

**AUTOMOBILE AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill makes changes related to automobile manufacturers, franchisors, and franchisees.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends provisions regarding warranty repairs made by franchisors and the calculation of labor and parts rates for those repairs;
- ▶ amends the definition of "direct-sale manufacturer" to include small-volume manufacturers; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**13-14-204**, as last amended by Laws of Utah 2018, Chapter 245

**41-3-102**, as last amended by Laws of Utah 2020, Chapter 367

**41-3-103**, as last amended by Laws of Utah 2018, Chapter 387



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

Section 1. Section **13-14-204** is amended to read:

**13-14-204. Franchisor's obligations related to service -- Franchisor audits -- Time limits.**

(1) As used in this section, "qualified repair" means a repair to a vehicle that:

(a) would come within a franchisor's warranty but for the vehicle exceeding the time or mileage limits of the warranty;

(b) does not otherwise constitute warranty work; and

(c) does not constitute any of the following:

(i) routine maintenance, including the replacement of fluids, filters, batteries, bulbs, belts, nuts, bolts, or fasteners, unless the routine maintenance is performed in the course of and related to a qualified repair;

(ii) replacement of or work on tires, wheels, or elements related to tires or wheels, including vehicle alignments, tire rotations, or wheel rotations;

(iii) a repair for a government agency or service contract provider;

(iv) a repair that is the subject of a franchisor special event, promotion, or service campaign, or is otherwise subject to a franchisor discount;

(v) a repair of a motor vehicle owned by the franchisee or an employee of the franchisee;

(vi) an accessory or the installation of an accessory;

(vii) a repair of a condition caused by collision, road hazard, the force of the elements, vandalism, theft, or the negligence or a deliberate act of the owner, operator, or a third party;

(viii) a safety or vehicle emission inspection required by law;

(ix) vehicle reconditioning;

(x) repairs performed or parts sold at wholesale;

(xi) franchisor-approved goodwill or policy repairs or replacements;

(xii) parts sold or repairs performed for insurance carriers; or

(xiii) for the purpose of calculating a retail parts rate only, a repair on or using an aftermarket part.

(2) A franchisor shall:

- 59           (a) fulfill a warranty agreement made by the franchisor; and  
 60           (b) compensate the franchisor's franchisees for labor and parts furnished by the  
 61 franchisees to satisfy the franchisor's warranty obligations, including:  
 62           (i) diagnostic work;  
 63           (ii) repairs;  
 64           (iii) servicing;  
 65           (iv) the disposal of hazardous substances; and  
 66           (v) other conditions of the warranty obligation.

67           ~~[(1)]~~ (3) Each franchisor shall specify in writing to each of the franchisor's franchisees  
 68 licensed as a new motor vehicle dealer in this state~~[(a)]~~, the franchisee's obligations for new  
 69 motor vehicle preparation, delivery, and warranty service on the franchisor's products~~[(b)]~~.

70           ~~[(b) the schedule of compensation to be paid to the franchisee for parts, work, and~~  
 71 ~~service; and]~~

72           ~~[(c) the time allowance for the performance of work and service.]~~

73           ~~[(2) (a) The schedule of compensation described in Subsection (1) shall include~~  
 74 ~~reasonable compensation for diagnostic work, as well as repair service, parts, and labor.]~~

75           ~~[(b) Time allowances described in Subsection (1) for the diagnosis and performance of~~  
 76 ~~warranty work and service shall be reasonable and adequate for the work to be performed.]~~

77           ~~[(3) (a) In the determination of what constitutes reasonable compensation under this~~  
 78 ~~section, the principal factor to be considered is the prevailing wage rates being paid by~~  
 79 ~~franchisees in the relevant market area in which the franchisee is doing business.]~~

80           ~~[(b) (i) Compensation of the franchisee for warranty service or recall repair work may~~  
 81 ~~not be less than the amount charged by the franchisee for like parts and service to retail or fleet~~  
 82 ~~customers, if the amounts are reasonable.]~~

83           (4) A franchisor shall compensate the franchisor's franchisees, at the franchisee's retail  
 84 rates as determined under Subsections (5) and (6), for labor and parts furnished by the  
 85 franchisee in satisfaction of a warranty issued by the franchisor.

86           (5) (a) To establish or modify a franchisee's retail labor rate or retail parts rate, a  
 87 franchisee shall submit, in writing to the franchisee's franchisor and no more than once per  
 88 calendar year, whichever of the following comprises the fewest number of repair orders, all of  
 89 which must be for repairs made no more than 180 days before the franchisee's written

90 submission:

91 (i) 100 sequential repair orders reflecting qualified repairs; or

92 (ii) all qualified repair orders closed during any period of 90 consecutive days.

93 (b) A franchisee shall calculate the franchisee's retail labor rate by:

94 (i) determining the total charges for labor in the qualified repair orders submitted to the  
95 franchisee's franchisor under Subsection (5)(a); and

96 (ii) dividing the amount calculated under Subsection (5)(b)(i) by the total number of  
97 labor hours that generated those charges.

98 (c) A franchisee shall calculate the franchisee's retail parts rate by:

99 (i) determining the total charges for parts in the qualified repair orders submitted to the  
100 franchisee's franchisor under Subsection (5)(a);

101 (ii) dividing the amount calculated under Subsection (5)(c)(i) by the franchisee's total  
102 cost to purchase the parts in those qualified repair orders;

103 (iii) subtracting one from the result of Subsection (5)(c)(ii); and

104 (iv) multiplying the result of Subsection (5)(c)(iii) by 100 to produce a percentage.

105 ~~[(ii)]~~ (d) In the case of a recreational vehicle franchisee, reimbursement for parts used  
106 in the performance of warranty repairs, including those parts separately warranted directly to  
107 the consumer by a recreational vehicle parts supplier, may not be less than the franchisee's cost  
108 plus 20%.

109 ~~[(iii)]~~ (e) For purposes of ~~[Subsection (3)(b)(ii)]~~ Subsections (5)(b) through (d), the  
110 term "cost" shall be that same price paid by a franchisee to a franchisor or supplier for the part  
111 when the part is purchased for a nonwarranty repair.

112 (f) For the purposes of Subsection (5)(a), a franchisee may submit either:

113 (i) a single set of qualified repair orders for the purpose of calculating the franchisee's  
114 retail labor rate and retail parts rate; or

115 (ii) a set of qualified repair orders for the purpose of calculating only the franchisee's  
116 retail labor rate or retail parts rate.

117 (g) Time allocations for diagnostic work and labor furnished by the franchisee in  
118 satisfaction of a warranty issued by the franchisee's franchisor shall be based on the franchisor's  
119 labor time guide or, at the franchisee's election, the labor time guide used by the franchisee for  
120 diagnostic work and labor furnished for non-warranty repairs.

121 (h) (i) A discount shall be allocated between parts and labor as indicated on the face of  
122 a repair order for parts and labor furnished by a franchisee in satisfaction of a warranty issued  
123 by the franchisee's franchisor.

124 (ii) If no allocation is shown on the face of a repair order described in Subsection  
125 (5)(h)(i), a discount is allocated pro rata between parts and labor.

126 (i) (i) If a franchisor supplies a part to the franchisor's franchisee at no cost or at a  
127 reduced cost for the franchisee to use in fulfilling a warranty claim, the franchisor shall  
128 compensate the franchisee for the franchisee's cost of the part, if any, plus an amount equal to  
129 the franchisee's prevailing retail parts rate multiplied by the fair wholesale value of the part.

130 (ii) The fair wholesale value of a part is the greater of:

131 (A) the amount a franchisee paid for the part or a substantially identical part if the part  
132 is already owned by the franchisee;

133 (B) the cost of the part shown in the franchisor's current or prior established price  
134 schedule; or

135 (C) the cost of a substantially identical part shown in the franchisor's current or prior  
136 established price schedule.

137 (6) (a) If a franchisee seeks compensation from the franchisee's franchisor for parts or  
138 labor furnished in satisfaction of a warranty issued by the franchisor, the franchisee shall  
139 provide written notice to the franchisee's franchisor of the franchisee's retail labor rate or retail  
140 parts rate in accordance with Subsection (5)(a).

141 (b) A retail labor rate or retail parts rate provided in a written notice described in  
142 Subsection (5)(a) takes effect 30 days after the day on which the franchisee delivers the written  
143 notice to the franchisor unless the franchisor contests the franchisee's indicated rate under  
144 Subsection (6)(c).

145 (c) A franchisor may contest a franchisee's indicated retail labor rate or retail parts rate  
146 by submitting to the franchisee a notice of objection that contains, and is limited to, the  
147 following:

148 (i) a statement that the franchisor believes the contested rate is materially inaccurate or  
149 fraudulent;

150 (ii) a full explanation of the reasons the franchisor believes the contested rate is  
151 materially inaccurate or fraudulent;

- 152 (iii) evidence substantiating each reason described in Subsection (6)(c)(ii);
- 153 (iv) the calculations used by the franchisor to support the franchisor's objection; and
- 154 (v) as applicable, a proposed adjusted retail labor rate or retail parts rate.

155 (d) (i) A franchisor may not submit more than one notice of objection to a franchisee  
156 concerning a declared retail labor rate or retail parts rate except in the context of litigation  
157 regarding the contested rate.

158 (ii) After submitting a notice of objection, a franchisor may not add to, expand,  
159 supplement, or otherwise modify the objection except in the context of litigation regarding the  
160 contested rate.

161 (iii) In a judicial or administrative proceeding regarding one or more contested rates:

162 (A) the issue shall be limited to whether the retail labor rate or the retail parts rate  
163 submitted by the franchisee is materially inaccurate or fraudulent;

164 (B) the franchisor has the burden of proof; and

165 (C) the rate that is determined in resolution of the dispute is retroactive to the date that  
166 is 30 days after the day on which the franchisee delivered the written notice described in  
167 Subsection (5)(a) to the franchisor.

168 ~~[(4)]~~ (7) A franchisor may not fail to:

169 (a) perform any warranty obligation;

170 (b) include in written notices of franchisor's recalls to new motor vehicle owners and  
171 franchisees the expected date by which necessary parts and equipment will be available to  
172 franchisees for the correction of the defects; or

173 (c) in accordance with Subsections ~~[(2) and (3)]~~ (4) and (5), compensate a franchisee  
174 for all diagnostic work, labor, and parts the franchisor requires to perform a recall repair.

175 ~~[(5)]~~ (8) If a franchisor disallows a franchisee's claim for a defective part, alleging that  
176 the part is not defective, the franchisor at the franchisor's option shall:

177 (a) return the part to the franchisee at the franchisor's expense; or

178 (b) pay the franchisee the cost of the part.

179 ~~[(6)]~~ (9) (a) A claim made by a franchisee pursuant to this section for diagnostic work,  
180 labor, or parts shall be paid within 30 days after the claim's approval.

181 (b) The franchisor shall approve or disapprove a claim within 30 days after receipt of  
182 the claim on a form generally used by the franchisor and containing the generally required

183 information. Any claim not specifically disapproved of in writing within 30 days after the  
184 receipt of the form is considered to be approved and payment shall be made within 30 days.

185 [(7)] (10) A franchisor may conduct warranty service audits and recall repair audits of  
186 the franchisor's franchisee records on a reasonable basis.

187 [(8)] (11) A franchisor may deny a franchisee's claim for warranty compensation or  
188 recall repair compensation only if:

189 (a) the franchisee's claim is based on a nonwarranty repair or a nonrecall repair;

190 (b) the franchisee lacks material documentation for the claim;

191 (c) the franchisee fails to comply materially with specific substantive terms and  
192 conditions of the franchisor's warranty compensation program or recall repair compensation  
193 program; or

194 (d) the franchisor has a bona fide belief based on competent evidence that the  
195 franchisee's claim is intentionally false, fraudulent, or misrepresented.

196 [(9)] (12) (a) Any charge back for a warranty part or service compensation, recall repair  
197 compensation, or service incentive is only enforceable for the six-month period immediately  
198 following the day on which the franchisor makes the payment compensating the franchisee for  
199 the warranty part or service, recall repair, or service incentive.

200 (b) Except as provided in Subsection [(9)] (12)(e), all charge backs levied by a  
201 franchisor for sales compensation or sales incentives arising out of the sale or lease of a motor  
202 vehicle sold or leased by a franchisee shall be compensable only if written notice of the charge  
203 back is received by the franchisee within six months immediately following the sooner of:

204 (i) the day on which the [~~sales incentive program terminates~~] franchisee reports the sale  
205 to the franchisor; or

206 (ii) the day on which the franchisor makes the payment for the sales compensation or  
207 sales incentive to the franchisee.

208 (c) (i) Upon an audit, the franchisor shall provide the franchisee automated or written  
209 notice explaining the amount of and reason for a charge back.

210 (ii) A franchisee may respond in writing within 30 days after the notice under  
211 Subsection [(9)] (12)(c)(i) to:

212 (A) explain a deficiency; or

213 (B) provide materials or information to correct and cure compliance with a provision

214 that is a basis for a charge back.

215 (d) A charge back:

216 (i) may not be based on a nonmaterial error that is clerical in nature; and

217 (ii) (A) shall be based on one or more specific instances of material noncompliance  
218 with the franchisor's warranty compensation program, sales incentive program, recall repair  
219 program, or recall compensation program; and

220 (B) may not be extrapolated from a sampling of warranty claims, recall repair claims,  
221 or sales incentive claims.

222 (e) The time limitations of this Subsection [~~(9)~~] (12) do not preclude charge backs for  
223 any fraudulent claim that was previously paid.

224 [~~(10)~~] (13) (a) If within 30 days after the day on which a franchisor issues an initial  
225 notice of recall a part or remedy is not reasonably available to perform the recall repair on a  
226 used motor vehicle, each calendar month thereafter the franchisor shall pay the franchisee an  
227 amount equal to at least 1.35% of the value of the used motor vehicle, if:

228 (i) the franchisee holding the used motor vehicle for sale is authorized to sell and  
229 service a new vehicle of the same line-make;

230 (ii) after May 7, 2018, the franchisor issues a stop-sale or do-not-drive order on the  
231 used motor vehicle; and

232 (iii) (A) the used motor vehicle is in the franchisee's inventory at the time the  
233 franchisor issued the order described in Subsection [~~(10)~~] (13)(a)(ii); or

234 (B) after the franchisor issues the order described in Subsection [~~(10)~~] (13)(a)(ii), the  
235 franchisee takes the used motor vehicle into the franchisee's inventory at the termination of the  
236 consumer lease for the vehicle, as a consumer trade-in accompanying the purchase of a new  
237 vehicle from the franchisee, or for any other reason in the ordinary course of business.

238 (b) A franchisor shall pay the compensation described in Subsection [~~(10)~~] (13)(a):

239 (i) beginning:

240 (A) 30 days after the day on which the franchisee receives the stop-sale or do-not-drive  
241 order; or

242 (B) if a franchisee obtains the used motor vehicle more than 30 days after the day on  
243 which the franchisee receives the stop-sale or do-not-drive order, the day on which the  
244 franchisee obtains the used motor vehicle; and



245 (ii) ending the earlier of the day on which:

246 (A) the franchisor makes the recall part or remedy available for order and prompt  
247 shipment to the franchisee; or

248 (B) the franchisee sells, trades, or otherwise disposes of the used motor vehicle.

249 (c) A franchisor shall prorate the first and last payment for a used motor vehicle to a  
250 franchisee under this Subsection ~~[(10)]~~ (13).

251 (d) A franchisor may direct the manner in which a franchisee demonstrates the  
252 inventory status of an affected used motor vehicle to determine eligibility under this Subsection  
253 ~~[(10)]~~ (13), if the manner is not unduly burdensome.

254 ~~[(11)]~~ (14) (a) A franchisee that offsets recall repair compensation received from a  
255 franchisor under this section against recall repair compensation the franchisee receives under a  
256 state or federal recall repair compensation remedy may pursue any other available remedy  
257 against the franchisor.

258 (b) As an alternative to providing recall repair compensation under this section, a  
259 franchisor may compensate a franchisee for a recall repair:

260 (i) under a national recall repair compensation program, if the compensation is equal to  
261 or greater than the compensation provided under this section; or

262 (ii) as the franchisor and franchisee otherwise agree, if the compensation is equal to or  
263 greater than the compensation provided under this section.

264 (c) Nothing in this section requires a franchisor to provide compensation to a  
265 franchisee that exceeds the value of the used motor vehicle affected by a recall.

266 (15) During an audit under this section, a franchisor may not request a document from  
267 the franchisee that:

268 (a) originated from the franchisor or a subsidiary of the franchisor; or

269 (b) is available to the franchisor from:

270 (i) another person; or

271 (ii) public records to which the franchisor has access.

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

273 **41-3-102. Definitions.**

274 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

311 ~~[(B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and]~~  
312 ~~[(iii) manufactured by the person;]~~

313 (b) that is:

314 (i) an electric vehicle manufacturer; or

315 (ii) a low-volume manufacturer;

316 (c) that is not a franchise holder;

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

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

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

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

328 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any  
329 12-month period.

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

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

335 (15) "Distributor representative" means a person and each officer and employee of the  
336 person engaged as a representative of a distributor or distributor branch of motor vehicles to  
337 make or promote the sale of the distributor or the distributor branch's motor vehicles, or for

338 supervising or contacting dealers or prospective dealers of the distributor or the distributor  
339 branch.

340 (16) "Division" means the Motor Vehicle Enforcement Division created in Section  
341 41-3-104.

342 (17) "Electric vehicle manufacturer" means a person that, in this state, sells, displays  
343 for sale, or offers for sale or exchange only new motor vehicles of the person's own line-make  
344 that are:

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

347 (b) (i) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less;

348 or

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

350 (c) manufactured by the person.

351 ~~[(17)]~~ (18) "Factory branch" means a branch office maintained by a person who  
352 manufactures or assembles motor vehicles for sale to distributors, motor vehicle dealers, or  
353 who directs or supervises the factory branch's representatives.

354 ~~[(18)]~~ (19) "Factory representative" means a person and each officer and employee of  
355 the person engaged as a representative of a manufacturer of motor vehicles or by a factory  
356 branch to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or  
357 for supervising or contacting the dealers or prospective dealers of the manufacturer or the  
358 factory branch.

359 ~~[(19)]~~ (20) (a) "Franchise" means a contract or agreement between a dealer and a  
360 manufacturer of new motor vehicles or a manufacturer's distributor or factory branch by which  
361 the dealer is authorized to sell any specified make or makes of new motor vehicles.

362 (b) "Franchise" includes a contract or agreement described in Subsection ~~[(19)]~~ (20)(a)  
363 regardless of whether the contract or agreement is subject to Title 13, Chapter 14, New  
364 Automobile Franchise Act, Title 13, Chapter 35, Powersport Vehicle Franchise Act, or neither.

365 ~~[(20)]~~ (21) (a) "Franchise holder" means a manufacturer who:

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

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

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

369 franchised dealer in the United States;

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

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

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

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

380 (22) "Low-volume manufacturer" means a manufacturer who:

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

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

384 or

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

386 (ii) manufactured by the person; and

387 (b) constructs no more than 325 new motor vehicles in any 12-month period.

388 [~~(21)~~] (23) "Line-make" means motor vehicles that are offered for sale, lease, or  
389 distribution under a common name, trademark, service mark, or brand name of the  
390 manufacturer.

391 [~~(22)~~] (24) "Manufacturer" means a person engaged in the business of constructing or  
392 assembling new motor vehicles, ownership of which is customarily transferred by a  
393 manufacturer's statement or certificate of origin, or a person who constructs three or more new  
394 motor vehicles in any 12-month period.

395 [~~(23)~~] (25) "Material owner" means a person who possesses, directly or indirectly, the  
396 power to direct, or cause the direction of, the management, policies, or activities of another  
397 person:

398 (a) through ownership of voting securities;

399 (b) by contract or credit arrangement; or

400 (c) in another way not described in Subsections [~~(23)~~] (25)(a) and (b).  
401 [~~(24)~~] (26) (a) "Motor vehicle" means a vehicle that is:  
402 (i) self-propelled;  
403 (ii) a trailer;  
404 (iii) a travel trailer;  
405 (iv) a semitrailer;  
406 (v) an off-highway vehicle; or  
407 (vi) a small trailer.  
408 (b) "Motor vehicle" does not include:  
409 (i) mobile homes as defined in Section [41-1a-102](#);  
410 (ii) trailers of 750 pounds or less unladen weight;  
411 (iii) a farm tractor or other machine or tool used in the production, harvesting, or care of  
412 a farm product; and  
413 (iv) park model recreational vehicles as defined in Section [41-1a-102](#).  
414 [~~(25)~~] (27) "Motorcycle" means the same as that term is defined in Section [41-1a-102](#).  
415 [~~(26)~~] (28) "New motor vehicle" means a motor vehicle that:  
416 (a) has never been titled or registered; and  
417 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven  
418 less than 7,500 miles.  
419 [~~(27)~~] (29) "Off-highway vehicle" means the same as that term is defined in Section  
420 [41-22-2](#).  
421 [~~(28)~~] (30) "Pawnbroker" means a person whose business is to lend money on security  
422 of personal property deposited with him.  
423 [~~(29)~~] (31) (a) "Principal place of business" means a site or location in this state:  
424 (i) devoted exclusively to the business for which the dealer, manufacturer,  
425 remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses  
426 incidental to them;  
427 (ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely  
428 indicate the boundary and to admit a definite description with space adequate to permit the  
429 display of three or more new, or new and used, or used motor vehicles and sufficient parking  
430 for the public; and

431 (iii) that includes a permanent enclosed building or structure large enough to  
432 accommodate the office of the establishment and to provide a safe place to keep the books and  
433 other records of the business, at which the principal portion of the business is conducted and  
434 the books and records kept and maintained.

435 (b) "Principal place of business" means, with respect to a direct-sale manufacturer, the  
436 direct-sale manufacturer's showroom, which shall comply with the requirements of Subsection  
437 ~~[(29)]~~ (31)(a).

438 ~~[(30)]~~ (32) "Remanufacturer" means a person who reconstructs used motor vehicles  
439 subject to registration under ~~[Title 41,]~~ Chapter 1a, Motor Vehicle Act, to change the body  
440 style and appearance of the motor vehicle or who constructs or assembles motor vehicles from  
441 used or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three  
442 or more motor vehicles in any 12-month period.

443 ~~[(31)]~~ (33) "Salesperson" means an individual who for a salary, commission, or  
444 compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by  
445 any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to  
446 negotiate for the sale, purchase, or exchange of motor vehicles.

447 ~~[(32)]~~ (34) "Semitrailer" means the same as that term is defined in Section [41-1a-102](#).

448 ~~[(33)]~~ (35) "Showroom" means a site or location in the state that a direct-sale  
449 manufacturer uses for the direct-sale manufacturer's business, including the display and  
450 demonstration of new motor vehicles that are exclusively of the same line-make that the  
451 direct-sale manufacturer manufactures.

452 ~~[(34)]~~ (36) "Small trailer" means a trailer that has an unladen weight of:

453 (a) more than 750 pounds; and

454 (b) less than 2,000 pounds.

455 ~~[(35)]~~ (37) "Special equipment" includes a truck mounted crane, cherry picker, material  
456 lift, post hole digger, and a utility or service body.

457 ~~[(36)]~~ (38) "Special equipment dealer" means a new or new and used motor vehicle  
458 dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle  
459 weight of 12,000 or more pounds and installing special equipment on the incomplete motor  
460 vehicle.

461 ~~[(37)]~~ (39) "Trailer" means the same as that term is defined in Section [41-1a-102](#).

462            [~~(38)~~] (40) "Transporter" means a person engaged in the business of transporting motor  
463 vehicles as described in Section 41-3-202.

464            [~~(39)~~] (41) "Travel trailer" means the same as that term is defined in Section  
465 41-1a-102.

466            [~~(40)~~] (42) "Used motor vehicle" means a vehicle that:

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

468            (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven  
469 7,500 or more miles.

470            [~~(41)~~] (43) "Wholesale motor vehicle auction" means a dealer primarily engaged in the  
471 business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by  
472 this or any other jurisdiction.

473            Section 3. Section 41-3-103 is amended to read:

474            **41-3-103. Exceptions to "dealer" definition -- Dealer licensed in other state --**  
475 **Direct-sale manufacturer -- Direct-sale manufacturer salesperson.**

476            Under this chapter:

477            (1) (a) An insurance company, bank, finance company, company registered as a title  
478 lender under Title 7, Chapter 24, Title Lending Registration Act, company registered as a check  
479 casher or deferred deposit lender under Title 7, Chapter 23, Check Cashing and Deferred  
480 Deposit Lending Registration Act, public utility company, commission impound yard, federal  
481 or state governmental agency, or any political subdivision of any of them or any other person  
482 coming into possession of a motor vehicle as an incident to its regular business, that sells the  
483 motor vehicle under contractual rights that it may have in the motor vehicle is not considered a  
484 dealer.

485            (b) A person who sells or exchanges only those motor vehicles that the person has  
486 owned for over 12 months is not considered a dealer.

487            (2) (a) A person engaged in leasing motor vehicles is not considered as coming into  
488 possession of the motor vehicles incident to the person's regular business.

489            (b) A pawnbroker engaged in selling, exchanging, or pawning motor vehicles is  
490 considered as coming into possession of the motor vehicles incident to the person's regular  
491 business and must be licensed as a used motor vehicle dealer.

492            (3) A person currently licensed as a dealer or salesperson by another state or country



493 and not currently under license suspension or revocation by the administrator may only sell  
494 motor vehicles in this state to licensed dealers, dismantlers, or manufacturers, and only at their  
495 places of business.

496 (4) Except as otherwise expressly provided:

497 (a) a direct-sale manufacturer is subject to the same provisions under this chapter as a  
498 new motor vehicle dealer; and

499 (b) a direct-sale manufacturer salesperson is subject to the same provisions under this  
500 chapter as a salesperson.

501 (5) Notwithstanding any provision of this chapter to the contrary, a direct-sale  
502 manufacturer:

503 (a) may, without a franchise, sell, display for sale, or offer for sale or exchange a motor  
504 vehicle;

505 (i) described in Subsection ~~[41-3-102(10)(b) without a franchise; and] 41-3-102(17) if~~  
506 the direct-sale manufacturer is an electric vehicle manufacturer; or

507 (ii) described in Subsection 41-3-102(23) if the direct-sale manufacturer is a  
508 low-volume manufacturer; and

509 (b) may not sell, display for sale, or offer for sale or exchange a new motor vehicle that  
510 is not of the same line-make the direct-sale manufacturer manufactures.