

1 **MOTOR VEHICLE DEALER AMENDMENTS**

2 2007 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Patrick Painter**

5 Senate Sponsor: _____

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Motor Vehicle Business Regulation Act by amending provisions
10 relating to motor vehicle dealer license requirements.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ amends the definition of dealer;
- 14 ▶ provides that each transaction a person arranges, offers to arrange, or brokers
15 involving the sale or lease of a motor vehicle for a fee, commission, or other
16 compensation is a separate violation if the person:
- 17 • has sold two or more motor vehicles in the previous consecutive 12-month
 - 18 period; and
 - 19 • is not licensed as a dealer; and
- 20 ▶ makes technical changes.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **41-3-102**, as last amended by Chapter 157, Laws of Utah 2003



28 **41-3-201.5**, as enacted by Chapter 187, Laws of Utah 1997



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

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

32 **41-3-102. Definitions.**

33 As used in this chapter:

34 (1) "Administrator" means the motor vehicle enforcement administrator.

35 (2) "Agent" means a person other than a holder of any dealer's or salesperson's license
36 issued under this chapter, who for salary, commission, or compensation of any kind, negotiates
37 in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any
38 other person in any 12-month period.

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

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

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

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

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

48 (8) (a) "Dealer" means a person~~[-(i) whose business in whole or in part involves~~
49 ~~selling new, used, or new and used motor vehicles or off-highway vehicles; and (ii)]~~ who sells,
50 displays for sale, or offers for sale or exchange three or more new or used motor vehicles or
51 off-highway vehicles in any 12-month period.

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

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

56 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any
57 12-month period.

58 (10) "Distributor" means a person who has a franchise from a manufacturer of motor

59 vehicles to distribute motor vehicles within this state and who in whole or in part sells or
60 distributes new motor vehicles to dealers or who maintains distributor representatives.

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

63 (12) "Distributor representative" means a person and each officer and employee of the
64 person engaged as a representative of a distributor or distributor branch of motor vehicles to
65 make or promote the sale of the distributor or the distributor branch's motor vehicles, or for
66 supervising or contacting dealers or prospective dealers of the distributor or the distributor
67 branch.

68 (13) "Division" means the Motor Vehicle Enforcement Division created in Section
69 41-3-104.

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

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

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

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

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

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

88 (i) self-propelled; or

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

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

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

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

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

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

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

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

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

102 (a) devoted exclusively to the business for which the dealer, manufacturer,
103 remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses
104 incidental to them;

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

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

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

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

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

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

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

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

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

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

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

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

136 (34) "Wholesale motor vehicle auction" means a dealer primarily engaged in the
137 business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by
138 this or any other jurisdiction.

139 Section 2. Section **41-3-201.5** is amended to read:

140 **41-3-201.5. Brokering of a new motor vehicle without a license prohibited.**

141 (1) (a) A person may not, for a fee, commission, or other form of compensation,
142 arrange, offer to arrange, or broker a transaction involving the sale or lease of more than two
143 new motor vehicles in any 12 consecutive month period, unless the person is licensed under
144 Subsection 41-3-202(1).

145 (b) Each transaction a person arranges, offers to arrange, or brokers involving the sale
146 or lease of a motor vehicle for a fee, commission, or other form of compensation is a separate
147 violation under this section if:

148 (i) the person has for a fee, commission, or other form of compensation, arranged,
149 offered to arrange, or brokered the sale of two or more new motor vehicles within the previous
150 12 consecutive month period; and

151 (ii) the person is not licensed under Subsection 41-3-202(1).

152

(2) A person who violates this section is guilty of a class B misdemeanor.

Legislative Review Note

as of 1-5-07 7:04 AM

Office of Legislative Research and General Counsel

H.B. 96 - Motor Vehicle Dealer Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/15/2007, 6:31:27 PM, Lead Analyst: Tennert, J.

Office of the Legislative Fiscal Analyst