

**MOTOR VEHICLE DEALER REQUIREMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Colin W. Jack**

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

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**LONG TITLE**

**General Description:**

This bill prohibits a motor vehicle dealer from charging a fee or charge in addition to the negotiated purchase price as a condition of the sale.

**Highlighted Provisions:**

This bill:

- ▶ prohibits a motor vehicle dealer from requiring a purchaser to pay, as a condition of the sale, a fee or charge in addition to the negotiated purchase, other than sales and use taxes, temporary permit fees, required title fees, and required registration fees;
- ▶ specifies the civil penalties for a violation; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**41-3-211**, as enacted by Laws of Utah 2010, Chapter 342

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

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



28 Section 1. Section **41-3-211** is amended to read:

29 **41-3-211. Unlawful acts or practices.**

30 (1) A licensee may not knowingly or intentionally engage in any of the following  
31 unlawful acts or practices:

32 (a) provide a financial institution or person being contacted to provide financing for the  
33 purchase of a motor vehicle, a motor vehicle contract of sale, document of sale, contract,  
34 request for proposal, or other document that does not accurately state:

35 (i) the terms of the motor vehicle purchase; or

36 (ii) if the vehicle is a rebuilt vehicle;

37 (b) sell a motor vehicle to a purchaser that is subject to financing that is not the motor  
38 vehicle described in a motor vehicle contract of sale, document of sale, contract, request for  
39 proposal, or other document as of the time the contract of sale, document of sale, contract,  
40 request for proposal, or other document provided to the financial institution or person  
41 providing financing; [~~or~~]

42 (c) make payments on any loan or lease on a motor vehicle subject to a loan or lease  
43 that is subject to the payoff requirements of Subsection [41-3-402\(1\)](#)[~~;~~]; or

44 (d) except as provided in Subsection (3), require a purchaser to pay as a condition of  
45 the sale:

46 (i) an amount higher than the negotiated purchase price; or

47 (ii) any fee or charge in addition to the negotiated purchase price.

48 (2) The provisions of Subsection (1)(c) do not prohibit a dealer from making one or  
49 more loan or lease payments for a motor vehicle if making the payments is:

50 (a) stated in writing in a motor vehicle contract of sale, document of sale, contract,  
51 request for proposal, or other document; or

52 (b) stated in the notice to the lienholder of the trade-in of the vehicle as required by  
53 Subsection [41-3-402\(5\)](#).

54 (3) Subsection (1)(d) does not prohibit a licensee from charging any of the following in  
55 addition to the negotiated purchase price:

56 (a) sales and use taxes as required by Title 59, Chapter 12, Sales and Use Tax Act;

57 (b) a temporary permit fee pursuant to Section [41-1a-211](#);

58 (c) a fee required in Chapter 1a, Part 5, Titling Requirement; or

59 (d) motor vehicle registration fees required under this title.

60 [~~3~~] (4) (a) [~~A~~] Except as provided in Subsection (4)(b), a person who violates the  
61 provisions of this section is subject to the penalties provided in Section 41-3-701 and  
62 Subsection 41-3-702(1)(a).

63 (b) A person who violates Subsection (1)(d) is subject to the penalties provided in  
64 Section 41-3-701 and Subsection 41-3-702(1)(d).

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

66 **41-3-702. Civil penalty for violation.**

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

69 (a) Level I:

70 (i) failing to display business license;

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

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

75 (iv) issuing a temporary permit improperly;

76 (v) failing to maintain records;

77 (vi) selling a new motor vehicle to a nonfranchised dealer or leasing company without  
78 licensing the motor vehicle;

79 (vii) special plate violation;

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

81 (ix) failing to store a salvage vehicle purchased at a motor vehicle auction in a secure  
82 location until the purchaser or a transporter has provided the proper documentation to take  
83 possession of the salvage vehicle.

84 (b) Level II:

85 (i) failing to report sale;

86 (ii) dismantling without a permit;

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

89 (iv) withholding customer license plates;

90 (v) selling a motor vehicle on consecutive days of Saturday and Sunday; or  
91 (vi) failing to record and report the sale of a salvage vehicle at a motor vehicle auction  
92 as described in Section 41-3-201.

93 (c) Level III:

94 (i) operating without a principal place of business;

95 (ii) selling a new motor vehicle as a dealer who is not a direct-sale manufacturer  
96 without holding the franchise;

97 (iii) crushing a motor vehicle without proper evidence of ownership;

98 (iv) selling from an unlicensed location;

99 (v) altering a temporary permit;

100 (vi) refusal to furnish copies of records;

101 (vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;

102 (viii) advertising violation;

103 (ix) failing to separately identify the fees required by Title 41, Chapter 1a, Motor  
104 Vehicle Act;

105 (x) encouraging or conspiring with unlicensed persons to solicit for prospective  
106 purchasers; or

107 (xi) selling, offering for sale, or displaying for sale or exchange a vehicle, vessel, or  
108 outboard motor in violation of Section 41-1a-705.

109 (d) A violation of Subsection 41-3-211(1)(d) is a Level IV civil violation.

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

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

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

115 (iii) Level III: \$250 for the first offense, \$1,000 for the second offense, and \$5,000 for  
116 the third and subsequent offenses~~[-]; and~~

117 (iv) Level IV: \$1,000 for the first offense, \$5,000 for the second offense, and \$10,000  
118 for the third and subsequent offenses.

119 (b) When determining under this section if an offense is a second or subsequent  
120 offense, only prior offenses committed within the 12 months before the commission of the

121 current offense may be considered.

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

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

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

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

129 (5) A civil action may be maintained by a purchaser or by the administrator.