

Representative Kim Coleman proposes the following substitute bill:

NEW AUTO DEALER FRANCHISE AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim Coleman

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to the sale of new motor vehicles.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a license for a person to act as an online manufacturer dealer;
- ▶ allows a licensed online manufacturer dealer to:
 - sell or offer to sell a motor vehicle online; and
 - offer to sell and display a motor vehicle in person;
- ▶ creates a license for an online manufacturer salesperson;
- ▶ creates a license for a person to act as a small manufacturer dealer;
- ▶ allows a licensed small manufacturer dealer to sell, offer to sell, and display a motor vehicle; and
- ▶ exempts an online manufacturer dealer and a small manufacturer dealer from the provisions of the New Automobile Franchise Act.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **41-1a-802**, as last amended by Laws of Utah 2005, Chapter 32

30 **41-3-102**, as last amended by Laws of Utah 2014, Chapter 237

31 **41-3-103**, as last amended by Laws of Utah 2010, Chapter 393

32 **41-3-105**, as last amended by Laws of Utah 2010, Chapter 393

33 **41-3-201**, as last amended by Laws of Utah 2013, Chapter 463

34 **41-3-201.5**, as last amended by Laws of Utah 2010, Chapter 393

35 **41-3-201.7**, as last amended by Laws of Utah 2012, Chapter 390

36 **41-3-202**, as last amended by Laws of Utah 2009, Chapter 78

37 **41-3-204**, as last amended by Laws of Utah 2008, Chapter 388

38 **41-3-205**, as last amended by Laws of Utah 2010, Chapter 342

39 **41-3-209**, as last amended by Laws of Utah 2012, Chapter 145

40 **41-3-210**, as last amended by Laws of Utah 2007, Chapter 322

41 **41-3-601**, as last amended by Laws of Utah 2015, Chapter 93

42 **41-3-802**, as last amended by Laws of Utah 1995, Chapter 7

43 **59-12-107**, as last amended by Laws of Utah 2012, Chapters 178, 312, and 399

44 ENACTS:

45 **13-14-108**, Utah Code Annotated 1953

46 **41-3-202.1**, Utah Code Annotated 1953

47 **41-3-202.2**, Utah Code Annotated 1953



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

50 Section 1. Section **13-14-108** is enacted to read:

51 **13-14-108. Applicability.**

52 This chapter does not apply to:

53 (1) an online manufacturer dealer licensed under Section **41-3-202**; or

54 (2) a small manufacturer dealer licensed under Section **41-3-202**.

55 Section 2. Section **41-1a-802** is amended to read:

56 **41-1a-802. Identification number inspectors -- Duties.**

- 57 (1) The following are qualified identification number inspectors:
- 58 (a) the commission;
- 59 (b) designated officers and employees of the division;
- 60 (c) a person operating a safety inspection station under Title 53, Chapter 8, Part 2,
- 61 Motor Vehicle Safety Inspection Act;
- 62 (d) an official inspection station certified inspector;
- 63 (e) a ~~dealer~~ person licensed under Subsection 41-3-202(1), (2), (3), ~~or~~ (4), (5) or
- 64 (6); and
- 65 (f) all peace officers of the state.
- 66 (2) The qualified identification number inspectors shall, upon the application for the
- 67 first registration in this state of any vehicle:
- 68 (a) inspect the identification number of the vehicle;
- 69 (b) make a record of the identification number inspection upon an application form
- 70 provided by the division; and
- 71 (c) verify the facts in the application.
- 72 Section 3. Section 41-3-102 is amended to read:
- 73 **41-3-102. Definitions.**
- 74 As used in this chapter:
- 75 (1) "Administrator" means the motor vehicle enforcement administrator.
- 76 (2) "Agent" means a person other than a holder of any dealer's or salesperson's license
- 77 issued under this chapter, who for salary, commission, or compensation of any kind, negotiates
- 78 in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any
- 79 other person in any 12-month period.
- 80 (3) "Auction" means a dealer engaged in the business of auctioning motor vehicles,
- 81 either owned or consigned, to the general public.
- 82 (4) "Board" means the advisory board created in Section 41-3-106.
- 83 (5) "Body shop" means a business engaged in rebuilding, restoring, repairing, or
- 84 painting primarily the body of motor vehicles damaged by collision or natural disaster.
- 85 (6) "Commission" means the State Tax Commission.
- 86 (7) "Crusher" means a person who crushes or shreds motor vehicles subject to
- 87 registration under Title 41, Chapter 1a, Motor Vehicle Act, to reduce the useable materials and

88 metals to a more compact size for recycling.

89 (8) (a) "Dealer" means a person:

90 (i) whose business in whole or in part involves selling new, used, or new and used
91 motor vehicles or off-highway vehicles; and

92 (ii) who sells, displays for sale, or offers for sale or exchange three or more new or
93 used motor vehicles or off-highway vehicles in any 12-month period.

94 (b) "Dealer" includes a representative or consignee of any dealer.

95 (9) (a) "Dismantler" means a person engaged in the business of dismantling motor
96 vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the resale of
97 parts or for salvage.

98 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any
99 12-month period.

100 (10) "Distributor" means a person who has a franchise from a manufacturer of motor
101 vehicles to distribute motor vehicles within this state and who in whole or in part sells or
102 distributes new motor vehicles to dealers or who maintains distributor representatives.

103 (11) "Distributor branch" means a branch office similarly maintained by a distributor
104 for the same purposes a factory branch is maintained.

105 (12) "Distributor representative" means a person and each officer and employee of the
106 person engaged as a representative of a distributor or distributor branch of motor vehicles to
107 make or promote the sale of the distributor or the distributor branch's motor vehicles, or for
108 supervising or contacting dealers or prospective dealers of the distributor or the distributor
109 branch.

110 (13) "Division" means the Motor Vehicle Enforcement Division created in Section
111 [41-3-104](#).

112 (14) "Factory branch" means a branch office maintained by a person who manufactures
113 or assembles motor vehicles for sale to distributors, motor vehicle dealers, or who directs or
114 supervises the factory branch's representatives.

115 (15) "Factory representative" means a person and each officer and employee of the
116 person engaged as a representative of a manufacturer of motor vehicles or by a factory branch
117 to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or for
118 supervising or contacting the dealers or prospective dealers of the manufacturer or the factory

119 branch.

120 (16) "Franchise" means a contract or agreement between a dealer and a manufacturer of
121 new motor vehicles or its distributor or factory branch by which the dealer is authorized to sell
122 any specified make or makes of new motor vehicles.

123 (17) "Manufacturer" means a person engaged in the business of constructing or
124 assembling new motor vehicles, ownership of which is customarily transferred by a
125 manufacturer's statement or certificate of origin, or a person who constructs three or more new
126 motor vehicles in any 12-month period.

127 (18) "Motorcycle" [~~has the same meaning as~~] means the same as that term is defined in
128 Section [41-1a-102](#).

129 (19) (a) "Motor vehicle" means a vehicle that is:

- 130 (i) self-propelled;
131 (ii) a trailer, travel trailer, or semitrailer; or
132 (iii) an off-highway vehicle or small trailer.

133 (b) "Motor vehicle" does not include:

- 134 (i) mobile homes as defined in Section [41-1a-102](#);
135 (ii) trailers of 750 pounds or less unladen weight;
136 (iii) farm tractors and other machines and tools used in the production, harvesting, and
137 care of farm products; and
138 (iv) park model recreational vehicles as defined in Section [41-1a-102](#).

139 (20) "New motor vehicle" means a motor vehicle that has never been titled or
140 registered and has been driven less than 7,500 miles, unless the motor vehicle is an
141 off-highway vehicle, small trailer, trailer, travel trailer, or semitrailer, in which case the
142 mileage limit does not apply.

143 (21) "Off-highway vehicle" [~~has the same meaning as provided~~] means the same as that
144 term is defined in Section [41-22-2](#).

145 (22) "Online manufacturer dealer" means a person that:

- 146 (a) is a manufacturer or a wholly owned subsidiary of a manufacturer;
147 (b) sells, displays for sale, or offers for sale or exchange:
148 (i) three or more new or used motor vehicles in any 12-month period; and
149 (ii) only motor vehicles that:

150 (A) the person manufactured; or

151 (B) the person obtained in an exchange for a motor vehicle that the person
152 manufactured;

153 (c) sells a motor vehicle exclusively online through an Internet site that the person
154 operates;

155 (d) offers, in person, to sell a motor vehicle online; and

156 (e) displays a motor vehicle for sale online or at a physical location.

157 (23) "Online manufacturer salesperson" means an individual who, for compensation, is
158 employed directly, indirectly, regularly, or occasionally by an online manufacturer dealer to
159 sell, purchase, or exchange a motor vehicle online, or to negotiate for the sale, purchase, or
160 exchange of, a motor vehicle.

161 [~~22~~] (24) "Pawnbroker" means a person whose business is to lend money on security
162 of personal property deposited with him.

163 [~~23~~] (25) "Principal place of business" means a site or location in this state:

164 (a) devoted exclusively to the business for which the dealer, online manufacturer
165 dealer, small manufacturer dealer, manufacturer, remanufacturer, transporter, dismantler,
166 crusher, or body shop is licensed, and businesses incidental to them;

167 (b) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely
168 indicate the boundary and to admit a definite description with space adequate to permit the
169 display of three or more new, or new and used, or used motor vehicles and sufficient parking
170 for the public; and

171 (c) that includes a permanent enclosed building or structure large enough to
172 accommodate the office of the establishment and to provide a safe place to keep the books and
173 other records of the business, at which the principal portion of the business is conducted and
174 the books and records kept and maintained.

175 [~~24~~] (26) "Remanufacturer" means a person who reconstructs used motor vehicles
176 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style
177 and appearance of the motor vehicle or who constructs or assembles motor vehicles from used
178 or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or
179 more motor vehicles in any 12-month period.

180 [~~25~~] (27) "Salesperson" means an individual who for a salary, commission, or

181 compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by
182 any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to
183 negotiate for the sale, purchase, or exchange of motor vehicles.

184 (28) "Small manufacturer dealer" means a person that:

185 (a) is a manufacturer; and

186 (b) sells, displays for sale, or offers for sale or exchange:

187 (i) three or more new motor vehicles in any 12-month period;

188 (ii) fewer than 300 motor vehicles in any 12-month period; and

189 (iii) only motor vehicles that the person manufactured.

190 (29) "Small manufacturer salesperson" means an individual who, for compensation, is
191 employed directly, indirectly, regularly, or occasionally by a small manufacturer dealer to sell,
192 purchase, or exchange, or to negotiate for the sale, purchase, or exchange of, a motor vehicle.

193 ~~[(26)]~~ (30) "Semitrailer" has the same meaning as defined in Section 41-1a-102.

194 ~~[(27)]~~ (31) "Small trailer" means a trailer that has an unladen weight of more than 750
195 pounds, but less than 2,000 pounds.

196 ~~[(28)]~~ (32) "Special equipment" includes a truck mounted crane, cherry picker, material
197 lift, post hole digger, and a utility or service body.

198 ~~[(29)]~~ (33) "Special equipment dealer" means a new or new and used motor vehicle
199 dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle
200 weight of 12,000 or more pounds and installing special equipment on the incomplete motor
201 vehicle.

202 ~~[(30)]~~ (34) "Trailer" has the same meaning as defined in Section 41-1a-102.

203 ~~[(31)]~~ (35) "Transporter" means a person engaged in the business of transporting motor
204 vehicles as described in Section 41-3-202.

205 ~~[(32)]~~ (36) "Travel trailer" has the same meaning as provided in Section 41-1a-102.

206 ~~[(33)]~~ (37) "Used motor vehicle" means a vehicle that has been titled and registered to
207 a purchaser other than a dealer or has been driven 7,500 or more miles, unless the vehicle is a
208 trailer, or semitrailer, in which case the mileage limit does not apply.

209 ~~[(34)]~~ (38) "Wholesale motor vehicle auction" means a dealer primarily engaged in the
210 business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by
211 this or any other jurisdiction.

212 Section 4. Section **41-3-103** is amended to read:

213 **41-3-103. Exceptions to "dealer" definition -- Dealer licensed in other state.**

214 [~~Under this chapter:~~]

215 (1) A person is not considered a dealer under this chapter if the person is:

216 [~~(+)~~] (a) [~~An~~] an insurance company, bank, finance company, company registered as a
217 title lender under Title 7, Chapter 24, Title Lending Registration Act, or a company registered
218 as a check casher or deferred deposit lender under Title 7, Chapter 23, Check Cashing and
219 Deferred Deposit Lending Registration Act~~[-];~~;

220 (b) a public utility company~~[-];~~;

221 (c) a commission impound yard~~[-];~~;

222 (d) a federal or state [~~governmental agency, or any~~] government entity;

223 (e) a political subdivision of [~~any of them or any other person coming~~] the state; or

224 (f) a person that:

225 (i) comes into possession of a motor vehicle as an incident to [~~its~~] the person's regular
226 business~~[-that]; and~~

227 (ii) sells the motor vehicle under a contractual [~~rights that it may have~~] right that the
228 person has in the motor vehicle [~~is not considered a dealer~~].

229 [~~(b)~~] (2) A person who sells or exchanges only those motor vehicles that the person has
230 owned for over 12 months is not considered a dealer under this chapter.

231 [~~(2)~~] (3) (a) A person engaged in leasing motor vehicles is not considered as coming
232 into possession of the motor vehicles incident to the person's regular business.

233 (b) A pawnbroker engaged in selling, exchanging, or pawning motor vehicles is
234 considered as coming into possession of the motor vehicles incident to the person's regular
235 business and [~~must be licensed as a~~] is required to obtain a used motor vehicle dealer license.

236 [~~(3)~~] (4) A person currently licensed as a dealer or salesperson by another state or
237 country and not currently under license suspension or revocation by the administrator may only
238 sell motor vehicles in this state to licensed dealers, dismantlers, or manufacturers, and only at
239 their places of business.

240 (5) An online manufacturer dealer is not considered a dealer under this chapter except
241 as provided in Section [41-3-202.2](#) or as expressly provided in this chapter.

242 (6) A small manufacturer dealer is not considered a dealer under this chapter except as

243 provided in Section [41-3-202.2](#) or as expressly provided in this chapter.

244 (7) Except as otherwise expressly provided in this chapter, an online manufacturer
245 salesperson or a small manufacturer salesperson is subject to the same requirements under this
246 chapter as a salesperson.

247 Section 5. Section **41-3-105** is amended to read:

248 **41-3-105. Administrator's powers and duties -- Administrator and investigators**
249 **to be law enforcement officers.**

250 (1) The administrator may make rules to carry out the purposes of this chapter and
251 Sections [41-1a-1001](#) through [41-1a-1007](#) according to the procedures and requirements of Title
252 63G, Chapter 3, Utah Administrative Rulemaking Act.

253 (2) (a) The administrator may employ clerks, deputies, and assistants necessary to
254 discharge the duties under this chapter and may designate the duties of those clerks, deputies,
255 and assistants.

256 (b) The administrator, assistant administrator, and all investigators shall be law
257 enforcement officers certified by peace officer standards and training as required by Section
258 [53-13-103](#).

259 (3) (a) The administrator may investigate any suspected or alleged violation of:

- 260 (i) this chapter;
- 261 (ii) Title 41, Chapter 1a, Motor Vehicle Act;
- 262 (iii) any law concerning motor vehicle fraud; or
- 263 (iv) any rule made by the administrator.

264 (b) The administrator may bring an action in the name of the state against any person to
265 enjoin a violation found under Subsection (3)(a).

266 (4) (a) The administrator may prescribe forms to be used for applications for licenses.

267 (b) The administrator may require information from the applicant concerning the
268 applicant's fitness to be licensed.

269 (c) Each application for a license shall contain:

270 (i) if the applicant is an individual, the name and residence address of the applicant and
271 the trade name, if any, under which the applicant intends to conduct business;

272 (ii) if the applicant is a partnership, the name and residence address of each partner,
273 whether limited or general, and the name under which the partnership business will be

274 conducted;

275 (iii) if the applicant is a corporation, the name of the corporation, and the name and
276 residence address of each of its principal officers and directors;

277 (iv) a complete description of the principal place of business, including:

278 (A) the municipality, with the street and number, if any;

279 (B) if located outside of any municipality, a general description so that the location can
280 be determined; and

281 (C) any other places of business operated and maintained by the applicant in
282 conjunction with the principal place of business;

283 (v) (A) if the application is for a new motor vehicle dealer's license, the name of each
284 motor vehicle the applicant has been enfranchised to sell or exchange, and the name and
285 address of the manufacturer or distributor who has enfranchised the applicant[;]; and

286 (B) if the application is for a new motor vehicle dealer's license, an online
287 manufacturer dealer license, or a small manufacturer dealer license, the names and addresses of
288 the individuals who will act as salespersons under authority of the license;

289 (vi) except for an applicant for an online manufacturer dealer license or a small
290 manufacturer dealer license, at least five years of business history;

291 (vii) the federal tax identification number issued to the dealer; and

292 (viii) the sales and use tax license number issued to the dealer under Title 59, Chapter
293 12, Sales and Use Tax Act.

294 (5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement
295 Administrator, State of Utah," to authenticate the acts of the administrator's office.

296 (6) (a) The administrator may require that the licensee erect or post signs or devices on
297 the licensee's principal place of business and any other sites, equipment, or locations operated
298 and maintained by the licensee in conjunction with the licensee's business.

299 (b) The signs or devices shall state the licensee's name, principal place of business,
300 type and number of licenses, and any other information that the administrator considers
301 necessary to identify the licensee.

302 (c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah
303 Administrative Rulemaking Act, determining allowable size and shape of signs or devices,
304 their lettering and other details, and their location.

305 (7) (a) The administrator shall provide for quarterly meetings of the advisory board and
306 may call special meetings.

307 (b) Notices of all meetings shall be sent to each member not fewer than five days prior
308 to the meeting.

309 (8) The administrator, the officers and inspectors of the division designated by the
310 commission, and peace officers shall:

311 (a) make arrests upon view and without warrant for any violation committed in their
312 presence of any of the provisions of this chapter, or Title 41, Chapter 1a, Motor Vehicle Act;

313 (b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is
314 being operated in violation of any provision of Title 41, Chapter 1a, Motor Vehicle Act, require
315 the driver of the vehicle to stop, exhibit the person's driver license and the registration card
316 issued for the vehicle and submit to an inspection of the vehicle, the license plates, and
317 registration card;

318 (c) serve all warrants relating to the enforcement of the laws regulating the operation of
319 motor vehicles, trailers, and semitrailers;

320 (d) investigate traffic accidents and secure testimony of witnesses or persons involved;
321 and

322 (e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

323 (9) The administrator may contract with a public prosecutor to provide additional
324 prosecution of this chapter.

325 Section 6. Section **41-3-201** is amended to read:

326 **41-3-201. Licenses required -- Restitution -- Education.**

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

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

331 (a) a dealer;

332 (b) salvage vehicle buyer;

333 (c) salesperson;

334 (d) manufacturer;

335 (e) transporter;

- 336 (f) dismantler;
- 337 (g) distributor;
- 338 (h) factory branch and representative;
- 339 (i) distributor branch and representative;
- 340 (j) crusher;
- 341 (k) remanufacturer; [or]
- 342 (l) body shop[?];
- 343 (m) online manufacturer dealer;
- 344 (n) online manufacturer salesperson;
- 345 (o) small manufacturer dealer; or
- 346 (p) small manufacturer salesperson.

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

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

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

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

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

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

361 (B) has a Utah sales tax license; and

362 (iii) to a crusher.

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

365 (ii) An operator of a motor vehicle auction may only offer for sale, sell, or exchange
366 five vehicles with a salvage certificate as defined in Section 41-1a-1001 at or through a motor

- 398 (iii) if applicable, provide evidence to the Motor Vehicle Division of:
- 399 (A) payment of sales taxes on taxable sales in accordance with Section 41-1a-510;
- 400 (B) the identification number inspection required under Section 41-1a-511; and
- 401 (C) the odometer disclosure statement required under Section 41-1a-902.
- 402 (f) The Motor Vehicle Division shall include a link to the disclosure statement
- 403 described in Subsection (3)(e)(ii) on its website.
- 404 (g) The commission may impose an administrative entrance fee established in
- 405 accordance with the procedures and requirements of Section 63J-1-504 not to exceed \$10 on a
- 406 person not holding a license described in Subsection (3)(e)(i) that enters the physical premises
- 407 of a motor vehicle auction for the purpose of viewing available salvage vehicles prior to an
- 408 auction.
- 409 (h) A vehicle sold at or through a motor vehicle auction to an out-of-state purchaser
- 410 with a nonrepairable or salvage certificate may not be certificated in Utah until the vehicle has
- 411 been certificated out-of-state.
- 412 (4) (a) An operator of a motor vehicle auction shall keep a record of the sale of each
- 413 salvage vehicle.
- 414 (b) A record described under Subsection (4)(a) shall contain:
- 415 (i) the purchaser's name and address; and
- 416 (ii) the year, make, and vehicle identification number for each salvage vehicle sold.
- 417 (c) An operator of a motor vehicle auction shall:
- 418 (i) provide the record described in Subsection (4)(a) electronically in a method
- 419 approved by the division to the division within two business days of the completion of the
- 420 motor vehicle auction;
- 421 (ii) retain the record described in this Subsection (4) for five years from the date of
- 422 sale; and
- 423 (iii) make a record described in this Subsection (4) available for inspection by the
- 424 division at the location of the motor vehicle auction during normal business hours.
- 425 (5) (a) If applicable, an operator of a motor vehicle auction shall comply with the
- 426 reporting requirements of the National Motor Vehicle Title Information System overseen by
- 427 the United States Department of Justice if the person sells a vehicle with a salvage certificate to
- 428 an in-state purchaser under Subsection (3)(c)(ii).

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

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

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

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

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

438 (i) at least two inches wide; and

439 (ii) clearly legible.

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

443 (8) (a) A person who has been convicted of any law relating to motor vehicle
444 commerce or motor vehicle fraud may not be issued a license or purchase a vehicle with a
445 salvage or nonrepairable certificate unless full restitution regarding those convictions has been
446 made.

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

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

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

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

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

- 460 (A) providers of the orientation class; and
- 461 (B) costs of the orientation class.

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

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

- 465 (A) ethics training;
- 466 (B) motor vehicle title and registration processes;
- 467 (C) provisions of Title 13, Chapter 5, Unfair Practices Act, relating to motor vehicles;
- 468 (D) Department of Insurance requirements relating to motor vehicles;
- 469 (E) Department of Public Safety requirements relating to motor vehicles;
- 470 (F) federal requirements related to motor vehicles as determined by the division; and
- 471 (G) any required disclosure compliance forms as determined by the division.

472 (10) A person or purchaser described in Subsection (3)(c)(ii):

473 (a) may not purchase more than five salvage vehicles with a nonrepairable or salvage
474 certificate as defined in Section 41-1a-1001 in any 12-month period;

475 (b) may not, without first complying with Section 41-1a-705, offer for sale, sell, or
476 exchange more than two vehicles with a salvage certificate as defined in Section 41-1a-1001 in
477 any 12-month period to a person not licensed under this section; and

478 (c) may not, without first complying with Section 41-1a-705, offer for sale, sell, or
479 exchange a vehicle with a nonrepairable certificate as defined in Section 41-1a-1001 to a
480 person not licensed under this section.

481 (11) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a
482 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (10)(a) if
483 the division has informed the operator of the motor vehicle auction, the dealer, or the consignor
484 in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or
485 salvage certificate under Subsection (10)(a).

486 Section 7. Section 41-3-201.5 is amended to read:

487 **41-3-201.5. Brokering of a new motor vehicle without a license prohibited.**

488 (1) (a) A person may not, for a fee, commission, or other form of compensation,
489 arrange, offer to arrange, or broker a transaction involving the sale or lease of more than two:

- 490 (i) new or used motor vehicles in any 12 consecutive month period, unless the person

491 is licensed under Subsection 41-3-202(1), (3), or (4); or

492 (ii) used motor vehicles in any 12 consecutive month period, unless the person is
493 licensed under Subsection 41-3-202(2).

494 (b) Each transaction a person arranges, offers to arrange, or brokers involving the sale
495 or lease of a motor vehicle for a fee, commission, or other form of compensation is a separate
496 violation under this section if:

497 (i) the person has for a fee, commission, or other form of compensation, arranged,
498 offered to arrange, or brokered the sale or lease of more than two new or used motor vehicles
499 within the previous 12 consecutive month period; and

500 (ii) the person is not licensed under Subsection 41-3-202(1).

501 (2) A person who violates this section is guilty of a class B misdemeanor.

502 Section 8. Section 41-3-201.7 is amended to read:

503 **41-3-201.7. Supplemental license for additional place of business restrictions --**
504 **Exception.**

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

508 (i) licensed in accordance with Section 41-3-202;

509 (ii) bonded in accordance with Section 41-3-205; and

510 (iii) in compliance with existing rules promulgated by the administrator of the division
511 under Section 41-3-105.

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

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

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

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

520 (2) (a) Except as provided in Subsections (2)(c) and (3), a supplemental license for an
521 additional place of business issued pursuant to Subsection 41-3-201(7) for a new motor vehicle

522 dealer may not be issued for an additional place of business that is beyond the geographic
523 specifications outlined as the area of responsibility in the dealer's franchise agreement.

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

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

530 (d) This Subsection (2) does not apply to an online manufacturer dealer or a small
531 manufacturer dealer.

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

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

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

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

539 Section 9. Section **41-3-202** is amended to read:

540 **41-3-202. Licenses -- Classes and scope.**

541 (1) A new motor vehicle dealer's license permits the licensee to:

542 (a) offer for sale, sell, or exchange new motor vehicles if the licensee possesses a
543 franchise from the manufacturer of the motor vehicle offered for sale, sold, or exchanged by the
544 licensee;

545 (b) offer for sale, sell, or exchange used motor vehicles;

546 (c) operate as a body shop; and

547 (d) dismantle motor vehicles.

548 (2) A used motor vehicle dealer's license permits the licensee to:

549 (a) offer for sale, sell, or exchange used motor vehicles;

550 (b) operate as a body shop; and

551 (c) dismantle motor vehicles.

552 (3) An online manufacturer dealer's license permits the licensee to:

- 553 (a) operate as an online manufacturer dealer;
- 554 (b) sell or offer to sell, exchange, or offer to exchange a motor vehicle online via an
- 555 Internet site operated by the licensee;
- 556 (c) offer to sell, offer to exchange, and display a new motor vehicle in person;
- 557 (d) sell, offer to sell, exchange, or offer to exchange a used motor vehicle that the
- 558 licensee obtained in an exchange for a vehicle that the licensee or a wholly-owned subsidiary of
- 559 the licensee manufactured;
- 560 (e) operate as a body shop; and
- 561 (f) dismantle a motor vehicle.
- 562 (4) A small manufacturer dealer's license permits the licensee to:
- 563 (a) operate as a small manufacturer dealer;
- 564 (b) sell or offer to sell, exchange, or offer to exchange a motor vehicle;
- 565 (c) operate as a body shop; and
- 566 (d) dismantle a motor vehicle.
- 567 ~~[(3)]~~ (5) A new motorcycle, off-highway vehicle, and small trailer dealer's license
- 568 permits the licensee to:
- 569 (a) offer for sale, sell, or exchange new motorcycles, off-highway vehicles, or small
- 570 trailers if the licensee possesses a franchise from the manufacturer of the motorcycle,
- 571 off-highway vehicle, or small trailer offered for sale, sold, or exchanged by the licensee;
- 572 (b) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, or small
- 573 trailers; and
- 574 (c) dismantle motorcycles, off-highway vehicles, or small trailers.
- 575 ~~[(4)]~~ (6) A used motorcycle, off-highway vehicle, and small trailer dealer's license
- 576 permits the licensee to:
- 577 (a) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, and small
- 578 trailers; and
- 579 (b) dismantle motorcycles, off-highway vehicles, or small trailers.
- 580 ~~[(5)]~~ (7) (a) Except as provided in Subsection ~~[(5)]~~ (7)(b), a salesperson's license
- 581 permits the licensee to act as a motor vehicle salesperson and is valid for employment with
- 582 only one dealer at a time.
- 583 (b) A licensee that has been issued a salesperson's license and that is employed by a

584 dealer that operates as a wholesale motor vehicle auction may be employed by more than one
585 dealer that operates as a wholesale motor vehicle auction at a time.

586 (c) An individual may only hold one of the following licenses at any given time:

587 (i) salesperson;

588 (ii) online manufacturer salesperson; or

589 (iii) small manufacturer salesperson.

590 (8) An online manufacturer salesperson's license permits the licensee to sell, purchase,
591 or exchange, or to negotiate for the sale, purchase, or exchange of, a new motor vehicle for one
592 online manufacturer dealer.

593 (9) A small manufacturer salesperson's license permits the licensee to sell, purchase, or
594 exchange, or to negotiate for the sale, purchase, or exchange of, a new motor vehicle for one
595 small manufacturer dealer.

596 [~~(6)~~] (10) (a) A manufacturer's license permits the licensee to construct or assemble
597 motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, at an
598 established place of business and to remanufacture motor vehicles.

599 (b) Under rules made by the administrator, the licensee may issue and install vehicle
600 identification numbers on manufactured motor vehicles.

601 (c) The licensee may franchise and appoint dealers to sell manufactured motor vehicles
602 by notifying the division of the franchise or appointment.

603 [~~(7)~~] (11) A transporter's license permits the licensee to transport or deliver motor
604 vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, from a
605 manufacturing, assembling, or distributing point or from a dealer, to dealers, distributors, or
606 sales agents of a manufacturer or remanufacturer, to or from detail or repair shops, and to
607 financial institutions or places of storage from points of repossession.

608 [~~(8)~~] (12) A dismantler's license permits the licensee to dismantle motor vehicles
609 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the purpose of
610 reselling parts or for salvage, or selling dismantled or salvage vehicles to a crusher or other
611 dismantler.

612 [~~(9)~~] (13) A distributor or factory branch and distributor branch's license permits the
613 licensee to sell and distribute new motor vehicles, parts, and accessories to their franchised
614 dealers.

615 ~~[(10)]~~ (14) A representative's license, for factory representatives or distributor
616 representatives permits the licensee to contact the licensee's authorized dealers for the purpose
617 of making or promoting the sale of motor vehicles, parts, and accessories.

618 ~~[(11)]~~ (15) (a) (i) A remanufacturer's license permits the licensee to construct,
619 reconstruct, assemble, or reassemble motor vehicles subject to registration under Title 41,
620 Chapter 1a, Motor Vehicle Act, from used or new motor vehicles or parts.

621 (ii) Evidence of ownership of parts and motor vehicles used in remanufacture shall be
622 available to the division upon demand.

623 (b) Under rules made by the administrator, the licensee may issue and install vehicle
624 identification numbers on remanufactured motor vehicles.

625 ~~[(12)]~~ (16) A crusher's license permits the licensee to engage in the business of
626 crushing or shredding motor vehicles subject to registration under Title 41, Chapter 1a, Motor
627 Vehicle Act, for the purpose of reducing the useable materials and metals to a more compact
628 size for recycling.

629 ~~[(13)]~~ (17) A body shop's license permits the licensee to rebuild, restore, repair, or
630 paint primarily the body of motor vehicles damaged by collision or natural disaster, and to
631 dismantle motor vehicles.

632 ~~[(14)]~~ (18) A special equipment dealer's license permits the licensee to:

633 (a) buy incomplete new motor vehicles with a gross vehicle weight of 12,000 or more
634 pounds from a new motor vehicle dealer and sell the new vehicle with the special equipment
635 installed without a franchise from the manufacturer;

636 (b) offer for sale, sell, or exchange used motor vehicles;

637 (c) operate as a body shop; and

638 (d) dismantle motor vehicles.

639 ~~[(15)]~~ (19) (a) A salvage vehicle buyer license permits the licensee to bid on or
640 purchase a vehicle with a salvage certificate as defined in Section [41-1a-1001](#) at any motor
641 vehicle auction.

642 (b) A salvage vehicle buyer license may only be issued to a motor vehicle dealer,
643 dismantler, or body shop who qualifies under rules made by the division and is licensed in any
644 state as a motor vehicle dealer, dismantler, or body shop.

645 (c) The division may not issue more than two salvage vehicle buyer licenses to any one

646 dealer, dismantler, or body shop.

647 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
648 administrator shall make rules establishing qualifications of an applicant for a salvage vehicle
649 buyer license. The criteria shall include:

650 (i) business history;

651 (ii) salvage vehicle qualifications;

652 (iii) ability to properly handle and dispose of environmental hazardous materials
653 associated with salvage vehicles; and

654 (iv) record in demonstrating compliance with the provisions of this chapter.

655 Section 10. Section **41-3-202.1** is enacted to read:

656 **41-3-202.1. Online manufacturer dealer license.**

657 (1) As used in this section:

658 (a) "Affiliated franchisor" means a person that is owned or controlled by a
659 manufacturer with an unaffiliated franchisee anywhere in the state.

660 (b) "Franchisee" means the same as that term is defined in Section [13-14-102](#).

661 (2) An online manufacturer dealer may apply to the administrator under Section
662 [41-3-105](#) for an online manufacturer dealer license via the same procedure described in Section
663 [41-3-201](#) for a dealer license.

664 (3) Except as expressly provided, an online manufacturer dealer is subject to the
665 requirements of this chapter for a dealer under:

666 (a) Section [41-3-203](#);

667 (b) Section [41-3-205.5](#)

668 (c) Section [41-3-206](#);

669 (d) Section [41-3-211](#);

670 (e) Part 3, Temporary Permits;

671 (f) Part 4, Disclosure Requirements;

672 (g) Part 5, Special Dealer License Plates; and

673 (h) Part 7, Penalties.

674 (4) An online manufacturer dealer may not:

675 (a) sell or exchange a new motor vehicle in person;

676 (b) sell from the online manufacturer dealer's inventory;

- 677 (c) have or have had:
678 (i) an affiliated franchisor; or
679 (ii) an unaffiliated franchisee; or
680 (d) sell a recreational vehicle.
681 (5) An online manufacturer dealer shall designate, at minimum, one person in the state
682 to act as the online manufacturer dealer's authorized service center for the purpose of warranty
683 service repairs.

684 Section 11. Section **41-3-202.2** is enacted to read:

685 **41-3-202.2. Small manufacturer dealer license.**

686 (1) As used in this section:

687 (a) "Affiliated franchisor" means a person that is owned or controlled by a
688 manufacturer with an unaffiliated franchisee anywhere in the state.

689 (b) "Franchisee" means the same as that term is defined in Section [13-14-102](#).

690 (2) A small manufacturer dealer may apply to the administrator under Section [41-3-105](#)
691 for a small manufacturer dealer license via the same procedure described in Section [41-3-201](#)
692 for a dealer license.

693 (3) Except as expressly provided, a small manufacturer dealer is subject to the
694 requirements of this chapter for a dealer under:

695 (a) Section [41-3-203](#);

696 (b) Section [41-3-205.5](#)

697 (c) Section [41-3-206](#);

698 (d) Section [41-3-211](#);

699 (e) Part 3, Temporary Permits;

700 (f) Part 4, Disclosure Requirements;

701 (g) Part 5, Special Dealer License Plates; and

702 (h) Part 7, Penalties.

703 (4) A small manufacturer dealer may display a motor vehicle that the small
704 manufacturer dealer manufactured for the purpose of a test drive.

705 (5) A small manufacturer dealer may sell a vehicle the small manufacturer dealer
706 manufactured via a consignment sale under Part 8, Consignment Sales Act.

707 (6) A small manufacturer dealer may not:

- 708 (a) have or have had:
709 (i) an affiliated franchisor; or
710 (ii) an unaffiliated franchisee. sell a recreational vehicle; or
711 (b) sell a recreational vehicle.
712 (7) A small manufacturer dealer shall designate, at minimum, one person in the state to
713 act as the small manufacturer dealer's authorized service center for the purpose of warranty
714 service repairs.

715 Section 12. Section **41-3-204** is amended to read:

716 **41-3-204. Licenses -- Principal place of business as prerequisite -- Change of**
717 **location -- Relinquishment on loss of principal place of business.**

718 (1) (a) The following licensees must maintain a principal place of business:

- 719 (i) dealers;
720 (ii) an online manufacturer dealer as provided in Subsection (3);
721 (iii) a small manufacturer dealer;
722 [~~(ii)~~] (iv) special equipment dealers;
723 [~~(iii)~~] (v) manufacturers;
724 [~~(iv)~~] (vi) transporters;
725 [~~(v)~~] (vii) remanufacturers;
726 [~~(vi)~~] (viii) dismantlers;
727 [~~(vii)~~] (ix) crushers;
728 [~~(viii)~~] (x) body shops; and
729 [~~(ix)~~] (xi) distributors who:
730 (A) are located within the state; or
731 (B) have a branch office within the state.

732 (b) [~~The~~] Except as provided in Subsection (4), the administrator may not issue a
733 license under Subsection (1)(a) to an applicant who does not have a principal place of business.

734 (c) If a licensee changes the location of his principal place of business, he shall
735 immediately notify the administrator and a new license shall be granted for the unexpired
736 portion of the term of the original license at no additional fee.

737 (2) (a) If a licensee loses possession of a principal place of business, the license is
738 automatically suspended and he shall immediately notify the administrator and upon demand

739 by the administrator deliver the license, pocket cards, special plates, and temporary permits to
740 the administrator.

741 (b) The administrator shall hold the licenses, cards, plates, and permits until the
742 licensee obtains a principal place of business.

743 (3) The physical location in the state where an online manufacturer dealer displays a
744 vehicle for sale is the online manufacturer dealer's principal place of business for the purpose
745 of this chapter.

746 Section 13. Section **41-3-205** is amended to read:

747 **41-3-205. Licenses -- Bonds required -- Maximum liability -- Action against**
748 **surety -- Loss of bond.**

749 (1) (a) Before a dealer's, online manufacturer dealer's, small manufacturer dealer's,
750 special equipment dealer's, crusher's, or body shop's license is issued, the applicant shall file
751 with the administrator a corporate surety bond in the amount of:

752 [~~(i) \$50,000 until June 30, 2006, and \$75,000 on or after July 1, 2006,~~]

753 (i) \$75,000 for a motor vehicle dealer's license, online manufacturer dealer's license, or
754 small manufacturer dealer's license;

755 [~~(ii) \$20,000 until June 30, 2006, and \$75,000 on or after July 1, 2006,~~]

756 (ii) \$75,000 for a special equipment dealer's license;

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

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

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

762 (c) The form of the bond:

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

764 (ii) shall be conditioned upon the applicant's conducting business as a dealer, online
765 manufacturer dealer, or small manufacturer dealer without:

766 (A) fraud;

767 (B) fraudulent representation;

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

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

772 (iii) may be continuous in form.

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

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

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

780 (ii) the action is commenced within two years after the claim was filed with the
781 administrator.

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

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

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

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

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

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

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

796 (d) If the distribution assessment under Subsection (3)(b) is not unanimously approved
797 by the claimants of all valid claims on the bond, the principal or surety shall file an interpleader
798 action in the state district court where the defaulting [~~dealer was~~] person subject to the bond is
799 licensed.

800 (4) (a) A person making a claim on the bond shall be awarded attorney fees in cases

801 successfully prosecuted or settled against the surety or principal if the bond has not been
802 depleted.

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

805 (5) (a) (i) If a person who is a dealer, online manufacturer dealer, small manufacturer
806 dealer, body shop, or crusher loses possession of the bond required by this chapter, the [~~dealer,~~
807 ~~body shop, or crusher~~] person's license is automatically suspended.

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

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

814 (6) A representative or consignee of a [~~dealer~~] person who is a dealer, online
815 manufacturer dealer, or small manufacturer dealer is not required to file a bond if the [~~dealer~~
816 ~~for whom the representative or consignee acts~~] person fully complies with the provisions of
817 this chapter.

818 Section 14. Section **41-3-209** is amended to read:

819 **41-3-209. Administrator's findings -- Suspension and revocation of license.**

820 (1) If the administrator finds that an applicant is not qualified to receive a license, a
821 license may not be granted.

822 [~~(2)(a) On December 1, 2010, the administrator shall suspend the license of a~~
823 ~~salesperson who fails to submit to the division fingerprints as required under Subsection~~
824 ~~41-3-205.5(1)(b) on or before November 30, 2010.~~]

825 [(b)] (2) (a) If the administrator finds that there is reasonable cause to deny, suspend, or
826 revoke a license issued under this chapter, the administrator shall deny, suspend, or revoke the
827 license.

828 [(c)] (b) Reasonable cause for denial, suspension, or revocation of a license includes, in
829 relation to the applicant or license holder or any of its partners, officers, or directors:

830 (i) lack of a principal place of business;

831 (ii) except for an online manufacturer dealer, lack of a sales tax license required under

832 Title 59, Chapter 12, Sales and Use Tax Act;

833 (iii) lack of a bond in effect as required by this chapter;

834 (iv) current revocation or suspension of a dealer, online manufacturer dealer, small

835 manufacturer dealer, dismantler, auction, [~~or~~] salesperson, online manufacturer dealer

836 salesperson, or small manufacturer salesperson license issued in another state;

837 (v) nonpayment of required fees;

838 (vi) making a false statement on any application for a license under this chapter or for
839 special license plates;

840 (vii) a violation of any state or federal law involving motor vehicles;

841 (viii) a violation of any state or federal law involving controlled substances;

842 (ix) charges filed with any county attorney, district attorney, or U.S. attorney in any

843 court of competent jurisdiction for a violation of any state or federal law involving motor

844 vehicles;

845 (x) a violation of any state or federal law involving fraud;

846 (xi) a violation of any state or federal law involving a registerable sex offense under

847 Section [77-41-106](#); [~~or~~]

848 (xii) having had a license issued under this chapter revoked within five years from the
849 date of application[-];

850 (xiii) a violation by an online manufacturer dealer of a requirement of this chapter; or

851 (xiv) a violation by a small manufacturer dealer of a requirement of this chapter.

852 (d) Any action taken by the administrator under Subsection (2)[~~(c)~~](b)(ix) shall remain
853 in effect until a final resolution is reached by the court involved or the charges are dropped.

854 (3) If the administrator finds that an applicant is not qualified to receive a license under
855 this section, the administrator shall provide the applicant written notice of the reason for the
856 denial.

857 (4) If the administrator finds that the license holder has been convicted by a court of
858 competent jurisdiction of violating any of the provisions of this chapter or any rules made by
859 the administrator, or finds other reasonable cause, the administrator may, by complying with
860 the emergency procedures of Title 63G, Chapter 4, Administrative Procedures Act:

861 (a) suspend the license on terms and for a period of time the administrator finds
862 reasonable; or

- 863 (b) revoke the license.
- 864 (5) (a) After suspending or revoking a license, the administrator may take reasonable
- 865 action to:
- 866 (i) notify the public that the licensee is no longer in business; and
- 867 (ii) prevent the former licensee from violating the law by conducting business without
- 868 a license.
- 869 (b) Action under Subsection (5)(a) may include signs, banners, barriers, locks,
- 870 bulletins, and notices.
- 871 (c) Any business being conducted incidental to the business for which the former
- 872 licensee was licensed may continue to operate subject to the preventive action taken under this
- 873 subsection.

874 Section 15. Section **41-3-210** is amended to read:

875 **41-3-210. License holders -- Prohibitions and requirements.**

- 876 (1) The holder of any license issued under this chapter may not:
- 877 (a) intentionally publish, display, or circulate any advertising that is misleading or
- 878 inaccurate in any material fact or that misrepresents any of the products sold, manufactured,
- 879 remanufactured, handled, or furnished by a licensee;
- 880 (b) intentionally publish, display, or circulate any advertising without identifying the
- 881 seller as the licensee by including in the advertisement the full name under which the licensee
- 882 is licensed or the licensee's number assigned by the division;
- 883 (c) violate this chapter or the rules made by the administrator;
- 884 (d) violate any law of the state respecting commerce in motor vehicles or any rule
- 885 respecting commerce in motor vehicles made by any licensing or regulating authority of the
- 886 state;
- 887 (e) engage in business as a new motor vehicle dealer, online manufacturer dealer, small
- 888 manufacturer dealer, special equipment dealer, used motor vehicle dealer, motor vehicle
- 889 crusher, or body shop without having in effect a bond as required in this chapter;
- 890 (f) act as a dealer, online manufacturer dealer, small manufacturer dealer, dismantler,
- 891 crusher, manufacturer, transporter, remanufacturer, or body shop without maintaining a
- 892 principal place of business;
- 893 (g) engage in a business respecting the selling or exchanging of new or new and used

894 motor vehicles for which ~~he~~ the holder of a license is not licensed, including, except for an
895 online manufacturer dealer or a small manufacturer dealer, selling or exchanging a new motor
896 vehicle for which the licensee does not have a franchise, but this Subsection (1)(g) does not
897 apply to a special equipment dealer who sells a new special equipment motor vehicle with a
898 gross vehicle weight of 12,000 or more pounds after installing special equipment on the motor
899 vehicle;

900 (h) dismantle or transport to a crusher for crushing or other disposition any motor
901 vehicle without first obtaining a dismantling or junk permit under Section [41-1a-1009](#),
902 [41-1a-1010](#), or [41-1a-1011](#);

903 (i) as a new motor vehicle dealer, online manufacturer dealer, small manufacturer
904 dealer, special equipment dealer, or used motor vehicle dealer fail to give notice of sales or
905 transfers as required in Section [41-3-301](#);

906 (j) advertise or otherwise represent, or knowingly allow to be advertised or represented
907 on his behalf or at his place of business, that no down payment is required in connection with
908 the sale of a motor vehicle when a down payment is required and the buyer is advised or
909 induced to finance a down payment by a loan in addition to any other loan financing the
910 remainder of the purchase price of the motor vehicle;

911 (k) as a crusher, crush or shred a motor vehicle brought to the crusher without
912 obtaining proper evidence of ownership of the motor vehicle; proper evidence of ownership is
913 a certificate of title endorsed according to law or a dismantling or junk permit issued under
914 Section [41-1a-1009](#), [41-1a-1010](#), or [41-1a-1011](#);

915 (l) as a manufacturer or remanufacturer assemble a motor vehicle that does not comply
916 with construction, safety, or vehicle identification number standards fixed by law or rule of any
917 licensing or regulating authority;

918 (m) as anyone other than a salesperson licensed under this chapter, be present on a
919 dealer display space and contact prospective customers to promote the sale of the dealer's
920 vehicles;

921 (n) sell, display for sale, or offer for sale motor vehicles at any location other than the
922 principal place of business or additional places of business licensed under this chapter; this
923 provision is construed to prevent dealers, salespersons, or any other representative of a
924 dealership from selling, displaying, or offering motor vehicles for sale from their homes or

925 other unlicensed locations;

926 (o) ~~[(†)]~~ maintain, as a dealer, online manufacturer dealer, small manufacturer dealer,
927 dismantler, body shop, or manufacturer~~[-maintain]~~;

928 (i) a principal place of business or additional place of business that shares any common
929 area with a business or activity not directly related to motor vehicle commerce; or

930 (ii) ~~[maintain any places]~~ a place of business that ~~[share any]~~ shares a common area
931 with ~~[another dealer]~~ a different dealer, online manufacturer dealer, small manufacturer dealer,
932 dismantler, body shop, or manufacturer;

933 (p) withhold delivery of license plates obtained by the licensee on behalf of a customer
934 for any reason, including nonpayment of any portion of the vehicle purchase price or down
935 payment;

936 (q) issue a temporary permit for any vehicle that has not been sold by the licensee;

937 (r) alter a temporary permit in any manner;

938 (s) operate any principal place of business or additional place of business in a location
939 that does not comply with local ordinances, including zoning ordinances;

940 (t) sell, display for sale, offer for sale, or exchange any new motor vehicle if the
941 licensee does not:

942 (i) (A) have a new motor vehicle dealer's license under Section [41-3-202](#); and

943 ~~[(†)]~~ (B) possess a franchise from the manufacturer of the new motor vehicle sold,
944 displayed for sale, offered for sale, or exchanged by the licensee; or

945 (ii) have an online manufacturer dealer or a small manufacturer dealer license under
946 Section [41-3-202](#); or

947 (u) as a new motor vehicle dealer ~~[or]~~, online manufacturer dealer, small manufacturer
948 dealer, or used motor vehicle dealer, encourage or conspire with any person who has not
949 obtained a salesperson's license to solicit for prospective purchasers.

950 (2) (a) If a new motor vehicle is constructed in more than one stage, such as a motor
951 home, ambulance, or van conversion, the licensee shall advertise, represent, sell, and exchange
952 the vehicle as the make designated by the final stage manufacturer, ~~[except in those specific~~
953 ~~situations where]~~ unless:

954 (i) the licensee possesses a franchise from the initial or first stage manufacturer,
955 presumably the manufacturer of the motor vehicle's chassis~~[-];~~ or

956 (ii) the licensee manufactured the initial or first stage of the motor vehicle.

957 (b) Sales of multiple stage manufactured motor vehicles shall include the transfer to the
958 purchaser of a valid manufacturer's statement or certificate of origin from each manufacturer
959 under Section 41-3-301.

960 (3) Each licensee, except salespersons, shall maintain and make available for
961 inspection by peace officers and employees of the division:

962 (a) a record of every motor vehicle bought, or exchanged by the licensee or received or
963 accepted by the licensee for sale or exchange;

964 (b) a record of every used part or used accessory bought or otherwise acquired;

965 (c) a record of every motor vehicle bought or otherwise acquired and wrecked or
966 dismantled by the licensee;

967 (d) all buyers' orders, contracts, odometer statements, temporary permit records,
968 financing records, and all other documents related to the purchase, sale, or consignment of
969 motor vehicles; and

970 (e) a record of the name and address of the person to whom any motor vehicle or motor
971 vehicle body, chassis, or motor vehicle engine is sold or otherwise disposed of and a
972 description of the motor vehicle by year, make, and vehicle identification number.

973 (4) Each licensee required by this chapter to keep records shall:

974 (a) be kept by the licensee at least for five years; and

975 (b) furnish copies of those records upon request to any peace officer or employee of the
976 division during reasonable business hours.

977 (5) A manufacturer, distributor, distributor representative, or factory representative
978 may not induce or attempt to induce by means of coercion, intimidation, or discrimination any
979 dealer to:

980 (a) accept delivery of any motor vehicle, parts, or accessories or any other commodity
981 or commodities, including advertising material not ordered by the dealer;

982 (b) order or accept delivery of any motor vehicle with special features, appliances,
983 accessories, or equipment not included in the list price of the motor vehicle as publicly
984 advertised by the manufacturer;

985 (c) order from any person any parts, accessories, equipment, machinery, tools,
986 appliances, or any other commodity;

987 (d) enter into an agreement with the manufacturer, distributor, distributor
988 representative, or factory representative of any of them, or to do any other act unfair to the
989 dealer by threatening to cancel any franchise or contractual agreement between the
990 manufacturer, distributor, distributor branch, or factory branch and the dealer;

991 (e) refuse to deliver to any dealer having a franchise or contractual arrangement for the
992 retail sale of new and unused motor vehicles sold or distributed by the manufacturer,
993 distributor, distributor branch or factory branch, any motor vehicle, publicly advertised for
994 immediate delivery within 60 days after the dealer's order is received; or

995 (f) unfairly, without regard to the equities of the dealer, cancel the franchise of any
996 motor vehicle dealer; the nonrenewal of a franchise or selling agreement without cause is a
997 violation of this subsection and is an unfair cancellation.

998 (6) A dealer, online manufacturer dealer, or small manufacturer dealer may not assist
999 an unlicensed dealer or salesperson in unlawful activity through active or passive participation
1000 in sales, or by allowing use of his facilities or dealer license number, or by any other means.

1001 (7) (a) The holder of any new motor vehicle dealer license issued under this chapter
1002 may not sell any new motor vehicle to:

1003 (i) another dealer licensed under this chapter who does not hold a valid franchise for
1004 the [~~make~~] line-make of new motor vehicles sold, unless the selling dealer licenses and titles
1005 the new motor vehicle to the purchasing dealer; or

1006 (ii) any motor vehicle leasing or rental company located within this state, or who has
1007 any branch office within this state, unless the dealer licenses and titles the new motor vehicle to
1008 the purchasing, leasing, or rental company.

1009 (b) Subsection (7)(a)(i) does not apply to the sale of a new incomplete motor vehicle
1010 with a gross vehicle weight of 12,000 or more pounds to a special equipment dealer licensed
1011 under this chapter.

1012 (8) A dealer licensed under this chapter may not take on consignment any new motor
1013 vehicle from anyone other than a new motor vehicle dealer, factory, or distributor who is
1014 licensed and franchised, or otherwise authorized, to distribute or sell that make of motor
1015 vehicle in this or any other state.

1016 (9) A body shop licensed under this chapter may not assist an unlicensed body shop in
1017 unlawful activity through active or passive means or by allowing use of its facilities, name,

1018 body shop number, or by any other means.

1019 (10) A used motor vehicle dealer licensed under this chapter may not advertise, offer
1020 for sale, or sell a new motor vehicle that has been driven less than 7,500 miles by obtaining a
1021 title only to the vehicle and representing it as a used motor vehicle.

1022 (11) (a) Except as provided in Subsection (11)(c), or in cases of undue hardship or
1023 emergency as provided by rule by the division, a dealer or salesperson licensed under this
1024 chapter may not, on consecutive days of Saturday and Sunday, sell, offer for sale, lease, or offer
1025 for lease a motor vehicle.

1026 (b) Each day a motor vehicle is sold, offered for sale, leased, or offered for lease in
1027 violation of Subsection (11)(a) and each motor vehicle sold, offered for sale, leased, or offered
1028 for lease in violation of Subsection (11)(a) shall constitute a separate offense.

1029 (c) The provisions of Subsection (11)(a) shall not apply to a dealer participating in a
1030 trade show or exhibition if:

1031 (i) there are five or more dealers participating in the trade show or exhibition; and

1032 (ii) the trade show or exhibition takes place at a location other than the principal place
1033 of business of one of the dealers participating in the trade show or exhibition.

1034 (12) For purposes of imposing the sales and use tax under Title 59, Chapter 12, Sales
1035 and Use Tax Act, a licensee issuing a temporary permit under Section 41-3-302 shall separately
1036 identify the fees required by Title 41, Chapter 1a, Motor Vehicle Act.

1037 (13) (a) A dismantler or dealer engaged in the business of dismantling motor vehicles
1038 for the sale of parts or salvage shall identify any vehicles or equipment used by the dismantler
1039 or dealer for transporting parts or salvage on the highways.

1040 (b) The identification required under Subsection (13)(a) shall:

1041 (i) include the name, address, and license number of the dismantler or dealer; and

1042 (ii) be conspicuously displayed on both sides of the vehicle or equipment in clearly
1043 legible letters and numerals not less than two inches in height.

1044 Section 16. Section 41-3-601 is amended to read:

1045 **41-3-601. Fees.**

1046 (1) The administrator shall collect fees determined by the commission under Section
1047 63J-1-504 for each of the following:

1048 (a) new motor vehicle dealer's license;

- 1049 (b) used motor vehicle dealer's license;
- 1050 (c) online manufacturer dealer's license;
- 1051 (d) small manufacturer dealer's license;
- 1052 [~~(e)~~] (e) new motorcycle, off-highway vehicle, and small trailer dealer;
- 1053 [~~(f)~~] (f) used motorcycle, off-highway vehicle, and small trailer dealer;
- 1054 [~~(g)~~] (g) motor vehicle salesperson's license;
- 1055 [~~(h)~~] (h) motor vehicle salesperson's transfer or reissue fee;
- 1056 (i) online manufacturer salesperson's license;
- 1057 (j) small manufacturer salesperson's license;
- 1058 [~~(k)~~] (k) motor vehicle manufacturer's license;
- 1059 [~~(l)~~] (l) motor vehicle transporter's license;
- 1060 [~~(m)~~] (m) motor vehicle dismantler's license;
- 1061 [~~(n)~~] (n) motor vehicle crusher's license;
- 1062 [~~(o)~~] (o) motor vehicle remanufacturer's license;
- 1063 [~~(p)~~] (p) body shop's license;
- 1064 [~~(q)~~] (q) distributor or factory branch and distributor branch's license;
- 1065 [~~(r)~~] (r) representative's license;
- 1066 [~~(s)~~] (s) dealer plates;
- 1067 [~~(t)~~] (t) dismantler plates;
- 1068 [~~(u)~~] (u) manufacturer plates;
- 1069 [~~(v)~~] (v) transporter plates;
- 1070 [~~(w)~~] (w) damaged plate replacement;
- 1071 [~~(x)~~] (x) in-transit permits;
- 1072 [~~(y)~~] (y) loaded demonstration permits;
- 1073 [~~(z)~~] (z) additional place of business;
- 1074 [~~(aa)~~] (aa) special equipment dealer's license;
- 1075 [~~(ab)~~] (bb) temporary permits; and
- 1076 [~~(ac)~~] (cc) temporary sports event registration certificates.
- 1077 (2) (a) To pay for training certified vehicle inspectors and enforcement under Sections
- 1078 [41-1a-1001](#) through [41-1a-1008](#), the State Tax Commission shall establish and the
- 1079 administrator shall collect inspection fees determined by the commission under Section

1080 63J-1-504.

1081 (b) The division shall use fees collected under Subsection (2)(a) as dedicated credits to
1082 be used toward the costs of the division.

1083 (3) (a) At the time of application, the administrator shall collect a fee of \$200 for each
1084 salvage vehicle buyer license.

1085 (b) The administrator may retain a portion of the fee under Subsection (3)(a) to offset
1086 the administrator's actual costs of administering and enforcing salvage vehicle buyer licenses.

1087 (4) A fee imposed under Subsection (1)(x) or (y):

1088 (a) shall be deposited into the Motor Vehicle Enforcement Division Temporary Permit
1089 Restricted Account created by Section 41-3-110; and

1090 (b) is not subject to Subsection 63J-2-202(2).

1091 Section 17. Section 41-3-802 is amended to read:

1092 **41-3-802. Definitions.**

1093 As used in this part:

1094 (1) (a) "Consignee" means a dealer who accepts vehicles for sale under an agreement
1095 that the dealer will pay the consignor for any sold vehicle and will return any unsold vehicles.

1096 (b) "Consignee" includes a person authorized by a small manufacturer dealer to act as a
1097 cosignee for a vehicle manufactured by the small manufacturer dealer.

1098 ~~(b)~~ (c) "Consignee" does not include a wholesale motor vehicle auction.

1099 (2) "Consignor" means a person who places a vehicle with a consignee for
1100 consignment sale.

1101 Section 18. Section 59-12-107 is amended to read:

1102 **59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or**
1103 **other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other**
1104 **liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt --**
1105 **Penalties and interest.**

1106 (1) As used in this section:

1107 (a) "Ownership" means direct ownership or indirect ownership through a parent,
1108 subsidiary, or affiliate.

1109 (b) "Related seller" means a seller that:

1110 (i) meets one or more of the criteria described in Subsection (2)(a)(i); and

1111 (ii) delivers tangible personal property, a service, or a product transferred electronically
1112 that is sold:

1113 (A) by a seller that does not meet one or more of the criteria described in Subsection
1114 (2)(a)(i); and

1115 (B) to a purchaser in the state.

1116 (c) "Substantial ownership interest" means an ownership interest in a business entity if
1117 that ownership interest is greater than the degree of ownership of equity interest specified in 15
1118 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

1119 (2) (a) Except as provided in Subsection (2)(e), Section [59-12-107.1](#), or Section
1120 [59-12-123](#), and subject to Subsection (2)(f), each seller shall pay or collect and remit the sales
1121 and use taxes imposed by this chapter if within this state the seller:

1122 (i) has or utilizes:

1123 (A) an office;

1124 (B) a distribution house;

1125 (C) a sales house;

1126 (D) a warehouse;

1127 (E) a service enterprise; or

1128 (F) a place of business similar to Subsections (2)(a)(i)(A) through (E);

1129 (ii) maintains a stock of goods;

1130 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
1131 state, unless the seller's only activity in the state is:

1132 (A) advertising; or

1133 (B) solicitation by:

1134 (I) direct mail;

1135 (II) electronic mail;

1136 (III) the Internet;

1137 (IV) telecommunications service; or

1138 (V) a means similar to Subsection (2)(a)(iii)(A) or (B);

1139 (iv) regularly engages in the delivery of property in the state other than by:

1140 (A) common carrier; or

1141 (B) United States mail; or

1142 (v) regularly engages in an activity directly related to the leasing or servicing of
1143 property located within the state.

1144 (b) A seller is considered to be engaged in the business of selling tangible personal
1145 property, a service, or a product transferred electronically for use in the state, and shall pay or
1146 collect and remit the sales and use taxes imposed by this chapter if:

1147 (i) the seller holds a substantial ownership interest in, or is owned in whole or in
1148 substantial part by, a related seller; and

1149 (ii) (A) the seller sells the same or a substantially similar line of products as the related
1150 seller and does so under the same or a substantially similar business name; or

1151 (B) the place of business described in Subsection (2)(a)(i) of the related seller or an in
1152 state employee of the related seller is used to advertise, promote, or facilitate sales by the seller
1153 to a purchaser.

1154 (c) A seller that does not meet one or more of the criteria provided for in Subsection
1155 (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection
1156 (2)(b):

1157 (i) except as provided in Subsection (2)(c)(ii), may voluntarily:

1158 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and

1159 (B) remit the tax to the commission as provided in this part; or

1160 (ii) notwithstanding Subsection (2)(c)(i), shall collect a tax on a transaction described
1161 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.

1162 (d) The collection and remittance of a tax under this chapter by a seller that is
1163 registered under the agreement may not be used as a factor in determining whether that seller is
1164 required by Subsection (2) to:

1165 (i) pay a tax, fee, or charge under:

1166 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1167 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

1168 (C) Section 19-6-714;

1169 (D) Section 19-6-805;

1170 (E) Section 69-2-5;

1171 (F) Section 69-2-5.5;

1172 (G) Section 69-2-5.6; or

- 1173 (H) this title; or
- 1174 (ii) collect and remit a tax, fee, or charge under:
 - 1175 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - 1176 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
 - 1177 (C) Section 19-6-714;
 - 1178 (D) Section 19-6-805;
 - 1179 (E) Section 69-2-5;
 - 1180 (F) Section 69-2-5.5;
 - 1181 (G) Section 69-2-5.6; or
 - 1182 (H) this title.
- 1183 (e) A person shall pay a use tax imposed by this chapter on a transaction described in
- 1184 Subsection 59-12-103(1) if:
 - 1185 (i) the seller did not collect a tax imposed by this chapter on the transaction; and
 - 1186 (ii) the person:
 - 1187 (A) stores the tangible personal property or product transferred electronically in the
 - 1188 state;
 - 1189 (B) uses the tangible personal property or product transferred electronically in the state;
 - 1190 or
 - 1191 (C) consumes the tangible personal property or product transferred electronically in the
 - 1192 state.
 - 1193 (f) The ownership of property that is located at the premises of a printer's facility with
 - 1194 which the retailer has contracted for printing and that consists of the final printed product,
 - 1195 property that becomes a part of the final printed product, or copy from which the printed
 - 1196 product is produced, shall not result in the retailer being considered to have or maintain an
 - 1197 office, distribution house, sales house, warehouse, service enterprise, or other place of
 - 1198 business, or to maintain a stock of goods, within this state.
- 1199 (3) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be
- 1200 collected from a purchaser.
- 1201 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
- 1202 cent, in excess of the tax computed at the rates prescribed by this chapter.
- 1203 (c) (i) Each seller shall:

- 1204 (A) give the purchaser a receipt for the tax collected; or
- 1205 (B) bill the tax as a separate item and declare the name of this state and the seller's
- 1206 sales and use tax license number on the invoice for the sale.
- 1207 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
- 1208 and relieves the purchaser of the liability for reporting the tax to the commission as a
- 1209 consumer.
- 1210 (d) A seller is not required to maintain a separate account for the tax collected, but is
- 1211 considered to be a person charged with receipt, safekeeping, and transfer of public money.
- 1212 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
- 1213 benefit of the state and for payment to the commission in the manner and at the time provided
- 1214 for in this chapter.
- 1215 (f) If any seller, during any reporting period, collects as a tax an amount in excess of
- 1216 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller
- 1217 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
- 1218 excess.
- 1219 (g) If the accounting methods regularly employed by the seller in the transaction of the
- 1220 seller's business are such that reports of sales made during a calendar month or quarterly period
- 1221 will impose unnecessary hardships, the commission may accept reports at intervals that will, in
- 1222 the commission's opinion, better suit the convenience of the taxpayer or seller and will not
- 1223 jeopardize collection of the tax.
- 1224 (h) (i) For a purchase paid with specie legal tender as defined in Section [59-1-1501.1](#),
- 1225 and until such time as the commission accepts specie legal tender for the payment of a tax
- 1226 under this chapter, if the commission requires a seller to remit a tax under this chapter in legal
- 1227 tender other than specie legal tender, the seller shall state on the seller's books and records and
- 1228 on an invoice, bill of sale, or similar document provided to the purchaser:
- 1229 (A) the purchase price in specie legal tender and in the legal tender the seller is
- 1230 required to remit to the commission;
- 1231 (B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie
- 1232 legal tender and in the legal tender the seller is required to remit to the commission;
- 1233 (C) the tax rate under this chapter applicable to the purchase; and
- 1234 (D) the date of the purchase.

1235 (ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of
1236 tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the
1237 specie legal tender the purchaser paid.

1238 (B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1239 commission may make rules for determining the amount of tax due under Subsection (3)(h)(i)
1240 if the London fixing price is not available for a particular day.

1241 (4) (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the
1242 sales or use tax imposed by this chapter is due and payable to the commission quarterly on or
1243 before the last day of the month next succeeding each calendar quarterly period.

1244 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
1245 calendar quarterly period, file with the commission a return for the preceding quarterly period.

1246 (ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the
1247 tax required under this chapter to be collected or paid for the period covered by the return.

1248 (c) Except as provided in Subsection (5)(c), a return shall contain information and be in
1249 a form the commission prescribes by rule.

1250 (d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be
1251 based on the total nonexempt sales made during the period for which the return is filed,
1252 including both cash and charge sales.

1253 (ii) For a sale that includes the delivery or installation of tangible personal property at a
1254 location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery
1255 or installation is separately stated on an invoice or receipt, a seller may compute the tax due on
1256 the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that
1257 sale during each period for which the seller receives payment for the sale.

1258 (e) (i) The use tax as computed in the return shall be based on the total amount of
1259 purchases for storage, use, or other consumption in this state made during the period for which
1260 the return is filed, including both cash and charge purchases.

1261 (ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser
1262 who is required to remit taxes under this chapter, but is not required to remit taxes monthly in
1263 accordance with Section 59-12-108, and who converts tangible personal property into real
1264 property.

1265 (B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the

1266 taxes due under this chapter on tangible personal property for which the qualifying purchaser
1267 claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in
1268 which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C),
1269 for the conversion of the tangible personal property into real property.

1270 (C) A qualifying purchaser remitting taxes due under this chapter in accordance with
1271 Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the
1272 qualifying purchaser's purchase of the tangible personal property that was converted into real
1273 property multiplied by a fraction, the numerator of which is the payment received in the period
1274 for the qualifying purchaser's sale of the tangible personal property that was converted into real
1275 property and the denominator of which is the entire sales price for the qualifying purchaser's
1276 sale of the tangible personal property that was converted into real property.

1277 (D) A qualifying purchaser may remit taxes due under this chapter in accordance with
1278 this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in
1279 the qualifying purchaser's regular course of business identify by reasonable and verifiable
1280 standards that the tangible personal property was converted into real property.

1281 (f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3,
1282 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making
1283 returns and paying the taxes.

1284 (ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

1285 (g) The commission may require returns and payment of the tax to be made for other
1286 than quarterly periods if the commission considers it necessary in order to ensure the payment
1287 of the tax imposed by this chapter.

1288 (h) (i) The commission may require a seller that files a simplified electronic return with
1289 the commission to file an additional electronic report with the commission.

1290 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1291 commission may make rules providing:

1292 (A) the information required to be included in the additional electronic report described
1293 in Subsection (4)(h)(i); and

1294 (B) one or more due dates for filing the additional electronic report described in
1295 Subsection (4)(h)(i).

1296 (5) (a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a

- 1297 seller that is:
- 1298 (i) registered under the agreement;
 - 1299 (ii) described in Subsection (2)(c); and
 - 1300 (iii) not a:
 - 1301 (A) model 1 seller;
 - 1302 (B) model 2 seller; or
 - 1303 (C) model 3 seller.
- 1304 (b) (i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in
1305 accordance with Subsection (2)(c) is due and payable:
- 1306 (A) to the commission;
 - 1307 (B) annually; and
 - 1308 (C) on or before the last day of the month immediately following the last day of each
1309 calendar year.
- 1310 (ii) The commission may require that a tax a remote seller collects in accordance with
1311 Subsection (2)(c) be due and payable:
- 1312 (A) to the commission; and
 - 1313 (B) on the last day of the month immediately following any month in which the seller
1314 accumulates a total of at least \$1,000 in agreement sales and use tax.
- 1315 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection
1316 (5)(b), the remote seller shall file a return:
- 1317 (A) with the commission;
 - 1318 (B) with respect to the tax;
 - 1319 (C) containing information prescribed by the commission; and
 - 1320 (D) on a form prescribed by the commission.
- 1321 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1322 commission shall make rules prescribing:
- 1323 (A) the information required to be contained in a return described in Subsection
1324 (5)(c)(i); and
 - 1325 (B) the form described in Subsection (5)(c)(i)(D).
- 1326 (d) A tax a remote seller collects in accordance with this Subsection (5) shall be
1327 calculated on the basis of the total amount of taxable transactions under Subsection

1328 59-12-103(1) the remote seller completes, including:

1329 (i) a cash transaction; and

1330 (ii) a charge transaction.

1331 (6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified

1332 electronic return collects in accordance with this chapter is due and payable:

1333 (i) monthly on or before the last day of the month immediately following the month for

1334 which the seller collects a tax under this chapter; and

1335 (ii) for the month for which the seller collects a tax under this chapter.

1336 (b) A tax a remote seller that files a simplified electronic return collects in accordance

1337 with this chapter is due and payable as provided in Subsection (5).

1338 (7) (a) On each vehicle sale made by [~~other than~~] a person who is not a regular licensed

1339 vehicle dealer, or licensed online manufacturer dealer or small manufacturer dealer as defined

1340 in Section 41-3-102, the purchaser shall pay the sales or use tax directly to the commission if

1341 the vehicle is subject to titling or registration under the laws of this state.

1342 (b) The commission shall collect the tax described in Subsection (7)(a) when the

1343 vehicle is titled or registered.

1344 (8) If any sale of tangible personal property or any other taxable transaction under

1345 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not

1346 responsible for the collection or payment of the tax imposed on the sale and the retailer is

1347 responsible for the collection or payment of the tax imposed on the sale if:

1348 (a) the retailer represents that the personal property is purchased by the retailer for

1349 resale; and

1350 (b) the personal property is not subsequently resold.

1351 (9) If any sale of property or service subject to the tax is made to a person prepaying

1352 sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a

1353 contractor or subcontractor of that person, the person to whom such payment or consideration

1354 is payable is not responsible for the collection or payment of the sales or use tax and the person

1355 prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax

1356 if the person prepaying the sales or use tax represents that the amount prepaid as sales or use

1357 tax has not been fully credited against sales or use tax due and payable under the rules

1358 promulgated by the commission.

- 1359 (10) (a) For purposes of this Subsection (10):
- 1360 (i) Except as provided in Subsection (10)(a)(ii), "bad debt" is as defined in Section
- 1361 166, Internal Revenue Code.
- 1362 (ii) Notwithstanding Subsection (10)(a)(i), "bad debt" does not include:
- 1363 (A) an amount included in the purchase price of tangible personal property, a product
- 1364 transferred electronically, or a service that is:
- 1365 (I) not a transaction described in Subsection 59-12-103(1); or
- 1366 (II) exempt under Section 59-12-104;
- 1367 (B) a financing charge;
- 1368 (C) interest;
- 1369 (D) a tax imposed under this chapter on the purchase price of tangible personal
- 1370 property, a product transferred electronically, or a service;
- 1371 (E) an uncollectible amount on tangible personal property or a product transferred
- 1372 electronically that:
- 1373 (I) is subject to a tax under this chapter; and
- 1374 (II) remains in the possession of a seller until the full purchase price is paid;
- 1375 (F) an expense incurred in attempting to collect any debt; or
- 1376 (G) an amount that a seller does not collect on repossessed property.
- 1377 (b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later
- 1378 becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax
- 1379 under this chapter is calculated on a return.
- 1380 (ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the
- 1381 total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on
- 1382 the qualifying purchaser's purchase of tangible personal property converted into real property to
- 1383 the extent that:
- 1384 (A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal
- 1385 property converted into real property;
- 1386 (B) the qualifying purchaser's sale of that tangible personal property converted into real
- 1387 property later becomes bad debt; and
- 1388 (C) the books and records that the qualifying purchaser keeps in the qualifying
- 1389 purchaser's regular course of business identify by reasonable and verifiable standards that the

- 1390 tangible personal property was converted into real property.
- 1391 (c) A seller may file a refund claim with the commission if:
- 1392 (i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds
- 1393 the amount of the seller's sales that are subject to a tax under this chapter for that same time
- 1394 period; and
- 1395 (ii) as provided in Section [59-1-1410](#).
- 1396 (d) A bad debt deduction under this section may not include interest.
- 1397 (e) A bad debt may be deducted under this Subsection (10) on a return for the time
- 1398 period during which the bad debt:
- 1399 (i) is written off as uncollectible in the seller's books and records; and
- 1400 (ii) would be eligible for a bad debt deduction:
- 1401 (A) for federal income tax purposes; and
- 1402 (B) if the seller were required to file a federal income tax return.
- 1403 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
- 1404 claims a refund under this Subsection (10), the seller shall report and remit a tax under this
- 1405 chapter:
- 1406 (i) on the portion of the bad debt the seller recovers; and
- 1407 (ii) on a return filed for the time period for which the portion of the bad debt is
- 1408 recovered.
- 1409 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection
- 1410 (10)(f), a seller shall apply amounts received on the bad debt in the following order:
- 1411 (i) in a proportional amount:
- 1412 (A) to the purchase price of the tangible personal property, product transferred
- 1413 electronically, or service; and
- 1414 (B) to the tax due under this chapter on the tangible personal property, product
- 1415 transferred electronically, or service; and
- 1416 (ii) to:
- 1417 (A) interest charges;
- 1418 (B) service charges; and
- 1419 (C) other charges.
- 1420 (h) A seller's certified service provider may make a deduction or claim a refund for bad

1421 debt on behalf of the seller:

1422 (i) in accordance with this Subsection (10); and

1423 (ii) if the certified service provider credits or refunds the entire amount of the bad debt
1424 deduction or refund to the seller.

1425 (i) A seller may allocate bad debt among the states that are members of the agreement
1426 if the seller's books and records support that allocation.

1427 (11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full
1428 amount of tax required by this chapter.

1429 (b) A violation of this section is punishable as provided in Section 59-1-401.

1430 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
1431 paid to the state, except amounts determined to be due by the commission under Chapter 1,
1432 Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time
1433 required by this chapter, or who fails to file any return as required by this chapter, shall pay, in
1434 addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.

1435 (d) For purposes of prosecution under this section, each quarterly tax period in which a
1436 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
1437 tax required to be remitted, constitutes a separate offense.