

Senator Curtis S. Bramble proposes the following substitute bill:

NON-VEHICLE FRANCHISE AGREEMENT AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

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

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



26 [41-3-210](#), as last amended by Laws of Utah 2018, Chapter 387

27 **Utah Code Sections Affected by Coordination Clause:**

28 [13-14-102](#), as last amended by Laws of Utah 2018, Chapter 245

29

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

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

32 **13-14-102. Definitions.**

33 As used in this chapter:

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

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

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

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

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

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

45 (4) "Aftermarket product" means any product or service not included in the franchisor's
46 suggested retail price of the new motor vehicle, as that price appears on the label required by
47 15 U.S.C. Sec. 1232(f).

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

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

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

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

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

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

56 (9) (a) "Franchise" or "franchise agreement" means a written agreement, or in the

57 absence of a written agreement, then a course of dealing or a practice for a definite or indefinite
58 period, in which:

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

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

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

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

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

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

72 (b) an intermediate distributor; and

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

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

78 (13) "Line-make" means:

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

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

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

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

86 (iii) has a length and floor plan that distinguish the recreational vehicle from other
87 recreational vehicles with substantially the same decor, features, equipment, size, weight, and

88 price;

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

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

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

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

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

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

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

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

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

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

103 (v) a recreational vehicle.

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

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

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

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

108 (iv) a trailer that:

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

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

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

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

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

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

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

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

119 (18) "New motor vehicle dealer" is a person who is licensed under Subsection
120 41-3-202(1)[(a)] to sell new motor vehicles.

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

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

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

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

127 (21) "Primary market area" means:

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

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

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

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

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

140 (b) "Recreational vehicle" includes:

141 (i) a travel trailer;

142 (ii) a camping trailer;

143 (iii) a motor home;

144 (iv) a fifth wheel trailer; and

145 (v) a van.

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

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

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

150 (B) the area within a 15-mile radius of the existing dealership; or
151 (ii) as applied to an existing dealership that is located in a county with a population of
152 225,000 or more, the area within a 10-mile radius of the existing dealership.

153 (b) "Relevant market area," with respect to recreational vehicles, means:
154 (i) the county in which the dealership is to be established or relocated; and
155 (ii) the area within a 35-mile radius from the site of the existing dealership.

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

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

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

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

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

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

172 (29) "Small trailer" means the same as that term is defined in Section 41-3-102.

173 [~~(29)~~] (30) "Stop-sale order" means an order issued by a franchisor that prohibits a
174 franchisee from selling or leasing a certain used motor vehicle of the franchisor's line-make,
175 which then or thereafter is in the franchisee's inventory, due to a recall.

176 (31) "Trailer" means the same as that term is defined in Section 41-3-102.

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

181 ~~[(31)]~~ (33) "Used motor vehicle" means a motor vehicle that:

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

183 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven
184 7,500 or more miles.

185 ~~[(32)]~~ (34) "Value of a used motor vehicle" means the average trade-in value for a used
186 motor vehicle of the same year, make, and model as reported in a recognized, independent
187 third-party used motor vehicle guide.

188 ~~[(33)]~~ (35) "Written," "write," "in writing," or other variations of those terms shall
189 include all reliable forms of electronic communication.

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

191 **41-3-102. Definitions.**

192 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

228 or

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

230 (iii) manufactured by the person;

231 (c) that is not a franchise holder;

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

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

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

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

243 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any
244 12-month period.

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

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

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

255 (16) "Division" means the Motor Vehicle Enforcement Division created in Section
256 [41-3-104](#).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

294 (a) through ownership of voting securities;

295 (b) by contract or credit arrangement; or

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

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

298 (i) self-propelled;

299 (ii) a trailer~~[-]~~₂;

300 (iii) a travel trailer~~[-, or]~~₂;

301 (iv) a semitrailer; ~~[or]~~

302 ~~[(iii)]~~ (v) an off-highway vehicle₂; or

303 (vi) a small trailer.

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

- 305 (i) mobile homes as defined in Section [41-1a-102](#);
- 306 (ii) trailers of 750 pounds or less unladen weight;
- 307 (iii) ~~[farm tractors and other machines and tools]~~ a farm tractor or other machine or
308 tool used in the production, harvesting, ~~[and]~~ or care of a farm ~~[products]~~ product; and
- 309 (iv) park model recreational vehicles as defined in Section [41-1a-102](#).
- 310 (25) "Motorcycle" ~~[has the same meaning as]~~ means the same as that term is defined in
311 Section [41-1a-102](#).
- 312 (26) "New motor vehicle" means a motor vehicle that:
- 313 (a) has never been titled or registered; and
- 314 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven
315 less than 7,500 miles.
- 316 (27) "Off-highway vehicle" ~~[has the same meaning as provided]~~ means the same as that
317 term is defined in Section [41-22-2](#).
- 318 (28) "Pawnbroker" means a person whose business is to lend money on security of
319 personal property deposited with him.
- 320 (29) (a) "Principal place of business" means a site or location in this state:
- 321 (i) devoted exclusively to the business for which the dealer, manufacturer,
322 remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses
323 incidental to them;
- 324 (ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely
325 indicate the boundary and to admit a definite description with space adequate to permit the
326 display of three or more new, or new and used, or used motor vehicles and sufficient parking
327 for the public; and
- 328 (iii) that includes a permanent enclosed building or structure large enough to
329 accommodate the office of the establishment and to provide a safe place to keep the books and
330 other records of the business, at which the principal portion of the business is conducted and
331 the books and records kept and maintained.
- 332 (b) "Principal place of business" means, with respect to a direct-sale manufacturer, the
333 direct-sale manufacturer's showroom, which shall comply with the requirements of Subsection
334 (29)(a).
- 335 (30) "Remanufacturer" means a person who reconstructs used motor vehicles subject to

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

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

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

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

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

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

352 (b) less than 2,000 pounds.

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

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

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

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

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

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

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

366 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven

367 7,500 or more miles.

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

371 Section 3. Section **41-3-210** is amended to read:

372 **41-3-210. License holders -- Prohibitions and requirements.**

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

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

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

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

381 (d) violate any law of the state respecting commerce in motor vehicles or any rule
382 respecting commerce in motor vehicles made by any licensing or regulating authority of the
383 state;

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

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

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

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

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

396 (h) dismantle or transport to a crusher for crushing or other disposition any motor
397 vehicle without first obtaining a dismantling or junk permit under Section [41-1a-1009](#),

398 41-1a-1010, or 41-1a-1011;

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

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

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

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

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

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

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

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

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

- 429 (q) issue a temporary permit for any vehicle that has not been sold by the licensee;
- 430 (r) alter a temporary permit in any manner;
- 431 (s) operate any principal place of business or additional place of business in a location
- 432 that does not comply with local ordinances, including zoning ordinances;
- 433 (t) sell, display for sale, offer for sale, or exchange any new motor vehicle if the
- 434 licensee does not:
 - 435 (i) have a new motor vehicle dealer's license or a direct-sale manufacturer's license
 - 436 under Section [41-3-202](#); and
 - 437 (ii) unless the licensee is a direct-sale manufacturer, possess a franchise from the
 - 438 manufacturer of the new motor vehicle sold, displayed for sale, offered for sale, or exchanged
 - 439 by the licensee;
 - 440 (u) as a new motor vehicle dealer or used motor vehicle dealer, encourage or conspire
 - 441 with any person who has not obtained a salesperson's or a direct-sale manufacturer
 - 442 salesperson's license to solicit for prospective purchasers; ~~[or]~~
 - 443 (v) as a direct-sale manufacturer, engage in business as a direct-sale manufacturer
 - 444 without having:
 - 445 (i) an authorized service center; or
 - 446 (ii) a principal place of business~~[-];~~ or
 - 447 (w) possess a franchise that is not expressed in writing, if the franchise allows the sale
 - 448 or exchange of a new trailer that:
 - 449 (i) is not designed for human habitation;
 - 450 (ii) has a gross vehicle weight rating of less than 26,000 pounds; and
 - 451 (iii) is not designed to carry a motorboat as defined in Section [73-18-2](#).
- 452 (2) (a) If a new motor vehicle is constructed in more than one stage, such as a motor
- 453 home, ambulance, or van conversion, the licensee shall advertise, represent, sell, and exchange
- 454 the vehicle as the make designated by the final stage manufacturer, except in those specific
- 455 situations where the licensee:
 - 456 (i) possesses a franchise from the initial or first stage manufacturer, presumably the
 - 457 manufacturer of the motor vehicle's chassis; or
 - 458 (ii) manufactured the initial or first stage of the motor vehicle.
- 459 (b) Sales of multiple stage manufactured motor vehicles shall include the transfer to the

460 purchaser of a valid manufacturer's statement or certificate of origin from each manufacturer
461 under Section 41-3-301.

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

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

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

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

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

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

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

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

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

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

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

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

487 ~~(c)~~ (iii) order from any person any parts, accessories, equipment, machinery, tools,
488 appliances, or any other commodity;

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

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

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

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

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

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

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

506 (A) is not designed for human habitation;

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

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

509 (ii) "Relevant market area" means:

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

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

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

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

520 (i) another dealer licensed under this chapter who does not hold a valid franchise for
521 the make of new motor vehicles sold, unless the selling dealer licenses and titles the new motor

522 vehicle to the purchasing dealer; or

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

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

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

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

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

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

543 (b) Each day a motor vehicle is sold, offered for sale, leased, or offered for lease in
544 violation of Subsection (11)(a) and each motor vehicle sold, offered for sale, leased, or offered
545 for lease in violation of Subsection (11)(a) shall constitute a separate offense.

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

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

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

551 (12) For purposes of imposing the sales and use tax under Title 59, Chapter 12, Sales
552 and Use Tax Act, a licensee issuing a temporary permit under Section [41-3-302](#) shall separately

553 identify the fees required by Title 41, Chapter 1a, Motor Vehicle Act.

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

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

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

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

561 Section 4. **Effective date.**

562 This bill takes effect on October 15, 2020.

563 Section 5. **Coordinating S.B. 128 with H.B. 329 -- Technical amendments.**

564 If this S.B. 128 and H.B. 329, Powersport and Automobile Franchise Amendments,
565 both pass and become law, it is the intent of the Legislature that the amendments to Section
566 13-14-102 in this bill supersede the amendments to Section 13-14-102 in H.B. 329 when the
567 Office of Legislative Research and General Counsel prepares the Utah Code database for
568 publication.