

**Representative Kim Coleman** proposes the following substitute bill:

**NEW CAR SALES AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kim Coleman**

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

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**LONG TITLE**

**General Description:**

This bill modifies and enacts provisions relating to the sale of new motor vehicles.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ allows and creates a license for a new car dealer to conduct business online;
- ▶ creates a license for an online salesperson;
- ▶ addresses penalties to enforce the provisions of this bill;
- ▶ exempts an online dealer from the provisions of the New Automobile Franchise

Act; and

- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**41-1a-802**, as last amended by Laws of Utah 2005, Chapter 32



- 26 **41-3-102**, as last amended by Laws of Utah 2014, Chapter 237
- 27 **41-3-103**, as last amended by Laws of Utah 2010, Chapter 393
- 28 **41-3-105**, as last amended by Laws of Utah 2010, Chapter 393
- 29 **41-3-201**, as last amended by Laws of Utah 2013, Chapter 463
- 30 **41-3-202**, as last amended by Laws of Utah 2009, Chapter 78
- 31 **41-3-203**, as renumbered and amended by Laws of Utah 1992, Chapter 234
- 32 **41-3-204**, as last amended by Laws of Utah 2008, Chapter 388
- 33 **41-3-209**, as last amended by Laws of Utah 2012, Chapter 145
- 34 **41-3-210**, as last amended by Laws of Utah 2007, Chapter 322
- 35 **41-3-702**, as last amended by Laws of Utah 2012, Chapters 379 and 390

36 ENACTS:

- 37 **13-14-108**, Utah Code Annotated 1953
- 38 **41-3-210.5**, Utah Code Annotated 1953



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

41 Section 1. Section **13-14-108** is enacted to read:

42 **13-14-108. Applicability.**

43 The provisions of this chapter do not apply to a person licensed as an online dealer  
44 under Title 41, Chapter 3, Motor Vehicle Business Regulation Act.

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

46 **41-1a-802. Identification number inspectors -- Duties.**

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

- 48 (a) the commission;
- 49 (b) designated officers and employees of the division;
- 50 (c) a person operating a safety inspection station under Title 53, Chapter 8, Part 2,

51 Motor Vehicle Safety Inspection Act;

- 52 (d) an official inspection station certified inspector;
- 53 (e) a dealer licensed under Subsection **41-3-202**(1), (2), [~~(3)~~, or] (4), or (5); and
- 54 (f) all peace officers of the state.

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

- 57 (a) inspect the identification number of the vehicle;
- 58 (b) make a record of the identification number inspection upon an application form
- 59 provided by the division; and
- 60 (c) verify the facts in the application.

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

62 **41-3-102. Definitions.**

63 As used in this chapter:

- 64 (1) "Administrator" means the motor vehicle enforcement administrator.
- 65 (2) "Agent" means a person other than a holder of any dealer's or salesperson's license
- 66 issued under this chapter, who for salary, commission, or compensation of any kind, negotiates
- 67 in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any
- 68 other person in any 12-month period.

69 (3) "Auction" means a dealer engaged in the business of auctioning motor vehicles,

70 either owned or consigned, to the general public.

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

- 72 (a) is in the business of repairing the motor vehicles of the same line-make as the
- 73 motor vehicles offered for sale by a single online dealer;
- 74 (b) is authorized by the online dealer described in Subsection (4)(a) to complete
- 75 warranty repair work for motor vehicles of the same line-make as the motor vehicles that the
- 76 online dealer offers for sale; and

77 (c) conducts business at a site or location that is permanently located in the state.

78 [~~4~~] (5) "Board" means the advisory board created in Section [41-3-106](#).

79 [~~5~~] (6) "Body shop" means a business engaged in rebuilding, restoring, repairing, or

80 painting primarily the body of motor vehicles damaged by collision or natural disaster.

81 [~~6~~] (7) "Commission" means the State Tax Commission.

82 [~~7~~] (8) "Crusher" means a person who crushes or shreds motor vehicles subject to

83 registration under Title 41, Chapter 1a, Motor Vehicle Act, to reduce the useable materials and

84 metals to a more compact size for recycling.

85 [~~8~~] (9) (a) "Dealer" means a person:

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

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

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

91 (10) "Demonstration vehicle" means a new motor vehicle:

92 (a) that is manufactured by an online dealer; and

93 (b) that the online dealer who manufactured the motor vehicle:

94 (i) maintains at the online dealer's showroom; and

95 (ii) makes available to prospective purchasers to test drive.

96 ~~[(9)]~~ (11) (a) "Dismantler" means a person engaged in the business of dismantling  
97 motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the  
98 resale of parts or for salvage.

99 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any  
100 12-month period.

101 (12) "Display vehicle" means a new motor vehicle:

102 (a) that is manufactured by an online dealer;

103 (b) that the online dealer who manufactured the motor vehicle maintains inside the  
104 online dealer's showroom; and

105 (c) is used for the sole purpose of display to prospective purchasers.

106 ~~[(10)]~~ (13) "Distributor" means a person who has a franchise from a manufacturer of  
107 motor vehicles to distribute motor vehicles within this state and who in whole or in part sells or  
108 distributes new motor vehicles to dealers or who maintains distributor representatives.

109 ~~[(11)]~~ (14) "Distributor branch" means a branch office similarly maintained by a  
110 distributor for the same purposes a factory branch is maintained.

111 ~~[(12)]~~ (15) "Distributor representative" means a person and each officer and employee  
112 of the person engaged as a representative of a distributor or distributor branch of motor  
113 vehicles to make or promote the sale of the distributor or the distributor branch's motor  
114 vehicles, or for supervising or contacting dealers or prospective dealers of the distributor or the  
115 distributor branch.

116 ~~[(13)]~~ (16) "Division" means the Motor Vehicle Enforcement Division created in  
117 Section [41-3-104](#).

118 ~~[(14)]~~ (17) "Factory branch" means a branch office maintained by a person who

119 manufactures or assembles motor vehicles for sale to distributors, motor vehicle dealers, or  
120 who directs or supervises the factory branch's representatives.

121 ~~[(15)]~~ (18) "Factory representative" means a person and each officer and employee of  
122 the person engaged as a representative of a manufacturer of motor vehicles or by a factory  
123 branch to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or  
124 for supervising or contacting the dealers or prospective dealers of the manufacturer or the  
125 factory branch.

126 ~~[(16)]~~ (19) "Franchise" means a contract or agreement between a dealer and a  
127 manufacturer of new motor vehicles or its distributor or factory branch by which the dealer is  
128 authorized to sell any specified make or makes of new motor vehicles.

129 (20) "Line-make" has the same meaning as that term is defined in Section [13-14-102](#).

130 ~~[(17)]~~ (21) "Manufacturer" means a person engaged in the business of constructing or  
131 assembling new motor vehicles, ownership of which is customarily transferred by a  
132 manufacturer's statement or certificate of origin, or a person who constructs three or more new  
133 motor vehicles in any 12-month period.

134 ~~[(18)]~~ (22) "Motorcycle" has the same meaning as defined in Section [41-1a-102](#).

135 ~~[(19)]~~ (23) (a) "Motor vehicle" means a vehicle that is:

136 (i) self-propelled;

137 (ii) a trailer, travel trailer, or semitrailer; or

138 (iii) an off-highway vehicle or small trailer.

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

140 (i) mobile homes as defined in Section [41-1a-102](#);

141 (ii) trailers of 750 pounds or less unladen weight;

142 (iii) farm tractors and other machines and tools used in the production, harvesting, and  
143 care of farm products; and

144 (iv) park model recreational vehicles as defined in Section [41-1a-102](#).

145 ~~[(20)]~~ (24) "New motor vehicle" means a motor vehicle that has never been titled or  
146 registered and has been driven less than 7,500 miles, unless the motor vehicle is an  
147 off-highway vehicle, small trailer, trailer, travel trailer, or semitrailer, in which case the  
148 mileage limit does not apply.

149 ~~[(21)]~~ (25) "Off-highway vehicle" has the same meaning as provided in Section

150 41-22-2.

151 (26) "Online dealer" means a manufacturer who:

152 (a) manufactures new motor vehicles of the manufacturer's own line-make; and

153 (b) in any 12-month period, sells, displays for sale, or offers for sale three or more new  
154 motor vehicles of the manufacturer's line-make.

155 (27) "Online salesperson" means an individual who for a salary, commission, or  
156 compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by  
157 an online dealer to sell, purchase, or exchange, or to negotiate for the sale of new motor  
158 vehicles manufactured by the online dealer who employs the individual.

159 [~~(22)~~] (28) "Pawnbroker" means a person whose business is to lend money on security  
160 of personal property deposited with him.

161 [~~(23)~~] (29) "Principal place of business" means a site or location in this state:

162 (a) devoted exclusively to the business for which the dealer, manufacturer,  
163 remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses  
164 incidental to them;

165 (b) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely  
166 indicate the boundary and to admit a definite description with space adequate to permit the  
167 display of three or more new, or new and used, or used motor vehicles and sufficient parking  
168 for the public; and

169 (c) that includes a permanent enclosed building or structure large enough to  
170 accommodate the office of the establishment and to provide a safe place to keep the books and  
171 other records of the business, at which the principal portion of the business is conducted and  
172 the books and records kept and maintained.

173 [~~(24)~~] (30) "Remanufacturer" means a person who reconstructs used motor vehicles  
174 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style  
175 and appearance of the motor vehicle or who constructs or assembles motor vehicles from used  
176 or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or  
177 more motor vehicles in any 12-month period.

178 [~~(25)~~] (31) "Salesperson" means an individual who for a salary, commission, or  
179 compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by  
180 any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to

181 negotiate for the sale, purchase, or exchange of motor vehicles.

182 [~~(26)~~] (32) "Semitrailer" has the same meaning as defined in Section 41-1a-102.

183 (33) "Showroom" means a site or location in the state at which an online dealer  
184 conducts business as an online dealer in accordance with the provisions of this chapter.

185 [~~(27)~~] (34) "Small trailer" means a trailer that has an unladen weight of more than 750  
186 pounds, but less than 2,000 pounds.

187 [~~(28)~~] (35) "Special equipment" includes a truck mounted crane, cherry picker, material  
188 lift, post hole digger, and a utility or service body.

189 [~~(29)~~] (36) "Special equipment dealer" means a new or new and used motor vehicle  
190 dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle  
191 weight of 12,000 or more pounds and installing special equipment on the incomplete motor  
192 vehicle.

193 [~~(30)~~] (37) "Trailer" has the same meaning as defined in Section 41-1a-102.

194 [~~(31)~~] (38) "Transporter" means a person engaged in the business of transporting motor  
195 vehicles as described in Section 41-3-202.

196 [~~(32)~~] (39) "Travel trailer" has the same meaning as provided in Section 41-1a-102.

197 [~~(33)~~] (40) "Used motor vehicle" means a vehicle that has been titled and registered to  
198 a purchaser other than a dealer or has been driven 7,500 or more miles, unless the vehicle is a  
199 trailer, or semitrailer, in which case the mileage limit does not apply.

200 [~~(34)~~] (41) "Wholesale motor vehicle auction" means a dealer primarily engaged in the  
201 business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by  
202 this or any other jurisdiction.

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

204 **41-3-103. Exceptions to "dealer" definition -- Dealer licensed in other state --**

205 **Online dealer or salesperson.**

206 Under this chapter:

207 (1) (a) An insurance company, bank, finance company, company registered as a title  
208 lender under Title 7, Chapter 24, Title [~~Lender~~] Lending Registration Act, company registered  
209 as a check casher or deferred deposit lender under Title 7, Chapter 23, Check Cashing and  
210 Deferred Deposit Lending Registration Act, public utility company, commission impound yard,  
211 federal or state governmental agency, or any political subdivision of any of them or any other

212 person coming into possession of a motor vehicle as an incident to its regular business, that  
213 sells the motor vehicle under contractual rights that it may have in the motor vehicle is not  
214 considered a dealer.

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

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

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

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

226 (4) Except as otherwise expressly provided:

227 (a) an online dealer is subject to the same provisions under this chapter as a new motor  
228 vehicle dealer; and

229 (b) an online salesperson is subject to the same provisions under this chapter as a  
230 salesperson.

231 (5) Notwithstanding any provision of this section to the contrary, an online dealer may:

232 (a) operate without a principal place of business; and

233 (b) sell new motor vehicles without a franchise.

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

235 **41-3-105. Administrator's powers and duties -- Administrator and investigators**  
236 **to be law enforcement officers.**

237 (1) The administrator may make rules to carry out the purposes of this chapter and  
238 Sections [41-1a-1001](#) through [41-1a-1007](#) according to the procedures and requirements of Title  
239 63G, Chapter 3, Utah Administrative Rulemaking Act.

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



243 (b) The administrator, assistant administrator, and all investigators shall be law  
244 enforcement officers certified by peace officer standards and training as required by Section  
245 [53-13-103](#).

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

247 (i) this chapter;

248 (ii) Title 41, Chapter 1a, Motor Vehicle Act;

249 (iii) any law concerning motor vehicle fraud; or

250 (iv) any rule made by the administrator.

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

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

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

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

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

259 (ii) if the applicant is a partnership, the name and residence address of each partner,  
260 whether limited or general, and the name under which the partnership business will be  
261 conducted;

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

264 (iv) unless the applicant is applying for an online dealer license or an online  
265 salesperson license, a complete description of the principal place of business, including:

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

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

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

271 (v) if the application is for a new motor vehicle dealer's license, and not an online  
272 dealer's license, the name of each motor vehicle the applicant has been enfranchised to sell or  
273 exchange, the name and address of the manufacturer or distributor who has enfranchised the

274 applicant, and the names and addresses of the individuals who will act as salespersons under  
275 authority of the license;

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

277 (vii) the federal tax identification number issued to the dealer; ~~and~~

278 (viii) the sales and use tax license number issued to the dealer under Title 59, Chapter  
279 12, Sales and Use Tax Act[-];

280 (ix) if the application is for an online dealer's license, a complete description of the  
281 online dealer's authorized service center, including:

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

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

285 (C) any other place of business that the applicant or the authorized service center  
286 operates and maintains in conjunction with the authorized service center; and

287 (x) if the application is for an online dealer's license and the online dealer operates a  
288 showroom, a complete description of the showroom, including:

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

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

292 (C) any other place of business that the applicant operates or maintains in conjunction  
293 with the showroom.

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

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

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

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

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

307 (b) Notices of all meetings shall be sent to each member not fewer than five days prior  
308 to the meeting.

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

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

313 (b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is  
314 being operated in violation of any provision of Title 41, Chapter 1a, Motor Vehicle Act, require  
315 the driver of the vehicle to stop, exhibit the person's driver license and the registration card  
316 issued for the vehicle and submit to an inspection of the vehicle, the license plates, and  
317 registration card;

318 (c) serve all warrants relating to the enforcement of the laws regulating the operation of  
319 motor vehicles, trailers, and semitrailers;

320 (d) investigate traffic accidents and secure testimony of witnesses or persons involved;  
321 and

322 (e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

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

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

326 **41-3-201. Licenses required -- Restitution -- Education.**

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

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

331 (a) a dealer;

332 (b) salvage vehicle buyer;

333 (c) salesperson;

334 (d) manufacturer;

335 (e) transporter;

- 336 (f) dismantler;
- 337 (g) distributor;
- 338 (h) factory branch and representative;
- 339 (i) distributor branch and representative;
- 340 (j) crusher;
- 341 (k) remanufacturer; [or]
- 342 (l) body shop[?];
- 343 (m) online dealer; or
- 344 (n) online salesperson.

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

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

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

353 (i) to an out-of-state or out-of-country purchaser not licensed under this section, but  
354 that is authorized to do business in the domestic or foreign jurisdiction in which the person is  
355 domiciled or registered to do business;

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

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

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

360 (iii) to a crusher.

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

363 (ii) An operator of a motor vehicle auction may only offer for sale, sell, or exchange  
364 five vehicles with a salvage certificate as defined in Section 41-1a-1001 at or through a motor  
365 vehicle auction in any 12 month period to an in-state purchaser that does not have a salvage  
366 vehicle buyer license issued in accordance with Subsection 41-3-202[(15)](17).

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

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

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

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

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

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

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

385 Vehicle Identification Number (VIN)

386 Year: Make: Model:

387 SALVAGE VEHICLE--NOT FOR RESALE WITHOUT DISCLOSURE

388 WARNING: THIS SALVAGE VEHICLE MAY NOT BE SAFE FOR OPERATION

389 UNLESS PROPERLY REPAIRED. SOME STATES MAY REQUIRE AN INSPECTION

390 BEFORE THIS VEHICLE MAY BE REGISTERED. THE STATE OF UTAH MAY

391 REQUIRE THIS VEHICLE TO BE PERMANENTLY BRANDED AS A REBUILT

392 SALVAGE VEHICLE. OTHER STATES MAY ALSO PERMANENTLY BRAND THE

393 CERTIFICATE OF TITLE.

394

395 \_\_\_\_\_  
Signature of Purchaser Date"; and

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

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

398 (B) the identification number inspection required under Section [41-1a-511](#); and

399 (C) the odometer disclosure statement required under Section [41-1a-902](#).

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

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

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

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

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

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

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

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

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

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

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

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

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

429 (6) (a) An operator of a motor vehicle auction that sells a salvage vehicle to a person  
430 that is an out-of-country buyer shall:

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

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

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

436 (i) at least two inches wide; and

437 (ii) clearly legible.

438 (7) A supplemental license shall be secured by a dealer, manufacturer, remanufacturer,  
439 transporter, dismantler, crusher, or body shop for each additional place of business maintained  
440 by the licensee.

441 (8) (a) A person who has been convicted of any law relating to motor vehicle  
442 commerce or motor vehicle fraud may not be issued a license or purchase a vehicle with a  
443 salvage or nonrepairable certificate unless full restitution regarding those convictions has been  
444 made.

445 (b) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a  
446 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (8)(a) if  
447 the division has informed the operator of the motor vehicle auction, the dealer, or the consignor  
448 in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or  
449 salvage certificate under Subsection (8)(a).

450 (9) (a) The division may not issue a license to a new applicant for a new or used motor  
451 vehicle dealer license, a new or used motorcycle dealer license, an online dealer, or a small  
452 trailer dealer license unless the new applicant completes an eight-hour orientation class  
453 approved by the division that includes education on motor vehicle laws and rules.

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

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

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

458 (A) providers of the orientation class; and

459 (B) costs of the orientation class.

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

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

463 (A) ethics training;

464 (B) motor vehicle title and registration processes;

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

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

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

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

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

470 (10) A person or purchaser described in Subsection (3)(c)(ii):

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

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

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

479 (11) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a  
480 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (10)(a) if  
481 the division has informed the operator of the motor vehicle auction, the dealer, or the consignor  
482 in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or  
483 salvage certificate under Subsection (10)(a).

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

485 **41-3-202. Licenses -- Classes and scope.**

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

487 (a) offer for sale, sell, or exchange new motor vehicles if the licensee possesses a  
488 franchise from the manufacturer of the motor vehicle offered for sale, sold, or exchanged by the  
489 licensee;

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



491 (c) operate as a body shop; and

492 (d) dismantle motor vehicles.

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

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

495 (b) operate as a body shop; and

496 (c) dismantle motor vehicles.

497 (3) An online dealer's license permits the licensee to, in accordance with the provisions

498 of this chapter:

499 (a) sell new or used motor vehicles of the line-make that the online dealer

500 manufactures exclusively through the internet;

501 (b) establish and maintain a showroom exclusively for the following purposes:

502 (i) to display new motor vehicles that the online dealer offers for sale;

503 (ii) to demonstrate new motor vehicles that the online dealer offers for sale; and

504 (iii) to discuss the price of the new motor vehicles that the online dealer offers for sale;

505 and

506 (c) establish an authorized service center that performs repair work on motor vehicles

507 of the same line-make as the motor vehicles that the online dealer offers for sale.

508 [~~3~~] (4) A new motorcycle, off-highway vehicle, and small trailer dealer's license

509 permits the licensee to:

510 (a) offer for sale, sell, or exchange new motorcycles, off-highway vehicles, or small

511 trailers if the licensee possesses a franchise from the manufacturer of the motorcycle,

512 off-highway vehicle, or small trailer offered for sale, sold, or exchanged by the licensee;

513 (b) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, or small

514 trailers; and

515 (c) dismantle motorcycles, off-highway vehicles, or small trailers.

516 [~~4~~] (5) A used motorcycle, off-highway vehicle, and small trailer dealer's license

517 permits the licensee to:

518 (a) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, and small

519 trailers; and

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

521 [~~5~~] (6) (a) Except as provided in Subsection [~~5~~] (6)(b), a salesperson's license

522 permits the licensee to act as a motor vehicle salesperson and is valid for employment with  
523 only one dealer at a time.

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

527 (7) An online salesperson's license permits the licensee to sell or to negotiate for the  
528 sale of new motor vehicles for one online dealer.

529 [~~(6)~~] (8) (a) A manufacturer's license permits the licensee to construct or assemble  
530 motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, at an  
531 established place of business and to remanufacture motor vehicles.

532 (b) Under rules made by the administrator, the licensee may issue and install vehicle  
533 identification numbers on manufactured motor vehicles.

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

536 [~~(7)~~] (9) A transporter's license permits the licensee to transport or deliver motor  
537 vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, from a  
538 manufacturing, assembling, or distributing point or from a dealer, to dealers, distributors, or  
539 sales agents of a manufacturer or remanufacturer, to or from detail or repair shops, and to  
540 financial institutions or places of storage from points of repossession.

541 [~~(8)~~] (10) A dismantler's license permits the licensee to dismantle motor vehicles  
542 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the purpose of  
543 reselling parts or for salvage, or selling dismantled or salvage vehicles to a crusher or other  
544 dismantler.

545 [~~(9)~~] (11) A distributor or factory branch and distributor branch's license permits the  
546 licensee to sell and distribute new motor vehicles, parts, and accessories to their franchised  
547 dealers.

548 [~~(10)~~] (12) A representative's license, for factory representatives or distributor  
549 representatives permits the licensee to contact the licensee's authorized dealers for the purpose  
550 of making or promoting the sale of motor vehicles, parts, and accessories.

551 [~~(11)~~] (13) (a) (i) A remanufacturer's license permits the licensee to construct,  
552 reconstruct, assemble, or reassemble motor vehicles subject to registration under Title 41,

553 Chapter 1a, Motor Vehicle Act, from used or new motor vehicles or parts.

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

556 (b) Under rules made by the administrator, the licensee may issue and install vehicle  
557 identification numbers on remanufactured motor vehicles.

558 [~~(12)~~] (14) A crusher's license permits the licensee to engage in the business of  
559 crushing or shredding motor vehicles subject to registration under Title 41, Chapter 1a, Motor  
560 Vehicle Act, for the purpose of reducing the useable materials and metals to a more compact  
561 size for recycling.

562 [~~(13)~~] (15) A body shop's license permits the licensee to rebuild, restore, repair, or  
563 paint primarily the body of motor vehicles damaged by collision or natural disaster, and to  
564 dismantle motor vehicles.

565 [~~(14)~~] (16) A special equipment dealer's license permits the licensee to:

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

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

570 (c) operate as a body shop; and

571 (d) dismantle motor vehicles.

572 [~~(15)~~] (17) (a) A salvage vehicle buyer license permits the licensee to bid on or  
573 purchase a vehicle with a salvage certificate as defined in Section [41-1a-1001](#) at any motor  
574 vehicle auction.

575 (b) A salvage vehicle buyer license may only be issued to a motor vehicle dealer,  
576 dismantler, or body shop who qualifies under rules made by the division and is licensed in any  
577 state as a motor vehicle dealer, dismantler, or body shop.

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

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

583 (i) business history;

- 584 (ii) salvage vehicle qualifications;
- 585 (iii) ability to properly handle and dispose of environmental hazardous materials
- 586 associated with salvage vehicles; and
- 587 (iv) record in demonstrating compliance with the provisions of this chapter.

588 Section 8. Section **41-3-203** is amended to read:

589 **41-3-203. Licenses -- Form -- Seal -- Custody of salesperson's license -- Display of**  
590 **salesperson and dealer licenses -- Licensee's pocket card.**

591 (1) (a) The administrator shall prescribe the form of each license and the seal of [his]  
592 the administrator's office shall be imprinted on each license.

593 (b) The license of each salesperson shall be delivered or mailed to the dealer  
594 employing the salesperson and it shall be kept in the custody and control of the dealer and,  
595 except in the case of an online salesperson, conspicuously displayed in the dealer's place of  
596 business.

597 (c) (i) Each licensee shall display conspicuously [his] the licensee's own license in [his]  
598 the licensee's place of business.

599 (ii) Except as provided in Subsection (1)(d), Subsection (1)(c)(i) does not apply to an  
600 online dealer or an online salesperson.

601 (d) Each person who is licensed as an online dealer under this chapter shall  
602 conspicuously display the online dealer's license:

603 (i) in the online dealer's authorized service center; and

604 (ii) if the online dealer maintains a showroom, in the online dealer's showroom.

605 (2) (a) The administrator shall prepare and deliver a pocket card, certifying that the  
606 person whose name is on the card is licensed under this chapter.

607 (b) Each salesperson's card shall also contain the name and address of the dealer  
608 employing him.

609 (c) Each salesperson shall on request display [his] the salesperson's pocket card.

610 (d) An individual licensed as an online salesperson under this chapter shall display an  
611 electronic copy of the online salesperson's license on the website through which the online  
612 salesperson sells new motor vehicles.

613 Section 9. Section **41-3-204** is amended to read:

614 **41-3-204. Licenses -- Principal place of business or authorized service center as**

615 prerequisite -- Change of location -- Relinquishment on loss of principal place of business  
616 or authorized service center.

617 (1) (a) The following licensees must maintain a principal place of business:

618 (i) dealers;

619 (ii) special equipment dealers;

620 (iii) manufacturers;

621 (iv) transporters;

622 (v) remanufacturers;

623 (vi) dismantlers;

624 (vii) crushers;

625 (viii) body shops; and

626 (ix) distributors who:

627 (A) are located within the state; or

628 (B) have a branch office within the state.

629 (b) The administrator may not issue a license under Subsection (1)(a) to an applicant  
630 who does not have a principal place of business.

631 (c) (i) A person licensed as an online dealer under this chapter shall maintain an  
632 authorized service center.

633 (ii) The administrator may not issue a license to an applicant for an online dealer's  
634 license if the applicant does not have an authorized service center.

635 ~~(c)~~ (d) If a licensee changes the location of ~~his~~ the licensee's principal place of  
636 business, ~~he~~ the licensee shall immediately notify the administrator and a new license shall be  
637 granted for the unexpired portion of the term of the original license at no additional fee.

638 (e) If a person licensed as an online dealer under this chapter changes the location of  
639 the online dealer's authorized service center or the online dealer's showroom, the online dealer  
640 shall immediately notify the administrator and the administrator shall grant the online dealer a  
641 new license for the unexpired portion of the term of the online dealer's original license at no  
642 additional fee.

643 (2) (a) If a licensee loses possession of a principal place of business or in the case of an  
644 online dealer, an authorized service center, the license is automatically suspended and ~~he~~ the  
645 licensee shall immediately notify the administrator and upon demand by the administrator

646 deliver the license, pocket cards, special plates, and temporary permits to the administrator.

647 (b) The administrator shall hold the licenses, cards, plates, and permits until the  
648 licensee obtains a principal place of business or authorized service center.

649 Section 10. Section **41-3-209** is amended to read:

650 **41-3-209. Administrator's findings -- Suspension and revocation of license.**

651 (1) If the administrator finds that an applicant is not qualified to receive a license, a  
652 license may not be granted.

653 (2) (a) On December 1, 2010, the administrator shall suspend the license of a  
654 salesperson who fails to submit to the division fingerprints as required under Subsection  
655 [41-3-205.5\(1\)\(b\)](#) on or before November 30, 2010.

656 (b) If the administrator finds that there is reasonable cause to deny, suspend, or revoke  
657 a license issued under this chapter, the administrator shall deny, suspend, or revoke the license.

658 (c) Reasonable cause for denial, suspension, or revocation of a license includes, in  
659 relation to the applicant or license holder or any of its partners, officers, or directors:

660 (i) lack of a principal place of business, if applicable;

661 (ii) lack of a sales tax license required under Title 59, Chapter 12, Sales and Use Tax  
662 Act;

663 (iii) lack of a bond in effect as required by this chapter;

664 (iv) current revocation or suspension of a dealer, online dealer, dismantler, auction,  
665 [~~or~~] salesperson, or online salesperson license issued in another state;

666 (v) nonpayment of required fees;

667 (vi) making a false statement on any application for a license under this chapter or for  
668 special license plates;

669 (vii) a violation of any state or federal law involving motor vehicles;

670 (viii) a violation of any state or federal law involving controlled substances;

671 (ix) charges filed with any county attorney, district attorney, or U.S. attorney in any  
672 court of competent jurisdiction for a violation of any state or federal law involving motor  
673 vehicles;

674 (x) a violation of any state or federal law involving fraud;

675 (xi) a violation of any state or federal law involving a registerable sex offense under  
676 Section [77-41-106](#); [~~or~~]

677 (xii) having had a license issued under this chapter revoked within five years from the  
678 date of application[-]; or

679 (xiii) as an online dealer:

680 (A) failure to have an authorized service center; or

681 (B) failure to comply with a provision of Section [41-3-210.5](#).

682 (d) Any action taken by the administrator under Subsection (2)(c)(ix) shall remain in  
683 effect until a final resolution is reached by the court involved or the charges are dropped.

684 (3) If the administrator finds that an applicant is not qualified to receive a license under  
685 this section, the administrator shall provide the applicant written notice of the reason for the  
686 denial.

687 (4) If the administrator finds that the license holder has been convicted by a court of  
688 competent jurisdiction of violating any of the provisions of this chapter or any rules made by  
689 the administrator, or finds other reasonable cause, the administrator may, by complying with  
690 the emergency procedures of Title 63G, Chapter 4, Administrative Procedures Act:

691 (a) suspend the license on terms and for a period of time the administrator finds  
692 reasonable; or

693 (b) revoke the license.

694 (5) (a) After suspending or revoking a license, the administrator may take reasonable  
695 action to:

696 (i) notify the public that the licensee is no longer in business; and

697 (ii) prevent the former licensee from violating the law by conducting business without  
698 a license.

699 (b) Action under Subsection (5)(a) may include signs, banners, barriers, locks,  
700 bulletins, and notices.

701 (c) Any business being conducted incidental to the business for which the former  
702 licensee was licensed may continue to operate subject to the preventive action taken under this  
703 subsection.

704 Section 11. Section **41-3-210** is amended to read:

705 **41-3-210. License holders -- Prohibitions and requirements.**

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

707 (a) intentionally publish, display, or circulate any advertising that is misleading or

708 inaccurate in any material fact or that misrepresents any of the products sold, manufactured,  
709 remanufactured, handled, or furnished by a licensee;

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

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

714 (d) violate any law of the state respecting commerce in motor vehicles or any rule  
715 respecting commerce in motor vehicles made by any licensing or regulating authority of the  
716 state;

717 (e) engage in business as a new motor vehicle dealer, an online dealer, a special  
718 equipment dealer, a used motor vehicle dealer, a motor vehicle crusher, or a body shop without  
719 having in effect a bond as required in this chapter;

720 (f) unless licensed as an online dealer, act as a dealer, dismantler, crusher,  
721 manufacturer, transporter, remanufacturer, or body shop without maintaining a principal place  
722 of business;

723 (g) engage in a business respecting the selling or exchanging of new or new and used  
724 motor vehicles for which he is not licensed, including selling or exchanging a new motor  
725 vehicle for which the licensee does not have a franchise, but this Subsection (1)(g) does not  
726 apply to:

727 (i) a special equipment dealer who sells a new special equipment motor vehicle with a  
728 gross vehicle weight of 12,000 or more pounds after installing special equipment on the motor  
729 vehicle; or

730 (ii) an online dealer;

731 (h) dismantle or transport to a crusher for crushing or other disposition any motor  
732 vehicle without first obtaining a dismantling or junk permit under Section [41-1a-1009](#),  
733 [41-1a-1010](#), or [41-1a-1011](#);

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

736 (j) advertise or otherwise represent, or knowingly allow to be advertised or represented  
737 on his behalf or at his place of business, that no down payment is required in connection with  
738 the sale of a motor vehicle when a down payment is required and the buyer is advised or



739 induced to finance a down payment by a loan in addition to any other loan financing the  
740 remainder of the purchase price of the motor vehicle;

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

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

748 (m) as anyone other than a salesperson licensed under this chapter, be present on a  
749 dealer display space and contact prospective customers to promote the sale of the dealer's  
750 vehicles;

751 (n) unless licensed as an online dealer, sell, display for sale, or offer for sale motor  
752 vehicles at any location other than the principal place of business or additional places of  
753 business licensed under this chapter; this provision is construed to prevent dealers,  
754 salespersons, or any other representative of a dealership from selling, displaying, or offering  
755 motor vehicles for sale from their homes or other unlicensed locations;

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

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

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

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

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

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

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

770 (i) (A) have a new motor vehicle dealer's license under Section 41-3-202; and  
771 ~~[(ii)]~~ (B) possess a franchise from the manufacturer of the new motor vehicle sold,  
772 displayed for sale, offered for sale, or exchanged by the licensee; or  
773 (ii) have an online dealer license under Section 41-3-202;  
774 (u) (i) as a new motor vehicle dealer or used motor vehicle dealer, encourage or  
775 conspire with any person who has not obtained a salesperson's license to solicit for prospective  
776 purchasers~~[-];~~ or  
777 (ii) as an online dealer, encourage or conspire with any person who has not obtained an  
778 online salesperson license to solicit for prospective purchasers;  
779 (v) engage in business as an online dealer without having an authorized service center;  
780 or  
781 (w) as an online dealer, offer for sale or sell a new motor vehicle that has a gross  
782 vehicle weight rating of more than 7,500 pounds.  
783 (2) (a) If a new motor vehicle is constructed in more than one stage, such as a motor  
784 home, ambulance, or van conversion, the licensee shall advertise, represent, sell, and exchange  
785 the vehicle as the make designated by the final stage manufacturer, except in those specific  
786 situations where:  
787 (i) the licensee possesses a franchise from the initial or first stage manufacturer,  
788 presumably the manufacturer of the motor vehicle's chassis[-]; or  
789 (ii) the licensee manufactured the initial or first stage of the motor vehicle.  
790 (b) Sales of multiple stage manufactured motor vehicles shall include the transfer to the  
791 purchaser of a valid manufacturer's statement or certificate of origin from each manufacturer  
792 under Section 41-3-301.  
793 (3) Each licensee, except ~~[salespersons]~~ a salesperson or an online salesperson, shall  
794 maintain and make available for inspection by peace officers and employees of the division:  
795 (a) a record of every motor vehicle bought, or exchanged by the licensee or received or  
796 accepted by the licensee for sale or exchange;  
797 (b) a record of every used part or used accessory bought or otherwise acquired;  
798 (c) a record of every motor vehicle bought or otherwise acquired and wrecked or  
799 dismantled by the licensee;  
800 (d) all buyers' orders, contracts, odometer statements, temporary permit records,

801 financing records, and all other documents related to the purchase, sale, or consignment of  
802 motor vehicles; and

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

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

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

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

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

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

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

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

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

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

828 (f) unfairly, without regard to the equities of the dealer, cancel the franchise of any  
829 motor vehicle dealer; the nonrenewal of a franchise or selling agreement without cause is a  
830 violation of this subsection and is an unfair cancellation.

831 (6) A dealer may not assist an unlicensed dealer or salesperson in unlawful activity

832 through active or passive participation in sales, or by allowing use of [~~his~~] the dealer's facilities  
833 or dealer license number, or by any other means.

834 (7) (a) The holder of any new motor vehicle dealer license issued under this chapter  
835 may not sell any new motor vehicle to:

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

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

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

845 (8) A dealer licensed under this chapter may not take on consignment any new motor  
846 vehicle from anyone other than a new motor vehicle dealer, factory, or distributor who is  
847 licensed and franchised or otherwise authorized under this chapter to distribute or sell that  
848 make of motor vehicle in this or any other state.

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

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

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

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

862 (c) The provisions of Subsection (11)(a) shall not apply to an online dealer or a dealer

863 participating in a trade show or exhibition if:

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

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

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

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

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

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

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

877 (14) A manufacturer is not eligible for an online dealer license under this chapter if the  
878 manufacturer:

879 (a) on May 12, 2015, operates under a franchise with any dealer in the state; or

880 (b) is a parent, subsidiary, affiliate, or otherwise under the legal or practical control of  
881 or under the legal or practical common control with another manufacturer who, on May 12,  
882 2015, operates under a franchise with any dealer in the state.

883 Section 12. Section 41-3-210.5 is enacted to read:

884 **41-3-210.5. Online dealer license prohibitions.**

885 (1) (a) Subject to Subsection (1)(b), if an online dealer licensed under this chapter  
886 maintains a showroom, the online dealer may not display or maintain more than six new motor  
887 vehicles at the online dealer's showroom.

888 (b) (i) Each of the six new motor vehicles described in Subsection (1)(a) shall be a  
889 demonstration vehicle or a display vehicle.

890 (ii) The six new motor vehicles described in Subsection (1)(a) may be any combination  
891 of demonstration vehicles and display vehicles.

892 (2) An online dealer licensed under this chapter may not:

893 (a) maintain a display vehicle outside the online dealer's showroom;

- 894 (b) maintain a display vehicle outdoors;
- 895 (c) except as provided in Subsection (1), maintain any inventory of new or used motor
- 896 vehicles at the online dealer's showroom; or
- 897 (d) except as provided in Subsection (4), sell or offer for sale, exchange, lease, or rent:
- 898 (i) a new motor vehicle that the online dealer maintains at the online dealer's
- 899 showroom;
- 900 (ii) a new motor vehicle other than one that is of the line-make that the online dealer
- 901 manufactures; or
- 902 (iii) a used motor vehicle from the online dealer's showroom.
- 903 (3) During any 12 month period, an online dealer licensed under this chapter:
- 904 (a) may sell each demonstration vehicle and each display vehicle described in
- 905 Subsection (1); and
- 906 (b) may not sell or offer for sale more than a combined total of six demonstration
- 907 vehicles and display vehicles.
- 908 (4) Except as provided in this section, an online dealer licensed under this chapter may
- 909 only sell new motor vehicles through the internet.

910 Section 13. Section **41-3-702** is amended to read:

911 **41-3-702. Civil penalty for violation.**

- 912 (1) The following are civil violations under this chapter and are in addition to criminal
- 913 violations under this chapter:
- 914 (a) Level I:
- 915 (i) failing to display business license;
- 916 (ii) failing to surrender license of salesperson because of termination, suspension, or
- 917 revocation;
- 918 (iii) failing to maintain a separation from nonrelated motor vehicle businesses at
- 919 licensed locations;
- 920 (iv) issuing a temporary permit improperly;
- 921 (v) failing to maintain records;
- 922 (vi) selling a new motor vehicle to a nonfranchised dealer or leasing company without
- 923 licensing the motor vehicle;
- 924 (vii) special plate violation; [~~and~~] or

- 925 (viii) failing to maintain a sign at a principal place of business.
- 926 (b) Level II:
- 927 (i) failing to report sale;
- 928 (ii) dismantling without a permit;
- 929 (iii) manufacturing without meeting construction or vehicle identification number
- 930 standards;
- 931 (iv) withholding customer license plates; or
- 932 (v) selling a motor vehicle on consecutive days of Saturday and Sunday.
- 933 (c) Level III:
- 934 (i) operating without a principal place of business;
- 935 (ii) selling a new motor vehicle without holding the franchise;
- 936 (iii) crushing a motor vehicle without proper evidence of ownership;
- 937 (iv) selling from an unlicensed location;
- 938 (v) altering a temporary permit;
- 939 (vi) refusal to furnish copies of records;
- 940 (vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;
- 941 (viii) advertising violation;
- 942 (ix) failing to separately identify the fees required by Title 41, Chapter 1a, Motor
- 943 Vehicle Act;
- 944 (x) encouraging or conspiring with unlicensed persons to solicit for prospective
- 945 purchasers; ~~and~~
- 946 (xi) selling, offering for sale, or displaying for sale or exchange a vehicle, vessel, or
- 947 outboard motor in violation of Section [41-1a-705](#)[:];
- 948 (xii) operating without an authorized service center; or
- 949 (xiii) failing to comply with Section [41-3-210.5](#).
- 950 (2) (a) The schedule of civil penalties for violations of Subsection (1) is:
- 951 (i) Level I: \$25 for the first offense, \$100 for the second offense, and \$250 for the third
- 952 and subsequent offenses;
- 953 (ii) Level II: \$100 for the first offense, \$250 for the second offense, and \$1,000 for the
- 954 third and subsequent offenses; and
- 955 (iii) Level III: \$250 for the first offense, \$1,000 for the second offense, and \$5,000 for

956 the third and subsequent offenses.

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

960 (3) The following are civil violations in addition to criminal violations under Section  
961 [41-1a-1008](#):

962 (a) knowingly selling a salvage vehicle, as defined in Section [41-1a-1001](#), without  
963 disclosing that the salvage vehicle has been repaired or rebuilt;

964 (b) knowingly making a false statement on a vehicle damage disclosure statement, as  
965 defined in Section [41-1a-1001](#); or

966 (c) fraudulently certifying that a damaged motor vehicle is entitled to an unbranded  
967 title, as defined in Section [41-1a-1001](#), when it is not.

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

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

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

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