

SB0249S01 compared with SB0249

~~deleted text~~ shows text that was in SB0249 but was deleted in SB0249S01.

inserted text shows text that was not in SB0249 but was inserted into SB0249S01.

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Senator Stephen H. Urquhart proposes the following substitute bill:

SALVAGE AND NONREPAIRABLE VEHICLE AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to salvage and nonrepairable vehicles.

Highlighted Provisions:

This bill:

- ▶ provides that a vehicle that has been issued a nonrepairable certificate may not be registered;
- ▶ requires an operator of a motor vehicle auction, for a vehicle with a salvage certificate purchased at a motor vehicle auction, to electronically apply for a salvage certificate of title and provide evidence of compliance with certain requirements;
- ▶ provides that a vehicle sold at or through a motor vehicle auction to an out-of-state purchaser with a nonrepairable or salvage certificate may not be certificated in Utah until the vehicle has been certificated out-of-state;

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- ▶ prohibits a person who has been convicted of any law relating to motor vehicle commerce or motor vehicle fraud from purchasing a vehicle with a salvage or nonrepairable certificate;
- ▶ provides that a person or purchaser who is not licensed as a salvage vehicle buyer:
 - may not bid on or purchase more than five salvage vehicles with a nonrepairable or salvage certificate in any 12-month period;
 - may not offer for sale, sell, or exchange more than two vehicles with a salvage certificate in any 12-month period to a person not licensed as a salvage vehicle buyer~~{or crusher}~~; or
 - may not offer for sale, sell, or exchange a vehicle with a nonrepairable certificate to a person not licensed as a salvage vehicle buyer~~{or a crusher}~~;
- ▶ provides that ~~{a person may not scrap, dismantle, destroy, or otherwise change any vehicle so that it loses its character, until the person submits certificate of title for the vehicle for cancellation and obtains a dismantling permit;~~
- provides that an operator of a motor vehicle auction, a dealer, or a consignor may not sell a vehicle with a nonrepairable or salvage certificate to certain buyers if the Motor Vehicle Division has informed the operator of the motor vehicle auction, the dealer, or the consignor in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or salvage certificate;
- ▶ provides penalties for the knowing or intentional concealment, removal, destruction, or alteration of a disclosure statement or of a branded certificate of title~~{is a second degree felony}~~;
- ▶ establishes a private cause of action for certain owners who violate the requirement to disclose that a vehicle is a salvage vehicle; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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41-1a-202, as last amended by Laws of Utah 2008, Chapter 36

41-1a-1004, as last amended by Laws of Utah 2009, Chapter 168

41-1a-1008, as renumbered and amended by Laws of Utah 1992, Chapter 1

41-3-201, as last amended by Laws of Utah 2012, Chapter 390

ENACTS:

41-1a-1008.5, Utah Code Annotated 1953

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

Section 1. Section **41-1a-202** is amended to read:

41-1a-202. Definitions -- Vehicles exempt from registration -- Registration of vehicles after establishing residency.

(1) In this section:

(a) "Domicile" means the place:

(i) where an individual has a fixed permanent home and principal establishment;

(ii) to which the individual if absent, intends to return; and

(iii) in which the individual and his family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home.

(b) (i) "Resident" means any of the following:

(A) an individual who:

(I) has established a domicile in this state;

(II) regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(III) engages in a trade, profession, or occupation in this state or who accepts employment in other than seasonal work in this state and who does not commute into the state;

(IV) declares himself to be a resident of this state for the purpose of obtaining a driver license or motor vehicle registration; or

(V) declares himself a resident of Utah to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees; or

(B) any individual, partnership, limited liability company, firm, corporation, association, or other entity that:

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- (I) maintains a main office, branch office, or warehouse facility in this state and that bases and operates a motor vehicle in this state; or
- (II) operates a motor vehicle in intrastate transportation for other than seasonal work.
- (ii) "Resident" does not include any of the following:
 - (A) a member of the military temporarily stationed in Utah;
 - (B) an out-of-state student, as classified by the institution of higher education, enrolled with the equivalent of seven or more quarter hours, regardless of whether the student engages in a trade, profession, or occupation in this state or accepts employment in this state; and
 - (C) an individual domiciled in another state or a foreign country that:
 - (I) is engaged in public, charitable, educational, or religious services for a government agency or an organization that qualifies for tax-exempt status under Internal Revenue Code Section 501(c)(3);
 - (II) is not compensated for services rendered other than expense reimbursements; and
 - (III) is temporarily in Utah for a period not to exceed 24 months.
- (2) Registration under this chapter is not required for any:
 - (a) vehicle registered in another state and owned by a nonresident of the state or operating under a temporary registration permit issued by the division or a dealer authorized by this chapter, driven or moved upon a highway in conformance with the provisions of this chapter relating to manufacturers, transporters, dealers, lien holders, or interstate vehicles;
 - (b) vehicle driven or moved upon a highway only for the purpose of crossing the highway from one property to another;
 - (c) implement of husbandry, whether of a type otherwise subject to registration or not, that is only incidentally operated or moved upon a highway;
 - (d) special mobile equipment;
 - (e) vehicle owned or leased by the federal government;
 - (f) motor vehicle not designed, used, or maintained for the transportation of passengers for hire or for the transportation of property if the motor vehicle is registered in another state and is owned and operated by a nonresident of this state;
 - (g) vehicle or combination of vehicles designed, used, or maintained for the transportation of persons for hire or for the transportation of property if the vehicle or combination of vehicles is registered in another state and is owned and operated by a

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nonresident of this state and if the vehicle or combination of vehicles has a gross laden weight of 26,000 pounds or less;

(h) trailer of 750 pounds or less unladen weight and not designed, used, and maintained for hire for the transportation of property or person;

(i) manufactured home or mobile home;

(j) off-highway vehicle currently registered under Section 41-22-3 if the off-highway vehicle is:

(i) being towed;

(ii) operated on a street or highway designated as open to off-highway vehicle use; or

(iii) operated in the manner prescribed in Subsections 41-22-10.3(1) through (3);

(k) off-highway implement of husbandry operated in the manner prescribed in Subsections 41-22-5.5(3) through (5);

(l) modular and prebuilt homes conforming to the uniform building code and presently regulated by the United States Department of Housing and Urban Development that are not constructed on a permanent chassis;

(m) electric assisted bicycle defined under Section 41-6a-102;

(n) motor assisted scooter defined under Section 41-6a-102; or

(o) electric personal assistive mobility device defined under Section 41-6a-102.

(3) Unless otherwise exempted under Subsection (2), registration under this chapter is required for any motor vehicle, combination of vehicles, trailer, semitrailer, or vintage vehicle within 60 days of the owner establishing residency in this state.

(4) A motor vehicle that is registered under Section 41-3-306 is exempt from the registration requirements of this part for the time period that the registration under Section 41-3-306 is valid.

(5) A vehicle that has been issued a nonrepairable certificate may not be registered under this chapter.

Section 2. Section **41-1a-1004** is amended to read:

41-1a-1004. Certificate of title -- Salvage vehicles.

(1) If the division is able to ascertain the fact, at the time application is made for initial registration or transfer of ownership of a salvage vehicle, the title shall be branded:

(a) rebuilt and restored to operation;

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- (b) in a flood and restored to operation; or
- (c) not restored to operation.

(2) (a) (i) Except as provided in Subsection (2)(b), before the sale of a vehicle for which a salvage certificate or branded title has been issued, the seller shall provide the prospective purchaser with written notification ~~{ as required in Section 41-1a-1005.3 }~~ that a salvage certificate or a branded title has been issued for the vehicle.

(ii) If the vehicle is a salvage vehicle, the notification shall be as required in Section 41-1a-1005.3.

(b) The requirement to provide written notification under Subsection (2)(a) does not apply if the prospective purchaser is:

- (i) a licensed motor vehicle dealer whose primary business is auctioning salvage motor vehicles to licensed salvage vehicle buyers; or
- (ii) an insurance company, if the sale of the vehicle is the result of a total loss settlement.

(3) (a) An advertisement for the sale of a vehicle for which a salvage certificate or branded title has been issued shall disclose that a salvage certificate or branded title has been issued for the vehicle.

(b) The advertisement disclosure under Subsection (3)(a) shall:

- (i) be displayed at least as prominently as the description of the advertised vehicle is displayed; and
- (ii) use the words "salvage certificate" or "branded title" in the advertisement.

Section 3. Section **41-1a-1008** is amended to read:

41-1a-1008. Criminal penalty for violation.

[H] (1) ~~Except as provided in Subsection (2) or unless otherwise provided, it is a class A misdemeanor to knowingly violate Sections 41-1a-1001 through 41-1a-1007~~ ~~[, unless another penalty is specifically provided].~~

(2) ~~{Knowing or intentional concealment, removal, destruction, or alteration of}~~ An owner who is not a manufacturer, dealer, motor vehicle auction, or consignor to a motor vehicle auction not licensed under Section 41-3-201 and who knowingly or intentionally conceals, removes, destroys, or alters a disclosure statement or of a certificate of title branded under Section 41-3-201 or Sections 41-1a-1004 through 41-1a-1005.3 is a ~~{second degree~~

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felony:

(a) class A misdemeanor; or

(b) third degree felony if the person has previously been convicted two or more times of knowingly or intentionally concealing, removing, destroying, or altering a disclosure statement or a certificate of title branded under Section 41-3-201 or Sections 41-1a-1004 through 41-1a-1005.3.

(3) Criminal penalties under this chapter are not exclusive, but are in addition to those under Section 76-10-1801.

(4) Each vehicle sold, offered for sale, or displayed for sale in violation of Section 41-1a-1005.3 shall be a separate offense.

Section 4. Section **41-1a-1008.5** is enacted to read:

41-1a-1008.5. Private cause of action.

(1) Any owner who is not a manufacturer, dealer, motor vehicle auction, or consignor to a motor vehicle auction not licensed under Section 41-3-201 and who violates Section 41-1a-1005.3 is liable to the purchaser for:

(a) actual damages if the purchaser elects to retain the salvage vehicle, or the value of the consideration paid for the salvage vehicle if the purchaser elects rescission;

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

(c) up to three times the value of the actual damages or the consideration as exemplary damages; and

(d) other equitable relief, including rescission and restitution, the court determines to be proper in addition to damages and costs.

(2) Actual damages include:

(a) the difference between the actual market value of the salvage vehicle or nonconforming vehicle at the time of purchase and the contract price;

(b) towing;

(c) repair;

(d) storage expenses;

(e) rental of substitute transportation;

(f) food and lodging expenses;

(g) lost wages;

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(h) finance charges;

(i) sales or use tax;

(j) other governmental fees;

(k) lease charges; and

(l) other incidental and consequential damages.

(3) The remedies provided in this section are not exclusive but are in addition to any other remedies provided by law.

Section 5. 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;

(h) factory branch and representative;

(i) distributor branch and representative;

(j) crusher;

(k) remanufacturer; or

(l) body shop.

(3) (a) Except as provided in Subsection (3)(c), a 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) Except as provided in Subsection (3)(c), a 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.

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(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:

(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;

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

(A) has a valid business license in Utah; and

(B) has a Utah sales tax license; 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).

(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).

(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 ~~this~~ Subsection (3)~~(c)(ii)~~, an operator of a motor vehicle auction shall:

(i) (A) until Subsection (3)(e)(i)(B) applies, 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] or

(B) beginning on or after the date that the Motor Vehicle Division has implemented the Motor Vehicle Division's GenTax system, make application electronically, in a form and time period approved by the Motor Vehicle Division, for a salvage certificate of title to be issued in the name of the purchaser;

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(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"; and

(iii) if applicable, provide evidence to the Motor Vehicle Division of:

(A) payment of sales taxes on taxable sales in accordance with Section 41-1a-510;

~~{~~ (B) payment of all applicable fees under Chapter 1a, Part 12, Fee and Tax Requirements;

~~{~~ (~~C~~)~~B~~ the identification number inspection required under Section 41-1a-511; and

(~~D~~)~~C~~ the odometer disclosure statement required under Section 41-1a-902.

(f) The Motor Vehicle Division shall include a link to the disclosure statement described in Subsection (3)(e)(ii) on its website.

(~~f~~)~~(g)~~ 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 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.

(h) A vehicle sold at or through a motor vehicle auction to an out-of-state purchaser with a nonrepairable or salvage certificate may not be certificated in Utah until the vehicle has been certificated out-of-state.

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

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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 in a method approved by the division to the division within two business days of the completion of the motor vehicle auction;

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

(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) (a) If applicable, an operator of a motor vehicle auction shall comply with the reporting requirements of the National Motor 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).

(b) The Motor Vehicle Division shall include a link to the National Motor Vehicle Title Information System on its website.

(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.

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

(8) (a) A person who has been convicted of any law relating to motor vehicle

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commerce or motor vehicle fraud may not be issued a license or purchase a vehicle with a salvage or nonrepairable certificate unless full restitution regarding those convictions has been made.

(b) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (8)(a) if the division has informed the operator of the motor vehicle auction, the dealer, or the consignor in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or salvage certificate under Subsection (8)(a).

(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.

(10) A person or purchaser ~~not licensed as a salvage vehicle buyer~~ described in Subsection (3)(c)(ii):

(a) may not ~~bid on or~~ purchase more than five salvage vehicles with a nonrepairable

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or salvage certificate as defined in Section 41-1a-1001 in any 12-month period;

(b) may not, without first complying with Section 41-1a-705, offer for sale, sell, or exchange more than two vehicles with a salvage certificate as defined in Section 41-1a-1001 in any 12-month period to a ~~+~~

~~— (i) } person not licensed under this section; ~~for~~~~

~~— (ii) crusher; } and~~

(c) may not, without first complying with Section 41-1a-705, offer for sale, sell, or exchange a vehicle with a nonrepairable certificate as defined in Section 41-1a-1001 to a ~~+~~

~~— (i) } person not licensed under this section ~~+~~; or~~

~~— (ii) crusher }.~~

(11) ~~{A person may not scrap, dismantle, destroy, or otherwise change any vehicle so that it loses its character, until the person:~~

~~— (a) complies with the provisions of Section 41-1a-1010; and~~

~~— (b) obtains a dismantling permit.~~

Legislative Review Note

~~— as of 2-25-13 5:56 PM~~

~~Office of Legislative Research and General Counsel;~~ An operator of a motor vehicle auction, a dealer, or a consignor may not sell a vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (10)(a) if the division has informed the operator of the motor vehicle auction, the dealer, or the consignor in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or salvage certificate under Subsection (10)(a).