicle;

31 (k) as a crusher, crush or shred a motor vehicle brought to the crusher without obtaining

1 proper evidence of ownership of the motor vehicle; proper evidence of ownership is a certificate
2 of title endorsed according to law or a dismantling or junk permit issued under Section
3 41-1a-1009, 41-1a-1010, or 41-1a-1011;

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

7 (m) as anyone other than a salesperson licensed under this chapter, be present on a dealer
8 display space and contact prospective customers to promote the sale of the dealer's vehicles;

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

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

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

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

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

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

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

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

27 (i) have a new motor vehicle dealer's license under Section 41-3-202; and

28 (ii) possess a franchise from the manufacturer of the new motor vehicle sold, displayed
29 for sale, offered for sale, or exchanged by the licensee.

30 (2) (a) If a new motor vehicle is constructed in more than one stage, such as a motor home,
31 ambulance, or van conversion, the licensee shall advertise, represent, sell, and exchange the

1 vehicle as the make designated by the final stage manufacturer, except in those specific situations
2 where the licensee possesses a franchise from the initial or first stage manufacturer, presumably
3 the manufacturer of the motor vehicle's chassis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (7) (a) The holder of any new motor vehicle dealer license issued under this chapter may
18 not sell any new motor vehicle to:

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

22 [(b)] (ii) any motor vehicle leasing or rental company located within this state, or who has
23 any branch office within this state, unless the dealer licenses and titles the new motor vehicle to
24 the purchasing, leasing, or rental company.

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

28 (8) A dealer licensed under this chapter may not take on consignment any new motor
29 vehicle from anyone other than a new motor vehicle dealer, factory, or distributor who is licensed
30 and franchised to distribute or sell that make of motor vehicle in this or any other state.

31 (9) A body shop licensed under this chapter may not assist an unlicensed body shop in

1 unlawful activity through active or passive means or by allowing use of its facilities, name, body
2 shop number, or by any other means.

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

6 Section 7. Section **41-3-601** is amended to read:

7 **41-3-601. Fees.**

8 (1) To pay for administering and enforcing this chapter, the administrator shall collect fees
9 determined by the commission under Section 63-38-3.2 for each of the following:

- 10 (a) new motor vehicle dealer's license;
- 11 (b) used motor vehicle dealer's license;
- 12 (c) new motorcycle and small trailer dealer;
- 13 (d) used motorcycle and small trailer dealer;
- 14 (e) motor vehicle salesperson's license;
- 15 (f) motor vehicle salesperson's transfer or reissue fee;
- 16 (g) motor vehicle manufacturer's license;
- 17 (h) motor vehicle transporter's license;
- 18 (i) motor vehicle dismantler's license;
- 19 (j) motor vehicle crusher's license;
- 20 (k) motor vehicle remanufacturer's license;
- 21 (l) body shop's license;
- 22 (m) distributor or factory branch and distributor branch's license;
- 23 (n) representative's license;
- 24 (o) dealer plates;
- 25 (p) dismantler plates;
- 26 (q) manufacturer plates;
- 27 (r) transporter plates;
- 28 (s) damaged plate replacement;
- 29 (t) in-transit permits;
- 30 (u) loaded demonstration permits; ~~and~~
- 31 (v) additional place of business; and

1 (w) special equipment dealer's license.

2 (2) To pay for training certified vehicle inspectors and enforcement under Sections
3 41-1a-1001 through 41-1a-1008, the State Tax Commission shall establish and the administrator
4 shall collect inspection fees determined by the commission under Section 63-38-3.2.

5 Section 8. Section **41-3-703** is enacted to read:

6 **41-3-703. Violations as felonies.**

7 (1) A person may not forge, falsify, or counterfeit any license, special plate, temporary
8 permit, in-transit permit, decal, or other document issued by the division or any other state or
9 jurisdiction.

10 (2) A person may not hold or use any license, special plate, temporary permit, in-transit
11 permit, decal, or other document issued by the division or any other state or jurisdiction knowing
12 it to have been forged, falsified, or counterfeited.

13 (3) A violation of Subsection (1) or (2) is a § [second] THIRD § degree felony.

Legislative Review Note
as of 1-28-98 4:57 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel