

**BOND LIMIT REQUIREMENTS FOR MOTOR VEHICLE  
DEALERS**

2012 GENERAL SESSION  
STATE OF UTAH

**Chief Sponsor: David G. Butterfield**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ on or after July 1, 2013, increases the amount of the corporate surety bond that an applicant must file with the motor vehicle enforcement administrator before a motor vehicle dealer's license is issued; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2012.

**Utah Code Sections Affected:**

AMENDS:

**41-3-205**, as last amended by Laws of Utah 2010, Chapter 342

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

Section 1. Section **41-3-205** is amended to read:



28           **41-3-205. Licenses -- Bonds required -- Maximum liability -- Action against**  
29 **surety -- Loss of bond.**

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

32           (i) [~~\$50,000 until June 30, 2006, and \$75,000 on or after July 1, 2006~~] \$75,000 until  
33 June 30, 2013, and \$200,000 on or after July 1, 2013, for a motor vehicle dealer's license;

34           (ii) [~~\$20,000 until June 30, 2006, and~~] \$75,000 [~~on or after July 1, 2006,~~] for a special  
35 equipment dealer's license;

36           (iii) \$10,000 for a motorcycle, off-highway vehicle, or small trailer dealer's or crusher's  
37 license; or

38           (iv) \$20,000 for a body shop's license.

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

41           (c) The form of the bond:

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

43           (ii) shall be conditioned upon the applicant's conducting business as a dealer without:

44           (A) fraud;

45           (B) fraudulent representation;

46           (C) violating Subsection 41-3-301(1) which requires a dealer to submit or deliver a  
47 certificate of title or manufacturer's certificate of origin; or

48           (D) violating Subsection 41-3-402(1) which requires payoff of liens on motor vehicles  
49 traded in; and

50           (iii) may be continuous in form.

51           (d) The total aggregate liability on the bond to all persons making claims, regardless of  
52 the number of claimants or the number of years a bond remains in force, may not exceed the  
53 amount of the bond.

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

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

58           (ii) the action is commenced within two years after the claim was filed with the

59 administrator.

60 (b) The surety or principal shall notify the administrator if a claim on the bond is  
61 successfully prosecuted or settled against the surety or principal.

62 (3) (a) A surety or principal may not make a payment on a surety bond to any claimant  
63 until six months have expired from the date when the first claim on the bond was filed with the  
64 surety or principal in writing.

65 (b) After six months have expired following the filing of the first bond claim, the  
66 surety or principal shall:

67 (i) assess the validity of all claims on the bond; and

68 (ii) submit a distribution assessment determined in accordance with Subsection (3)(c)  
69 regarding the bond proceeds to the claimants of valid claims for approval.

70 (c) (i) If the total verifiable claims on the bond are less than the bond amount, then  
71 each bond claimant shall be entitled to the full amount of a valid claim.

72 (ii) If the total verifiable claims exceed the bond amount, then the proceeds shall be  
73 distributed pro rata to the bond claimants of valid claims.

74 (d) If the distribution assessment under Subsection (3)(b) is not unanimously approved  
75 by the claimants of all valid claims on the bond, the principal or surety shall file an interpleader  
76 action in the state district court where the defaulting dealer was licensed.

77 (4) (a) A person making a claim on the bond shall be awarded attorney fees in cases  
78 successfully prosecuted or settled against the surety or principal if the bond has not been  
79 depleted.

80 (b) A surety or principal may not be awarded attorney fees that exceed \$2,500 for an  
81 interpleader action filed under Subsection (3)(d).

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

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

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

89 (6) A representative or consignee of a dealer is not required to file a bond if the dealer

90 for whom the representative or consignee acts fully complies with the provisions of this  
91 chapter.

92 Section 2. **Effective date.**

93 This bill takes effect on July 1, 2012.

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**Legislative Review Note**  
as of 2-1-12 12:55 PM

**Office of Legislative Research and General Counsel**