

1 **SALVAGE VEHICLE AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: Daniel McCay

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to buying and selling a salvage vehicle at a motor
10 vehicle auction.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ requires a motor vehicle auction operator to securely store a salvage vehicle sold at
14 auction until the vehicle is possessed by the purchaser;
- 15 ▶ requires a person with a salvage vehicle buyer license to carry a pocket card; and
- 16 ▶ makes technical changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **41-3-201**, as last amended by Laws of Utah 2013, Chapter 463

24 **41-3-201.7**, as last amended by Laws of Utah 2012, Chapter 390

25 **41-3-203**, as renumbered and amended by Laws of Utah 1992, Chapter 234

26 **41-3-702**, as last amended by Laws of Utah 2012, Chapters 379 and 390



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

29 Section 1. Section **41-3-201** is amended to read:

30 **41-3-201. Licenses required -- Restitution -- Education.**

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

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

35 (a) a dealer;

36 (b) salvage vehicle buyer;

37 (c) salesperson;

38 (d) manufacturer;

39 (e) transporter;

40 (f) dismantler;

41 (g) distributor;

42 (h) factory branch and representative;

43 (i) distributor branch and representative;

44 (j) crusher;

45 (k) remanufacturer; or

46 (l) body shop.

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

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

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

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

58 (ii) subject to the restrictions in Subsection (3)(d), to an in-state purchaser not licensed

59 under this section that:

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

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

62 (iii) to a crusher.

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

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

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

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

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

76 (i) (A) until Subsection (3)(e)(i)(B) applies, make application for a salvage certificate
77 of title on behalf of the Utah purchaser within seven days of the purchase if the purchaser does
78 not have a salvage vehicle buyer license, dealer license, body shop license, or dismantler
79 license issued in accordance with Section 41-3-202; or

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

84 (ii) give to the purchaser a disclosure printed on a separate piece of paper that states:

85 "THIS DISCLOSURE STATEMENT MUST BE GIVEN BY THE SELLER TO THE
86 BUYER EVERY TIME THIS VEHICLE IS RESOLD WITH A SALVAGE CERTIFICATE

87 Vehicle Identification Number (VIN)

88 Year: Make: Model:

89 SALVAGE VEHICLE--NOT FOR RESALE WITHOUT DISCLOSURE

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

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

125 (5) (a) An operator of a motor vehicle auction shall securely store a salvage vehicle
126 sold at auction in a secure facility until the purchaser or a transporter licensed under Subsection
127 41-3-202(7) claims the vehicle.

128 (b) Beginning at the time of purchase and up until the purchaser or transporter claims
129 the vehicle, the motor vehicle auction operator may collect a daily storage fee for the secure
130 storage of each salvage vehicle sold at auction.

131 (c) (i) Before releasing possession of a salvage vehicle purchased at a motor vehicle
132 auction, the motor vehicle auction operator shall create a record containing a photocopy of the
133 purchaser's or transporter's driver license; and

134 (A) a photocopy of the salvage vehicle purchaser's license or pocket card described in
135 Section 41-3-203; or

136 (B) a photocopy of the transporter's license.

137 (ii) Before releasing possession of a salvage vehicle purchased at a motor vehicle
138 auction by a purchaser as described in Subsection (3)(c)(ii), the motor vehicle auction operator
139 shall create a record containing a photocopy of the purchaser's:

140 (A) driver license;

141 (B) business license; and

142 (C) sales tax license.

143 (d) An operator of a motor vehicle auction shall:

144 (i) retain the record described in Subsection (5)(c) for five years from the date of sale;

145 and

146 (ii) make the record described in Subsection (5)(c) available for inspection by the
147 division at the location of the motor vehicle auction during normal business hours.

148 [~~5~~] (6) (a) If applicable, an operator of a motor vehicle auction shall comply with the
149 reporting requirements of the National Motor Vehicle Title Information System overseen by
150 the United States Department of Justice if the person sells a vehicle with a salvage certificate to
151 an in-state purchaser under Subsection (3)(c)(ii).

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

154 ~~[(6)]~~ (7) (a) An operator of a motor vehicle auction that sells a salvage vehicle to a
155 person that is an out-of-country buyer shall:

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

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

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

161 (i) at least two inches wide; and

162 (ii) clearly legible.

163 ~~[(7)]~~ (8) A supplemental license shall be secured by a dealer, manufacturer,
164 remanufacturer, transporter, dismantler, crusher, or body shop for each additional place of
165 business maintained by the licensee.

166 ~~[(8)]~~ (9) (a) A person who has been convicted of any law relating to motor vehicle
167 commerce or motor vehicle fraud may not be issued a license or purchase a vehicle with a
168 salvage or nonrepairable certificate unless full restitution regarding those convictions has been
169 made.

170 (b) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a
171 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection ~~[(8)]~~
172 (9)(a) if the division has informed the operator of the motor vehicle auction, the dealer, or the
173 consignor in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable
174 or salvage certificate under Subsection ~~[(8)]~~ (9)(a).

175 ~~[(9)]~~ (10) (a) The division may not issue a license to a new applicant for a new or used
176 motor vehicle dealer license, a new or used motorcycle dealer license, or a small trailer dealer
177 license unless the new applicant completes an eight-hour orientation class approved by the
178 division that includes education on motor vehicle laws and rules.

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

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

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

183 (A) providers of the orientation class; and
 184 (B) costs of the orientation class.
 185 (ii) A provider of an orientation class shall submit the orientation class curriculum to
 186 the division for approval prior to teaching the orientation class.

187 (iii) A provider of an orientation class shall include in the orientation materials:
 188 (A) ethics training;
 189 (B) motor vehicle title and registration processes;
 190 (C) provisions of Title 13, Chapter 5, Unfair Practices Act, relating to motor vehicles;
 191 (D) Department of Insurance requirements relating to motor vehicles;
 192 (E) Department of Public Safety requirements relating to motor vehicles;
 193 (F) federal requirements related to motor vehicles as determined by the division; and
 194 (G) any required disclosure compliance forms as determined by the division.

195 ~~[(10)]~~ (11) A person or purchaser described in Subsection (3)(c)(ii):
 196 (a) may not purchase more than five salvage vehicles with a nonrepairable or salvage
 197 certificate as defined in Section 41-1a-1001 in any 12-month period;

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

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

204 ~~[(11)]~~ (12) An operator of a motor vehicle auction, a dealer, or a consignor may not sell
 205 a vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection ~~[(10)]~~
 206 (11)(a) if the division has informed the operator of the motor vehicle auction, the dealer, or the
 207 consignor in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable
 208 or salvage certificate under Subsection ~~[(10)]~~ (11)(a).

209 Section 2. Section 41-3-201.7 is amended to read:

210 **41-3-201.7. Supplemental license for additional place of business restrictions --**

211 **Exception.**

212 (1) (a) Subject to the requirements of Subsection (2), a supplemental license for an
 213 additional place of business issued pursuant to Subsection 41-3-201~~[(7)]~~(8) may only be issued

214 to a dealer if the dealer is:

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

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

- 221 (i) the dealer independently satisfies the bond requirements under Section 41-3-205 for
- 222 the permanent additional place of business;
- 223 (ii) the dealer is in compliance with existing rules promulgated by the administrator of
- 224 the division under Section 41-3-105; and
- 225 (iii) the permanent additional place of business meets all the requirements for a
- 226 principal place of business.

227 (2) (a) Except as provided in Subsections (2)(c) and (3), a supplemental license for an
228 additional place of business issued pursuant to Subsection 41-3-201[(7)](8) for a new motor
229 vehicle dealer may not be issued for an additional place of business that is beyond the
230 geographic specifications outlined as the area of responsibility in the dealer's franchise
231 agreement.

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

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

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

- 240 (a) there are five or more dealers participating in the trade show or exhibition; and
- 241 (b) the trade show or exhibition takes place at a location other than the principal place
- 242 of business of one of the dealers participating in the trade show or exhibition.

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

245 Section 3. Section **41-3-203** is amended to read:

246 **41-3-203. Licenses -- Form -- Seal -- Custody of salesperson's license -- Display of**
247 **salesperson and dealer licenses -- Licensee's pocket card.**

248 (1) (a) The administrator shall prescribe the form of each license described in this part
249 and the seal of [~~his~~] the administrator's office shall be imprinted on each license.

250 [~~(b) The license of each salesperson shall be delivered or mailed to the dealer~~
251 ~~employing the salesperson and it shall be kept in the custody and control of the dealer and~~
252 ~~conspicuously displayed in the dealer's place of business.~~]

253 (b) (i) The administrator shall deliver or mail each salesperson license to the dealer
254 employing the salesperson.

255 (ii) The dealer shall keep custody and control of the salesperson's license and
256 conspicuously display the license in the dealer's place of business.

257 (c) (i) The administrator shall deliver or mail each salvage vehicle buyer license to the
258 dealer, dismantler, or body shop employing the salvage vehicle buyer.

259 (ii) The dealer, dismantler, or body shop shall keep custody and control of the salvage
260 vehicle buyer license and conspicuously display the license in the dealer's, dismantler's, or body
261 shop's place of business.

262 [~~(c)~~] (d) Each licensee shall display conspicuously [~~his~~] the licensee's own license in
263 [~~his~~] the licensee's place of business.

264 (2) (a) The administrator shall prepare and deliver a pocket card, certifying that the
265 person whose name is on the card is licensed under this chapter.

266 (b) Each salesperson's pocket card shall also contain the name and address of the dealer
267 [~~employing him~~] that employs the salesperson.

268 (c) Each salvage vehicle buyer's pocket card shall also contain the name and address of
269 the dealer, dismantler, or body shop that employs the salvage vehicle buyer.

270 [~~(c)~~] (d) Each salesperson or salvage vehicle buyer shall on request display his pocket
271 card.

272 Section 4. Section **41-3-702** is amended to read:

273 **41-3-702. Civil penalty for violation.**

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

- 276 (a) Level I:
- 277 (i) failing to display business license;
- 278 (ii) failing to surrender license of salesperson because of termination, suspension, or
- 279 revocation;
- 280 (iii) failing to maintain a separation from nonrelated motor vehicle businesses at
- 281 licensed locations;
- 282 (iv) issuing a temporary permit improperly;
- 283 (v) failing to maintain records;
- 284 (vi) selling a new motor vehicle to a nonfranchised dealer or leasing company without
- 285 licensing the motor vehicle;
- 286 (vii) special plate violation; [~~and~~]
- 287 (viii) failing to maintain a sign at a principal place of business[-];
- 288 (ix) failing to record and report the sale of a salvage vehicle at a motor vehicle auction
- 289 as described in Section 41-3-201; and
- 290 (x) failing to store a salvage vehicle purchased at a motor vehicle auction in a secure
- 291 location until the purchaser or a transporter has provided the proper documentation to take
- 292 possession of the salvage vehicle.
- 293 (b) Level II:
- 294 (i) failing to report sale;
- 295 (ii) dismantling without a permit;
- 296 (iii) manufacturing without meeting construction or vehicle identification number
- 297 standards;
- 298 (iv) withholding customer license plates; or
- 299 (v) selling a motor vehicle on consecutive days of Saturday and Sunday.
- 300 (c) Level III:
- 301 (i) operating without a principal place of business;
- 302 (ii) selling a new motor vehicle without holding the franchise;
- 303 (iii) crushing a motor vehicle without proper evidence of ownership;
- 304 (iv) selling from an unlicensed location;
- 305 (v) altering a temporary permit;
- 306 (vi) refusal to furnish copies of records;

- 307 (vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;
- 308 (viii) advertising violation;
- 309 (ix) failing to separately identify the fees required by Title 41, Chapter 1a, Motor
- 310 Vehicle Act;
- 311 (x) encouraging or conspiring with unlicensed persons to solicit for prospective
- 312 purchasers; and
- 313 (xi) selling, offering for sale, or displaying for sale or exchange a vehicle, vessel, or
- 314 outboard motor in violation of Section [41-1a-705](#).
- 315 (2) (a) The schedule of civil penalties for violations of Subsection (1) is:
- 316 (i) Level I: \$25 for the first offense, \$100 for the second offense, and \$250 for the third
- 317 and subsequent offenses;
- 318 (ii) Level II: \$100 for the first offense, \$250 for the second offense, and \$1,000 for the
- 319 third and subsequent offenses; and
- 320 (iii) Level III: \$250 for the first offense, \$1,000 for the second offense, and \$5,000 for
- 321 the third and subsequent offenses.
- 322 (b) When determining under this section if an offense is a second or subsequent
- 323 offense, only prior offenses committed within the 12 months prior to the commission of the
- 324 current offense may be considered.
- 325 (3) The following are civil violations in addition to criminal violations under Section
- 326 [41-1a-1008](#):
- 327 (a) knowingly selling a salvage vehicle, as defined in Section [41-1a-1001](#), without
- 328 disclosing that the salvage vehicle has been repaired or rebuilt;
- 329 (b) knowingly making a false statement on a vehicle damage disclosure statement, as
- 330 defined in Section [41-1a-1001](#); or
- 331 (c) fraudulently certifying that a damaged motor vehicle is entitled to an unbranded
- 332 title, as defined in Section [41-1a-1001](#), when it is not.
- 333 (4) The civil penalty for a violation under Subsection (3) is:
- 334 (a) not less than \$1,000, or treble the actual damages caused by the person, whichever
- 335 is greater; and
- 336 (b) reasonable attorney fees and costs of the action.
- 337 (5) A civil action may be maintained by a purchaser or by the administrator.

Legislative Review Note
Office of Legislative Research and General Counsel