

Representative Greg J. Curtis proposes to substitute the following bill:

1 **MOTOR VEHICLE BUSINESS REGULATIONS**

2 1999 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Greg J. Curtis**

5 AN ACT RELATING TO MOTOR VEHICLES; AMENDING DEALER LICENSING
6 PROVISIONS; REQUIRING CERTAIN EDUCATION FOR DEALERS; AMENDING DEALER
7 BOND PROVISIONS; AND MAKING TECHNICAL CORRECTIONS.

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

9 AMENDS:

10 **41-3-201**, as renumbered and amended by Chapter 234, Laws of Utah 1992

11 **41-3-205**, as last amended by Chapter 165, Laws of Utah 1998

12 **41-3-206**, as enacted by Chapter 234, Laws of Utah 1992

13 **41-3-404**, as renumbered and amended by Chapter 234, Laws of Utah 1992

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

15 Section 1. Section **41-3-201** is amended to read:

16 **41-3-201. Licenses required -- Restitution -- Education.**

17 (1) As used in this section, "new applicant" means a person who is applying for a license
18 that the person has not been issued during the previous licensing year.

19 ~~(1)~~ (2) A person may not act as any of the following without having procured a license
20 issued by the administrator: a dealer, salesperson, manufacturer, transporter, dismantler,
21 distributor, factory branch and representative, distributor branch and representative, crusher,
22 remanufacturer, and body shop.

23 ~~(2)~~ (3) A supplemental license shall be secured by a dealer, manufacturer,
24 remanufacturer, transporter, dismantler, crusher, or body shop for each additional place of business
25 maintained by him.

26 (4) A person who has been convicted of any law relating to motor vehicle commerce or
27 motor vehicle fraud may not be issued a license unless full restitution regarding those convictions
28 has been made.

29 (5) (a) Beginning July 1, 1999, the division may not issue a license to a new applicant for
30 a new or used motor vehicle dealer license unless the new applicant completes an eight-hour
31 orientation class approved by the division that includes education on motor vehicle laws and rules.

32 (b) The approved costs of the orientation class shall be paid by the new applicant.

33 (c) The class shall be completed by the new applicant and the applicant's partners,
34 corporate officers, bond indemnitors, and managers.

35 (d) The division shall approve:

36 (i) providers of the orientation class; and

37 (ii) costs of the orientation class.

38 Section 2. Section **41-3-205** is amended to read:

39 **41-3-205. Licenses -- Bonds required -- Maximum liability -- Action against surety**
40 **-- Loss of bond.**

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

43 (i) [~~\$20,000~~] \$60,000 for a motor vehicle dealer's license [or];

44 (ii) \$20,000 for a special equipment dealer's license;

45 [~~(ii)~~] (iii) \$1,000 for a motorcycle or small trailer dealer's or crusher's license; or

46 [~~(iii)~~] (iv) \$10,000 for a body shop's license.

47 (b) The corporate surety shall be licensed to do business within the state and have a rating
48 of at least B+ by the A.M. Best Company.

49 (c) The form of the bond:

50 (i) shall be approved by the attorney general;

51 (ii) shall be conditioned upon the applicant's conducting business as a dealer without fraud
52 or fraudulent representation and without violating [~~this chapter~~] Section 41-3-210; and

53 (iii) may be continuous in form.

54 (d) The total aggregate [~~annual~~] liability on the bond to all persons making claims,
55 regardless of the number of claimants or the number of years a bond remains in force, may not
56 exceed the amount of the bond.

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

58 (a) a claim is filed in writing with the administrator within one year after the cause of
59 action arose; and

60 (b) the action is commenced within two years after the claim was filed with the
61 administrator.

62 (3) A person making a claim on the bond shall be awarded attorneys' fees in cases
63 successfully prosecuted or settled against the surety or principal if the bond has not been depleted.

64 (4) (a) (i) If a dealer, body shop, or crusher loses possession of the bond required by this
65 chapter, the dealer, body shop, or crusher license is automatically suspended.

66 (ii) All licenses, pocket cards, temporary permits, and special plates issued to the licensee
67 shall be immediately returned to the administrator.

68 (b) A dealer, body shop, or crusher may not continue to use or permit to be used licenses,
69 pocket cards, temporary permits, or special plates until the required bond is on file with the
70 administrator and the license has been reinstated.

71 (5) A representative or consignee of a dealer is not required to file a bond if the dealer for
72 whom the representative or consignee acts fully complies with the provisions of this chapter.

73 Section 3. Section **41-3-206** is amended to read:

74 **41-3-206. Duration of licenses -- Expiration date -- Renewal.**

75 (1) Except as provided in Subsection (2), each license issued under this chapter expires
76 on June 30 of each year and may be renewed upon application and payment of a fee required under
77 Section 41-3-601, if the license has not been suspended or revoked.

78 (2) A motor vehicle salesperson's license expires as provided under Subsection (1) or when
79 the salesperson terminates employment with the dealer with whom he is licensed, whichever
80 comes first.

81 (3) (a) Beginning July 1, 1999, the division may not renew a license for a new or used
82 motor vehicle dealer's license unless the renewal applicant completes a three-hour class approved
83 by the division that includes education on new motor vehicle laws and rules.

84 (b) The approved costs of the class shall be paid by the renewal applicant.

85 (c) The class shall be completed by the renewal applicant or any designated representative
86 of the renewal applicant dealer.

87 (d) The division shall approve:

88 (i) the class providers; and

89 (ii) costs of the class.

90 Section 4. Section **41-3-404** is amended to read:

91 **41-3-404. Right of action against dealer, salesperson, crusher, body shop, or surety**
92 **on bond.**

93 (1) A person may maintain an action against a dealer, crusher, or body shop on the
94 corporate surety bond if:

95 (a) the person suffers a loss or damage because of:

96 (i) fraud;

97 (ii) fraudulent representation; or

98 (iii) a violation of[:] Section 41-3-210; or

99 [~~(A) this chapter;~~]

100 [~~(B) any law respecting commerce in motor vehicles; or]~~

101 [~~(C) a rule respecting commerce in motor vehicles made by a licensing or regulating~~
102 ~~authority; and]~~

103 (b) the loss or damage results from the action of:

104 (i) a licensed dealer;

105 (ii) a licensed dealer's salesperson acting on behalf of the dealer or within the scope of the
106 salesperson's employment;

107 (iii) a licensed crusher; or

108 (iv) a body shop.

109 (2) Successive recovery against a surety on a bond is permitted, but the total aggregate
110 [~~annual~~] liability on the bond to all persons making claims, regardless of the number of claimants
111 or the number of years a bond remains in force, may not exceed the amount of the bond.

112 (3) A cause of action may not be maintained against any surety under any bond required
113 under this chapter except as provided in Section 41-3-205.