

SB0129S01 compared with SB0129

~~deleted text~~ shows text that was in SB0129 but was deleted in SB0129S01.

Inserted text shows text that was not in SB0129 but was inserted into SB0129S01.

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Senator Curtis S. Bramble proposes the following substitute bill:

SALVAGE VEHICLE AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: ~~_____~~ Daniel McCay

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

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None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

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

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

- (a) a dealer;
- (b) salvage vehicle buyer;
- (c) salesperson;
- (d) manufacturer;
- (e) transporter;
- (f) dismantler;
- (g) distributor;
- (h) factory branch and representative;
- (i) distributor branch and representative;
- (j) crusher;
- (k) remanufacturer; or
- (l) body shop.

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

(b) Except as provided in Subsection (3)(c), a person may not offer for sale, sell, or

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exchange a vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001 at or through a motor vehicle auction except to a licensed salvage vehicle buyer.

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

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

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

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

(B) has a Utah sales tax license; and

(iii) to a crusher.

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

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

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

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

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

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

(B) beginning on or after the date that the Motor Vehicle Division has implemented the Motor Vehicle Division's GenTax system, make application electronically, in a form and time

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period approved by the Motor Vehicle Division, for a salvage certificate of title to be issued in the name of the purchaser;

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

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

Vehicle Identification Number (VIN)

Year: Make: Model:

SALVAGE VEHICLE--NOT FOR RESALE WITHOUT DISCLOSURE

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

Signature of Purchaser

Date"; and

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

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

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

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

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

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

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

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

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salvage vehicle.

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

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

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

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

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

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

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

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

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

(c) (i) Before releasing possession of a salvage vehicle purchased at a motor vehicle auction, the motor vehicle auction operator shall create a record containing a photocopy of the purchaser's or transporter's driver license ~~and~~ or other government-issued identification.

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

~~(B) a photocopy of;~~ is claimed by a transporter, the ~~transporter's license;~~

~~(ii) transporter shall submit to the motor vehicle auction operator a written assurance on any release forms indicating the location where the salvage vehicle will be delivered.~~

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

(A) driver license;

(B) business license; and

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(C) sales tax license.

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

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

and

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

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

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

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

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

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

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

(i) at least two inches wide; and

(ii) clearly legible.

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

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

(b) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection ~~[(8)]~~ (9)(a) if the division has informed the operator of the motor vehicle auction, the dealer, or the

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consignor in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or salvage certificate under Subsection [~~(8)~~] (9)(a).

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

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

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

(d) (i) The division shall approve:

(A) providers of the orientation class; and

(B) costs of the orientation class.

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

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

(A) ethics training;

(B) motor vehicle title and registration processes;

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

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

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

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

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

~~[(10)]~~ (11) A person or purchaser described in Subsection (3)(c)(ii):

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

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

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

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

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

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

Exception.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41-3-702. Civil penalty for violation.

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

(a) Level I:

(i) failing to display business license;

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

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

(iv) issuing a temporary permit improperly;

(v) failing to maintain records;

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

(vii) special plate violation; ~~[and]~~

(viii) failing to maintain a sign at a principal place of business~~[-]~~;

(ix) failing to record and report the sale of a salvage vehicle at a motor vehicle auction as described in Section 41-3-201; and

(x) failing to store a salvage vehicle purchased at a motor vehicle auction in a secure location until the purchaser or a transporter has provided the proper documentation to take possession of the salvage vehicle.

(b) Level II:

(i) failing to report sale;

(ii) dismantling without a permit;

(iii) manufacturing without meeting construction or vehicle identification number

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standards;

- (iv) withholding customer license plates; or
- (v) selling a motor vehicle on consecutive days of Saturday and Sunday.

(c) Level III:

- (i) operating without a principal place of business;
- (ii) selling a new motor vehicle without holding the franchise;
- (iii) crushing a motor vehicle without proper evidence of ownership;
- (iv) selling from an unlicensed location;
- (v) altering a temporary permit;
- (vi) refusal to furnish copies of records;
- (vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;
- (viii) advertising violation;
- (ix) failing to separately identify the fees required by Title 41, Chapter 1a, Motor

Vehicle Act;

(x) encouraging or conspiring with unlicensed persons to solicit for prospective purchasers; and

(xi) selling, offering for sale, or displaying for sale or exchange a vehicle, vessel, or outboard motor in violation of Section 41-1a-705.

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

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

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

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

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

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

(a) knowingly selling a salvage vehicle, as defined in Section 41-1a-1001, without

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disclosing that the salvage vehicle has been repaired or rebuilt;

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

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

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

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

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

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

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Legislative Review Note

Office of Legislative Research and General Counsel†