

1 **NON-VEHICLE FRANCHISE AGREEMENT AMENDMENTS**

2 2020 GENERAL SESSION

3 STATE OF UTAH

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

5 House Sponsor: Francis D. Gibson

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of the New Automobile Franchise Act and the Motor
10 Vehicle Business Regulation Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ excludes certain trailers from the New Automobile Franchise Act;
- 15 ▶ amends provisions related to prohibitions and requirements of license holders; and
- 16 ▶ makes technical and conforming changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill provides a special effective date.

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **13-14-102**, as last amended by Laws of Utah 2018, Chapter 245

24 **41-3-102**, as last amended by Laws of Utah 2019, Chapter 424

25 **41-3-210**, as last amended by Laws of Utah 2018, Chapter 387

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

28 Section 1. Section **13-14-102** is amended to read:

29 **13-14-102. Definitions.**

30 As used in this chapter:

31 (1) "Advisory board" or "board" means the Utah Motor Vehicle Franchise Advisory
32 Board created in Section [13-14-103](#).

33 (2) "Affected municipality" means an incorporated city or town:

34 (a) that is located in the notice area; and

35 (b) (i) within which a franchisor is proposing a new or relocated dealership that is
36 within the relevant market area of an existing dealership of the same line-make owned by
37 another franchisee; or

38 (ii) within which an existing dealership is located and a franchisor is proposing a new
39 or relocated dealership within the relevant market area of that existing dealership of the same
40 line-make.

41 (3) "Affiliate" has the meaning set forth in Section [16-10a-102](#).

42 (4) "Aftermarket product" means any product or service not included in the franchisor's
43 suggested retail price of the new motor vehicle, as that price appears on the label required by
44 15 U.S.C. Sec. 1232(f).

45 (5) "Dealership" means a site or location in this state:

46 (a) at which a franchisee conducts the business of a new motor vehicle dealer; and

47 (b) that is identified as a new motor vehicle dealer's principal place of business for
48 licensing purposes under Section [41-3-204](#).

49 (6) "Department" means the Department of Commerce.

50 (7) "Do-not-drive order" means an order issued by a franchisor that instructs an
51 individual not to operate a motor vehicle of the franchisor's line-make due to a recall.

52 (8) "Executive director" means the executive director of the Department of Commerce.

53 (9) (a) "Franchise" or "franchise agreement" means a written agreement, or in the
54 absence of a written agreement, then a course of dealing or a practice for a definite or indefinite
55 period, in which:

56 (i) a person grants to another person a license to use a trade name, trademark, service
57 mark, or related characteristic; and

58 (ii) a community of interest exists in the marketing of new motor vehicles, new motor
59 vehicle parts, and services related to the sale or lease of new motor vehicles at wholesale or
60 retail.

61 (b) "Franchise" or "franchise agreement" includes a sales and service agreement.

62 (10) "Franchisee" means a person with whom a franchisor has agreed or permitted, in
63 writing or in practice, to purchase, sell, or offer for sale new motor vehicles manufactured,
64 produced, represented, or distributed by the franchisor.

65 (11) "Franchisor" means a person who has, in writing or in practice, agreed with or
66 permits a franchisee to purchase, sell, or offer for sale new motor vehicles manufactured,
67 produced, assembled, represented, or distributed by the franchisor, and includes:

68 (a) the manufacturer, producer, assembler, or distributor of the new motor vehicles;

69 (b) an intermediate distributor; and

70 (c) an agent, officer, or field or area representative of the franchisor.

71 (12) "Lead" means the referral by a franchisor to a franchisee of a potential customer
72 whose contact information was obtained from a franchisor's program, process, or system
73 designed to generate referrals for the purchase or lease of a new motor vehicle, or for service
74 work related to the franchisor's vehicles.

75 (13) "Line-make" means:

76 (a) for other than a recreational vehicle, the motor vehicles that are offered for sale,
77 lease, or distribution under a common name, trademark, service mark, or brand name of the
78 franchisor; or

79 (b) for a recreational vehicle, a specific series of recreational vehicle product that:

80 (i) is identified by a common series trade name or trademark;

81 (ii) is targeted to a particular market segment, as determined by decor, features,
82 equipment, size, weight, and price range;

83 (iii) has a length and floor plan that distinguish the recreational vehicle from other
84 recreational vehicles with substantially the same decor, features, equipment, size, weight, and
85 price;

86 (iv) belongs to a single, distinct classification of recreational vehicle product type
87 having a substantial degree of commonality in the construction of the chassis, frame, and body;
88 and

89 (v) a franchise agreement authorizes a dealer to sell.

90 (14) "Mile" means 5,280 feet.

91 (15) "Motor home" means a self-propelled vehicle, primarily designed as a temporary
92 dwelling for travel, recreational, or vacation use.

93 (16) (a) "Motor vehicle" means:

94 (i) except as provided in Subsection (16)(b), a trailer;

95 ~~[(i)]~~ (ii) a travel trailer;

96 ~~[(ii)]~~ (iii) except as provided in Subsection (16)(b), a motor vehicle as defined in
97 Section 41-3-102;

98 ~~[(iii)]~~ (iv) a semitrailer as defined in Section 41-1a-102; and

99 ~~[(iv) a trailer as defined in Section 41-1a-102; and]~~

100 (v) a recreational vehicle.

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

102 (i) a motorcycle as defined in Section 41-1a-102;

103 (ii) an off-highway vehicle as defined in Section 41-3-102; ~~and]~~

104 (iii) a small trailer ~~[as defined in Section 41-3-102.];~~

105 (iv) a trailer that:

106 (A) is not designed for human habitation; and

107 (B) has a gross vehicle weight rating of less than 26,000 pounds;

108 (v) a mobile home as defined in Section 41-1a-102;

109 (vi) a trailer of 750 pounds or less unladen weight; and

110 (vii) a farm tractor or other machine or tool used in the production, harvesting, or care
111 of a farm product.

112 (17) "New motor vehicle" means a motor vehicle that:

113 (a) has never been titled or registered; and

114 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven
115 less than 7,500 miles.

116 (18) "New motor vehicle dealer" is a person who is licensed under Subsection
117 [41-3-202\(1\)\(a\)](#) to sell new motor vehicles.

118 (19) "Notice" or "notify" includes both traditional written communications and all
119 reliable forms of electronic communication unless expressly prohibited by statute or rule.

120 (20) "Notice area" means the geographic area that is:

121 (a) within a radius of at least six miles and no more than 10 miles from the site of an
122 existing dealership; and

123 (b) located within a county with a population of at least 225,000.

124 (21) "Primary market area" means:

125 (a) for an existing dealership, the geographic area established by the franchisor that the
126 existing dealership is intended to serve; or

127 (b) for a new or relocated dealership, the geographic area proposed by the franchisor
128 that the new or relocated dealership is intended to serve.

129 (22) "Recall" means a determination by a franchisor or the National Highway Traffic
130 Safety Administration that a motor vehicle has a safety-related defect or fails to meet a federal
131 safety or emissions standard.

132 (23) "Recall repair" means any diagnostic work, labor, or part necessary to resolve an
133 issue that is the basis of a recall.

134 (24) (a) "Recreational vehicle" means a vehicular unit other than a mobile home,
135 primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is
136 either self-propelled or pulled by another vehicle.

137 (b) "Recreational vehicle" includes:

138 (i) a travel trailer;

139 (ii) a camping trailer;

140 (iii) a motor home;

141 (iv) a fifth wheel trailer; and

142 (v) a van.

143 (25) (a) "Relevant market area," except with respect to recreational vehicles, means:

144 (i) as applied to an existing dealership that is located in a county with a population of
145 less than 225,000:

146 (A) the county in which the existing dealership is located; and

147 (B) the area within a 15-mile radius of the existing dealership; or

148 (ii) as applied to an existing dealership that is located in a county with a population of
149 225,000 or more, the area within a 10-mile radius of the existing dealership.

150 (b) "Relevant market area," with respect to recreational vehicles, means:

151 (i) the county in which the dealership is to be established or relocated; and

152 (ii) the area within a 35-mile radius from the site of the existing dealership.

153 (26) "Sale, transfer, or assignment" means any disposition of a franchise or an interest
154 in a franchise, with or without consideration, including a bequest, inheritance, gift, exchange,
155 lease, or license.

156 (27) "Serve" or "served," unless expressly indicated otherwise by statute or rule,
157 includes any reliable form of communication.

158 (28) "Site-control agreement" means an agreement, however denominated and
159 regardless of the agreement's form or of the parties to the agreement, that has the effect of:

160 (a) controlling in any way the use and development of the premises upon which a
161 franchisee's business operations are located;

162 (b) requiring a franchisee to establish or maintain an exclusive dealership facility on
163 the premises upon which the franchisee's business operations are located; or

164 (c) restricting the ability of the franchisee or, if the franchisee leases the dealership
165 premises, the franchisee's lessor to transfer, sell, lease, develop, redevelop, or change the use of
166 some or all of the dealership premises, whether by sublease, lease, collateral pledge of lease,
167 right of first refusal to purchase or lease, option to purchase or lease, or any similar
168 arrangement.

169 ~~(29)~~ (30) "Small trailer" means the same as that term is defined in Section [41-3-102](#).

170 ~~[(29)]~~ (30) "Stop-sale order" means an order issued by a franchisor that prohibits a
171 franchisee from selling or leasing a certain used motor vehicle of the franchisor's line-make,
172 which then or thereafter is in the franchisee's inventory, due to a recall.

173 ~~(31)~~ (32) "Trailer" means the same as that term is defined in Section [41-3-102](#).

174 ~~[(30)]~~ (32) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable
175 vehicle without motive power, designed as a temporary dwelling for travel, recreational, or
176 vacation use that does not require a special highway movement permit when drawn by a
177 self-propelled motor vehicle.

178 ~~[(31)]~~ (33) "Used motor vehicle" means a motor vehicle that:

179 (a) has been titled and registered to a purchaser other than a franchisee; or

180 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven
181 7,500 or more miles.

182 ~~[(32)]~~ (34) "Value of a used motor vehicle" means the average trade-in value for a used
183 motor vehicle of the same year, make, and model as reported in a recognized, independent
184 third-party used motor vehicle guide.

185 ~~[(33)]~~ (35) "Written," "write," "in writing," or other variations of those terms shall
186 include all reliable forms of electronic communication.

187 Section 2. Section **41-3-102** is amended to read:

188 **41-3-102. Definitions.**

189 As used in this chapter:

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

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

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

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

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

200 (b) the direct-sale manufacturer described in Subsection (4)(a) authorizes to complete
201 warranty repair work for motor vehicles that the direct-sale manufacturer sells, displays for
202 sale, or offers for sale or exchange; and

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

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

206 (6) "Body shop" means a person engaged in rebuilding, restoring, repairing, or painting
207 the body of motor vehicles for compensation.

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

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

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

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

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

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

218 (10) "Direct-sale manufacturer" means a person:
219 (a) that is both a manufacturer and a dealer;
220 (b) that, in this state, sells, displays for sale, or offers for sale or exchange only new
221 motor vehicles of the person's own line-make that are:
222 (i) exclusively propelled through the use of electricity, a hydrogen fuel cell, or another
223 non-fossil fuel source;
224 (ii) (A) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less;
225 or
226 (B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and
227 (iii) manufactured by the person;
228 (c) that is not a franchise holder;
229 (d) that is domiciled in the United States; and
230 (e) whose chief officers direct, control, and coordinate the person's activities as a
231 direct-sale manufacturer from a physical location in the United States.

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

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

240 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any
241 12-month period.

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

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

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

252 (16) "Division" means the Motor Vehicle Enforcement Division created in Section
253 [41-3-104](#).

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

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

262 (19) (a) "Franchise" means a contract or agreement between a dealer and a
263 manufacturer of new motor vehicles or a manufacturer's distributor or factory branch by which
264 the dealer is authorized to sell any specified make or makes of new motor vehicles.

265 (b) "Franchise" includes a contract or agreement described in Subsection (19)(a)
266 regardless of whether the contract or agreement is subject to Title 13, Chapter 14, New
267 Automobile Franchise Act, Title 13, Chapter 35, Powersport Vehicle Franchise Act, or neither.

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

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

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

271 (iii) is a successor to another manufacturer who previously had or currently has a

272 franchised dealer in the United States;

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

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

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

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

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

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

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

291 (a) through ownership of voting securities;

292 (b) by contract or credit arrangement; or

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

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

295 (i) self-propelled;

296 (ii) a trailer~~[-];~~

297 (iii) a travel trailer~~[-or];~~

298 (iv) a semitrailer; [or]

- 299 ~~[(iii)]~~ (v) an off-highway vehicle; or
300 (vi) a small trailer.
- 301 (b) "Motor vehicle" does not include:
- 302 (i) mobile homes as defined in Section [41-1a-102](#);
- 303 (ii) trailers of 750 pounds or less unladen weight;
- 304 (iii) ~~[farm tractors and other machines and tools]~~ a farm tractor or other machine or
305 tool used in the production, harvesting, ~~[and]~~ or care of a farm [products] product; and
306 (iv) park model recreational vehicles as defined in Section [41-1a-102](#).
- 307 (25) "Motorcycle" ~~[has the same meaning as]~~ means the same as that term is defined in
308 Section [41-1a-102](#).
- 309 (26) "New motor vehicle" means a motor vehicle that:
- 310 (a) has never been titled or registered; and
- 311 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven
312 less than 7,500 miles.
- 313 (27) "Off-highway vehicle" ~~[has the same meaning as provided]~~ means the same as that
314 term is defined in Section [41-22-2](#).
- 315 (28) "Pawnbroker" means a person whose business is to lend money on security of
316 personal property deposited with him.
- 317 (29) (a) "Principal place of business" means a site or location in this state:
- 318 (i) devoted exclusively to the business for which the dealer, manufacturer,
319 remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses
320 incidental to them;
- 321 (ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely
322 indicate the boundary and to admit a definite description with space adequate to permit the
323 display of three or more new, or new and used, or used motor vehicles and sufficient parking
324 for the public; and
- 325 (iii) that includes a permanent enclosed building or structure large enough to

326 accommodate the office of the establishment and to provide a safe place to keep the books and
327 other records of the business, at which the principal portion of the business is conducted and
328 the books and records kept and maintained.

329 (b) "Principal place of business" means, with respect to a direct-sale manufacturer, the
330 direct-sale manufacturer's showroom, which shall comply with the requirements of Subsection
331 (29)(a).

332 (30) "Remanufacturer" means a person who reconstructs used motor vehicles subject to
333 registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style and
334 appearance of the motor vehicle or who constructs or assembles motor vehicles from used or
335 new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more
336 motor vehicles in any 12-month period.

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

341 (32) "Semitrailer" [~~has the same meaning as~~] means the same as that term is defined in
342 Section [41-1a-102](#).

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

347 (34) "Small trailer" means a trailer that has an unladen weight of:

348 (a) more than 750 pounds~~[, but]; and~~

349 (b) less than 2,000 pounds.

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

352 (36) "Special equipment dealer" means a new or new and used motor vehicle dealer

353 engaged in the business of buying new incomplete motor vehicles with a gross vehicle weight
354 of 12,000 or more pounds and installing special equipment on the incomplete motor vehicle.

355 (37) "Trailer" [~~has the same meaning as~~] means the same as that term is defined in
356 Section 41-1a-102.

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

359 (39) "Travel trailer" [~~has the same meaning as provided~~] means the same as that term is
360 defined in Section 41-1a-102.

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

362 (a) has been titled and registered to a purchaser other than a dealer; or

363 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven
364 7,500 or more miles.

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

368 Section 3. Section 41-3-210 is amended to read:

369 **41-3-210. License holders -- Prohibitions and requirements.**

370 (1) The holder of any license issued under this chapter may not:

371 (a) intentionally publish, display, or circulate any advertising that is misleading or
372 inaccurate in any material fact or that misrepresents any of the products sold, manufactured,
373 remanufactured, handled, or furnished by a licensee;

374 (b) intentionally publish, display, or circulate any advertising without identifying the
375 seller as the licensee by including in the advertisement the full name under which the licensee
376 is licensed or the licensee's number assigned by the division;

377 (c) violate this chapter or the rules made by the administrator;

378 (d) violate any law of the state respecting commerce in motor vehicles or any rule
379 respecting commerce in motor vehicles made by any licensing or regulating authority of the

380 state;

381 (e) engage in business as a new motor vehicle dealer, special equipment dealer, used
382 motor vehicle dealer, motor vehicle crusher, or body shop without having in effect a bond as
383 required in this chapter;

384 (f) act as a dealer, dismantler, crusher, manufacturer, transporter, remanufacturer, or
385 body shop without maintaining a principal place of business;

386 (g) unless the licensee is a special equipment dealer who sells a new special equipment
387 motor vehicle with a gross vehicle weight of 12,000 or more pounds after installing special
388 equipment on the motor vehicle:

389 (i) engage in a business respecting the selling or exchanging of new or new and used
390 motor vehicles for which the licensee is not licensed; and

391 (ii) unless the licensee is a direct-sale manufacturer, sell or exchange a new motor
392 vehicle for which the licensee does not have a franchise;

393 (h) dismantle or transport to a crusher for crushing or other disposition any motor
394 vehicle without first obtaining a dismantling or junk permit under Section 41-1a-1009,
395 41-1a-1010, or 41-1a-1011;

396 (i) as a new motor vehicle dealer, special equipment dealer, or used motor vehicle
397 dealer fail to give notice of sales or transfers as required in Section 41-3-301;

398 (j) advertise or otherwise represent, or knowingly allow to be advertised or represented
399 on the licensee's behalf or at the licensee's place of business, that no down payment is required
400 in connection with the sale of a motor vehicle when a down payment is required and the buyer
401 is advised or induced to finance a down payment by a loan in addition to any other loan
402 financing the remainder of the purchase price of the motor vehicle;

403 (k) as a crusher, crush or shred a motor vehicle brought to the crusher without
404 obtaining proper evidence of ownership of the motor vehicle; proper evidence of ownership is
405 a certificate of title endorsed according to law or a dismantling or junk permit issued under
406 Section 41-1a-1009, 41-1a-1010, or 41-1a-1011;

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

410 (m) as anyone other than a salesperson or a direct-sale manufacturer salesperson
411 licensed under this chapter, be present on a dealer display space and contact prospective
412 customers to promote the sale of the dealer's vehicles;

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

418 (o) (i) as a dealer, dismantler, body shop, or manufacturer, maintain a principal place of
419 business or additional place of business that shares any common area with a business or
420 activity not directly related to motor vehicle commerce; or

421 (ii) maintain any places of business that share any common area with another dealer,
422 dismantler, body shop, or manufacturer;

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

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

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

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

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

432 (i) have a new motor vehicle dealer's license or a direct-sale manufacturer's license
433 under Section [41-3-202](#); and

434 (ii) unless the licensee is a direct-sale manufacturer, possess a franchise from the
435 manufacturer of the new motor vehicle sold, displayed for sale, offered for sale, or exchanged
436 by the licensee;

437 (u) as a new motor vehicle dealer or used motor vehicle dealer, encourage or conspire
438 with any person who has not obtained a salesperson's or a direct-sale manufacturer
439 salesperson's license to solicit for prospective purchasers; ~~or~~

440 (v) as a direct-sale manufacturer, engage in business as a direct-sale manufacturer
441 without having:

442 (i) an authorized service center; or

443 (ii) a principal place of business~~[-]~~; or

444 (w) possess a franchise that is not expressed in writing, if the franchise allows the sale
445 or exchange of a new trailer that:

446 (i) is not designed for human habitation;

447 (ii) has a gross vehicle weight rating of less than 26,000 pounds; and

448 (iii) is not designed to carry a motorboat as defined in Section [73-18-2](#).

449 (2) (a) If a new motor vehicle is constructed in more than one stage, such as a motor
450 home, ambulance, or van conversion, the licensee shall advertise, represent, sell, and exchange
451 the vehicle as the make designated by the final stage manufacturer, except in those specific
452 situations where the licensee:

453 (i) possesses a franchise from the initial or first stage manufacturer, presumably the
454 manufacturer of the motor vehicle's chassis; or

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

456 (b) Sales of multiple stage manufactured motor vehicles shall include the transfer to the
457 purchaser of a valid manufacturer's statement or certificate of origin from each manufacturer
458 under Section [41-3-301](#).

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

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

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

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

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

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

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

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

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

476 (5) (a) A manufacturer, distributor, distributor representative, or factory representative
477 may not induce or attempt to induce by means of coercion, intimidation, or discrimination any
478 dealer to:

479 [~~(a)~~] (i) accept delivery of any motor vehicle, parts, or accessories or any other
480 commodity or commodities, including advertising material not ordered by the dealer;

481 [~~(b)~~] (ii) order or accept delivery of any motor vehicle with special features, appliances,
482 accessories, or equipment not included in the list price of the motor vehicle as publicly
483 advertised by the manufacturer;

484 [~~(c)~~] (iii) order from any person any parts, accessories, equipment, machinery, tools,
485 appliances, or any other commodity;

486 [~~(d)~~] (iv) enter into an agreement with the manufacturer, distributor, distributor
487 representative, or factory representative of any of them, or to do any other act unfair to the

488 dealer by threatening to cancel any franchise or contractual agreement between the
489 manufacturer, distributor, distributor branch, or factory branch and the dealer;

490 ~~[(e)]~~ (v) refuse to deliver to any dealer having a franchise or contractual arrangement
491 for the retail sale of new and unused motor vehicles sold or distributed by the manufacturer,
492 distributor, distributor branch or factory branch, any motor vehicle, publicly advertised for
493 immediate delivery within 60 days after the dealer's order is received; ~~[or]~~

494 ~~[(f)]~~ (vi) unfairly, without regard to the equities of the dealer, cancel the franchise of
495 any motor vehicle dealer; the nonrenewal of a franchise or selling agreement without cause and
496 written notice is a violation of this subsection and is an unfair cancellation~~[-];~~ or

497 (vii) waive or forbear the right of the dealer, if the dealer offers for sale, sells, or
498 exchanges cargo/utility trailers, to protest the establishment or relocation of a dealer who offers
499 for sale, sells, or exchanges cargo/utility trailers of the same line-make in the relevant market
500 area of the established dealer.

501 (b) For the purpose of Subsection (5)(a)(vii):

502 (i) "Cargo/utility trailer" means a trailer that:

503 (A) is not designed for human habitation;

504 (B) has a gross vehicle weight rating of less than 26,000 pounds; and

505 (C) is not designed to carry a motorboat as defined in Section [73-18-2](#).

506 (ii) "Relevant market area" means:

507 (A) for a dealership located in a county that has a population of less than 225,000, the
508 county in which the dealership is located and the area within a 15-mile radius of the dealership;
509 or

510 (B) for a dealership located in a county that has a population of 225,000 or more, the
511 area within a 10-mile radius of the dealership.

512 (6) A dealer may not assist an unlicensed dealer or salesperson in unlawful activity
513 through active or passive participation in sales, or by allowing use of his facilities or dealer
514 license number, or by any other means.

515 (7) (a) The holder of any new motor vehicle dealer or direct-sale manufacturer license
516 issued under this chapter may not sell any new motor vehicle to:

517 (i) another dealer licensed under this chapter who does not hold a valid franchise for
518 the make of new motor vehicles sold, unless the selling dealer licenses and titles the new motor
519 vehicle to the purchasing dealer; or

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

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

526 (8) A dealer licensed under this chapter may not take on consignment any new motor
527 vehicle from anyone other than a new motor vehicle dealer, factory, or distributor who is
528 licensed and, if required, franchised to distribute or sell that make of motor vehicle in this or
529 any other state.

530 (9) A body shop licensed under this chapter may not assist an unlicensed body shop in
531 unlawful activity through active or passive means or by allowing use of its facilities, name,
532 body shop number, or by any other means.

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

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

540 (b) Each day a motor vehicle is sold, offered for sale, leased, or offered for lease in
541 violation of Subsection (11)(a) and each motor vehicle sold, offered for sale, leased, or offered

542 for lease in violation of Subsection (11)(a) shall constitute a separate offense.

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

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

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

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

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

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

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

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

558 **Section 4. Effective date.**

559 This bill takes effect on October 15, 2020.