

Senator Stephen H. Urquhart proposes the following substitute bill:

AUTOMOBILE SALVAGE AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill modifies the Motor Vehicle Act by amending provisions relating to salvage and nonrepairable vehicles.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ provides that a motor vehicle may not be offered, auctioned, sold, leased, transferred, or exchanged by an owner, that is not a manufacturer, dealer, ~~§~~ [or] ~~§~~ motor vehicle auction, ~~§~~ **or consignors to a motor vehicle auction** ~~§~~ with the knowledge that it is a salvage vehicle without prior written disclosure being given to any prospective purchaser;
 - ▶ establishes procedures and requirements for a vehicle to be declared a nonrepairable vehicle and for a nonrepairable certificate to be issued;
 - ▶ grants the Motor Vehicle Division rulemaking authority to establish the requirements to receive a nonrepairable certificate;
 - ▶ provides that any person, insurance company, or licensed dealer who fails to obtain a nonrepairable certificate or who sells a nonrepairable vehicle without first obtaining a nonrepairable certificate is guilty of a class B misdemeanor;
 - ▶ provides that it is unlawful for a person to sell or otherwise convey ownership of a



26 nonrepairable vehicle unless the certificate of title or ownership is branded or a comparable
 27 title, certificate, or ownership document has been issued by another state or jurisdiction;

28 ▶ requires an operator of a motor vehicle auction to verify that an in-state purchaser
 29 not licensed under this section complies with the requirement to have a valid Utah
 30 business license and a Utah sales tax license;

31 ▶ provides that the five vehicle limitation on the sale of a vehicle with a salvage
 32 certificate to certain in-state purchasers applies to each Utah sales tax license and
 33 not to each person with the authority to use a sales tax license;

34 ▶ provides that for a vehicle with a salvage certificate purchased by certain in-state
 35 purchasers:

36 • a motor vehicle auction shall make application for a certificate of title on behalf
 37 of the Utah purchaser within seven days of the purchase; and

38 • the motor vehicle auction shall include a disclosure;

39 ▶ provides that an operator of a motor vehicle auction shall provide certain records
 40 electronically to the Motor Vehicle Enforcement Division within two business days
 41 of the completion of the motor vehicle auction;

42 ▶ provides that, if applicable, an operator of a motor vehicle auction shall comply
 43 with the reporting requirements of the National ~~§~~→ Motor ←~~§~~ Vehicle Title Information System
 44 overseen by the United States Department of Justice if the person sells a vehicle
 45 with a salvage certificate to certain in-state purchasers;

46 ▶ repeals civil penalties relating to not titling a vehicle with a salvage certificate; and

47 ▶ makes technical changes.

48 **Money Appropriated in this Bill:**

49 None

50 **Other Special Clauses:**

51 ~~§~~→ [None] This bill takes effect on October 1, 2012. ←~~§~~

52 **Utah Code Sections Affected:**

53 AMENDS:

54 **41-1a-1001**, as last amended by Laws of Utah 2010, Chapter 324

55 **41-3-201**, as last amended by Laws of Utah 2010, Chapter 393

56 **41-3-201.7**, as last amended by Laws of Utah 2010, Chapter 393

57 **41-3-701**, as last amended by Laws of Utah 2009, Chapter 234

58 **41-3-702**, as last amended by Laws of Utah 2009, Chapter 234

59 ENACTS:

60 **41-1a-1005.3**, Utah Code Annotated 1953

61 **41-1a-1005.5**, Utah Code Annotated 1953

62

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

64 Section 1. Section **41-1a-1001** is amended to read:

65 **41-1a-1001. Definitions.**

66 As used in Sections 41-1a-1001 through 41-1a-1008:

67 (1) "Certified vehicle inspector" means a person employed by the Motor Vehicle
68 Enforcement Division as qualified through experience, training, or both to identify and analyze
69 damage to vehicles with either unibody or conventional frames.

70 (2) "Major component part" means:

71 (a) the front body component of a motor vehicle consisting of the structure forward of
72 the firewall;

73 (b) the passenger body component of a motor vehicle including the firewall, roof, and
74 extending to and including the rear-most seating;

75 (c) the rear body component of a motor vehicle consisting of the main cross member
76 directly behind the rear-most seating excluding any auxiliary seating and structural body
77 assembly rear of the cross members; and

78 (d) the frame of a motor vehicle consisting of the structural member that supports the
79 auto body.

80 (3) (a) "Major damage" means damage to a major component part of the motor vehicle
81 requiring 10 or more hours to repair or replace, as determined by a collision estimating guide
82 recognized by the Motor Vehicle Enforcement Division.

83 (b) For purposes of Subsection (3)(a) repair or replacement hours do not include time
84 spent on cosmetic repairs.

85 (4) "Nonrepairable certificate" means a certificate of ownership issued for a
86 nonrepairable vehicle.

87 (5) "Nonrepairable vehicle" means a vehicle of a type otherwise subject to registration

88 that:

89 (a) has no resale value except as a source of parts or scrap metal or that the owner
90 irreversibly designates as a source of parts or scrap metal or for destruction;

91 (b) (i) has little or no resale value other than its worth as a source of a vehicle
92 identification number that could be used illegally; and

93 (ii) (A) has been substantially stripped as a result of theft; or

94 (B) is missing all of the bolt-on sheet metal body panels, all of the doors and hatches,
95 substantially all of the interior components and substantially all of the grill and light
96 assemblies; or

97 (c) is a substantially burned vehicle that:

98 (i) has burned to the extent that there are no more usable or repairable body or interior
99 components, tires and wheels or drive train components; or

100 (ii) the owner irreversibly designates for destruction or as having little or no resale
101 value other than its worth as a source of scrap metal or as a source of a vehicle identification
102 number that could be used illegally.

103 [~~4~~] (6) "Owner" means the person who has the legal right to possession of the
104 vehicle.

105 [~~5~~] (7) (a) "Salvage certificate" means a certificate of ownership issued for a salvage
106 vehicle before a new certificate of title is issued for the vehicle.

107 (b) A salvage certificate is not valid for registration purposes.

108 [~~6~~] (8) "Salvage vehicle" means any vehicle:

109 (a) damaged by collision, flood, or other occurrence to the extent that the cost of
110 repairing the vehicle for safe operation exceeds its fair market value; or

111 (b) that has been declared a salvage vehicle by an insurer or other state or jurisdiction,
112 but is not precluded from further registration and titling.

113 [~~7~~] (9) "Unbranded title" means a certificate of title for a previously damaged motor
114 vehicle without any designation that the motor vehicle has been damaged.

115 [~~8~~] (10) "Vehicle damage disclosure statement" means the form designed and
116 furnished by the Motor Vehicle Enforcement Division for a damaged motor vehicle inspection
117 under Section 41-1a-1002.

118 Section 2. Section **41-1a-1005.3** is enacted to read:

41-1a-1005.3. Resale of Salvage Vehicles.

(1) A motor vehicle may not be offered, auctioned, sold, leased, transferred, or exchanged by an owner, that is not a manufacturer, dealer ~~§~~→ [or] , ←~~§~~ motor vehicle auction, ~~§~~→ or consignor to a motor vehicle auction ←~~§~~ with the knowledge that it is a salvage vehicle without prior written disclosure being given to any prospective purchaser.

(2) ~~§~~→ [The] For a disclosure required by Subsection (1), the ←~~§~~ following disclosure language shall be contained in each contract for sale or lease of a salvage vehicle to a ~~§~~→ [consumer] purchaser ←~~§~~ or shall be contained in a form affixed to a contract, lease, bill of sale, or any other document that transfers title:

"THIS DISCLOSURE STATEMENT MUST BE GIVEN BY THE SELLER TO THE BUYER EVERY TIME THIS VEHICLE IS RESOLD WITH A SALVAGE CERTIFICATE DISCLOSURE STATEMENT
Vehicle Identification Number (VIN)
Year: Make: Model:
SALVAGE VEHICLE--NOT FOR RESALE WITHOUT DISCLOSURE
WARNING: THIS SALVAGE VEHICLE MAY NOT BE SAFE FOR OPERATION UNLESS PROPERLY REPAIRED. SOME STATES MAY REQUIRE AN INSPECTION BEFORE THIS VEHICLE MAY BE REGISTERED. THE STATE OF UTAH MAY REQUIRE THIS VEHICLE TO BE PERMANENTLY BRANDED AS A REBUILT SALVAGE VEHICLE. OTHER STATES MAY ALSO PERMANENTLY BRAND THE CERTIFICATE OF TITLE.

Signature of Purchaser Date"

Section 3. Section **41-1a-1005.5** is enacted to read:

41-1a-1005.5. Non-repairable vehicle -- Declaration by insurance company -- Surrender of title -- Nonrepairable certificate of title.

(1) (a) (i) Except as provided in Subsection (1)(a)(iii) or (iv), if an insurance company declares a vehicle as a nonrepairable vehicle and takes possession of the vehicle for disposal, the insurance company shall within 10 days from the receipt of the title with any lien release, surrender to the division the outstanding certificate of title, properly endorsed, or other evidence of ownership acceptable to the division.

(ii) The division shall then issue a nonrepairable certificate in the insurance company's

150 name.

151 (iii) The division shall issue a nonrepairable certificate in an insurance company's name
152 no sooner than 30 days from the settlement of the loss if the insurance company:

153 (A) declares a vehicle a nonrepairable vehicle;

154 (B) issues settlement payment to the registered owner of the vehicle;

155 (C) has contacted the owner of the vehicle at least two times requesting certificate of
156 title or other evidence of ownership acceptable to the division and the owner has not responded
157 to the requests; and

158 (D) has presented the division evidence of the settlement and evidence that the
159 insurance company has complied with the requirements of this Subsection (1)(a)(iii) on a form
160 prescribed by the division.

161 (iv) The division shall issue a nonrepairable certificate in an insurance company's name
162 no sooner than 30 days from the receipt of an improperly endorsed certificate of title if the
163 insurance company:

164 (A) declares a vehicle a nonrepairable vehicle;

165 (B) has contacted the owner of the vehicle at least two times requesting correction of
166 the improperly endorsed certificate of title and the owner of the vehicle has not responded to
167 the requests; and

168 (C) has presented the division evidence of the settlement, the improperly endorsed
169 certificate of title, and evidence that the insurance company has complied with the
170 requirements of this Subsection (1)(a)(iv) on a form prescribed by the division.

171 (v) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
172 division shall make rules establishing the requirements for an insurance company to prove that
173 it has complied with the requirements of Subsection (1)(a)(iii) or (iv) to receive a nonrepairable
174 certificate.

175 (b) (i) If the owner of a nonrepairable vehicle retains possession of the vehicle, the
176 insurance company shall, within 10 days from the settlement of the loss, notify the division of
177 the retention on a form prescribed by the division.

178 (ii) The insurance company shall notify the owner of the vehicle of the owner's
179 responsibility to comply with this section.

180 (iii) The owner shall, within 10 days from the settlement of the loss, surrender to the

181 division the properly endorsed certificate of title or other evidence of ownership acceptable to
182 the division.

183 (iv) The division shall then issue a nonrepairable certificate in the owner's name.

184 (c) (i) When a nonrepairable vehicle is not the subject of an insurance settlement, a
185 self-insurer or an owner who is uninsured shall, within 10 days of the self-insurer's or owner's
186 determination that a vehicle is non-repairable, surrender to the division the properly endorsed
187 certificate of title or other evidence of ownership acceptable to the division.

188 (ii) The division shall then issue a nonrepairable certificate in the owner's name.

189 (d) (i) If a dealer licensed under Chapter 3, Part 2, Licensing, takes possession of any
190 nonrepairable vehicle for which there is not already issued a branded title or nonrepairable
191 certificate from the division or another jurisdiction, the dealer shall, within 10 days, surrender
192 to the division the certificate of title or other evidence of ownership acceptable to the division.

193 (ii) The division shall then issue a nonrepairable certificate in the applicant's name.

194 (2) Any person, insurance company, or dealer licensed under Chapter 3, Part 2,
195 Licensing, who fails to obtain a nonrepairable certificate as required in this section or who sells
196 a nonrepairable vehicle without first obtaining a nonrepairable certificate from the division or a
197 branded title or non-repairable vehicle certificate from another jurisdiction is guilty of a class B
198 misdemeanor.

199 (3) This section does not apply to a vehicle that has an undamaged, wholesale value of
200 \$2,000 or less.

201 (4) Upon sale or disposal of a nonrepairable vehicle, the seller shall deliver to the
202 purchaser the properly endorsed nonrepairable certificate within 48 hours as required in Section
203 41-1a-1310.

204 (5) This chapter does not apply to a motor vehicle that has been stolen or taken without
205 the consent of the owner until the motor vehicle has been recovered, and then it applies only if
206 the motor vehicle is a nonrepairable vehicle.

207 (6) It is unlawful for a person to repair, reconstruct, or restore a nonrepairable vehicle.

208 (7) A non-repairable vehicle may be sold to a crusher or as provided in Subsection
209 41-3-201(3).

210 Section 4. Section **41-3-201** is amended to read:

211 **41-3-201. Licenses required -- Restitution -- Education.**

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

214 (2) A person may not act as any of the following without having procured a license
215 issued by the administrator:

216 (a) a dealer;

217 (b) salvage vehicle buyer;

218 (c) salesperson;

219 (d) manufacturer;

220 (e) transporter;

221 (f) dismantler;

222 (g) distributor;

223 (h) factory branch and representative;

224 (i) distributor branch and representative;

225 (j) crusher;

226 (k) remanufacturer; or

227 (l) body shop.

228 (3) (a) Except as provided in Subsection (3)(c), a person may not bid on or purchase a
229 vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001 at or
230 through a motor vehicle auction unless the person is a licensed salvage vehicle buyer.

231 (b) Except as provided in Subsection (3)(c), a person may not offer for sale, sell, or
232 exchange a vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001
233 at or through a motor vehicle auction except to a licensed salvage vehicle buyer.

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

236 (i) to an out-of-state or out-of-country purchaser not licensed under this section, but
237 that is authorized to do business in the domestic or foreign jurisdiction in which the person is
238 domiciled or registered to do business; [~~and~~]

239 (ii) subject to the [~~restriction~~] restrictions in Subsection (3)(d), to an in-state purchaser
240 not licensed under this section that:

241 (A) [~~is registered to do~~] has a valid business license in Utah; and

242 (B) has a Utah sales tax license[.]; and

243 (iii) to a crusher.

244 (d) (i) An operator of a motor vehicle auction shall verify that an in-state purchaser not
245 licensed under this section has the licenses required in Subsection (3)(c)(ii).

246 ~~[(d)]~~ (ii) An operator of a motor vehicle auction may only offer for sale, sell, or
247 exchange five vehicles with a salvage certificate as defined in Section 41-1a-1001 at or through
248 a motor vehicle auction in any 12 month period to an in-state purchaser that does not have a
249 salvage vehicle buyer license issued in accordance with Subsection 41-3-202(15).

250 ~~[(e) (i) An in-state purchaser of a vehicle with a salvage certificate as defined in~~
251 ~~Section 41-1a-1001 that is purchased at or through a motor vehicle auction shall title the~~
252 ~~vehicle within 15]~~

253 (iii) The five vehicle limitation under this Subsection (3)(d) applies to each Utah sales
254 tax license and not to each person with the authority to use a sales tax license.

255 (iv) An operator of a motor vehicle auction may not sell a vehicle with a nonrepairable
256 certificate as defined in Section 41-1a-1001 to a purchaser otherwise allowed to purchase a
257 vehicle under Subsection (3)(c)(ii).

258 (e) For a vehicle with a salvage certificate purchased under Subsection (3)(c)(ii), an
259 operator of a motor vehicle auction shall:

260 (i) make application for a salvage certificate of title on behalf of the Utah purchaser
261 within seven days of the purchase if the purchaser does not have a salvage vehicle buyer
262 license, dealer license, body shop license, or dismantler license issued in accordance with
263 Section 41-3-202[-]; and

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

268 (ii) give to the purchaser a disclosure printed on a separate piece of paper that states:
269 "THIS DISCLOSURE STATEMENT MUST BE GIVEN BY THE SELLER TO THE
270 BUYER EVERY TIME THIS VEHICLE IS RESOLD WITH A SALVAGE CERTIFICATE

271 Vehicle Identification Number (VIN)

272 Year: Make: Model:

273 SALVAGE VEHICLE--NOT FOR RESALE WITHOUT DISCLOSURE

274 WARNING: THIS SALVAGE VEHICLE MAY NOT BE SAFE FOR OPERATION
 275 UNLESS PROPERLY REPAIRED. SOME STATES MAY REQUIRE AN INSPECTION
 276 BEFORE THIS VEHICLE MAY BE REGISTERED. THE STATE OF UTAH MAY
 277 REQUIRE THIS VEHICLE TO BE PERMANENTLY BRANDED AS A REBUILT
 278 SALVAGE VEHICLE. OTHER STATES MAY ALSO PERMANENTLY BRAND THE
 279 CERTIFICATE OF TITLE.

280 _____
 281 Signature of Purchaser Date"

282 (f) The commission may impose an administrative entrance fee established in
 283 accordance with the procedures and requirements of Section 63J-1-504 not to exceed \$10 on a
 284 person not holding a license described in Subsection (3)(e)(i) that enters the physical premises
 285 of a motor vehicle auction for the purpose of viewing available salvage vehicles prior to an
 286 auction.

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

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

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

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

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

293 (i) provide the record described in Subsection (4)(a) electronically ~~§~~ **→ in a method**

293a approved by the division ~~←§~~ to the division

294 within two business days of the completion of the motor vehicle auction;

295 [~~(i)~~] (ii) retain the record described in this Subsection (4) for five years from the date of
 296 sale; and

297 [~~(ii)~~] (iii) make a record described in this Subsection (4) available for inspection by the
 298 division at the location of the motor vehicle auction during normal business hours.

299 (5) If applicable, an operator of a motor vehicle auction shall comply with the reporting
 300 requirements of the National ~~§~~ **→ Motor** ~~←§~~ Vehicle Title Information System overseen by the
 300a United States

301 Department of Justice if the person sells a vehicle with a salvage certificate to an in-state
 302 purchaser under Subsection (3)(c)(ii).

303 [~~(5)~~] (6) (a) An operator of a motor vehicle auction that sells a salvage vehicle to a
 304 person that is an out-of-country buyer shall:

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

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

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

310 (i) at least two inches wide; and

311 (ii) clearly legible.

312 ~~[(6)]~~ (7) A supplemental license shall be secured by a dealer, manufacturer,
313 remanufacturer, transporter, dismantler, crusher, or body shop for each additional place of
314 business maintained by the licensee.

315 ~~[(7)]~~ (8) A person who has been convicted of any law relating to motor vehicle
316 commerce or motor vehicle fraud may not be issued a license unless full restitution regarding
317 those convictions has been made.

318 ~~[(8)]~~ (9) (a) The division may not issue a license to a new applicant for a new or used
319 motor vehicle dealer license, a new or used motorcycle dealer license, or a small trailer dealer
320 license unless the new applicant completes an eight-hour orientation class approved by the
321 division that includes education on motor vehicle laws and rules.

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

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

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

326 (A) providers of the orientation class; and

327 (B) costs of the orientation class.

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

330 (iii) A provider of an orientation class shall include in the orientation materials:

331 (A) ethics training;

332 (B) motor vehicle title and registration processes;

333 (C) provisions of Title 13, Chapter 5, Unfair Practices Act, relating to motor vehicles;

334 (D) Department of Insurance requirements relating to motor vehicles;

335 (E) Department of Public Safety requirements relating to motor vehicles;

336 (F) federal requirements related to motor vehicles as determined by the division; and
337 (G) any required disclosure compliance forms as determined by the division.

338 Section 5. Section **41-3-201.7** is amended to read:

339 **41-3-201.7. Supplemental license for additional place of business restrictions --**
340 **Exception.**

341 (1) (a) Subject to the requirements of Subsection (2), a supplemental license for an
342 additional place of business issued pursuant to Subsection 41-3-201[~~(6)~~](7) may only be issued
343 to a dealer if the dealer is:

- 344 (i) licensed in accordance with Section 41-3-202;
- 345 (ii) bonded in accordance with Section 41-3-205; and
- 346 (iii) in compliance with existing rules promulgated by the administrator of the division
347 under Section 41-3-105.

348 (b) A supplemental license for a permanent additional place of business may only be
349 issued to a used motor vehicle dealer if:

- 350 (i) the dealer independently satisfies the bond requirements under Section 41-3-205 for
351 the permanent additional place of business;
- 352 (ii) the dealer is in compliance with existing rules promulgated by the administrator of
353 the division under Section 41-3-105; and
- 354 (iii) the permanent additional place of business meets all the requirements for a
355 principal place of business.

356 (2) (a) Except as provided in Subsections (2)(c) and (3), a supplemental license for an
357 additional place of business issued pursuant to Subsection 41-3-201[~~(6)~~](7) for a new motor
358 vehicle dealer may not be issued for an additional place of business that is beyond the
359 geographic specifications outlined as the area of responsibility in the dealer's franchise
360 agreement.

361 (b) A new motor vehicle dealer shall provide the administrator with a copy of the
362 portion of the new motor vehicle dealer's franchise agreement identifying the dealer's area of
363 responsibility before being issued a supplemental license for an additional place of business.

364 (c) The restrictions under Subsections (2)(a) and (b) do not apply to a new motor
365 vehicle dealer if the license for an additional place of business is being issued for the sale of
366 used motor vehicles.

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

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

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

372 (4) A supplemental license for a temporary additional place of business issued to a
373 used motor vehicle dealer may not be for longer than 10 consecutive days.

374 Section 6. Section **41-3-701** is amended to read:

375 **41-3-701. Violations as misdemeanors.**

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

378 (2) (a) (i) Except as provided in Subsection (2)(a)(ii), a person who violates Section
379 41-3-201 is guilty of a class A misdemeanor.

380 (ii) A person who violates the requirement to title a vehicle with a salvage certificate
381 within [~~15~~] seven days of purchasing the vehicle at a motor vehicle auction under Subsection
382 41-3-201(3)(e) is guilty of a class C misdemeanor.

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

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

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

390 Section 7. Section **41-3-702** is amended to read:

391 **41-3-702. Civil penalty for violation.**

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

394 (a) Level I:

395 (i) failing to display business license;

396 (ii) failing to surrender license of salesperson because of termination, suspension, or
397 revocation;

- 398 (iii) failing to maintain a separation from nonrelated motor vehicle businesses at
399 licensed locations;
- 400 (iv) issuing a temporary permit improperly;
- 401 (v) failing to maintain records;
- 402 (vi) selling a new motor vehicle to a nonfranchised dealer or leasing company without
403 licensing the motor vehicle;
- 404 (vii) special plate violation; and
- 405 (viii) failing to maintain a sign at a principal place of business.
- 406 (b) Level II:
- 407 (i) failing to report sale;
- 408 (ii) dismantling without a permit;
- 409 (iii) manufacturing without meeting construction or vehicle identification number
410 standards;
- 411 (iv) withholding customer license plates; or
- 412 (v) selling a motor vehicle on consecutive days of Saturday and Sunday.
- 413 (c) Level III:
- 414 (i) operating without a principal place of business;
- 415 (ii) selling a new motor vehicle without holding the franchise;
- 416 (iii) crushing a motor vehicle without proper evidence of ownership;
- 417 (iv) selling from an unlicensed location;
- 418 (v) altering a temporary permit;
- 419 (vi) refusal to furnish copies of records;
- 420 (vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;
- 421 (viii) advertising violation;
- 422 (ix) failing to separately identify the fees required by Title 41, Chapter 1a, Motor
423 Vehicle Act; and
- 424 (x) encouraging or conspiring with unlicensed persons to solicit for prospective
425 purchasers[~~;~~and].
- 426 [~~(xi) failing to title a vehicle with a salvage certificate that is purchased at or through a~~
427 ~~motor vehicle auction within 15 days of the purchase as required under Subsection~~
428 ~~41-3-201(3)(e).]~~

429 (2) (a) The schedule of civil penalties for violations of Subsection (1) is:

430 (i) Level I: \$25 for the first offense, \$100 for the second offense, and \$250 for the third
431 and subsequent offenses;

432 (ii) Level II: \$100 for the first offense, \$250 for the second offense, and \$1,000 for the
433 third and subsequent offenses; and

434 (iii) Level III: \$250 for the first offense, \$1,000 for the second offense, and \$5,000 for
435 the third and subsequent offenses.

436 (b) When determining under this section if an offense is a second or subsequent
437 offense, only prior offenses committed within the 12 months prior to the commission of the
438 current offense may be considered.

439 (3) The following are civil violations in addition to criminal violations under Section
440 41-1a-1008:

441 (a) knowingly selling a salvage vehicle, as defined in Section 41-1a-1001, without
442 disclosing that the salvage vehicle has been repaired or rebuilt;

443 (b) knowingly making a false statement on a vehicle damage disclosure statement, as
444 defined in Section 41-1a-1001; or

445 (c) fraudulently certifying that a damaged motor vehicle is entitled to an unbranded
446 title, as defined in Section 41-1a-1001, when it is not.

447 (4) The civil penalty for a violation under Subsection (3) is:

448 (a) not less than \$1,000, or treble the actual damages caused by the person, whichever
449 is greater; and

450 (b) reasonable attorney fees and costs of the action.

451 (5) A civil action may be maintained by a purchaser or by the administrator.

451a **§→ Section 8. Effective date.**

451b **This bill takes effect on October 1, 2012. ←§**