

RECREATIONAL VEHICLE STANDARDS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: George Mantes

AN ACT RELATING TO MOTOR VEHICLES; AMENDING DEFINITIONS; REPEALING CERTAIN CONSTRUCTION STANDARDS FOR RECREATIONAL VEHICLES, DEALER LICENSING, ENFORCEMENT BY THE DEPARTMENT OF COMMERCE, AND ASSOCIATED PENALTIES; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

13-14-102, as last amended by Chapter 162, Laws of Utah 1997

13-14-201, as last amended by Chapter 162, Laws of Utah 1997

13-20-2, as last amended by Chapter 4, Laws of Utah 1993

41-1a-102, as last amended by Chapter 360, Laws of Utah 1997

41-3-102, as last amended by Chapter 7, Laws of Utah 1995

41-3-407, as enacted by Chapter 163, Laws of Utah 1993

REPEALS:

41-20-1, as last amended by Chapter 293, Laws of Utah 1990

41-20-2, as last amended by Chapter 293, Laws of Utah 1990

41-20-3, as last amended by Chapter 293, Laws of Utah 1990

41-20-4, as last amended by Chapter 313, Laws of Utah 1994

41-20-5, as last amended by Chapter 241, Laws of Utah 1991

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

Section 1. Section **13-14-102** is amended to read:

13-14-102. Definitions.

As used in this chapter:

(1) "Board" means the Utah Motor Vehicle Franchise Advisory Board created in Section 13-14-103.

(2) "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.

(3) "Department" means the Department of Commerce.

(4) "Executive director" means the executive director of the Department of Commerce.

(5) "Franchise" or "franchise agreement" means a written agreement, for a definite or indefinite period, in which:

(a) a person grants to another person a license to use a trade name, trademark, service mark, or related characteristic; and

(b) 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.

(6) "Franchisee" means a person ~~[to]~~ with whom a franchisor has agreed or permitted, in writing or in practice, to purchase, sell, or offer for sale new motor [vehicle dealer franchise is issued] vehicles manufactured, produced, represented, or distributed by the franchisor.

(7) "Franchisor" means a person who ~~[grants a]~~ has, in writing or in practice, agreed with or permits a franchisee to purchase, sell, or offer for sale new motor [vehicle franchise to another person] vehicles manufactured, produced, represented, or distributed by the franchisor, and includes:

(a) the manufacturer or distributor ~~[that has issued the franchise]~~ of the new motor vehicles;

(b) an intermediate distributor; and

(c) an agent, officer, or field or area representative of the franchisor.

(8) "Line-make" means 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 manufacturer of the motor vehicle.

(9) "Motor home" means a self-propelled vehicle, primarily designed as a temporary dwelling for travel, recreational, or vacation use.

~~[(9)]~~ (10) "Motor vehicle" means:

(a) a travel trailer ~~[as defined in Section 41-1a-102];~~

(b) a motor vehicle as defined in Section 41-3-102;

(c) a semitrailer as defined in Section 41-1a-102; ~~[and]~~

(d) a trailer as defined in Section 41-1a-102; and

(e) a recreational vehicle.

~~[(10)]~~ (11) "New motor vehicle" has the same meaning as defined in Section 41-3-102.

~~[(11)]~~ (12) "New motor vehicle dealer" is a person who is licensed under Subsection 41-3-202(1)(a).

~~[(12)]~~ (13) "Recreational vehicle" ~~[has the same meaning as defined in Section 41-20-1 excluding the term "truck camper."]~~ means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, which is either self-propelled or pulled by another vehicle. "Recreational vehicle" includes a travel trailer, a camping trailer, a motor home, a fifth wheel trailer, and a van.

~~[(13)]~~ (14) (a) "Relevant market area," except ~~[for]~~ with respect to recreational vehicles, means:

(i) the county in which a dealership is to be established or relocated; and

(ii) the area within a ten aeronautical miles radius from the site of the new or relocated dealership.

(b) "Relevant market area," ~~[for the sale of]~~ 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 aeronautical miles radius from the site of the new or relocated dealership.

~~[(14)]~~ (15) "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.

(16) "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.

Section 2. Section **13-14-201** is amended to read:

13-14-201. Prohibited acts by franchisors -- Disclosures.

(1) A franchisor may not in this state:

(a) require a franchisee to order or accept delivery of any new motor vehicle, part, accessory, equipment, or other item not otherwise required by law that is not voluntarily ordered by the franchisee;

(b) require a franchisee to participate monetarily in any advertising campaign or contest, or purchase any promotional materials, display devices, or display decorations or materials;

(c) require a franchisee to change the capital structure of the franchisee's dealership or the means by or through which the franchisee finances the operation of the franchisee's dealership, if the dealership at all times meets reasonable capital standards determined by and applied in a nondiscriminatory manner by the franchisor;

(d) require a franchisee to refrain from participating in the management of, investment in, or acquisition of any other line of new motor vehicles or related products, if:

(i) the franchisee maintains a reasonable line of credit for each make or line of vehicles; and

(ii) complies with reasonable capital and facilities requirements of the franchisor;

(e) require a franchisee to prospectively agree to a release, assignment, novation, waiver, or estoppel that would:

(i) relieve a franchisor from any liability imposed by this chapter; or

(ii) require any controversy between the franchisee and a franchisor to be referred to a third party if the decision by the third party would be binding;

(f) require a franchisee to change the location of the principal place of business of the franchisee's dealership or make any substantial alterations to the dealership premises, if the change or alterations would be unreasonable;

(g) coerce or attempt to coerce a franchisee to join, contribute to, or affiliate with an advertising association;

(h) require, coerce, or attempt to coerce a franchisee to enter into an agreement with the franchisor or do any other act that is unfair or prejudicial to the franchisee, by threatening to cancel a franchise agreement or other contractual agreement or understanding existing between the franchisor and franchisee;

(i) adopt, change, establish, modify, or implement a plan or system for the allocation, scheduling, or delivery of new motor vehicles, parts, or accessories to its franchisees so that the plan or system is not fair, reasonable, and equitable;

(j) increase the price of any new motor vehicle that the franchisee has ordered from the franchisor and for which there exists at the time of the order a bona fide sale to a retail purchaser if the order was made prior to the franchisee's receipt of an official written price increase notification;

(k) fail to indemnify and hold harmless its franchisee against any judgment for damages or settlement approved in writing by the franchisor:

(i) including court costs and attorneys' fees arising out of actions, claims, or proceedings including those based on:

(A) strict liability;

(B) negligence;

(C) misrepresentation;

(D) express or implied warranty;

(E) revocation as described in Section 70A-2-608; or

(F) rejection as described in Section 70A-2-602; and

(ii) to the extent the judgment or settlement relates to alleged defective or negligent actions by the franchisor;

(l) threaten or coerce a franchisee to waive or forbear its right to protest the establishment or relocation of a same line-make franchisee in the relevant market area of the affected franchisee;

(m) fail to ship monthly to a franchisee, if ordered by the franchisee, the number of new motor vehicles of each make, series, and model needed by the franchisee to achieve a percentage of total new vehicle sales of each make, series, and model equitably related to the total new vehicle production or importation being achieved nationally at the time of the order by each make, series, and model covered under the franchise agreement;

(n) require or otherwise coerce a franchisee to under-utilize the franchisee's existing facilities;

(o) fail to include in any franchise agreement the following language or language to the effect

that: "If any provision in this agreement contravenes the laws or regulations of any state or other jurisdiction where this agreement is to be performed, or provided for by such laws or regulations, the provision is considered to be modified to conform to such laws or regulations, and all other terms and provisions shall remain in full force.";

(p) engage in the distribution, sale, offer for sale, or lease of a new motor vehicle to purchasers who acquire the vehicle in this state except through a franchisee with whom the franchisor has established a written franchise agreement, if the franchisor's trade name, trademark, service mark, or related characteristic is an integral element in the distribution, sale, offer for sale, or lease;

(q) engage in the distribution or sale of a recreational vehicle which is manufactured, rented, sold, or offered for sale in this state without being constructed in accordance with the standards set by the American National Standards Institute for recreational vehicles and evidenced by a seal or plate attached to the vehicle; or

(r) authorize or permit a person to perform warranty service repairs on motor vehicles, except warranty service repairs:

(i) by a franchisee with whom the franchisor has entered into a franchise agreement for the sale and service of the franchisor's motor vehicles; or

(ii) on owned motor vehicles by a person or government entity who has purchased new motor vehicles pursuant to a franchisor's or manufacturer's fleet discount program[-];

(s) fail to provide a franchisee with a written franchise agreement; or

(t) notwithstanding any other provisions of this chapter, unreasonably fail or refuse to offer to its same line make franchised dealers all models manufactured for that line make, or unreasonably require a dealer to pay any extra fee, remodel, renovate, recondition the dealer's existing facilities, or purchase unreasonable advertising displays or other materials as a prerequisite to receiving a model or series of vehicles, except that a recreational vehicle manufacturer may split a line make between motor home and travel trailer products.

(2) Notwithstanding Subsection (1)(r), a franchisor may authorize or permit a person to perform warranty service repairs on motor vehicles if the warranty services is for a franchisor of

recreational vehicles.

(3) Subsection (1)(a) does not prevent the franchisor from requiring that a franchisee carry a reasonable inventory of:

- (a) new motor vehicle models offered for sale by the franchisor; and
- (b) parts to service the repair of the new motor vehicles.

(4) Subsection (1)(d) does not prevent a franchisor from:

- (a) requiring that a franchisee maintain separate sales personnel or display space; or
- (b) refusing to permit a combination of new motor vehicle lines, if justified by reasonable business considerations.

(5) Upon the written request of any franchisee, a franchisor shall disclose in writing to the franchisee the basis on which new motor vehicles, parts, and accessories are allocated, scheduled, and delivered among the franchisor's dealers of the same line-make.

Section 3. Section **13-20-2** is amended to read:

13-20-2. Definitions.

As used in this chapter:

(1) "Consumer" means an individual who has entered into an agreement or contract for the transfer, lease, or purchase of a new motor vehicle other than for purposes of resale, or sublease, during the duration of the period defined under Section 13-20-5.

(2) "Manufacturer" means manufacturer, importer, distributor, or anyone who is named as the warrantor on an express written warranty on a motor vehicle.

(3) "Motor home" means a self-propelled vehicular unit, primarily designed as a temporary dwelling for travel, recreational, and vacation use.

~~[(3)]~~ (4) (a) "Motor vehicle" includes:

(i) a motor home, as defined in this section [~~41-20-1~~], but only the self-propelled vehicle and chassis sold in this state; and

(ii) a motor vehicle, as defined in Section 41-1a-102, sold in this state.

(b) "Motor vehicle" does not include:

(i) those portions of a motor home designated, used, or maintained primarily as a mobile

dwelling, office, or commercial space;

- (ii) farm tractor, motorcycle, road tractor, or truck tractor as defined in Section 41-1a-102;
- (iii) mobile home as defined in Section 41-1a-102; or
- (iv) any motor vehicle with a gross laden weight of over 12,000 pounds.

Section 4. Section **41-1a-102** is amended to read:

41-1a-102. Definitions.

As used in this chapter:

- (1) "Actual miles" means the actual distance a vehicle has traveled while in operation.
- (2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.
- (3) "Affidavit of Mobile Home Affixture" means the affidavit of affixture described in Title 59, Chapter 2, Part 6, Mobile Homes.
- (4) "All-terrain type I vehicle" has the same meaning provided in Section 41-22-2.
- (5) "All-terrain type II vehicle" has the same meaning provided in Section 41-22-2.
- (6) "Amateur radio operator" means any person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.
- (7) "Branded title" means a title certificate that is labeled:
 - (a) rebuilt and restored to operation;
 - (b) flooded and restored to operation; or
 - (c) not restored to operation.
- (8) "Camper" means any structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.
- (9) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.
- (10) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.

(11) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:

(a) as a carrier for hire, compensation, or profit; or

(b) as a carrier to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

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

(13) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

(14) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(15) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.

(16) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(17) (a) "Farm truck" means a truck used by the owner or operator of a farm solely for his own use in the transportation of:

(i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;

(ii) farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and

(iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of agricultural products.

(18) "Fleet" means one or more commercial vehicles.

(19) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(20) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

(21) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(22) (a) "Identification number" means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

(23) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

(24) (a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If fleets are composed entirely of trailers or semitrailers, "in-state miles" means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

(25) "Interstate vehicle" means any commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

(26) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(27) "Lienholder" means a person with a security interest in particular property.

(28) "Manufactured home" means a structure that is built on a permanent chassis, transportable in one or more sections, and is designed to be used as a dwelling with or without a permanent foundation when connected to required utilities.

(29) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the

purpose of sale or trade.

(30) "Mobile home" means a structure transportable in one or more sections with the plumbing, heating, and electrical systems contained intact within the structure.

(31) "Motorboat" has the same meaning as provided in Section 73-18-2.

(32) "Motorcycle" means a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

(33) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) "Motor vehicle" does not include an off-highway vehicle.

(34) (a) "Nonresident" means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains any vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

(35) "Odometer" means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

(36) "Off-highway implement of husbandry" has the same meaning as provided in Section 41-22-2.

(37) "Off-highway vehicle" has the same meaning as provided in Section 41-22-2.

(38) "Operate" means to drive or be in actual physical control of a vehicle or to navigate a vessel.

(39) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

(40) (a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security

interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises his option to purchase the vehicle.

(41) "Personalized license plate" means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

(42) (a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes motor vehicles with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

(43) "Pneumatic tire" means every tire in which compressed air is designed to support the load.

(44) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(45) "Public garage" means every building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

(46) "Reconstructed vehicle" means every vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

(47) "Recreational vehicle" has the same meaning as provided in Section 13-14-102.

~~[(47)]~~ (48) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

~~[(48)]~~ (49) (a) "Registration year" means a 12 consecutive month period commencing with the completion of all applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

~~[(49)]~~ (50) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

~~[(50)]~~ (51) "Road tractor" means every motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

~~[(51)]~~ (52) "Sailboat" has the same meaning as provided in Section 73-18-2.

~~[(52)]~~ (53) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

~~[(53)]~~ (54) "Semitrailer" means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

~~[(54)]~~ (55) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-408.

~~[(55)]~~ (56) (a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

- (i) 20 years or older from the current year; or
- (ii) a make or model of motor vehicle recognized by the division director as having unique

interest or historic value.

(b) In making his determination under Subsection (56)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

~~[(56)]~~ (57) "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm tractors, road construction or maintenance machinery, ditch-digging apparatus, well-boring apparatus, and concrete mixers.

~~[(57)]~~ (58) "Specially constructed vehicle" means every vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

~~[(58)]~~ (59) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

~~[(59)]~~ (60) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

~~[(60)]~~ (61) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

~~[(61)]~~ (62) "Transferee" means a person to whom the ownership of property is conveyed by

sale, gift, or any other means except by the creation of a security interest.

[(62)] (63) "Transferor" means a person who transfers his ownership in property by sale, gift, or any other means except by creation of a security interest.

[(63)] (64) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a [trailer] portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, [and] or vacation use that does not require a special highway movement [permits] permit when drawn by a self-propelled motor vehicle.

[(64)] (65) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

[(65)] (66) "Vehicle" includes a motor vehicle, trailer, travel trailer, semitrailer, off-highway vehicle, manufactured home, and mobile home.

[(66)] (67) "Vessel" has the same meaning as provided in Section 73-18-2.

[(67)] (68) "Vintage vehicle" has the same meaning as provided in Section 41-21-1.

[(68)] (69) "Waters of this state" has the same meaning as provided in Section 73-18-2.

[(69)] (70) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 5. 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.

(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; and

(ii) who sells, displays for sale, or offers for sale or exchange three or more new or used motor 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 intended primarily for use and operation on the highway that is:

(i) self-propelled; or

(ii) a trailer, travel trailer, or semitrailer.

(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; and

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

(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 a trailer, travel trailer, or semitrailer, in which case the mileage limit does not apply.

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

(22) "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

(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.

(23) "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.

(24) "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.

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

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

(27) "Trailer" has the same meaning as defined in Section 41-1a-102.

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

(29) "Travel trailer" has the same meaning as provided in Section 41-1a-102.

~~[(29)]~~ (30) "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.

Section 6. Section **41-3-407** is amended to read:

41-3-407. Definitions.

As used in Sections 41-3-406 through 41-3-414:

(1) "Buyback vehicle" means a motor vehicle with an alleged nonconformity that has been replaced or repurchased by a manufacturer as the result of a court judgment, arbitration, or any voluntary agreement entered into between the manufacturer or its agent and a consumer.

(2) "Consumer" means an individual who has entered into an agreement or contract for the transfer, lease, or purchase of a new motor vehicle other than for the purposes of resale, or sublease, during the duration of the period defined under Section 13-20-5.

(3) "Manufacturer" means any manufacturer, importer, distributor, or anyone who is named as the warrantor on an express written warranty on a motor vehicle.

(4) (a) "Motor vehicle" includes:

(i) a motor home, as defined in Section ~~[41-20-1]~~ 13-20-2, but only the self-propelled vehicle and chassis; and

(ii) a motor vehicle, as defined in Section 41-1a-102.

(b) "Motor vehicle" does not include:

(i) those portions of a motor home designated, used, or maintained primarily as a mobile dwelling, office, or commercial space;

(ii) farm tractor, motorcycle, road tractor, or truck tractor as defined in Section 41-1a-102;

(iii) mobile home as defined in Section 41-1a-102; or

(iv) any motor vehicle with a gross laden weight of over 12,000 pounds.

(5) "Nonconforming vehicle" means a buyback vehicle that has been investigated and evaluated pursuant to Title 13, Chapter 20, New Motor Vehicles Warranties Act, or a similar law of another state or federal government.

(6) (a) "Nonconformity" means a defect, malfunction, or condition that fails to conform to the express warranty, or substantially impairs the use, safety, or value of a motor vehicle.

(b) "Nonconformity" does not include a defect, malfunction, or condition that results from

an accident, abuse, neglect, modification, or alteration of a motor vehicle by a person other than the manufacturer, its authorized agent, or a dealer.

(7) "Seller" means any person selling, auctioning, leasing, or exchanging a motor vehicle.

(8) "Violation" means each failure to comply with the obligations imposed by Sections 41-3-406 through 41-3-413. In the case of multiple failures to comply resulting from a single transaction, each failure to comply is a separate violation.

Section 7. Repealer.

This act repeals:

Section 41-20-1, Definitions.

Section 41-20-2, Department of Commerce to enforce chapter -- Powers.

Section 41-20-3, Department of Commerce to enforce chapter -- Powers.

Section 41-20-4, Department of Commerce to enforce chapter -- Powers.

Section 41-20-5, Department of Commerce to enforce chapter -- Powers.