

SB0082S01 compared with SB0082

~~deleted text~~ shows text that was in SB0082 but was deleted in SB0082S01.

Inserted text shows text that was not in SB0082 but was inserted into SB0082S01.

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Senator Don L. Ipson proposes the following substitute bill:

DEALERSHIP LICENSING AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Don L. Ipson

House Sponsor: ~~_____~~ Walt Brooks

LONG TITLE

General Description:

This bill repeals provisions of the Motor Vehicle Act and amends provisions of Motor Vehicle Business Regulation.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends licensing requirements for a transporter;
- ▶ amends conditions under which a dealer may not use a dealer plate;
- ▶ amends provisions related to a permit to use a dealer plate;
- ▶ amends provisions regarding the issuance of a special plate;
- ▶ amends provisions regarding salvage vehicles;
- ▶ amends provisions regarding reporting a special plate lost or stolen;

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- ▶ makes 10 or more violations of Section 41-3-301 a class A misdemeanor under certain circumstances;
- ▶ repeals provisions regarding unbranded titles; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~{ None }~~ This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-522, as last amended by Laws of Utah 2008, Chapter 382
41-1a-1001, as last amended by Laws of Utah 2012, Chapter 390
41-1a-1005, as last amended by Laws of Utah 2012, Chapter 387
41-1a-1401, as last amended by Laws of Utah 1998, Chapter 263
41-3-102, as last amended by Laws of Utah 2018, Chapter 387
41-3-202, as last amended by Laws of Utah 2018, Chapter 387
41-3-501, as last amended by Laws of Utah 2018, Chapter 243
41-3-502, as renumbered and amended by Laws of Utah 1992, Chapter 234
41-3-503, as last amended by Laws of Utah 1996, Chapter 46
41-3-507, as renumbered and amended by Laws of Utah 1992, Chapter 234
41-3-701, as last amended by Laws of Utah 2012, Chapter 390
41-3-702, as last amended by Laws of Utah 2018, Chapter 387

REPEALS:

41-1a-1002, as last amended by Laws of Utah 2010, Chapter 324
41-1a-1003, as last amended by Laws of Utah 1993, Chapter 221
41-1a-1007, as last amended by Laws of Utah 2009, Chapter 183
41-3-409.5, as enacted by Laws of Utah 1994, Chapter 175

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

Section 1. Section **41-1a-522** is amended to read:

41-1a-522. Record of nonconforming vehicle -- Access -- Brand -- Unbranding.

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(1) The definitions in Section 41-3-407 apply to this section.

(2) Upon receipt of a copy of an original certificate of title, Manufacturer's Statement of Origin, or other evidence of ownership of a nonconforming vehicle in accordance with Section 41-3-409, the division shall:

(a) establish a record of the reported nonconforming vehicle;

(b) consider the record a public record with public access under Sections 41-1a-116 and 63G-2-201;

(c) allow access to the record upon written application to the division; and

(d) upon request for a new certificate of title for a nonconforming vehicle, brand the certificate of title with the words "MANUFACTURER BUYBACK NONCONFORMING VEHICLE" clearly and conspicuously on the face of the new certificate of title.

(3) Upon receipt of the branded certificate of title, the division shall ~~[(a)]~~ follow the procedures established in Subsection (2) ~~[; or]~~.

~~[(b) if the record of the nonconforming vehicle contains an application for an unbranded certificate of title that meets the requirements of Section 41-3-409.5;]~~

~~[(i) update the record to show that all nonconformities have been cured;]~~

~~[(ii) consider the record a public record with public access under Sections 41-1a-116 and 63G-2-201;]~~

~~[(iii) allow access to the complete record upon written application to the division; and]~~

~~[(iv) upon request for a new certificate of title, issue an unbranded certificate of title.]~~

Section 2. Section **41-1a-1001** is amended to read:

41-1a-1001. Definitions.

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

(1) "Certified vehicle inspector" means a person employed by the Motor Vehicle Enforcement Division as qualified through experience, training, or both to identify and analyze damage to vehicles with either unibody or conventional frames.

(2) "Major component part" means:

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

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

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

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

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

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

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

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

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

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

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

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

(c) is a substantially burned vehicle that:

(i) has burned to the extent that there are no more usable or repairable body or interior components, tires and wheels, or drive train components; or

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

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

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

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

(8) "Salvage vehicle" means any vehicle:

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

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

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

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

Section 3. Section 41-1a-1005 is amended to read:

41-1a-1005. Salvage vehicle -- Declaration by insurance company -- Surrender of title -- Salvage certificate of title.

(1) (a) (i) Except as provided in Subsection (1)(a)(iii) or (iv), if an insurance company declares a vehicle a salvage vehicle and takes possession of the vehicle for disposal, ~~[or an insurance company pays off the owner of a vehicle that is stolen and not recovered,]~~ the insurance company shall within 10 days ~~[from the]~~ after the day on which settlement of the loss occurs, surrender to the division the outstanding certificate of title, properly endorsed, or other evidence of ownership acceptable to the division.

(ii) ~~[The]~~ After receiving the documents described in Subsection (1)(a)(i), division shall ~~[then]~~ issue a salvage certificate in the insurance company's name.

(iii) The division shall issue a salvage certificate in an insurance company's name no sooner than 30 days ~~[from the]~~ after the day on which the settlement of the loss occurs if the insurance company:

(A) declares a vehicle a salvage vehicle;

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

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

(D) has presented the division evidence of the settlement and evidence that the

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insurance company has complied with the requirements of this Subsection (1)(a)(iii) on a form prescribed by the division.

(iv) The division shall issue a salvage certificate in an insurance company's name no sooner than 30 days ~~[from the receipt of]~~ after the day on which the division receives an improperly endorsed certificate of title if the insurance company:

(A) declares a vehicle a salvage vehicle;

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

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

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

(b) (i) If the owner of a salvage vehicle retains possession of the vehicle, the insurance company shall within 10 days ~~[from the]~~ after the day on which settlement of the loss occurs notify the division of the retention on a form prescribed by the division.

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

(iii) The owner shall within 10 days ~~[from the]~~ after the day on which settlement of the loss occurs surrender to the division the properly endorsed certificate of title or other evidence of ownership acceptable to the division.

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

(c) (i) When a salvage vehicle is not the subject of an insurance settlement, a self-insurer or an owner who is uninsured shall within 10 days ~~[of the damage]~~ after the day on which the motor vehicle is damaged surrender to the division the properly endorsed certificate of title or other evidence of ownership acceptable to the division.

(ii) ~~[The]~~ After receiving the documents described in Subsection (1)(c)(i), division shall ~~[then]~~ issue a salvage certificate in the owner's name.

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(d) (i) If a dealer licensed under Title 41, Chapter 3, Part 2, Licensing, takes possession of any salvage vehicle for which there is not already issued a branded title or salvage certificate from the division or another jurisdiction, the dealer shall within 10 days after the day on which the dealer takes possession of the vehicle surrender to the division the certificate of title or other evidence of ownership acceptable to the division.

(ii) ~~{The}~~[The] After receiving the documents described in Subsection (1)(d)(i), the division shall [then] issue a salvage certificate in the applicant's name.

(2) Any person, insurance company, or dealer licensed under Title 41, Chapter 3, Part 2, Licensing, who fails to obtain a salvage certificate as required in this section or who sells a salvage vehicle without first obtaining a salvage certificate is guilty of a class B misdemeanor.

(3) This section does not apply to a vehicle:

(a) that has an undamaged, wholesale value of \$2,000 or less; or

(b) if a salvage certificate has been issued by another state or jurisdiction for the salvage vehicle.

(4) Upon sale or disposal of a salvage vehicle, the seller shall deliver to the purchaser the properly endorsed salvage certificate within 48 hours as required in Section 41-1a-1310, or if the seller is a dealer licensed under Title 41, Chapter 3, Part 2, Licensing, the dealer shall comply with Section 41-3-301.

(5) Except as provided in Subsection ~~[(1)]~~ (6), this ~~[chapter]~~ part does not apply to a motor vehicle that has been stolen or taken without the consent of the owner until the motor vehicle has been recovered, and then it applies only if the motor vehicle is a salvage vehicle.

(6) (a) An insurance company that pays a claim to the owner of a motor vehicle that is stolen and not recovered shall, within 10 days after the day on which settlement of the loss occurs, surrender to the division the outstanding certificate of title, properly endorsed, or other evidence of ownership acceptable to the division.

(b) After receiving the documents described in Subsection (6)(a), the division shall issue a certificate of title in the insurance company's name.

(c) An insurance company that pays a claim to the owner of a motor vehicle that is later recovered may sell the motor vehicle:

(i) with the certificate of title in the insurance company's name;

(ii) with a salvage certificate, if the recovered vehicle is a salvage vehicle; or

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(iii) with a nonrepairable certificate, if the recovered vehicle is a nonrepairable vehicle.

Section ~~3~~4. Section **41-1a-1401** is amended to read:

41-1a-1401. Report of stolen and recovered vehicles, vessels, and outboard motors by officials.

(1) (a) A peace officer, upon receiving reliable information that a vehicle, vessel, or outboard motor has been stolen, shall immediately report the theft to the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(b) An officer, upon receiving information that a vehicle, vessel, or outboard motor, which he has previously reported as stolen, has been recovered, shall immediately report the recovery to the local law enforcement agency and to the Criminal Investigations and Technical Services Division.

(2) A report of a stolen vehicle, vessel, or outboard motor taken by a law enforcement agency shall include a written advisement to the reporting party of the provisions of Section 76-8-506, and a statement affirming the theft of the vehicle, vessel, or outboard motor signed by the person reporting the theft and witnessed by the person taking the report.

(3) The following information regarding the vehicle, vessel, or outboard motor shall be included in the report and shall be sent to the Criminal Investigations and Technical Services Division:

- (a) the registered owner;
- (b) the person reporting the theft;
- (c) the year, make, model, and color;
- (d) the identification number;
- (e) the estimated present value;
- (f) the license number and state of registration;
- (g) the date, time, and place of the theft; and
- (h) the name, address, telephone number, policy number, and agent's name of the insurance company insuring the vehicle, vessel, or outboard motor.

(4) If a member of any law enforcement agency confirms that a stolen vehicle, vessel, or outboard motor has been recovered, he shall send the following information regarding the recovered vehicle, vessel, or outboard motor to the Criminal Investigations and Technical

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Services Division:

- (a) the date, time, and place of recovery;
- (b) the condition of the vehicle, vessel, or outboard motor; and
- (c) the names of peace officers and any other persons involved in the recovery.

(5) (a) Upon receipt of a report of a stolen vehicle, vessel, or outboard motor, the Criminal Investigations and Technical Services Division shall place a notice of theft in the master file computer.

(b) Upon receipt of a report that a stolen vehicle, vessel, or outboard motor has been recovered, the Criminal Investigations and Technical Services Division shall remove the notice of theft of the vehicle, vessel, or outboard motor from the master file computer.

(6) (a) Except as provided in Section 41-1a-1005, the division shall refuse to register or transfer title to a stolen vehicle until the vehicle is recovered.

(b) [(†)] If the recovered vehicle is a salvage vehicle as defined in Section 41-1a-1001, then Title 41, Chapter 1a, Part 10, Salvage Vehicles - Junk and Dismantled Vehicles, applies.

~~[(ii) The division may issue an unbranded certificate of title for a recovered vehicle if the vehicle has not suffered major damage in more than one major component part.]~~

Section ~~{4}~~5. Section **41-3-102** is amended to read:

41-3-102. Definitions.

As used in this chapter:

(1) "Administrator" means the motor vehicle enforcement administrator.

(2) "Agent" means a person other than a holder of any dealer's or salesperson's license issued under this chapter, who for salary, commission, or compensation of any kind, negotiates in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any other person in any 12-month period.

(3) "Auction" means a dealer engaged in the business of auctioning motor vehicles, either owned or consigned, to the general public.

(4) "Authorized service center" means an entity that:

(a) is in the business of repairing exclusively the motor vehicles of the same line-make as the motor vehicles a single direct-sale manufacturer manufactures;

(b) the direct-sale manufacturer described in Subsection (4)(a) authorizes to complete warranty repair work for motor vehicles that the direct-sale manufacturer sells, displays for

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sale, or offers for sale or exchange; and

(c) conducts business primarily from an enclosed commercial repair facility that is permanently located in the state.

(5) "Board" means the advisory board created in Section 41-3-106.

(6) "Body shop" means a [~~business~~] person engaged in rebuilding, restoring, repairing, or painting [~~primarily~~] the body of motor vehicles [~~damaged by collision or natural disaster~~] for compensation.

(7) "Commission" means the State Tax Commission.

(8) "Crusher" means a person who crushes or shreds motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to reduce the useable materials and metals to a more compact size for recycling.

(9) (a) "Dealer" means a person:

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

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

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

(10) "Direct-sale manufacturer" means a person:

(a) that is both a manufacturer and a dealer;

(b) that, in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person's own line-make that are:

(i) exclusively propelled through the use of electricity, a hydrogen fuel cell, or another non-fossil fuel source;

(ii) (A) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less; or

(B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

(iii) manufactured by the person;

(c) that is not a franchise holder;

(d) that is domiciled in the United States; and

(e) whose chief officers direct, control, and coordinate the person's activities as a direct-sale manufacturer from a physical location in the United States.

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(11) "Direct-sale manufacturer salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by a direct-sale manufacturer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of a motor vehicle manufactured by the direct-sale manufacturer who employs the individual.

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

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

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

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

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

(16) "Division" means the Motor Vehicle Enforcement Division created in Section 41-3-104.

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

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

(19) "Franchise" means a contract or agreement between a dealer and a manufacturer of

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new motor vehicles or a manufacturer's distributor or factory branch by which the dealer is authorized to sell any specified make or makes of new motor vehicles.

(20) (a) "Franchise holder" means a manufacturer who:

(i) previously had a franchised dealer in the United States;

(ii) currently has a franchised dealer in the United States;

(iii) is a successor to another manufacturer who previously had or currently has a franchised dealer in the United States;

(iv) is a material owner of another manufacturer who previously had or currently has a franchised dealer in the United States;

(v) is under legal or common ownership, or practical control, with another manufacturer who previously had or currently has a franchised dealer in the United States; or

(vi) is in a partnership, joint venture, or similar arrangement for production of a commonly owned line-make with another manufacturer who previously had or currently has a franchised dealer in the United States.

(b) "Franchise holder" does not include a manufacturer described in Subsection (20)(a), if at all times during the franchised dealer's existence, the manufacturer had legal or practical common ownership or common control with the franchised dealer.

(21) "Line-make" means motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer.

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

(23) "Material owner" means a person who possesses, directly or indirectly, the power to direct, or cause the direction of, the management, policies, or activities of another person:

(a) through ownership of voting securities;

(b) by contract or credit arrangement; or

(c) in another way not described in Subsections (23)(a) and (b).

(24) (a) "Motor vehicle" means a vehicle that is:

(i) self-propelled;

(ii) a trailer, travel trailer, or semitrailer; or

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- (iii) an off-highway vehicle or small trailer.
- (b) "Motor vehicle" does not include:
 - (i) mobile homes as defined in Section 41-1a-102;
 - (ii) trailers of 750 pounds or less unladen weight;
 - (iii) farm tractors and other machines and tools used in the production, harvesting, and care of farm products; and
 - (iv) park model recreational vehicles as defined in Section 41-1a-102.
- (25) "Motorcycle" has the same meaning as defined in Section 41-1a-102.
- (26) "New motor vehicle" means a motor vehicle that:
 - (a) has never been titled or registered; and
 - (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven less than 7,500 miles.
- (27) "Off-highway vehicle" has the same meaning as provided in Section 41-22-2.
- (28) "Pawnbroker" means a person whose business is to lend money on security of personal property deposited with him.
- (29) (a) "Principal place of business" means a site or location in this state:
 - (i) devoted exclusively to the business for which the dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses incidental to them;
 - (ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely indicate the boundary and to admit a definite description with space adequate to permit the display of three or more new, or new and used, or used motor vehicles and sufficient parking for the public; and
 - (iii) that includes a permanent enclosed building or structure large enough to accommodate the office of the establishment and to provide a safe place to keep the books and other records of the business, at which the principal portion of the business is conducted and the books and records kept and maintained.
- (b) "Principal place of business" means, with respect to a direct-sale manufacturer, the direct-sale manufacturer's showroom, which shall comply with the requirements of Subsection (29)(a).
- (30) "Remanufacturer" means a person who reconstructs used motor vehicles subject to

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registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style and appearance of the motor vehicle or who constructs or assembles motor vehicles from used or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more motor vehicles in any 12-month period.

(31) "Salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles.

(32) "Semitrailer" has the same meaning as defined in Section 41-1a-102.

(33) "Showroom" means a site or location in the state that a direct-sale manufacturer uses for the direct-sale manufacturer's business, including the display and demonstration of new motor vehicles that are exclusively of the same line-make that the direct-sale manufacturer manufactures.

(34) "Small trailer" means a trailer that has an unladen weight of more than 750 pounds, but less than 2,000 pounds.

(35) "Special equipment" includes a truck mounted crane, cherry picker, material lift, post hole digger, and a utility or service body.

(36) "Special equipment dealer" means a new or new and used motor vehicle dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle weight of 12,000 or more pounds and installing special equipment on the incomplete motor vehicle.

(37) "Trailer" has the same meaning as defined in Section 41-1a-102.

(38) "Transporter" means a person engaged in the business of transporting motor vehicles as described in Section 41-3-202.

(39) "Travel trailer" has the same meaning as provided in Section 41-1a-102.

(40) "Used motor vehicle" means a vehicle that:

- (a) has been titled and registered to a purchaser other than a dealer; or
- (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles.

(41) "Wholesale motor vehicle auction" means a dealer primarily engaged in the business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by this or any other jurisdiction.

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Section ~~5~~6. Section 41-3-202 is amended to read:

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

- (1) A new motor vehicle dealer's license permits the licensee to:
 - (a) offer for sale, sell, or exchange new motor vehicles if the licensee possesses a franchise from the manufacturer of the motor vehicle offered for sale, sold, or exchanged by the licensee;
 - (b) offer for sale, sell, or exchange used motor vehicles;
 - (c) operate as a body shop; and
 - (d) dismantle motor vehicles.
- (2) A used motor vehicle dealer's license permits the licensee to:
 - (a) offer for sale, sell, or exchange used motor vehicles;
 - (b) operate as a body shop; and
 - (c) dismantle motor vehicles.
- (3) A direct-sale manufacturer's license permits the licensee to:
 - (a) offer for sale, sell, or exchange new motor vehicles of the same line-make that the direct-sale manufacturer manufactures;
 - (b) offer for sale, sell, or exchange used motor vehicles;
 - (c) operate as a body shop; and
 - (d) dismantle motor vehicles.
- (4) A new motorcycle, off-highway vehicle, and small trailer dealer's license permits the licensee to:
 - (a) offer for sale, sell, or exchange new motorcycles, off-highway vehicles, or small trailers if the licensee possesses a franchise from the manufacturer of the motorcycle, off-highway vehicle, or small trailer offered for sale, sold, or exchanged by the licensee;
 - (b) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, or small trailers; and
 - (c) dismantle motorcycles, off-highway vehicles, or small trailers.
- (5) A used motorcycle, off-highway vehicle, and small trailer dealer's license permits the licensee to:
 - (a) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, and small trailers; and

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(b) dismantle motorcycles, off-highway vehicles, or small trailers.

(6) (a) Except as provided in Subsection (6)(b), a salesperson's license permits the licensee to act as a motor vehicle salesperson and is valid for employment with only one dealer at a time.

(b) A licensee that has been issued a salesperson's license and that is employed by a dealer that operates as a wholesale motor vehicle auction may be employed by more than one dealer that operates as a wholesale motor vehicle auction at a time.

(7) (a) A direct-sale manufacturer salesperson's license permits the licensee to act as a direct-sale manufacturer salesperson for one direct-sales manufacturer.

(b) A direct-sale manufacturer salesperson licensee may not simultaneously hold a salesperson's license.

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

(b) Under rules [~~made by~~] the administrator makes, the licensee may issue and install vehicle identification numbers on manufactured motor vehicles.

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

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

(b) The division may not issue or renew a transporter license to an applicant who is not:

(i) licensed under this chapter as a body shop;

(ii) a detail or repair shop;

(iii) a tow truck motor carrier subject to Title 72, Chapter 9, Motor Carrier Safety Act;

(iv) a repossession company;

(v) licensed under this chapter as a dealer; or

(vi) a finance company.

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(c) The division may not issue or renew a transporter license unless the applicant provides proof of insurance or other form of security meeting the minimum requirements of Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act.

(10) A dismantler's license permits the licensee to dismantle motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the purpose of reselling parts or for salvage, or selling dismantled or salvage vehicles to a crusher or other dismantler.

(11) A distributor or factory branch and distributor branch's license permits the licensee to sell and distribute new motor vehicles, parts, and accessories to their franchised dealers.

(12) A representative's license, for factory representatives or distributor representatives permits the licensee to contact the licensee's authorized dealers for the purpose of making or promoting the sale of motor vehicles, parts, and accessories.

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

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

(b) Under rules [~~made by~~] the administrator makes, the licensee may issue and install vehicle identification numbers on remanufactured motor vehicles.

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

(15) A body shop's license permits the licensee:

(a) to rebuild, restore, repair, or paint [primarily] the body of motor vehicles [~~damaged by collision or natural disaster,~~]; and

(b) to dismantle motor vehicles.

(16) A special equipment dealer's license permits the licensee to:

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

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

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- (c) operate as a body shop; and
- (d) dismantle motor vehicles.

(17) (a) A salvage vehicle buyer license permits the licensee to bid on or purchase a vehicle with a salvage certificate as defined in Section 41-1a-1001 at any motor vehicle auction.

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

(c) The division may not issue more than two salvage vehicle buyer licenses to any one dealer, dismantler, or body shop.

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

- (i) business history;
- (ii) salvage vehicle qualifications;
- (iii) ability to properly handle and dispose of environmental hazardous materials associated with salvage vehicles; and
- (iv) record in demonstrating compliance with the provisions of this chapter.

Section ~~63~~7. Section **41-3-501** is amended to read:

41-3-501. Special plates -- Dealers -- Dismantlers -- Manufacturers -- Remanufacturers -- Transporters -- Restrictions on use.

(1) Except as provided under this chapter, a dealer may operate or move a motor vehicle displaying a dealer plate issued by the division upon the highways without registering it under Title 41, Chapter 1a, Motor Vehicle Act, if the dealer owns or possesses the motor vehicle by consignment for resale.

(2) A dismantler may operate or move a motor vehicle displaying a dismantler plate issued by the division without registering ~~[it]~~ the motor vehicle as required under Title 41, Chapter 1a, Motor Vehicle Act, upon the highways solely to transport the motor vehicle:

- (a) from the place of purchase or legal acquisition to the place of business for dismantling; or
- (b) to the place of business of a licensed crusher for disposal.

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(3) A manufacturer or remanufacturer may operate or move a manufactured or remanufactured motor vehicle displaying a manufacturer plate issued by the division upon the highways without registering ~~[it]~~ the motor vehicle as required under Title 41, Chapter 1a, Motor Vehicle Act, solely to:

- (a) deliver the motor vehicle to a dealer;
- (b) demonstrate a motor vehicle to a dealer or prospective dealer; or
- (c) conduct manufacturer tests of a motor vehicle.

(4) (a) A transporter may operate or move a motor vehicle displaying a transporter plate issued by the division upon the highways without registering ~~[it]~~ the motor vehicle as required under Title 41, Chapter 1a, Motor Vehicle Act, solely:

(i) from the point of repossession to a financial institution or to the place of storage, so that a financial institution may provide for operation of a repossessed motor vehicle by a prospective purchaser;

(ii) to and from a detail or repair shop for the purpose of detailing or repairing the motor vehicle; or

(iii) to a delivery point in, out, or through the state.

(b) This subsection does not include loaded motor vehicles subject to the gross laden weight provision of Title 41, Chapter 1a, Motor Vehicle Act.

(5) Dealer plates may not be used:

(a) ~~[(i)]~~ on a motor vehicle leased or rented for compensation; ~~[or]~~

~~[(ii)]~~ (b) in lieu of registration, on a motor vehicle sold by the dealer; or

~~[(b)]~~ (c) on a loaded ~~[motor]~~ commercial vehicle over ~~[12,000]~~ 26,000 pounds gross laden weight unless a special loaded demonstration permit is obtained from the division in accordance with Section 41-3-502.

Section ~~{7}~~8. Section **41-3-502** is amended to read:

41-3-502. Special plates -- Permit to use dealer plate to demonstrate loaded motor vehicle.

(1) Under rules established by the administrator, the division may issue a permit to a dealer to use a dealer plate to demonstrate a loaded ~~[motor]~~ commercial vehicle over 26,000 pounds to a bona fide prospective purchaser.

(2) To obtain a permit, the dealer or his authorized representative shall apply on a form

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prescribed by the division.

(3) If approved and issued, the permit shall be:

(a) carried in the ~~[motor]~~ commercial vehicle for which ~~[it is issued]~~ the division issued the permit during the demonstration trip; and

(b) ~~[shall be]~~ returned to the division properly completed and signed within 10 days after ~~[its expiration date]~~ the day on which the permit expires.

Section ~~{8}~~9. Section **41-3-503** is amended to read:

41-3-503. Special plates -- Issuance.

(1) Subject to the provisions of Subsections (3)~~{f}~~, (4), and (5)~~{f through (g)}~~, the division may issue special plates under Section 41-3-501 as necessary to conduct the business of the dealer, dismantler, manufacturer, remanufacturer, or transporter applying for the plates.

(2) Each plate issued shall contain a number or symbol distinguishing it from every other plate.

(3) Except as provided under Subsection (4), the division may issue ~~[two]~~ five special dealer plates to each dealer licensed under this chapter plus one additional special dealer plate for every 25 ~~{or increment of 25 }~~ motor vehicles ~~[sold by]~~ the dealer sells each year.

(4) A dealer licensed under this chapter who does not sell at least three new or used motor vehicles in any 12-month period may not be issued or have renewed any special dealer plates.

(5) (a) (i) The division shall determine, at least annually, the number of special dealer plates to be issued or renewed to each dealer ~~[prior to]~~ before issuing or renewing any special dealer plates.

(ii) In determining the number of special plates to be issued to a dealer, the division shall use the past motor vehicle sales history of the dealer.

(b) If no sales history is available, the division may use generally accepted motor vehicle sales projections based on:

~~{a}~~ (i) written forecasts submitted by the dealer to motor vehicle manufacturers, financial institutions, or bonding and insurance companies;

~~{b}~~ (ii) the dealer's inventory of motor vehicles available for sale; or

~~{c}~~ (iii) written verification of credit extended to the dealer by financial institutions for financing the dealer's inventory of motor vehicles available for sale.

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~~{ (6) The division may issue as many as five special plates to a transporter licensed under this chapter.~~

{ ~~{(6)}{(7)}~~ (a) The division may recall, redesign, and reissue special plates under this part, as needed to administer the provisions of this title.

(b) All special plates shall be designed in conformity with Sections 41-1a-401, 41-1a-402, and 41-1a-403.

Section ~~{9}~~10. Section **41-3-507** is amended to read:

41-3-507. Special plates -- Record to be kept by users -- Reporting lost or stolen plates.

(1) Each dealer, dismantler, manufacturer, remanufacturer, and transporter shall keep a written record of each special plate issued to ~~{it}~~ the licensee.

(2) The record shall contain the name and address of any person to whom the plate has been assigned to be used.

(3) The record shall:

(a) account at all times for every special plate issued to the licensee[-]; and

(b) [shall] be open to inspection by any peace officer or any officer or employee of the division.

~~[(4) Lost or stolen special plates shall be reported immediately to the division.]~~

(4) (a) (i) A licensee shall report immediately the licensee's lost or stolen special plate to the division.

(ii) If a dealer does not report a lost or stolen special plate to the division in accordance with Subsection (4)(a)(i), the division shall add any replacement special plate to the total special plates the division issues the dealer under Section 41-3-503.

(b) A licensee may replace a lost or stolen special plate only after:

(i) the special plate has expired; or

(ii) (A) the licensee provides a police report to the division; and

(B) the plate is listed as stolen in the National Crime Information Center.

Section ~~{10}~~11. Section **41-3-701** is amended to read:

41-3-701. Violations as misdemeanors.

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

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

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

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

(3) A person who violates Section 41-3-301 10 or more times is guilty of a class A misdemeanor, unless the selling dealer complies with the requirements of Section 41-3-403.

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

Section ~~41-3-12~~12. 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;

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

(ix) 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.

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(b) Level II:

(i) failing to report sale;

(ii) dismantling without a permit;

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

(iv) withholding customer license plates;

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

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

(c) Level III:

(i) operating without a principal place of business;

(ii) selling a new motor vehicle as a dealer who is not a direct-sale manufacturer 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; or

(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

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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 before 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) (3) [knowingly] Knowingly selling a salvage vehicle, as defined in Section 41-1a-1001, without disclosing that the salvage vehicle has been repaired or rebuilt[;] is a civil violation in addition to a criminal violation under Section 41-1a-1008.~~

~~[(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.

Section ~~{12}~~13. **Repealer.**

This bill repeals:

Section 41-1a-1002, Unbranded title -- Prerepair inspections -- Interim repair inspections -- Repair.

Section 41-1a-1003, Unbranded certificate of title -- Application.

Section 41-1a-1007, Fees.

Section 41-3-409.5, Unbranded certificate of title -- Application requirements -- Recording requirements -- Recurrence of nonconformities.

Section 14. Effective date.

This bill takes effect on October 1, 2019.