

**MOTOR VEHICLE BUSINESS AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Calvin R. Musselman**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the Motor Vehicle Business Regulation Act.

**Highlighted Provisions:**

This bill:

- ▶ allows a licensed motor vehicle salesperson to be employed by more than one dealer within a group of dealers under common management, ownership, or control; and
- ▶ provides that when a civil violation is committed by a dealer that operates within a group of dealers under common management, ownership, or control, the civil penalty shall be assessed only against the dealer that committed the civil violation.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**41-3-202**, as last amended by Laws of Utah 2019, Chapter 424

**41-3-702**, as last amended by Laws of Utah 2019, Chapter 424

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

Section 1. Section **41-3-202** is amended to read:



28 **41-3-202. Licenses -- Classes and scope.**

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

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

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

34 (c) operate as a body shop; and

35 (d) dismantle motor vehicles.

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

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

38 (b) operate as a body shop; and

39 (c) dismantle motor vehicles.

40 (3) A direct-sale manufacturer's license permits the licensee to:

41 (a) offer for sale, sell, or exchange new motor vehicles of the same line-make that the  
42 direct-sale manufacturer manufactures;

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

44 (c) operate as a body shop; and

45 (d) dismantle motor vehicles.

46 (4) A new motorcycle, off-highway vehicle, and small trailer dealer's license permits  
47 the licensee to:

48 (a) offer for sale, sell, or exchange new motorcycles, off-highway vehicles, or small  
49 trailers if the licensee possesses a franchise from the manufacturer of the motorcycle,  
50 off-highway vehicle, or small trailer offered for sale, sold, or exchanged by the licensee;

51 (b) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, or small  
52 trailers; and

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

54 (5) A used motorcycle, off-highway vehicle, and small trailer dealer's license permits  
55 the licensee to:

56 (a) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, and small  
57 trailers; and

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

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

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

65 (ii) A licensee that has been issued a salesperson's license and that is employed by a  
66 dealer that operates as part of a group of dealers under common management, ownership, or  
67 control may be employed by more than one dealer within the group of dealers.

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

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

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

75 (b) Under rules the administrator makes, the licensee may issue and install vehicle  
76 identification numbers on manufactured motor vehicles.

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

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

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

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

87 (ii) a detail or repair shop;

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

89 (iv) a repossession company;

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

91 (vi) a finance company.

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

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

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

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

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

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

108 (b) Under rules the administrator makes, the licensee may issue and install vehicle  
109 identification numbers on remanufactured motor vehicles.

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

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

115 (a) to rebuild, restore, repair, or paint the body of motor vehicles; and

116 (b) to dismantle motor vehicles.

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

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

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

122 (c) operate as a body shop; and

123 (d) dismantle motor vehicles.

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

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

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

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

135 (i) business history;

136 (ii) salvage vehicle qualifications;

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

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

140 Section 2. Section 41-3-702 is amended to read:

141 **41-3-702. Civil penalty for violation.**

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

144 (a) Level I:

145 (i) failing to display business license;

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

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

150 (iv) issuing a temporary permit improperly;

151 (v) failing to maintain records;

- 152 (vi) selling a new motor vehicle to a nonfranchised dealer or leasing company without
- 153 licensing the motor vehicle;
- 154 (vii) special plate violation;
- 155 (viii) failing to maintain a sign at a principal place of business; or
- 156 (ix) failing to store a salvage vehicle purchased at a motor vehicle auction in a secure
- 157 location until the purchaser or a transporter has provided the proper documentation to take
- 158 possession of the salvage vehicle.
- 159 (b) Level II:
- 160 (i) failing to report sale;
- 161 (ii) dismantling without a permit;
- 162 (iii) manufacturing without meeting construction or vehicle identification number
- 163 standards;
- 164 (iv) withholding customer license plates;
- 165 (v) selling a motor vehicle on consecutive days of Saturday and Sunday; or
- 166 (vi) failing to record and report the sale of a salvage vehicle at a motor vehicle auction
- 167 as described in Section [41-3-201](#).
- 168 (c) Level III:
- 169 (i) operating without a principal place of business;
- 170 (ii) selling a new motor vehicle as a dealer who is not a direct-sale manufacturer
- 171 without holding the franchise;
- 172 (iii) crushing a motor vehicle without proper evidence of ownership;
- 173 (iv) selling from an unlicensed location;
- 174 (v) altering a temporary permit;
- 175 (vi) refusal to furnish copies of records;
- 176 (vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;
- 177 (viii) advertising violation;
- 178 (ix) failing to separately identify the fees required by Title 41, Chapter 1a, Motor
- 179 Vehicle Act;
- 180 (x) encouraging or conspiring with unlicensed persons to solicit for prospective
- 181 purchasers; or
- 182 (xi) selling, offering for sale, or displaying for sale or exchange a vehicle, vessel, or

183 outboard motor in violation of Section 41-1a-705.

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

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

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

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

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

194 (3) Knowingly selling a salvage vehicle, as defined in Section 41-1a-1001, without  
195 disclosing that the salvage vehicle has been repaired or rebuilt is a civil violation in addition to  
196 a criminal violation under Section 41-1a-1008.

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

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

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

201 (5) When a civil violation under this section is committed by a dealer that operates as  
202 part of a group of dealers under common management, ownership, or control, the civil penalty  
203 shall only be assessed against the dealer that committed the civil violation and may not be  
204 assessed against the group of dealers as a whole.

205 [~~5~~] (6) A civil action may be maintained by a purchaser or by the administrator.