

NON-VEHICLE FRANCHISE AGREEMENT AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends the application of the New Automobile Franchise Act;
- ▶ removes requirement that a dealer needs a franchise to offer for sale, sell, or exchange certain trailers; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 13-14-102**, as last amended by Laws of Utah 2018, Chapter 245
- 41-1a-802**, as last amended by Laws of Utah 2005, Chapter 32
- 41-3-102**, as last amended by Laws of Utah 2019, Chapter 424
- 41-3-103**, as last amended by Laws of Utah 2018, Chapter 387



- 28 [41-3-105](#), as last amended by Laws of Utah 2018, Chapter 387
- 29 [41-3-201](#), as last amended by Laws of Utah 2018, Chapter 387
- 30 [41-3-202](#), as last amended by Laws of Utah 2019, Chapter 424
- 31 [41-3-210](#), as last amended by Laws of Utah 2018, Chapter 387
- 32 [41-3-702](#), as last amended by Laws of Utah 2019, Chapter 424

33

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

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

36 **13-14-102. Definitions.**

37 As used in this chapter:

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

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

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

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

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

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

49 (4) "Aftermarket product" means any product or service not included in the franchisor's
50 suggested retail price of the new motor vehicle, as that price appears on the label required by
51 15 U.S.C. Sec. 1232(f).

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

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

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

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

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

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

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

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

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

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

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

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

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

76 (b) an intermediate distributor; and

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

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

82 (13) "Line-make" means:

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

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

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

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

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

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

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

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

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

100 (16) (a) "Motor vehicle" means a vehicle that is:

101 (i) self-propelled;

102 (ii) except as provided in Subsection (16)(b), a trailer;

103 ~~[(i)]~~ (iii) a travel trailer;

104 ~~[(ii) except as provided in Subsection (16)(b), a motor vehicle as defined in Section~~
 105 ~~41-3-102;]~~

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

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

108 (v) a recreational vehicle.

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

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

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

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

113 (iv) a cargo trailer as defined in Section 41-3-102;

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

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

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

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

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

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

121 less than 7,500 miles.

122 (18) "New motor vehicle dealer" is a person who is licensed under Subsection
123 41-3-202(1)[(a)] to sell new motor vehicles.

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

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

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

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

130 (21) "Primary market area" means:

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

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

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

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

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

143 (b) "Recreational vehicle" includes:

144 (i) a travel trailer;

145 (ii) a camping trailer;

146 (iii) a motor home;

147 (iv) a fifth wheel trailer; and

148 (v) a van.

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

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

152 (A) the county in which the existing dealership is located; and
153 (B) the area within a 15-mile radius of the existing dealership; or
154 (ii) as applied to an existing dealership that is located in a county with a population of
155 225,000 or more, the area within a 10-mile radius of the existing dealership.

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

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

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

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

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

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

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

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

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

179 [~~30~~] (31) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable
180 vehicle without motive power, designed as a temporary dwelling for travel, recreational, or
181 vacation use that does not require a special highway movement permit when drawn by a
182 self-propelled motor vehicle.

183 [~~(31)~~] (32) "Used motor vehicle" means a motor vehicle that:

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

185 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven
186 7,500 or more miles.

187 [~~(32)~~] (33) "Value of a used motor vehicle" means the average trade-in value for a used
188 motor vehicle of the same year, make, and model as reported in a recognized, independent
189 third-party used motor vehicle guide.

190 [~~(33)~~] (34) "Written," "write," "in writing," or other variations of those terms shall
191 include all reliable forms of electronic communication.

192 Section 2. Section **41-1a-802** is amended to read:

193 **41-1a-802. Identification number inspectors -- Duties.**

194 (1) The following are qualified identification number inspectors:

195 (a) the commission;

196 (b) designated officers and employees of the division;

197 (c) a person operating a safety inspection station under Title 53, Chapter 8, Part 2,
198 Motor Vehicle Safety Inspection Act;

199 (d) an official inspection station certified inspector;

200 (e) a dealer licensed under Subsection [41-3-202](#)(1), (2), (3), [~~or~~] (4), or (5); and

201 (f) all peace officers of the state.

202 (2) The qualified identification number inspectors shall, upon the application for the
203 first registration in this state of any vehicle:

204 (a) inspect the identification number of the vehicle;

205 (b) make a record of the identification number inspection upon an application form
206 provided by the division; and

207 (c) verify the facts in the application.

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

209 **41-3-102. Definitions.**

210 As used in this chapter:

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

212 (2) "Agent" means a person other than a holder of any dealer's or salesperson's license
213 issued under this chapter, who for salary, commission, or compensation of any kind, negotiates

214 in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any
215 other person in any 12-month period.

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

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

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

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

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

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

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

229 (7) "Cargo trailer" means a trailer that:

230 (a) is not designed for human habitation; and

231 (b) has a gross vehicle weight rating of:

232 (i) more than 750 pounds; and

233 (ii) less than 26,000 pounds.

234 [~~7~~] (8) "Commission" means the State Tax Commission.

235 [~~8~~] (9) "Crusher" means a person who crushes or shreds motor vehicles subject to
236 registration under Title 41, Chapter 1a, Motor Vehicle Act, to reduce the useable materials and
237 metals to a more compact size for recycling.

238 [~~9~~] (10) (a) "Dealer" means a person:

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

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

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

244 [~~10~~] (11) "Direct-sale manufacturer" means a person:

- 245 (a) that is both a manufacturer and a dealer;
- 246 (b) that, in this state, sells, displays for sale, or offers for sale or exchange only new
- 247 motor vehicles of the person's own line-make that are:
 - 248 (i) exclusively propelled through the use of electricity, a hydrogen fuel cell, or another
 - 249 non-fossil fuel source;
 - 250 (ii) (A) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less;
 - 251 or
 - 252 (B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and
 - 253 (iii) manufactured by the person;
- 254 (c) that is not a franchise holder;
- 255 (d) that is domiciled in the United States; and
- 256 (e) whose chief officers direct, control, and coordinate the person's activities as a
- 257 direct-sale manufacturer from a physical location in the United States.

258 ~~[(11)]~~ (12) "Direct-sale manufacturer salesperson" means an individual who for a

259 salary, commission, or compensation of any kind, is employed either directly, indirectly,

260 regularly, or occasionally by a direct-sale manufacturer to sell, purchase, or exchange or to

261 negotiate for the sale, purchase, or exchange of a motor vehicle manufactured by the direct-sale

262 manufacturer who employs the individual.

263 ~~[(12)]~~ (13) (a) "Dismantler" means a person engaged in the business of dismantling

264 motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the

265 resale of parts or for salvage.

266 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any

267 12-month period.

268 ~~[(13)]~~ (14) "Distributor" means a person who has a franchise from a manufacturer of

269 motor vehicles to distribute motor vehicles within this state and who in whole or in part sells or

270 distributes new motor vehicles to dealers or who maintains distributor representatives.

271 ~~[(14)]~~ (15) "Distributor branch" means a branch office similarly maintained by a

272 distributor for the same purposes a factory branch is maintained.

273 ~~[(15)]~~ (16) "Distributor representative" means a person and each officer and employee

274 of the person engaged as a representative of a distributor or distributor branch of motor

275 vehicles to make or promote the sale of the distributor or the distributor branch's motor

276 vehicles, or for supervising or contacting dealers or prospective dealers of the distributor or the
277 distributor branch.

278 ~~[(16)]~~ (17) "Division" means the Motor Vehicle Enforcement Division created in
279 Section ~~41-3-104~~.

280 ~~[(17)]~~ (18) "Factory branch" means a branch office maintained by a person who
281 manufactures or assembles motor vehicles for sale to distributors, motor vehicle dealers, or
282 who directs or supervises the factory branch's representatives.

283 ~~[(18)]~~ (19) "Factory representative" means a person and each officer and employee of
284 the person engaged as a representative of a manufacturer of motor vehicles or by a factory
285 branch to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or
286 for supervising or contacting the dealers or prospective dealers of the manufacturer or the
287 factory branch.

288 ~~[(19)]~~ (20) "Franchise" means a contract or agreement between a dealer and a
289 manufacturer of new motor vehicles or a manufacturer's distributor or factory branch by which
290 the dealer is authorized to sell any specified make or makes of new motor vehicles.

291 ~~[(20)]~~ (21) (a) "Franchise holder" means a manufacturer who:

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

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

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

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

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

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

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

306 ~~[(21)]~~ (22) "Line-make" means motor vehicles that are offered for sale, lease, or

307 distribution under a common name, trademark, service mark, or brand name of the
308 manufacturer.

309 ~~[(22)]~~ (23) "Manufacturer" means a person engaged in the business of constructing or
310 assembling new motor vehicles, ownership of which is customarily transferred by a
311 manufacturer's statement or certificate of origin, or a person who constructs three or more new
312 motor vehicles in any 12-month period.

313 ~~[(23)]~~ (24) "Material owner" means a person who possesses, directly or indirectly, the
314 power to direct, or cause the direction of, the management, policies, or activities of another
315 person:

- 316 (a) through ownership of voting securities;
- 317 (b) by contract or credit arrangement; or
- 318 (c) in another way not described in Subsections ~~[(23)]~~ (24)(a) and (b).

319 ~~[(24)]~~ (25) (a) "Motor vehicle" means a vehicle that is:

- 320 (i) self-propelled;
- 321 (ii) a trailer, including a cargo trailer or small habitable trailer;
- 322 (iii) a travel trailer~~[-or]~~;
- 323 (iv) semitrailer; or
- 324 ~~[(iii)]~~ (v) an off-highway vehicle ~~[or small trailer]~~.

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

- 326 (i) mobile homes as defined in Section [41-1a-102](#);
- 327 (ii) trailers of 750 pounds or less unladen weight;
- 328 (iii) ~~[farm tractors and other machines and tools]~~ a farm tractor or other machine or
329 tool used in the production, harvesting, ~~[and]~~ or care of a farm ~~[products]~~ product; and
- 330 (iv) park model recreational vehicles as defined in Section [41-1a-102](#).

331 ~~[(25)]~~ (26) "Motorcycle" ~~[has the same meaning as]~~ means the same as that term is
332 defined in Section [41-1a-102](#).

333 ~~[(26)]~~ (27) "New motor vehicle" means a motor vehicle that:

- 334 (a) has never been titled or registered; and
- 335 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven
336 less than 7,500 miles.

337 ~~[(27)]~~ (28) "Off-highway vehicle" ~~[has the same meaning as provided]~~ means the same

338 as that term is defined in Section [41-22-2](#).

339 ~~[(28)]~~ (29) "Pawnbroker" means a person whose business is to lend money on security
340 of personal property deposited with him.

341 ~~[(29)]~~ (30) (a) "Principal place of business" means a site or location in this state:

342 (i) devoted exclusively to the business for which the dealer, manufacturer,
343 remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses
344 incidental to them;

345 (ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely
346 indicate the boundary and to admit a definite description with space adequate to permit the
347 display of three or more new, or new and used, or used motor vehicles and sufficient parking
348 for the public; and

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

353 (b) "Principal place of business" means, with respect to a direct-sale manufacturer, the
354 direct-sale manufacturer's showroom, which shall comply with the requirements of Subsection
355 ~~[(29)]~~ (30)(a).

356 ~~[(30)]~~ (31) "Remanufacturer" means a person who reconstructs used motor vehicles
357 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style
358 and appearance of the motor vehicle or who constructs or assembles motor vehicles from used
359 or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or
360 more motor vehicles in any 12-month period.

361 ~~[(31)]~~ (32) "Salesperson" means an individual who for a salary, commission, or
362 compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by
363 any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to
364 negotiate for the sale, purchase, or exchange of motor vehicles.

365 ~~[(32)]~~ (33) "Semitrailer" ~~[has the same meaning as]~~ means the same as that term is
366 defined in Section [41-1a-102](#).

367 ~~[(33)]~~ (34) "Showroom" means a site or location in the state that a direct-sale
368 manufacturer uses for the direct-sale manufacturer's business, including the display and

369 demonstration of new motor vehicles that are exclusively of the same line-make that the
370 direct-sale manufacturer manufactures.

371 ~~[(34)]~~ (35) "Small habitable trailer" means a trailer that:

372 (a) is designed for human habitation; and

373 (b) has an unladen weight of:

374 (i) more than 750 pounds~~[-but]~~; and

375 (ii) less than 2,000 pounds.

376 (36) "Small trailer" means:

377 (a) a small habitable trailer; or

378 (b) a cargo trailer that has an unladen weight of:

379 (i) more than 750 pounds; and

380 (ii) less than 2,000 pounds.

381 ~~[(35)]~~ (37) "Special equipment" includes a truck mounted crane, cherry picker, material
382 lift, post hole digger, and a utility or service body.

383 ~~[(36)]~~ (38) "Special equipment dealer" means a new or new and used motor vehicle
384 dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle
385 weight of 12,000 or more pounds and installing special equipment on the incomplete motor
386 vehicle.

387 ~~[(37)]~~ (39) "Trailer" ~~[has the same meaning as]~~ means the same as that term is defined
388 in Section 41-1a-102.

389 ~~[(38)]~~ (40) "Transporter" means a person engaged in the business of transporting motor
390 vehicles as described in Section 41-3-202.

391 ~~[(39)]~~ (41) "Travel trailer" ~~[has the same meaning as provided]~~ means the same as that
392 term is defined in Section 41-1a-102.

393 ~~[(40)]~~ (42) "Used motor vehicle" means a vehicle that:

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

395 (b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven
396 7,500 or more miles.

397 ~~[(41)]~~ (43) "Wholesale motor vehicle auction" means a dealer primarily engaged in the
398 business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by
399 this or any other jurisdiction.

400 Section 4. Section **41-3-103** is amended to read:

401 **41-3-103. Exceptions to "dealer" definition -- Dealer licensed in other state --**
402 **Direct-sale manufacturer -- Direct-sale manufacturer salesperson.**

403 Under this chapter:

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

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

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

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

419 (3) A person currently licensed as a dealer or salesperson by another state or country
420 and not currently under license suspension or revocation by the administrator may only sell
421 motor vehicles in this state to licensed dealers, dismantlers, or manufacturers, and only at their
422 places of business.

423 (4) Except as otherwise expressly provided:

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

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

428 (5) Notwithstanding any provision of this chapter to the contrary[;]:

429 (a) a direct-sale manufacturer:

430 [~~(a)~~] (i) may sell, display for sale, or offer for sale or exchange a motor vehicle

431 described in Subsection ~~41-3-102~~(11)(b) without a franchise; and

432 ~~(b)~~ (ii) may not sell, display for sale, or offer for sale or exchange a new motor
433 vehicle that is not of the same line-make the direct-sale manufacturer manufactures[-]; and

434 (b) a dealer may sell, display for sale, or offer for sale or exchange a new cargo trailer
435 without a franchise.

436 Section 5. Section **41-3-105** is amended to read:

437 **41-3-105. Administrator's powers and duties -- Administrator and investigators**
438 **to be law enforcement officers.**

439 (1) The administrator may make rules to carry out the purposes of this chapter and
440 Sections ~~41-1a-1001~~ through ~~[41-1a-1007]~~ 41-1a-1006 according to the procedures and
441 requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

442 (2) (a) The administrator may employ clerks, deputies, and assistants necessary to
443 discharge the duties under this chapter and may designate the duties of those clerks, deputies,
444 and assistants.

445 (b) The administrator, assistant administrator, and all investigators shall be law
446 enforcement officers certified by peace officer standards and training as required by Section
447 53-13-103.

448 (3) (a) The administrator may investigate any suspected or alleged violation of:

- 449 (i) this chapter;
450 (ii) Title 41, Chapter 1a, Motor Vehicle Act;
451 (iii) any law concerning motor vehicle fraud; or
452 (iv) any rule made by the administrator.

453 (b) The administrator may bring an action in the name of the state against any person to
454 enjoin a violation found under Subsection (3)(a).

455 (4) (a) The administrator may prescribe forms to be used for applications for licenses.

456 (b) The administrator may require information from the applicant concerning the
457 applicant's fitness to be licensed.

458 (c) Each application for a license shall contain:

459 (i) if the applicant is an individual, the name and residence address of the applicant and
460 the trade name, if any, under which the applicant intends to conduct business;

461 (ii) if the applicant is a partnership, the name and residence address of each partner,

462 whether limited or general, and the name under which the partnership business will be
463 conducted;

464 (iii) if the applicant is a corporation, the name of the corporation, and the name and
465 residence address of each of its principal officers and directors;

466 (iv) a complete description of the principal place of business, including:

467 (A) the municipality, with the street and number, if any;

468 (B) if located outside of any municipality, a general description so that the location can
469 be determined; and

470 (C) any other places of business operated and maintained by the applicant in
471 conjunction with the principal place of business;

472 (v) if the application is for a new motor vehicle dealer's license, the name of each
473 motor vehicle the applicant has been enfranchised to sell or exchange, the name and address of
474 the manufacturer or distributor who has enfranchised the applicant, and the name and address
475 of each individual who will act as a salesperson under authority of the license;

476 (vi) at least five years of business history;

477 (vii) the federal tax identification number issued to the dealer;

478 (viii) the sales and use tax license number issued to the dealer under Title 59, Chapter
479 12, Sales and Use Tax Act; and

480 (ix) if the application is for a direct-sale manufacturer's license:

481 (A) the name of each line-make the applicant will sell, display for sale, or offer for sale
482 or exchange;

483 (B) the name and address of each individual who will act as a direct-sale manufacturer
484 salesperson under authority of the license;

485 (C) a complete description of the direct-sale manufacturer's authorized service center,
486 including the address and any other place of business the applicant operates and maintains in
487 conjunction with the authorized service center;

488 (D) a sworn statement that the applicant complies with each qualification for a
489 direct-sale manufacturer under this chapter;

490 (E) a sworn statement that if at any time the applicant fails to comply with a
491 qualification for a direct-sale manufacturer under this chapter, the applicant will inform the
492 division in writing within 10 business days after the day on which the noncompliance occurs;

493 and

494 (F) an acknowledgment that if the applicant fails to comply with a qualification for a
495 direct-sale manufacturer under this chapter, the administrator will deny, suspend, or revoke the
496 applicant's direct-sale manufacturer license in accordance with Section 41-3-209.

497 (5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement
498 Administrator, State of Utah," to authenticate the acts of the administrator's office.

499 (6) (a) The administrator may require that a licensee erect or post signs or devices on
500 the licensee's principal place of business and any other sites, equipment, or locations operated
501 and maintained by the licensee in conjunction with the licensee's business.

502 (b) The signs or devices shall state the licensee's name, principal place of business,
503 type and number of licenses, and any other information that the administrator considers
504 necessary to identify the licensee.

505 (c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah
506 Administrative Rulemaking Act, determining allowable size and shape of signs or devices,
507 lettering and other details of signs or devices, and location of signs or devices.

508 (7) (a) The administrator shall provide for quarterly meetings of the advisory board and
509 may call special meetings.

510 (b) Notices of all meetings shall be sent to each member not fewer than five days
511 before the meeting.

512 (8) The administrator, the officers and inspectors of the division designated by the
513 commission, and peace officers shall:

514 (a) make arrests upon view and without warrant for any violation committed in their
515 presence of any of the provisions of this chapter, or Title 41, Chapter 1a, Motor Vehicle Act;

516 (b) when on duty, upon reasonable belief that a motor vehicle, including a trailer[;] or
517 semitrailer₂, is being operated in violation of any provision of Title 41, Chapter 1a, Motor
518 Vehicle Act, require the driver of the vehicle to stop, exhibit the person's driver license and the
519 registration card issued for the vehicle, and submit to an inspection of the vehicle, the license
520 plates, and registration card;

521 (c) serve all warrants relating to the enforcement of the laws regulating the operation of
522 motor vehicles, including trailers[;] and semitrailers;

523 (d) investigate traffic accidents and secure testimony of any witnesses or persons

524 involved; and

525 (e) investigate reported thefts of motor vehicles, including trailers[;] and semitrailers.

526 (9) The administrator may contract with a public prosecutor to provide additional
527 prosecution of this chapter.

528 Section 6. Section **41-3-201** is amended to read:

529 **41-3-201. Licenses required -- Restitution -- Education.**

530 (1) As used in this section, "new applicant" means a person who is applying for a
531 license that the person has not been issued during the previous licensing year.

532 (2) A person may not act as any of the following without having procured a license
533 issued by the administrator:

534 (a) a dealer;

535 (b) salvage vehicle buyer;

536 (c) salesperson;

537 (d) manufacturer;

538 (e) transporter;

539 (f) dismantler;

540 (g) distributor;

541 (h) factory branch and representative;

542 (i) distributor branch and representative;

543 (j) crusher;

544 (k) remanufacturer; or

545 (l) body shop.

546 (3) (a) Except as provided in Subsection (3)(c), a person may not bid on or purchase a
547 vehicle with a nonrepairable or salvage certificate as defined in Section [41-1a-1001](#) at or
548 through a motor vehicle auction unless the person is a licensed salvage vehicle buyer.

549 (b) Except as provided in Subsection (3)(c), a person may not offer for sale, sell, or
550 exchange a vehicle with a nonrepairable or salvage certificate as defined in Section [41-1a-1001](#)
551 at or through a motor vehicle auction except to a licensed salvage vehicle buyer.

552 (c) A person may offer for sale, sell, or exchange a vehicle with a nonrepairable or
553 salvage certificate as defined in Section [41-1a-1001](#) at or through a motor vehicle auction:

554 (i) to an out-of-state or out-of-country purchaser not licensed under this section, but

555 that is authorized to do business in the domestic or foreign jurisdiction in which the person is
556 domiciled or registered to do business;

557 (ii) subject to the restrictions in Subsection (3)(d), to an in-state purchaser not licensed
558 under this section that:

559 (A) has a valid business license in Utah; and

560 (B) has a Utah sales tax license; and

561 (iii) to a crusher.

562 (d) (i) An operator of a motor vehicle auction shall verify that an in-state purchaser not
563 licensed under this section has the licenses required in Subsection (3)(c)(ii).

564 (ii) An operator of a motor vehicle auction may only offer for sale, sell, or exchange
565 five vehicles with a salvage certificate as defined in Section 41-1a-1001 at or through a motor
566 vehicle auction in any 12-month period to an in-state purchaser that does not have a salvage
567 vehicle buyer license issued in accordance with Subsection 41-3-202[(17)](18).

568 (iii) The five vehicle limitation under this Subsection (3)(d) applies to each Utah sales
569 tax license and not to each person with the authority to use a sales tax license.

570 (iv) An operator of a motor vehicle auction may not sell a vehicle with a nonrepairable
571 certificate as defined in Section 41-1a-1001 to a purchaser otherwise allowed to purchase a
572 vehicle under Subsection (3)(c)(ii).

573 (e) For a vehicle with a salvage certificate purchased under Subsection (3)(c)(ii), an
574 operator of a motor vehicle auction shall:

575 (i) (A) until Subsection (3)(e)(i)(B) applies, make application for a salvage certificate
576 of title on behalf of the Utah purchaser within seven days of the purchase if the purchaser does
577 not have a salvage vehicle buyer license, dealer license, body shop license, or dismantler
578 license issued in accordance with Section 41-3-202; or

579 (B) beginning on or after the date that the Motor Vehicle Division has implemented the
580 Motor Vehicle Division's GenTax system, make application electronically, in a form and time
581 period approved by the Motor Vehicle Division, for a salvage certificate of title to be issued in
582 the name of the purchaser;

583 (ii) give to the purchaser a disclosure printed on a separate piece of paper that states:

584 "THIS DISCLOSURE STATEMENT MUST BE GIVEN BY THE SELLER TO THE
585 BUYER EVERY TIME THIS VEHICLE IS RESOLD WITH A SALVAGE CERTIFICATE

586 Vehicle Identification Number (VIN)

587 Year: Make: Model:

588 SALVAGE VEHICLE--NOT FOR RESALE WITHOUT DISCLOSURE

589 WARNING: THIS SALVAGE VEHICLE MAY NOT BE SAFE FOR OPERATION
590 UNLESS PROPERLY REPAIRED. SOME STATES MAY REQUIRE AN INSPECTION
591 BEFORE THIS VEHICLE MAY BE REGISTERED. THE STATE OF UTAH MAY
592 REQUIRE THIS VEHICLE TO BE PERMANENTLY BRANDED AS A REBUILT
593 SALVAGE VEHICLE. OTHER STATES MAY ALSO PERMANENTLY BRAND THE
594 CERTIFICATE OF TITLE.

595 _____
596 Signature of Purchaser Date"; and

597 (iii) if applicable, provide evidence to the Motor Vehicle Division of:

598 (A) payment of sales taxes on taxable sales in accordance with Section 41-1a-510;

599 (B) the identification number inspection required under Section 41-1a-511; and

600 (C) the odometer disclosure statement required under Section 41-1a-902.

601 (f) The Motor Vehicle Division shall include a link to the disclosure statement
602 described in Subsection (3)(e)(ii) on its website.

603 (g) The commission may impose an administrative entrance fee established in
604 accordance with the procedures and requirements of Section 63J-1-504 not to exceed \$10 on a
605 person not holding a license described in Subsection (3)(e)(i) that enters the physical premises
606 of a motor vehicle auction for the purpose of viewing available salvage vehicles prior to an
607 auction.

608 (h) A vehicle sold at or through a motor vehicle auction to an out-of-state purchaser
609 with a nonrepairable or salvage certificate may not be certificated in Utah until the vehicle has
610 been certificated out-of-state.

611 (4) (a) An operator of a motor vehicle auction shall keep a record of the sale of each
612 salvage vehicle.

613 (b) A record described under Subsection (4)(a) shall contain:

614 (i) the purchaser's name and address; and

615 (ii) the year, make, and vehicle identification number for each salvage vehicle sold.

616 (c) An operator of a motor vehicle auction shall:

617 (i) provide the record described in Subsection (4)(a) electronically in a method
618 approved by the division to the division within two business days of the completion of the
619 motor vehicle auction;

620 (ii) retain the record described in this Subsection (4) for five years from the date of
621 sale; and

622 (iii) make a record described in this Subsection (4) available for inspection by the
623 division at the location of the motor vehicle auction during normal business hours.

624 (5) (a) An operator of a motor vehicle auction shall store a salvage vehicle sold at
625 auction in a secure facility until the salvage vehicle is claimed as provided in this section.

626 (b) Beginning at the time of purchase and until the salvage vehicle is claimed, the
627 motor vehicle auction operator may collect a daily storage fee for the secure storage of each
628 salvage vehicle sold at auction.

629 (c) Except as provided in Subsection (5)(d), before releasing possession of a salvage
630 vehicle purchased at a motor vehicle auction to a person not licensed under this part or certified
631 as a tow truck operator under Title 72, Chapter 9, Part 6, Tow Truck Provisions, and if the
632 person claiming the vehicle is a person other than the purchaser of the vehicle, the motor
633 vehicle auction operator shall create a record that shall contain:

634 (i) the name and address, as verified by government issued identification, of the person
635 claiming the vehicle;

636 (ii) the year, make, and vehicle identification number of the claimed vehicle;

637 (iii) a written statement from the person claiming the vehicle indicating the location
638 where the salvage vehicle will be delivered; and

639 (iv) verification that the claimant has authorization from the purchaser to claim the
640 vehicle.

641 (d) If the salvage vehicle is claimed by a transporter or a tow truck operator, the
642 transporter or the tow truck operator shall submit to the motor vehicle auction operator a
643 written record on any release forms indicating the location where the salvage vehicle will be
644 delivered if delivered within the state.

645 (e) An operator of a motor vehicle auction shall:

646 (i) retain the record described in Subsection (5)(c) for five years from the date of sale;

647 and

648 (ii) make the record available for inspection by the division at the location of the motor
649 vehicle auction during normal business hours.

650 (6) (a) If applicable, an operator of a motor vehicle auction shall comply with the
651 reporting requirements of the National Motor Vehicle Title Information System overseen by
652 the United States Department of Justice if the person sells a vehicle with a salvage certificate to
653 an in-state purchaser under Subsection (3)(c)(ii).

654 (b) The Motor Vehicle Division shall include a link to the National Motor Vehicle
655 Title Information System on its website.

656 (7) (a) An operator of a motor vehicle auction that sells a salvage vehicle to a person
657 that is an out-of-country buyer shall:

658 (i) stamp on the face of the title so as not to obscure the name, date, or mileage
659 statement the words "FOR EXPORT ONLY" in all capital, black letters; and

660 (ii) stamp in each unused reassignment space on the back of the title the words "FOR
661 EXPORT ONLY."

662 (b) The words "FOR EXPORT ONLY" shall be:

663 (i) at least two inches wide; and

664 (ii) clearly legible.

665 (8) A dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body
666 shop shall obtain a supplemental license, in accordance with Section [41-3-201.7](#) for each
667 additional place of business maintained by the licensee.

668 (9) (a) A person who has been convicted of any law relating to motor vehicle
669 commerce or motor vehicle fraud may not be issued a license or purchase a vehicle with a
670 salvage or nonrepairable certificate unless full restitution regarding those convictions has been
671 made.

672 (b) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a
673 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (9)(a) if
674 the division has informed the operator of the motor vehicle auction, the dealer, or the consignor
675 in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or
676 salvage certificate under Subsection (9)(a).

677 (10) (a) The division may not issue a license to a new applicant for a new or used
678 motor vehicle dealer license, a direct-sale manufacturer license, a new or used motorcycle

679 dealer license, or a small trailer dealer license unless the new applicant completes an eight-hour
680 orientation class approved by the division that includes education on motor vehicle laws and
681 rules.

682 (b) The approved costs of the orientation class shall be paid by the new applicant.

683 (c) The class shall be completed by the new applicant and the applicant's partners,
684 corporate officers, bond indemnitors, and managers.

685 (d) (i) The division shall approve:

686 (A) providers of the orientation class; and

687 (B) costs of the orientation class.

688 (ii) A provider of an orientation class shall submit the orientation class curriculum to
689 the division for approval prior to teaching the orientation class.

690 (iii) A provider of an orientation class shall include in the orientation materials:

691 (A) ethics training;

692 (B) motor vehicle title and registration processes;

693 (C) provisions of Title 13, Chapter 5, Unfair Practices Act, relating to motor vehicles;

694 (D) Department of Insurance requirements relating to motor vehicles;

695 (E) Department of Public Safety requirements relating to motor vehicles;

696 (F) federal requirements related to motor vehicles as determined by the division; and

697 (G) any required disclosure compliance forms as determined by the division.

698 (11) A person or purchaser described in Subsection (3)(c)(ii):

699 (a) may not purchase more than five salvage vehicles with a nonrepairable or salvage
700 certificate as defined in Section 41-1a-1001 in any 12-month period;

701 (b) may not, without first complying with Section 41-1a-705, offer for sale, sell, or
702 exchange more than two vehicles with a salvage certificate as defined in Section 41-1a-1001 in
703 any 12-month period to a person not licensed under this section; and

704 (c) may not, without first complying with Section 41-1a-705, offer for sale, sell, or
705 exchange a vehicle with a nonrepairable certificate as defined in Section 41-1a-1001 to a
706 person not licensed under this section.

707 (12) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a
708 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (11)(a) if
709 the division has informed the operator of the motor vehicle auction, the dealer, or the consignor

710 in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or
711 salvage certificate under Subsection (11)(a).

712 Section 7. Section **41-3-202** is amended to read:

713 **41-3-202. Licenses -- Classes and scope.**

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

715 ~~[(a)]~~ (i) except as provided in Subsection (1)(b), offer for sale, sell, or exchange new
716 motor vehicles if the licensee possesses a franchise from the manufacturer of the motor vehicle
717 offered for sale, sold, or exchanged by the licensee;

718 ~~[(b)]~~ (ii) offer for sale, sell, or exchange used motor vehicles;

719 ~~[(c)]~~ (iii) operate as a body shop; and

720 ~~[(d)]~~ (iv) dismantle motor vehicles.

721 (b) A new motor vehicle dealer's license permits the licensee to offer for sale, sell, or
722 exchange a new motor vehicle that is a cargo trailer without a franchise.

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

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

725 (b) operate as a body shop; and

726 (c) dismantle motor vehicles.

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

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

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

731 (c) operate as a body shop; and

732 (d) dismantle motor vehicles.

733 (4) A new motorcycle[;] and off-highway vehicle[; ~~and small trailer~~] dealer's license
734 permits the licensee to:

735 (a) offer for sale, sell, or exchange new motorcycles[;] or off-highway vehicles[; ~~or~~
736 ~~small trailers~~] if the licensee possesses a franchise from the manufacturer of the motorcycle[;]
737 or off-highway vehicle[; ~~or small trailer~~] offered for sale, sold, or exchanged by the licensee;

738 (b) offer for sale, sell, or exchange used motorcycles[;] or off-highway vehicles[; ~~or~~
739 ~~small trailers~~]; and

740 (c) dismantle motorcycles[;] or off-highway vehicles[; ~~or small trailers~~].

741 (5) A small trailer dealer's license permits the licensee to:

742 (a) offer for sale, sell, or exchange new small habitable trailers if the licensee possesses
743 a franchise from the manufacturer of the small habitable trailer offered for sale, sold, or
744 exchanged by the licensee;

745 (b) offer for sale, sell, or exchange new cargo trailers that have an unladen weight of:

746 (i) more than 750 pounds; and

747 (ii) less than 2,000 pounds;

748 (c) offer for sale, sell, or exchange used small trailers; and

749 (d) dismantle small trailers.

750 ~~[(5)]~~ (6) A used motorcycle, off-highway vehicle, and small trailer dealer's license
751 permits the licensee to:

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

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

755 ~~[(6)]~~ (7) (a) Except as provided in Subsection ~~[(6)]~~ (7)(b), a salesperson's license
756 permits the licensee to act as a motor vehicle salesperson and is valid for employment with
757 only one dealer at a time.

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

761 ~~[(7)]~~ (8) (a) A direct-sale manufacturer salesperson's license permits the licensee to act
762 as a direct-sale manufacturer salesperson for one direct-sales manufacturer.

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

765 ~~[(8)]~~ (9) (a) A manufacturer's license permits the licensee to construct or assemble
766 motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, at an
767 established place of business and to remanufacture motor vehicles.

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

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

772 ~~[(9)]~~ (10) (a) A transporter's license permits the licensee to transport or deliver motor
773 vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, from a
774 manufacturing, assembling, or distributing point or from a dealer, to dealers, distributors, or
775 sales agents of a manufacturer or remanufacturer, to or from detail or repair shops, and to
776 financial institutions or places of storage from points of repossession.

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

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

780 (ii) a detail or repair shop;

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

782 (iv) a repossession company;

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

784 (vi) a finance company.

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

788 ~~[(10)]~~ (11) A dismantler's license permits the licensee to dismantle motor vehicles
789 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the purpose of
790 reselling parts or for salvage, or selling dismantled or salvage vehicles to a crusher or other
791 dismantler.

792 ~~[(11)]~~ (12) A distributor or factory branch and distributor branch's license permits the
793 licensee to sell and distribute new motor vehicles, parts, and accessories to their franchised
794 dealers.

795 ~~[(12)]~~ (13) A representative's license, for factory representatives or distributor
796 representatives permits the licensee to contact the licensee's authorized dealers for the purpose
797 of making or promoting the sale of motor vehicles, parts, and accessories.

798 ~~[(13)]~~ (14) (a) (i) A remanufacturer's license permits the licensee to construct,
799 reconstruct, assemble, or reassemble motor vehicles subject to registration under Title 41,
800 Chapter 1a, Motor Vehicle Act, from used or new motor vehicles or parts.

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

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

805 ~~[(14)]~~ (15) A crusher's license permits the licensee to engage in the business of
806 crushing or shredding motor vehicles subject to registration under Title 41, Chapter 1a, Motor
807 Vehicle Act, for the purpose of reducing the useable materials and metals to a more compact
808 size for recycling.

809 ~~[(15)]~~ (16) A body shop's license permits the licensee:

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

811 (b) to dismantle motor vehicles.

812 ~~[(16)]~~ (17) A special equipment dealer's license permits the licensee to:

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

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

817 (c) operate as a body shop; and

818 (d) dismantle motor vehicles.

819 ~~[(17)]~~ (18) (a) A salvage vehicle buyer license permits the licensee to bid on or
820 purchase a vehicle with a salvage certificate as defined in Section [41-1a-1001](#) at any motor
821 vehicle auction.

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

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

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

830 (i) business history;

831 (ii) salvage vehicle qualifications;

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

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

835 Section 8. Section **41-3-210** is amended to read:

836 **41-3-210. License holders -- Prohibitions and requirements.**

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

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

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

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

845 (d) violate any law of the state respecting commerce in motor vehicles or any rule
846 respecting commerce in motor vehicles made by any licensing or regulating authority of the
847 state;

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

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

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

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

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

860 (h) dismantle or transport to a crusher for crushing or other disposition any motor
861 vehicle without first obtaining a dismantling or junk permit under Section [41-1a-1009](#),
862 [41-1a-1010](#), or [41-1a-1011](#);

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

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

870 (k) as a crusher, crush or shred a motor vehicle brought to the crusher without
871 obtaining proper evidence of ownership of the motor vehicle; proper evidence of ownership is
872 a certificate of title endorsed according to law or a dismantling or junk permit issued under
873 Section [41-1a-1009](#), [41-1a-1010](#), or [41-1a-1011](#);

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

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

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

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

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

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

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

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

895 (s) operate any principal place of business or additional place of business in a location

896 that does not comply with local ordinances, including zoning ordinances;

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

899 (i) have a new motor vehicle dealer's license or a direct-sale manufacturer's license
900 under Section 41-3-202; and

901 (ii) unless the licensee is a direct-sale manufacturer or the new motor vehicle is a cargo
902 trailer, possess a franchise from the manufacturer of the new motor vehicle sold, displayed for
903 sale, offered for sale, or exchanged by the licensee;

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

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

909 (i) an authorized service center; or

910 (ii) a principal place of business.

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

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

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

918 (b) Sales of multiple stage manufactured motor vehicles shall include the transfer to the
919 purchaser of a valid manufacturer's statement or certificate of origin from each manufacturer
920 under Section 41-3-301.

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

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

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

926 (c) a record of every motor vehicle bought or otherwise acquired and wrecked or

927 dismantled by the licensee;

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

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

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

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

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

938 (5) A manufacturer, distributor, distributor representative, or factory representative
939 may not induce or attempt to induce by means of coercion, intimidation, or discrimination any
940 dealer to:

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

943 (b) order or accept delivery of any motor vehicle with special features, appliances,
944 accessories, or equipment not included in the list price of the motor vehicle as publicly
945 advertised by the manufacturer;

946 (c) order from any person any parts, accessories, equipment, machinery, tools,
947 appliances, or any other commodity;

948 (d) enter into an agreement with the manufacturer, distributor, distributor
949 representative, or factory representative of any of them, or to do any other act unfair to the
950 dealer by threatening to cancel any franchise or contractual agreement between the
951 manufacturer, distributor, distributor branch, or factory branch and the dealer;

952 (e) refuse to deliver to any dealer having a franchise or contractual arrangement for the
953 retail sale of new and unused motor vehicles sold or distributed by the manufacturer,
954 distributor, distributor branch or factory branch, any motor vehicle, publicly advertised for
955 immediate delivery within 60 days after the dealer's order is received; or

956 (f) unfairly, without regard to the equities of the dealer, cancel the franchise of any
957 motor vehicle dealer; the nonrenewal of a franchise or selling agreement without cause is a

958 violation of this subsection and is an unfair cancellation.

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

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

964 (i) another dealer licensed under this chapter who does not hold a valid franchise for
965 the make of new motor vehicles sold, unless:

966 (A) the selling dealer licenses and titles the new motor vehicle to the purchasing dealer;
967 or

968 (B) the new motor vehicle is a cargo trailer; or

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

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

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

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

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

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

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

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

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

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

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

1000 (13) (a) A dismantler or dealer engaged in the business of dismantling motor vehicles
1001 for the sale of parts or salvage shall identify any vehicles or equipment used by the dismantler
1002 or dealer for transporting parts or salvage on the highways.

1003 (b) The identification required under Subsection (13)(a) shall:

1004 (i) include the name, address, and license number of the dismantler or dealer; and

1005 (ii) be conspicuously displayed on both sides of the vehicle or equipment in clearly
1006 legible letters and numerals not less than two inches in height.

1007 Section 9. Section 41-3-702 is amended to read:

1008 **41-3-702. Civil penalty for violation.**

1009 (1) The following are civil violations under this chapter and are in addition to criminal
1010 violations under this chapter:

1011 (a) Level I:

1012 (i) failing to display business license;

1013 (ii) failing to surrender license of salesperson because of termination, suspension, or
1014 revocation;

1015 (iii) failing to maintain a separation from nonrelated motor vehicle businesses at
1016 licensed locations;

1017 (iv) issuing a temporary permit improperly;

1018 (v) failing to maintain records;

1019 (vi) selling a new motor vehicle to a nonfranchised dealer or leasing company without

- 1020 licensing the motor vehicle, unless the motor vehicle is a cargo trailer;
- 1021 (vii) special plate violation;
- 1022 (viii) failing to maintain a sign at a principal place of business; or
- 1023 (ix) failing to store a salvage vehicle purchased at a motor vehicle auction in a secure
- 1024 location until the purchaser or a transporter has provided the proper documentation to take
- 1025 possession of the salvage vehicle.
- 1026 (b) Level II:
- 1027 (i) failing to report sale;
- 1028 (ii) dismantling without a permit;
- 1029 (iii) manufacturing without meeting construction or vehicle identification number
- 1030 standards;
- 1031 (iv) withholding customer license plates;
- 1032 (v) selling a motor vehicle on consecutive days of Saturday and Sunday; or
- 1033 (vi) failing to record and report the sale of a salvage vehicle at a motor vehicle auction
- 1034 as described in Section [41-3-201](#).
- 1035 (c) Level III:
- 1036 (i) operating without a principal place of business;
- 1037 (ii) selling a new motor vehicle as a dealer [~~who is not a direct-sale manufacturer~~]
- 1038 without holding the franchise, unless the dealer is a direct-sale manufacturer or the new motor
- 1039 vehicle is a cargo trailer;
- 1040 (iii) crushing a motor vehicle without proper evidence of ownership;
- 1041 (iv) selling from an unlicensed location;
- 1042 (v) altering a temporary permit;
- 1043 (vi) refusal to furnish copies of records;
- 1044 (vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;
- 1045 (viii) advertising violation;
- 1046 (ix) failing to separately identify the fees required by Title 41, Chapter 1a, Motor
- 1047 Vehicle Act;
- 1048 (x) encouraging or conspiring with unlicensed persons to solicit for prospective
- 1049 purchasers; or
- 1050 (xi) selling, offering for sale, or displaying for sale or exchange a vehicle, vessel, or

1051 outboard motor in violation of Section 41-1a-705.

1052 (2) (a) The schedule of civil penalties for violations of Subsection (1) is:

1053 (i) Level I: \$25 for the first offense, \$100 for the second offense, and \$250 for the third
1054 and subsequent offenses;

1055 (ii) Level II: \$100 for the first offense, \$250 for the second offense, and \$1,000 for the
1056 third and subsequent offenses; and

1057 (iii) Level III: \$250 for the first offense, \$1,000 for the second offense, and \$5,000 for
1058 the third and subsequent offenses.

1059 (b) When determining under this section if an offense is a second or subsequent
1060 offense, only prior offenses committed within the 12 months before the commission of the
1061 current offense may be considered.

1062 (3) Knowingly selling a salvage vehicle, as defined in Section 41-1a-1001, without
1063 disclosing that the salvage vehicle has been repaired or rebuilt is a civil violation in addition to
1064 a criminal violation under Section 41-1a-1008.

1065 (4) The civil penalty for a violation under Subsection (3) is:

1066 (a) not less than \$1,000, or treble the actual damages caused by the person, whichever
1067 is greater; and

1068 (b) reasonable attorney fees and costs of the action.

1069 (5) A civil action may be maintained by a purchaser or by the administrator.