

SB0260S01 compared with SB0260

~~{deleted text}~~ shows text that was in SB0260 but was deleted in SB0260S01.

inserted text shows text that was not in SB0260 but was inserted into SB0260S01.

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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: _____

LONG TITLE

General Description:

This bill modifies the Motor Vehicle ~~{Business Regulation}~~ Act by amending provisions relating to salvage and nonrepairable vehicles.

Highlighted Provisions:

This bill:

- ▶ ~~{repeals the provisions that authorize a person to offer for sale, sell, or exchange}~~ 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, 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

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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 nonrepairable vehicle unless the certificate of title or ownership is branded or a comparable title, certificate, or ownership document has been issued by another state or jurisdiction;
- ▶ requires an operator of a motor vehicle auction to verify that an in-state purchaser not licensed under this section complies with the requirement to have a valid Utah business license and a Utah sales tax license;
- ▶ provides that the five vehicle limitation on the sale of a vehicle with a salvage certificate ~~{at or through }~~to certain in-state purchasers applies to each Utah sales tax license and not to each person with the authority to use a sales tax license;
- ▶ provides that for a vehicle with a salvage certificate purchased by certain in-state purchasers:

- a motor vehicle auction ~~{to certain purchasers};~~

→ ~~repeals a provision that limits the number of vehicles with salvage certificates}~~ shall make application for a certificate of title on behalf of the Utah purchaser within seven days of the purchase; and

- the motor vehicle auction shall include a disclosure;

- ▶ provides that an operator of a motor vehicle auction ~~{may offer for sale, sell, or exchange at or through a }~~shall provide certain records electronically to the Motor Vehicle Enforcement Division within two business days of the completion of the motor vehicle auction ~~{ in any 12 month period to certain purchasers};~~

→ ~~repeals a provision that authorizes the Tax Commission to impose an administrative entrance fee on certain persons that enter a motor vehicle auction for certain purposes;~~

→ ~~repeals the requirement that a purchaser of a vehicle with a salvage certificate title~~

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~~the vehicle within 15 days of the purchase in certain circumstances;~~

→ ~~repeals the prohibition on~~;

▶ provides that, if applicable, an operator of a motor vehicle auction ~~{from offering for sale, selling, or exchanging vehicles}~~ shall comply with the reporting requirements of the National Vehicle Title Information System overseen by the United States Department of Justice if the person sells a vehicle with a salvage certificate to certain in-state purchasers;

▶ ~~repeals {certain requirements for an operator of a motor vehicle auction;~~

→ ~~repeals criminal and~~ civil penalties relating to not titling a vehicle with a salvage certificate ~~{within 15 days of the purchase}~~; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

ENACTS:

41-1a-1005.3, Utah Code Annotated 1953

41-1a-1005.5, Utah Code Annotated 1953

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

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

41-1a-1001. Definitions.

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

(1) "Certified vehicle inspector" means a person employed by the Motor Vehicle

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Enforcement Division as qualified through experience, training, or both to identify and analyze damage to vehicles with either unibody or conventional frames.

(2) "Major component part" means:

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

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

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

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

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

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

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

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

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

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

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

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

(c) is a substantially burned vehicle that:

(i) has burned to the extent that there are no more usable or repairable body or interior

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components, tires and wheels or drive train components; or

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

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

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

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

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

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

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

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

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

Section ~~{1}~~2. Section ~~{41-3-201}~~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, with the knowledge that it is a salvage vehicle without prior written disclosure being given to any prospective purchaser.

(2) The following disclosure language shall be contained in each contract for sale or lease of a salvage vehicle to a consumer 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

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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 name.

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

(A) declares a vehicle a nonrepairable vehicle;

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

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

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

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

(A) declares a vehicle a nonrepairable vehicle;

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

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

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

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

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

(iii) The owner shall, within 10 days from the settlement of the loss, surrender to the division the properly endorsed certificate of title or other evidence of ownership acceptable to the division.

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

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

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

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

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to the division the certificate of title or other evidence of ownership acceptable to the division.

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

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

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

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

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

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

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

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

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

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

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

- (a) a dealer;
- (b) salvage vehicle buyer;
- (c) salesperson;
- (d) manufacturer;
- (e) transporter;
- (f) dismantler;
- (g) distributor;

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- (h) factory branch and representative;
- (i) distributor branch and representative;
- (j) crusher;
- (k) remanufacturer; or
- (l) body shop.

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

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

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

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

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

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

~~FF~~(B) has a Utah sales tax license ~~FF~~

~~FF~~(d) ~~FF~~; and

(iii) to a crusher.

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

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

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

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

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

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

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

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

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

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"

~~⌘~~(f) The commission may impose an administrative entrance fee established in accordance with the procedures and requirements of Section 63J-1-504 not to exceed \$10 on a

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person not holding a license described in Subsection (3)(e)(i) that enters the physical premises of a motor vehicle auction for the purpose of viewing available salvage vehicles prior to an auction. ~~§~~

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

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

~~§~~(i) the purchaser's name and address; and ~~§~~

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

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

(i) provide the record described in Subsection (4)(a) electronically to the division within two business days of the completion of the motor vehicle auction;

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

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

~~— (5) §~~

(5) If applicable, an operator of a motor vehicle auction shall comply with the reporting requirements of the National Vehicle Title Information System overseen by the United States Department of Justice if the person sells a vehicle with a salvage certificate to an in-state purchaser under Subsection (3)(c)(ii).

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

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

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

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

~~§~~(i) at least two inches wide; and ~~§~~

~~§~~(ii) clearly legible. ~~§~~

~~(6)~~ ~~(4)~~ (7) A supplemental license shall be secured by a dealer, manufacturer,

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remanufacturer, transporter, dismantler, crusher, or body shop for each additional place of business maintained by the licensee.

~~[(7)]~~ ~~(~~5~~~~7~~~~8~~)~~ A person who has been convicted of any law relating to motor vehicle commerce or motor vehicle fraud may not be issued a license unless full restitution regarding those convictions has been made.

~~[(8)]~~ ~~(~~6~~~~9~~)~~ (a) The division may not issue a license to a new applicant for a new or used motor vehicle dealer license, a new or used motorcycle dealer license, or a small trailer dealer license unless the new applicant completes an eight-hour orientation class approved by the division that includes education on motor vehicle laws and rules.

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

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

(d) (i) The division shall approve:

(A) providers of the orientation class; and

(B) costs of the orientation class.

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

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

(A) ethics training;

(B) motor vehicle title and registration processes;

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

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

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

(F) federal requirements related to motor vehicles as determined by the division; and

(G) any required disclosure compliance forms as determined by the division.

Section ~~(2)~~~~5~~. Section **41-3-201.7** is amended to read:

41-3-201.7. Supplemental license for additional place of business restrictions --
~~{Exceptions}~~**Exception.**

(1) (a) Subject to the requirements of Subsection (2), a supplemental license for an additional place of business issued pursuant to Subsection 41-3-201~~[(6)]~~~~(~~4~~~~7~~)~~ may only be issued to a dealer if the dealer is:

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

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

(i) the dealer independently satisfies the bond requirements under Section 41-3-205 for the permanent additional place of business;

(ii) the dealer is in compliance with existing rules promulgated by the administrator of the division under Section 41-3-105; and

(iii) the permanent additional place of business meets all the requirements for a principal place of business.

(2) (a) Except as provided in Subsections (2)(c) and (3), a supplemental license for an additional place of business issued pursuant to Subsection 41-3-201~~(6)~~(4+7) for a new motor vehicle dealer may not be issued for an additional place of business that is beyond the geographic specifications outlined as the area of responsibility in the dealer's franchise agreement.

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

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

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

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

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

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

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

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41-3-701. Violations as misdemeanors.

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

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

~~(i)~~(ii) A person who violates the requirement to title a vehicle with a salvage certificate within ~~[5]~~ seven days of purchasing the vehicle at a motor vehicle auction under Subsection 41-3-201(3)(e) is guilty of a class C misdemeanor. ~~(i)~~

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

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

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

Section ~~(4)~~ 7. Section **41-3-702** is amended to read:

41-3-702. Civil penalty for violation.

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

(a) Level I:

(i) failing to display business license;

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

(iii) failing to maintain a separation from nonrelated motor vehicle businesses at licensed locations;

(iv) issuing a temporary permit improperly;

(v) failing to maintain records;

(vi) selling a new motor vehicle to a nonfranchised dealer or leasing company without licensing the motor vehicle;

(vii) special plate violation; and

(viii) failing to maintain a sign at a principal place of business.

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(b) Level II:

(i) failing to report sale;

(ii) dismantling without a permit;

(iii) manufacturing without meeting construction or vehicle identification number standards;

(iv) withholding customer license plates; or

(v) selling a motor vehicle on consecutive days of Saturday and Sunday.

(c) Level III:

(i) operating without a principal place of business;

(ii) selling a new motor vehicle without holding the franchise;

(iii) crushing a motor vehicle without proper evidence of ownership;

(iv) selling from an unlicensed location;

(v) altering a temporary permit;

(vi) refusal to furnish copies of records;

(vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;

(viii) advertising violation;

(ix) failing to separately identify the fees required by ~~the~~ Title 41, ~~the~~ Chapter 1a, Motor Vehicle Act; and

(x) encouraging or conspiring with unlicensed persons to solicit for prospective purchasers~~[-and]~~.

~~[(xi) failing to title a vehicle with a salvage certificate that is purchased at or through a motor vehicle auction within 15 days of the purchase as required under Subsection 41-3-201(3)(e).]~~

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

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

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

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

(b) When determining under this section if an offense is a second or subsequent

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offense, only prior offenses committed within the 12 months prior to the commission of the current offense may be considered.

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

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

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

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

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

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

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

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

†

Legislative Review Note

~~as of 2-15-12 3:40 PM~~

~~Office of Legislative Research and General Counsel}~~