

SALVAGE VEHICLES AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This bill modifies the Motor Vehicle Business Regulation Act by amending provisions relating to salvage vehicles.

Highlighted Provisions:

This bill:

► provides that a person may offer for sale, sell, or exchange a vehicle with a salvage certificate at or through a motor vehicle auction to:

- an out-of-state or out-of-country purchaser that is authorized to do business in the domestic or foreign jurisdiction in which the person is domiciled or registered to do business; and

- an in-state purchaser that is registered to do business in Utah and has a Utah sales and use tax license;

► provides that ~~§~~ **[a person] an operator of a motor vehicle auction** ~~§~~ may only offer for sale, sell, or exchange five vehicles with

salvage certificates at or through a motor vehicle auction ~~§~~ **[annually] in any 12 month period** ~~§~~ to an in-state

purchaser that does not have a salvage vehicle buyer license;

~~§~~ ► **authorizes the Tax Commission to impose an administrative entrance fee not to exceed \$10 on certain persons that enter a motor vehicle auction for certain purposes;** ~~§~~

► provides that a purchaser of a vehicle with a salvage certificate shall title the vehicle within 15 days of the purchase if the purchaser does not have a salvage vehicle buyer license;

► provides that ~~§~~ **[a person] an operator of a motor vehicle auction** ~~§~~ may not offer for sale, sell, or exchange additional vehicles

with a salvage certificate to a purchaser if notified that the purchaser has not titled



- 28 previously purchased vehicles with a salvage certificate;
- 29 ▶ requires an operator of a motor vehicle auction to:
 - 30 • keep a record of the sale of each salvage vehicle;
 - 31 • retain the record of the sale of each salvage vehicle for five years and make it
 - 32 available for inspection by the Motor Vehicle Enforcement Division; and
 - 33 • stamp "For Export Only" on the vehicle title if the buyer is an out-of-country
 - 34 buyer;
- 35 ▶ provides that a person who violates the requirement to title a vehicle with a salvage
- 36 certificate within 15 days of purchasing the vehicle at a motor vehicle auction is
- 37 guilty of a class C misdemeanor;
- 38 ▶ provides that a person who violates the requirement to title a vehicle with a salvage
- 39 certificate within 15 days of purchasing the vehicle at a motor vehicle auction is
- 40 subject to certain civil penalties; and
- 41 ▶ makes technical changes.

42 **Monies Appropriated in this Bill:**

43 None

44 **Other Special Clauses:**

45 None

46 **Utah Code Sections Affected:**

47 AMENDS:

48 **41-3-201**, as last amended by Laws of Utah 2008, Chapter 388

49 **41-3-201.7**, as enacted by Laws of Utah 2007, Chapter 70

50 **41-3-701**, as last amended by Laws of Utah 2008, Chapter 388

51 **41-3-702**, as last amended by Laws of Utah 2007, Chapter 322



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

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

55 **41-3-201. Licenses required -- Restitution -- Education.**

56 (1) As used in this section, "new applicant" means a person who is applying for a

57 license that the person has not been issued during the previous licensing year.

58 (2) A person may not act as any of the following without having procured a license

59 issued by the administrator:

- 60 (a) a dealer;
- 61 (b) salvage vehicle buyer;
- 62 (c) salesperson;
- 63 (d) manufacturer;
- 64 (e) transporter;
- 65 (f) dismantler;
- 66 (g) distributor;
- 67 (h) factory branch and representative;
- 68 (i) distributor branch and representative;
- 69 (j) crusher;
- 70 (k) remanufacturer; or
- 71 (l) body shop.

72 (3) (a) ~~[A]~~ Except as provided in Subsection (3)(c), a person may not bid on or
 73 purchase a vehicle with a salvage certificate as defined in Section 41-1a-1001 at or through a
 74 motor vehicle auction unless the person is a licensed salvage vehicle buyer.

75 (b) ~~[A]~~ Except as provided in Subsection (3)(c), a person may not offer for sale, sell, or
 76 exchange a vehicle with a salvage certificate as defined in Section 41-1a-1001 at or through a
 77 motor vehicle auction except to a licensed salvage vehicle buyer.

78 (c) A person may offer for sale, sell, or exchange a vehicle with a salvage certificate as
 79 defined in Section 41-1a-1001 at or through a motor vehicle auction:

80 (i) to an out-of-state or out-of-country purchaser not licensed under this section, but
 81 that is authorized to do business in the domestic or foreign jurisdiction in which the person is
 82 domiciled or registered to do business; and

83 (ii) subject to the restriction in Subsection (3)(d), to an in-state purchaser not licensed
 84 under this section that:

85 (A) is registered to do business in Utah; and

86 (B) has a Utah sales tax license.

87 (d) ~~Ŝ→ [A person]~~ An operator of a motor vehicle auction ~~←Ŝ~~ may only offer for sale,
 87a sell, or exchange five vehicles with a salvage
 88 certificate as defined in Section 41-1a-1001 at or through a motor vehicle auction ~~Ŝ→~~ [annually] in
 88a any 12 month period ~~←Ŝ~~ to
 89 an in-state purchaser that does not have a salvage vehicle buyer license issued in accordance

90 with Subsection 41-3-202(15).

91 (e) (i) An in-state purchaser of a vehicle with a salvage certificate as defined in Section
 92 41-1a-1001 that is purchased at or through a motor vehicle auction shall title the vehicle within
 93 15 days of the purchase if the purchaser does not have a salvage vehicle buyer license ~~§~~, dealer
 93a license, body shop license, or dismantler license ~~←§~~ issued in
 94 accordance with Subsection 41-3-202 ~~§~~ [(15)] ~~←§~~ .

95 (ii) ~~§~~ [A person] An operator of a motor vehicle auction ~~←§~~ may not offer for sale, sell,
 95a or exchange additional vehicles with a salvage
 96 certificate ~~§~~ as defined in Section 41-1a-1001 at or through a motor vehicle auction ~~←§~~ to a
 96a purchaser if notified that the purchaser has not titled previously purchased
 97 vehicles with a salvage certificate as required under Subsection (3)(e)(i).

97a ~~§~~ (f) The commission may impose an administrative entrance fee established in accordance
 97b with the procedures and requirements of 63J-1-303 not to exceed \$10 on a person not holding
 97c a license described in Subsection (3)(e)(i) that enters the physical premises of a motor vehicle
 97d auction for the purpose of viewing available salvage vehicles prior to an auction. ~~←§~~

98 (4) (a) An operator of a motor vehicle auction shall keep a record of the sale of each
 99 salvage vehicle.

100 (b) A record described under Subsection (4)(a) shall contain:

101 (i) the purchaser's name and address; and

102 (ii) the year, make, and vehicle identification number for each salvage vehicle sold.

103 (c) An operator of a motor vehicle auction shall:

104 (i) retain the record described in this Subsection (4) for five years from the date of sale;

105 and

106 (ii) make a record described in this Subsection (4) available for inspection by the
 107 division at the location of the motor vehicle auction during normal business hours.

108 (5) (a) An operator of a motor vehicle auction that sells a salvage vehicle to a person
 109 that is an out-of-country buyer shall:

110 (i) stamp on the face of the title so as not to obscure the name, date, or mileage
 111 statement the words "FOR EXPORT ONLY" in all capital, black letters; and

112 (ii) stamp in each unused reassignment space on the back of the title the words "FOR
 113 EXPORT ONLY."

114 (b) The words "FOR EXPORT ONLY" shall be:

115 (i) at least two inches wide; and

116 (ii) clearly legible.

117 ~~(4)~~ (6) A supplemental license shall be secured by a dealer, manufacturer,
 118 remanufacturer, transporter, dismantler, crusher, or body shop for each additional place of
 119 business maintained by the licensee.

120 ~~(5)~~ (7) A person who has been convicted of any law relating to motor vehicle

121 commerce or motor vehicle fraud may not be issued a license unless full restitution regarding
122 those convictions has been made.

123 ~~[(6)]~~ (8) (a) The division may not issue a license to a new applicant for a new or used
124 motor vehicle dealer license, a new or used motorcycle dealer license, or a small trailer dealer
125 license unless the new applicant completes an eight-hour orientation class approved by the
126 division that includes education on motor vehicle laws and rules.

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

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

130 (d) (i) The division shall approve:

131 (A) providers of the orientation class; and

132 (B) costs of the orientation class.

133 (ii) A provider of an orientation class shall submit the orientation class curriculum to
134 the division for approval prior to teaching the orientation class.

135 Section 2. Section **41-3-201.7** is amended to read:

136 **41-3-201.7. Supplemental license for additional place of business restrictions --**
137 **Exception.**

138 (1) Subject to the requirements of Subsection (2), a supplemental license for an
139 additional place of business issued pursuant to Subsection 41-3-201~~[(4)]~~ (6) may only be issued
140 to a dealer if the dealer is:

141 (a) licensed in accordance with Section 41-3-202;

142 (b) bonded in accordance with Section 41-3-205; and

143 (c) in compliance with existing rules promulgated by the administrator of the division
144 under Section 41-3-105.

145 (2) (a) Except as provided in Subsections (2)(c) and (3), a supplemental license for an
146 additional place of business issued pursuant to Subsection 41-3-201~~[(4)]~~ (6) for a new motor
147 vehicle dealer may not be issued for an additional place of business that is beyond the
148 geographic specifications outlined as the area of responsibility in the dealer's franchise
149 agreement.

150 (b) A new motor vehicle dealer shall provide the administrator with a copy of the
151 portion of the new motor vehicle dealer's franchise agreement identifying the dealer's area of

152 responsibility before being issued a supplemental license for an additional place of business.

153 (c) The restrictions under [~~Subsection~~] Subsections (2)(a) and (b) do not apply to a new
154 motor vehicle dealer if the license for an additional place of business is being issued for the
155 sale of used motor vehicles.

156 (3) The provisions of Subsection (2) do not apply if the additional place of business is
157 a trade show or exhibition if:

158 (a) there are five or more dealers participating in the trade show or exhibition; and

159 (b) the trade show or exhibition takes place at a location other than the principal place
160 of business of one of the dealers participating in the trade show or exhibition.

161 Section 3. Section **41-3-701** is amended to read:

162 **41-3-701. Violations as misdemeanors.**

163 (1) Except as otherwise provided in this chapter, any person who violates this chapter
164 is guilty of a class B misdemeanor.

165 (2) (a) [~~A~~] (i) Except as provided in Subsection (2)(a)(ii), a person who violates
166 Section 41-3-201 is guilty of a class A misdemeanor.

167 (ii) A person who violates the requirement to title a vehicle with a salvage certificate
168 within 15 days of purchasing the vehicle at a motor vehicle auction under Subsection
169 41-3-201(3)(e) is guilty of a class C misdemeanor.

170 (b) Once a person has met the criteria for the offense of acting as a dealer without a
171 license, each additional motor vehicle the person sells, displays for sale, offers for sale or
172 exchange, or leases in that 12-month period without becoming licensed under Section 41-3-202
173 is a separate violation.

174 (3) A person who violates Section 41-3-301 is guilty of a class A misdemeanor unless
175 the selling dealer complies with the requirements of Section 41-3-403.

176 (4) A person who violates Section 41-3-207.5 is guilty of a class A misdemeanor.

177 Section 4. Section **41-3-702** is amended to read:

178 **41-3-702. Civil penalty for violation.**

179 (1) The following are civil violations under this chapter and are in addition to criminal
180 violations under this chapter:

181 (a) Level I:

182 (i) failing to display business license;

- 183 (ii) failing to surrender license of salesperson because of termination, suspension, or
 184 revocation;
- 185 (iii) failing to maintain a separation from nonrelated motor vehicle businesses at
 186 licensed locations;
- 187 (iv) issuing a temporary permit improperly;
- 188 (v) failing to maintain records;
- 189 (vi) selling a new motor vehicle to a nonfranchised dealer or leasing company without
 190 licensing the motor vehicle;
- 191 (vii) special plate violation; ~~§~~ [f] and [j] ~~§~~
- 192 (viii) failing to maintain a sign at ~~§~~ a ~~§~~ principal place of business ~~§~~ [; and
 193 ~~— (ix) failing to title a vehicle with a salvage certificate that is purchased at or through a~~
 194 ~~motor vehicle auction within 15 days of the purchase as required under Subsection~~
 195 ~~41-3-201(3)(c).] §~~
- 196 (b) Level II:
- 197 (i) failing to report sale;
- 198 (ii) dismantling without a permit;
- 199 (iii) manufacturing without meeting construction or vehicle identification number
 200 standards;
- 201 (iv) withholding customer license plates; or
- 202 (v) selling a motor vehicle on consecutive days of Saturday and Sunday.
- 203 (c) Level III:
- 204 (i) operating without a principal place of business;
- 205 (ii) selling a new motor vehicle without holding the franchise;
- 206 (iii) crushing a motor vehicle without proper evidence of ownership;
- 207 (iv) selling from an unlicensed location;
- 208 (v) altering a temporary permit;
- 209 (vi) refusal to furnish copies of records;
- 210 (vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;
- 211 (viii) advertising violation;
- 212 (ix) failing to separately identify the fees required by Title 41, Chapter 1a, Motor
 213 Vehicle Act; and

- 214 (x) encouraging or conspiring with unlicensed persons to solicit for prospective
 215 purchasers ~~§~~ → ; and
- 215a (xi) failing to title a vehicle with a salvage certificate that is purchased at or through a
 215b motor vehicle auction within 15 days of the purchase as required under Subsection
 215c 41-3-201(3)(e) ← ~~§~~ .
- 216 (2) (a) The schedule of civil penalties for violations of Subsection (1) is:
- 217 (i) Level I: \$25 for the first offense, \$100 for the second offense, and \$250 for the third
 218 and subsequent offenses;
- 219 (ii) Level II: \$100 for the first offense, \$250 for the second offense, and \$1,000 for the
 220 third and subsequent offenses; and
- 221 (iii) Level III: \$250 for the first offense, \$1,000 for the second offense, and \$5,000 for
 222 the third and subsequent offenses.
- 223 (b) When determining under this section if an offense is a second or subsequent
 224 offense, only prior offenses committed within the 12 months prior to the commission of the
 225 current offense may be considered.
- 226 (3) The following are civil violations in addition to criminal violations under Section
 227 41-1a-1008:
- 228 (a) knowingly selling a salvage vehicle, as defined in Section 41-1a-1001, without
 229 disclosing that the salvage vehicle has been repaired or rebuilt;
- 230 (b) knowingly making a false statement on a vehicle damage disclosure statement, as
 231 defined in Section 41-1a-1001; or
- 232 (c) fraudulently certifying that a damaged motor vehicle is entitled to an unbranded
 233 title, as defined in Section 41-1a-1001, when it is not.
- 234 (4) The civil penalty for a violation under Subsection (3) is:
- 235 (a) not less than \$1,000, or treble the actual damages caused by the person, whichever
 236 is greater; and
- 237 (b) reasonable ~~[attorneys']~~ attorney fees and costs of the action.
- 238 (5) A civil action may be maintained by a purchaser or by the administrator.

Legislative Review Note
 as of 2-23-09 2:43 PM

Office of Legislative Research and General Counsel

S.B. 193 - Salvage Vehicles Amendments - As Amended

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill could decrease dedicated credits revenue to the Utah State Tax Commission by \$17,000 in FY 2010 and \$10,000 in FY 2011 through the elimination of licensing requirements. This bill may increase revenue to the General Fund through enforcement of the requirement for individuals to title certain vehicles.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
Dedicated Credits	\$0	\$0	\$0	\$0	(\$17,000)	(\$10,000)
Total	\$0	\$0	\$0	\$0	(\$17,000)	(\$10,000)

Individual, Business and/or Local Impact

Some businesses dealing in salvage vehicles may experience decreased licensing costs. Individuals and local entities are likely unaffected.
