

**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 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 exclusively online;
- ▶ creates a license for an online salesperson;
- ▶ exempts a franchisee who operates exclusively online 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

**41-3-102**, as last amended by Laws of Utah 2014, Chapter 237

**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 **59-12-107**, as last amended by Laws of Utah 2012, Chapters 178, 312, and 399

36 ENACTS:

37 **13-14-108**, Utah Code Annotated 1953



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

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

41 **13-14-108. Applicability.**

42 The provisions of this chapter do not apply to the parties to a franchise agreement under  
43 which the franchisee agrees to transact business exclusively online.

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

45 **41-1a-802. Identification number inspectors -- Duties.**

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

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

50 Motor Vehicle Safety Inspection Act;

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

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

- 56 (a) inspect the identification number of the vehicle;
- 57 (b) make a record of the identification number inspection upon an application form  
58 provided by the division; and

59 (c) verify the facts in the application.

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

61 **41-3-102. Definitions.**

62 As used in this chapter:

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

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

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

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

71 (5) "Body shop" means a business engaged in rebuilding, restoring, repairing, or  
72 painting primarily the body of motor vehicles damaged by collision or natural disaster.

73 (6) "Commission" means the State Tax Commission.

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

77 (8) (a) "Dealer" means a person:

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

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

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

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

86 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any  
87 12-month period.

88 (10) "Distributor" means a person who has a franchise from a manufacturer of motor  
89 vehicles to distribute motor vehicles within this state and who in whole or in part sells or

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

91 (11) "Distributor branch" means a branch office similarly maintained by a distributor  
92 for the same purposes a factory branch is maintained.

93 (12) "Distributor representative" means a person and each officer and employee of the  
94 person engaged as a representative of a distributor or distributor branch of motor vehicles to  
95 make or promote the sale of the distributor or the distributor branch's motor vehicles, or for  
96 supervising or contacting dealers or prospective dealers of the distributor or the distributor  
97 branch.

98 (13) "Division" means the Motor Vehicle Enforcement Division created in Section  
99 [41-3-104](#).

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

103 (15) "Factory representative" means a person and each officer and employee of the  
104 person engaged as a representative of a manufacturer of motor vehicles or by a factory branch  
105 to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or for  
106 supervising or contacting the dealers or prospective dealers of the manufacturer or the factory  
107 branch.

108 (16) "Franchise" means a contract or agreement between a dealer and a manufacturer of  
109 new motor vehicles or its distributor or factory branch by which the dealer is authorized to sell  
110 any specified make or makes of new motor vehicles.

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

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

116 (19) (a) "Motor vehicle" means a vehicle that is:

- 117 (i) self-propelled;
- 118 (ii) a trailer, travel trailer, or semitrailer; or
- 119 (iii) an off-highway vehicle or small trailer.

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

- 121 (i) mobile homes as defined in Section 41-1a-102;
- 122 (ii) trailers of 750 pounds or less unladen weight;
- 123 (iii) farm tractors and other machines and tools used in the production, harvesting, and
- 124 care of farm products; and

125 (iv) park model recreational vehicles as defined in Section 41-1a-102.

126 (20) "New motor vehicle" means a motor vehicle that has never been titled or  
 127 registered and has been driven less than 7,500 miles, unless the motor vehicle is an  
 128 off-highway vehicle, small trailer, trailer, travel trailer, or semitrailer, in which case the  
 129 mileage limit does not apply.

130 (21) "Off-highway vehicle" has the same meaning as provided in Section 41-22-2.

131 (22) "Online dealer" means a person who sells, displays for sale, or offers for sale or  
 132 exchange:

133 (a) three or more new motor vehicles in any 12-month period; and

134 (b) exclusively online.

135 (23) "Online salesperson" means an individual who for a salary, commission, or  
 136 compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by  
 137 an online dealer to sell, purchase, or exchange, or to negotiate for the sale, purchase, or  
 138 exchange of new motor vehicles.

139 [~~22~~] (24) "Pawnbroker" means a person whose business is to lend money on security  
 140 of personal property deposited with him.

141 [~~23~~] (25) "Principal place of business" means a site or location in this state:

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

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

149 (c) that includes a permanent enclosed building or structure large enough to  
 150 accommodate the office of the establishment and to provide a safe place to keep the books and  
 151 other records of the business, at which the principal portion of the business is conducted and

152 the books and records kept and maintained.

153 ~~[(24)]~~ (26) "Remanufacturer" means a person who reconstructs used motor vehicles  
154 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style  
155 and appearance of the motor vehicle or who constructs or assembles motor vehicles from used  
156 or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or  
157 more motor vehicles in any 12-month period.

158 ~~[(25)]~~ (27) "Salesperson" means an individual who for a salary, commission, or  
159 compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by  
160 any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to  
161 negotiate for the sale, purchase, or exchange of motor vehicles.

162 ~~[(26)]~~ (28) "Semitrailer" has the same meaning as defined in Section 41-1a-102.

163 ~~[(27)]~~ (29) "Small trailer" means a trailer that has an unladen weight of more than 750  
164 pounds, but less than 2,000 pounds.

165 ~~[(28)]~~ (30) "Special equipment" includes a truck mounted crane, cherry picker, material  
166 lift, post hole digger, and a utility or service body.

167 ~~[(29)]~~ (31) "Special equipment dealer" means a new or new and used motor vehicle  
168 dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle  
169 weight of 12,000 or more pounds and installing special equipment on the incomplete motor  
170 vehicle.

171 ~~[(30)]~~ (32) "Trailer" has the same meaning as defined in Section 41-1a-102.

172 ~~[(31)]~~ (33) "Transporter" means a person engaged in the business of transporting motor  
173 vehicles as described in Section 41-3-202.

174 ~~[(32)]~~ (34) "Travel trailer" has the same meaning as provided in Section 41-1a-102.

175 ~~[(33)]~~ (35) "Used motor vehicle" means a vehicle that has been titled and registered to  
176 a purchaser other than a dealer or has been driven 7,500 or more miles, unless the vehicle is a  
177 trailer, or semitrailer, in which case the mileage limit does not apply.

178 ~~[(34)]~~ (36) "Wholesale motor vehicle auction" means a dealer primarily engaged in the  
179 business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by  
180 this or any other jurisdiction.

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

182 **41-3-103. Exceptions to "dealer" definition -- Dealer licensed in other state --**

183 **Online dealer or salesperson.**

184 Under this chapter:

185 (1) (a) An insurance company, bank, finance company, company registered as a title  
186 lender under Title 7, Chapter 24, Title [~~Lender~~] Lending Registration Act, company registered  
187 as a check casher or deferred deposit lender under Title 7, Chapter 23, Check Cashing and  
188 Deferred Deposit Lending Registration Act, public utility company, commission impound yard,  
189 federal or state governmental agency, or any political subdivision of any of them or any other  
190 person coming into possession of a motor vehicle as an incident to its regular business, that  
191 sells the motor vehicle under contractual rights that it may have in the motor vehicle is not  
192 considered a dealer.

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

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

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

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

204 (4) Except as otherwise expressly provided:

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

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

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

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

211 (b) sell new motor vehicles without a franchise, if the online dealer also manufactures  
212 the new motor vehicles.

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

214           **41-3-105. Administrator's powers and duties -- Administrator and investigators**  
215 **to be law enforcement officers.**

216           (1) The administrator may make rules to carry out the purposes of this chapter and  
217 Sections [41-1a-1001](#) through [41-1a-1007](#) according to the procedures and requirements of Title  
218 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

222           (b) The administrator, assistant administrator, and all investigators shall be law  
223 enforcement officers certified by peace officer standards and training as required by Section  
224 [53-13-103](#).

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

226           (i) this chapter;

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

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

229           (iv) any rule made by the administrator.

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

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

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

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

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

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

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

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



- 245 (A) the municipality, with the street and number, if any;
- 246 (B) if located outside of any municipality, a general description so that the location can  
247 be determined; and
- 248 (C) any other places of business operated and maintained by the applicant in  
249 conjunction with the principal place of business;
- 250 (v) if the application is for a new motor vehicle dealer's license, the name of each  
251 motor vehicle the applicant has been enfranchised to sell or exchange, the name and address of  
252 the manufacturer or distributor who has enfranchised the applicant, and the names and  
253 addresses of the individuals who will act as salespersons under authority of the license;
- 254 (vi) at least five years of business history;
- 255 (vii) the federal tax identification number issued to the dealer; and
- 256 (viii) the sales and use tax license number issued to the dealer under Title 59, Chapter  
257 12, Sales and Use Tax Act, if applicable.
- 258 (5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement  
259 Administrator, State of Utah," to authenticate the acts of the administrator's office.
- 260 (6) (a) The administrator may require that [~~the~~] a licensee, other than an online dealer  
261 or online salesperson, erect or post signs or devices on the licensee's principal place of business  
262 and any other sites, equipment, or locations operated and maintained by the licensee in  
263 conjunction with the licensee's business.
- 264 (b) The signs or devices shall state the licensee's name, principal place of business,  
265 type and number of licenses, and any other information that the administrator considers  
266 necessary to identify the licensee.
- 267 (c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah  
268 Administrative Rulemaking Act, determining allowable size and shape of signs or devices,  
269 their lettering and other details, and their location.
- 270 (7) (a) The administrator shall provide for quarterly meetings of the advisory board and  
271 may call special meetings.
- 272 (b) Notices of all meetings shall be sent to each member not fewer than five days prior  
273 to the meeting.
- 274 (8) The administrator, the officers and inspectors of the division designated by the  
275 commission, and peace officers shall:

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

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

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

285 (d) investigate traffic accidents and secure testimony of witnesses or persons involved;  
286 and

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

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

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

291 **41-3-201. Licenses required -- Restitution -- Education.**

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

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

296 (a) a dealer;

297 (b) salvage vehicle buyer;

298 (c) salesperson;

299 (d) manufacturer;

300 (e) transporter;

301 (f) dismantler;

302 (g) distributor;

303 (h) factory branch and representative;

304 (i) distributor branch and representative;

305 (j) crusher;

306 (k) remanufacturer; [or]

307 (l) body shop[-];

308 (m) online dealer; or

309 (n) online salesperson.

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

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

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

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

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

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

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

325 (iii) to a crusher.

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

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

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

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

337 (e) For a vehicle with a salvage certificate purchased under Subsection (3)(c)(ii), an

338 operator of a motor vehicle auction shall:

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

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

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

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

350 Vehicle Identification Number (VIN)

351 Year: Make: Model:

352 SALVAGE VEHICLE--NOT FOR RESALE WITHOUT DISCLOSURE

353 WARNING: THIS SALVAGE VEHICLE MAY NOT BE SAFE FOR OPERATION  
354 UNLESS PROPERLY REPAIRED. SOME STATES MAY REQUIRE AN INSPECTION  
355 BEFORE THIS VEHICLE MAY BE REGISTERED. THE STATE OF UTAH MAY  
356 REQUIRE THIS VEHICLE TO BE PERMANENTLY BRANDED AS A REBUILT  
357 SALVAGE VEHICLE. OTHER STATES MAY ALSO PERMANENTLY BRAND THE  
358 CERTIFICATE OF TITLE.

359 \_\_\_\_\_  
360 Signature of Purchaser Date"; and

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

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

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

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

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

367 (g) The commission may impose an administrative entrance fee established in  
368 accordance with the procedures and requirements of Section 63J-1-504 not to exceed \$10 on a

369 person not holding a license described in Subsection (3)(e)(i) that enters the physical premises  
370 of a motor vehicle auction for the purpose of viewing available salvage vehicles prior to an  
371 auction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

401 (i) at least two inches wide; and

402 (ii) clearly legible.

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

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

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

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

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

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

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

423 (A) providers of the orientation class; and

424 (B) costs of the orientation class.

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

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

428 (A) ethics training;

429 (B) motor vehicle title and registration processes;

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

- 431 (D) Department of Insurance requirements relating to motor vehicles;  
432 (E) Department of Public Safety requirements relating to motor vehicles;  
433 (F) federal requirements related to motor vehicles as determined by the division; and  
434 (G) any required disclosure compliance forms as determined by the division.
- 435 (10) A person or purchaser described in Subsection (3)(c)(ii):  
436 (a) may not purchase more than five salvage vehicles with a nonrepairable or salvage  
437 certificate as defined in Section 41-1a-1001 in any 12-month period;  
438 (b) may not, without first complying with Section 41-1a-705, offer for sale, sell, or  
439 exchange more than two vehicles with a salvage certificate as defined in Section 41-1a-1001 in  
440 any 12-month period to a person not licensed under this section; and  
441 (c) may not, without first complying with Section 41-1a-705, offer for sale, sell, or  
442 exchange a vehicle with a nonrepairable certificate as defined in Section 41-1a-1001 to a  
443 person not licensed under this section.
- 444 (11) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a  
445 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (10)(a) if  
446 the division has informed the operator of the motor vehicle auction, the dealer, or the consignor  
447 in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or  
448 salvage certificate under Subsection (10)(a).

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

450 **41-3-202. Licenses -- Classes and scope.**

- 451 (1) A new motor vehicle dealer's license permits the licensee to:  
452 (a) offer for sale, sell, or exchange new motor vehicles if the licensee possesses a  
453 franchise from the manufacturer of the motor vehicle offered for sale, sold, or exchanged by the  
454 licensee;  
455 (b) offer for sale, sell, or exchange used motor vehicles;  
456 (c) operate as a body shop; and  
457 (d) dismantle motor vehicles.
- 458 (2) A used motor vehicle dealer's license permits the licensee to:  
459 (a) offer for sale, sell, or exchange used motor vehicles;  
460 (b) operate as a body shop; and  
461 (c) dismantle motor vehicles.

462 (3) An online dealer's license permits the licensee to offer new motor vehicles for sale,  
463 sell, or exchange exclusively online.

464 [~~3~~] (4) A new motorcycle, off-highway vehicle, and small trailer dealer's license  
465 permits the licensee to:

466 (a) offer for sale, sell, or exchange new motorcycles, off-highway vehicles, or small  
467 trailers if the licensee possesses a franchise from the manufacturer of the motorcycle,  
468 off-highway vehicle, or small trailer offered for sale, sold, or exchanged by the licensee;

469 (b) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, or small  
470 trailers; and

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

472 [~~4~~] (5) A used motorcycle, off-highway vehicle, and small trailer dealer's license  
473 permits the licensee to:

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

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

477 [~~5~~] (6) (a) Except as provided in Subsection [~~5~~] (6)(b), a salesperson's license  
478 permits the licensee to act as a motor vehicle salesperson and is valid for employment with  
479 only one dealer at a time.

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

483 (7) An online salesperson's license permits the licensee to sell, purchase, or exchange,  
484 or to negotiate for the sale, purchase, or exchange of new motor vehicles for one online dealer.

485 [~~6~~] (8) (a) A manufacturer's license permits the licensee to construct or assemble  
486 motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, at an  
487 established place of business and to remanufacture motor vehicles.

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

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

492 [~~7~~] (9) A transporter's license permits the licensee to transport or deliver motor



493 vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, from a  
494 manufacturing, assembling, or distributing point or from a dealer, to dealers, distributors, or  
495 sales agents of a manufacturer or remanufacturer, to or from detail or repair shops, and to  
496 financial institutions or places of storage from points of repossession.

497 ~~[(8)]~~ (10) A dismantler's license permits the licensee to dismantle motor vehicles  
498 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the purpose of  
499 reselling parts or for salvage, or selling dismantled or salvage vehicles to a crusher or other  
500 dismantler.

501 ~~[(9)]~~ (11) A distributor or factory branch and distributor branch's license permits the  
502 licensee to sell and distribute new motor vehicles, parts, and accessories to their franchised  
503 dealers.

504 ~~[(10)]~~ (12) A representative's license, for factory representatives or distributor  
505 representatives permits the licensee to contact the licensee's authorized dealers for the purpose  
506 of making or promoting the sale of motor vehicles, parts, and accessories.

507 ~~[(11)]~~ (13) (a) (i) A remanufacturer's license permits the licensee to construct,  
508 reconstruct, assemble, or reassemble motor vehicles subject to registration under Title 41,  
509 Chapter 1a, Motor Vehicle Act, from used or new motor vehicles or parts.

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

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

514 ~~[(12)]~~ (14) A crusher's license permits the licensee to engage in the business of  
515 crushing or shredding motor vehicles subject to registration under Title 41, Chapter 1a, Motor  
516 Vehicle Act, for the purpose of reducing the useable materials and metals to a more compact  
517 size for recycling.

518 ~~[(13)]~~ (15) A body shop's license permits the licensee to rebuild, restore, repair, or  
519 paint primarily the body of motor vehicles damaged by collision or natural disaster, and to  
520 dismantle motor vehicles.

521 ~~[(14)]~~ (16) A special equipment dealer's license permits the licensee to:

522 (a) buy incomplete new motor vehicles with a gross vehicle weight of 12,000 or more  
523 pounds from a new motor vehicle dealer and sell the new vehicle with the special equipment

524 installed without a franchise from the manufacturer;

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

526 (c) operate as a body shop; and

527 (d) dismantle motor vehicles.

528 ~~[(15)]~~ (17) (a) A salvage vehicle buyer license permits the licensee to bid on or  
529 purchase a vehicle with a salvage certificate as defined in Section [41-1a-1001](#) at any motor  
530 vehicle auction.

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

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

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

539 (i) business history;

540 (ii) salvage vehicle qualifications;

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

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

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

545 **41-3-203. Licenses -- Form -- Seal -- Custody of salesperson's license -- Display of**  
546 **salesperson and dealer licenses -- Licensee's pocket card.**

547 (1) (a) The administrator shall prescribe the form of each license and the seal of his  
548 office shall be imprinted on each license.

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

552 (c) Each licensee shall display conspicuously his own license in his place of business,  
553 unless the licensee is an online dealer or an online salesperson.

554 (2) (a) The administrator shall prepare and deliver a pocket card, certifying that the

555 person whose name is on the card is licensed under this chapter.

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

558 (c) Each salesperson shall on request display his pocket card.

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

560 **41-3-204. Licenses -- Principal place of business as prerequisite -- Change of**  
561 **location -- Relinquishment on loss of principal place of business.**

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

563 (i) dealers;

564 (ii) special equipment dealers;

565 (iii) manufacturers;

566 (iv) transporters;

567 (v) remanufacturers;

568 (vi) dismantlers;

569 (vii) crushers;

570 (viii) body shops; and

571 (ix) distributors who:

572 (A) are located within the state; or

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

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

576 (c) If a licensee changes the location of his principal place of business, he shall  
577 immediately notify the administrator and a new license shall be granted for the unexpired  
578 portion of the term of the original license at no additional fee.

579 (2) (a) If a licensee loses possession of a principal place of business, the license is  
580 automatically suspended and he shall immediately notify the administrator and upon demand  
581 by the administrator deliver the license, pocket cards, special plates, and temporary permits to  
582 the administrator.

583 (b) The administrator shall hold the licenses, cards, plates, and permits until the  
584 licensee obtains a principal place of business.

585 (3) This section does not apply to an online dealer.

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

587 **41-3-209. Administrator's findings -- Suspension and revocation of license.**

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

590 (2) (a) On December 1, 2010, the administrator shall suspend the license of a  
591 salesperson who fails to submit to the division fingerprints as required under Subsection  
592 [41-3-205.5\(1\)\(b\)](#) on or before November 30, 2010.

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

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

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

598 (ii) except as an online dealer, lack of a sales tax license required under Title 59,  
599 Chapter 12, Sales and Use Tax Act;

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

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

603 (v) nonpayment of required fees;

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

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

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

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

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

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

614 (xii) having had a license issued under this chapter revoked within five years from the  
615 date of application.

616 (d) Any action taken by the administrator under Subsection (2)(c)(ix) shall remain in

617 effect until a final resolution is reached by the court involved or the charges are dropped.

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

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

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

627 (b) revoke the license.

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

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

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

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

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

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

639 **41-3-210. License holders -- Prohibitions and requirements.**

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

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

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

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

648 (d) violate any law of the state respecting commerce in motor vehicles or any rule  
649 respecting commerce in motor vehicles made by any licensing or regulating authority of the  
650 state;

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

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

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

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

664 (ii) an online dealer who manufactures the motor vehicles that the online dealer sells;

665 (h) dismantle or transport to a crusher for crushing or other disposition any motor  
666 vehicle without first obtaining a dismantling or junk permit under Section [41-1a-1009](#),  
667 [41-1a-1010](#), or [41-1a-1011](#);

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

670 (j) advertise or otherwise represent, or knowingly allow to be advertised or represented  
671 on his behalf or at his place of business, that no down payment is required in connection with  
672 the sale of a motor vehicle when a down payment is required and the buyer is advised or  
673 induced to finance a down payment by a loan in addition to any other loan financing the  
674 remainder of the purchase price of the motor vehicle;

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

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

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

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

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

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

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

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

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

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

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

704 (i) (A) have a new motor vehicle dealer's license under Section [41-3-202](#); and  
705 [~~(i)~~] (B) possess a franchise from the manufacturer of the new motor vehicle sold,  
706 displayed for sale, offered for sale, or exchanged by the licensee; or

707 (ii) have an online dealer license under Section [41-3-202](#); or

708 (u) (i) as a new motor vehicle dealer or used motor vehicle dealer, encourage or  
709 conspire with any person who has not obtained a salesperson's license to solicit for prospective

710 purchasers[-]; or

711 (ii) as an online dealer, encourage or conspire with any person who has not obtained an  
712 online salesperson license to solicit for prospective purchasers.

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

717 (i) the licensee possesses a franchise from the initial or first stage manufacturer,  
718 presumably the manufacturer of the motor vehicle's chassis[-]; or

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

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

723 (3) Each licensee, except [~~salespersons~~] a salesperson or an online salesperson, shall  
724 maintain and make available for inspection by peace officers and employees of the division:

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

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

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

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

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

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

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

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

740 (5) A manufacturer, distributor, distributor representative, or factory representative



741 may not induce or attempt to induce by means of coercion, intimidation, or discrimination any  
742 dealer to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

792 (c) The provisions of Subsection (11)(a) shall not apply to an online dealer or a dealer  
793 participating in a trade show or exhibition if:

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

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

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

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

- 803 (b) The identification required under Subsection (13)(a) shall:
- 804 (i) include the name, address, and license number of the dismantler or dealer; and
- 805 (ii) be conspicuously displayed on both sides of the vehicle or equipment in clearly
- 806 legible letters and numerals not less than two inches in height.

807 Section 12. Section **59-12-107** is amended to read:

808 **59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or**  
809 **other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other**  
810 **liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt --**  
811 **Penalties and interest.**

812 (1) As used in this section:

813 (a) "Ownership" means direct ownership or indirect ownership through a parent,  
814 subsidiary, or affiliate.

815 (b) "Related seller" means a seller that:

- 816 (i) meets one or more of the criteria described in Subsection (2)(a)(i); and
- 817 (ii) delivers tangible personal property, a service, or a product transferred electronically
- 818 that is sold:

819 (A) by a seller that does not meet one or more of the criteria described in Subsection  
820 (2)(a)(i); and

821 (B) to a purchaser in the state.

822 (c) "Substantial ownership interest" means an ownership interest in a business entity if  
823 that ownership interest is greater than the degree of ownership of equity interest specified in 15  
824 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

825 (2) (a) Except as provided in Subsection (2)(e), Section **59-12-107.1**, or Section  
826 **59-12-123**, and subject to Subsection (2)(f), each seller shall pay or collect and remit the sales  
827 and use taxes imposed by this chapter if within this state the seller:

- 828 (i) has or utilizes:
  - 829 (A) an office;
  - 830 (B) a distribution house;
  - 831 (C) a sales house;
  - 832 (D) a warehouse;
  - 833 (E) a service enterprise; or

834 (F) a place of business similar to Subsections (2)(a)(i)(A) through (E);  
835 (ii) maintains a stock of goods;  
836 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the  
837 state, unless the seller's only activity in the state is:

- 838 (A) advertising; or
- 839 (B) solicitation by:
  - 840 (I) direct mail;
  - 841 (II) electronic mail;
  - 842 (III) the Internet;
  - 843 (IV) telecommunications service; or
  - 844 (V) a means similar to Subsection (2)(a)(iii)(A) or (B);
- 845 (iv) regularly engages in the delivery of property in the state other than by:
  - 846 (A) common carrier; or
  - 847 (B) United States mail; or
  - 848 (v) regularly engages in an activity directly related to the leasing or servicing of  
849 property located within the state.

850 (b) A seller is considered to be engaged in the business of selling tangible personal  
851 property, a service, or a product transferred electronically for use in the state, and shall pay or  
852 collect and remit the sales and use taxes imposed by this chapter if:

- 853 (i) the seller holds a substantial ownership interest in, or is owned in whole or in  
854 substantial part by, a related seller; and
- 855 (ii) (A) the seller sells the same or a substantially similar line of products as the related  
856 seller and does so under the same or a substantially similar business name; or
- 857 (B) the place of business described in Subsection (2)(a)(i) of the related seller or an in  
858 state employee of the related seller is used to advertise, promote, or facilitate sales by the seller  
859 to a purchaser.

860 (c) A seller that does not meet one or more of the criteria provided for in Subsection  
861 (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection  
862 (2)(b):

- 863 (i) except as provided in Subsection (2)(c)(ii), may voluntarily:
  - 864 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and

865 (B) remit the tax to the commission as provided in this part; or  
866 (ii) notwithstanding Subsection (2)(c)(i), shall collect a tax on a transaction described  
867 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.

868 (d) The collection and remittance of a tax under this chapter by a seller that is  
869 registered under the agreement may not be used as a factor in determining whether that seller is  
870 required by Subsection (2) to:

871 (i) pay a tax, fee, or charge under:

- 872 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 873 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 874 (C) Section 19-6-714;
- 875 (D) Section 19-6-805;
- 876 (E) Section 69-2-5;
- 877 (F) Section 69-2-5.5;
- 878 (G) Section 69-2-5.6; or
- 879 (H) this title; or

880 (ii) collect and remit a tax, fee, or charge under:

- 881 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 882 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 883 (C) Section 19-6-714;
- 884 (D) Section 19-6-805;
- 885 (E) Section 69-2-5;
- 886 (F) Section 69-2-5.5;
- 887 (G) Section 69-2-5.6; or
- 888 (H) this title.

889 (e) A person shall pay a use tax imposed by this chapter on a transaction described in  
890 Subsection 59-12-103(1) if:

- 891 (i) the seller did not collect a tax imposed by this chapter on the transaction; and
- 892 (ii) the person:

893 (A) stores the tangible personal property or product transferred electronically in the  
894 state;

895 (B) uses the tangible personal property or product transferred electronically in the state;

896 or

897 (C) consumes the tangible personal property or product transferred electronically in the  
898 state.

899 (f) The ownership of property that is located at the premises of a printer's facility with  
900 which the retailer has contracted for printing and that consists of the final printed product,  
901 property that becomes a part of the final printed product, or copy from which the printed  
902 product is produced, shall not result in the retailer being considered to have or maintain an  
903 office, distribution house, sales house, warehouse, service enterprise, or other place of  
904 business, or to maintain a stock of goods, within this state.

905 (3) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be  
906 collected from a purchaser.

907 (b) A seller may not collect as tax an amount, without regard to fractional parts of one  
908 cent, in excess of the tax computed at the rates prescribed by this chapter.

909 (c) (i) Each seller shall:

910 (A) give the purchaser a receipt for the tax collected; or

911 (B) bill the tax as a separate item and declare the name of this state and the seller's  
912 sales and use tax license number on the invoice for the sale.

913 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax  
914 and relieves the purchaser of the liability for reporting the tax to the commission as a  
915 consumer.

916 (d) A seller is not required to maintain a separate account for the tax collected, but is  
917 considered to be a person charged with receipt, safekeeping, and transfer of public money.

918 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the  
919 benefit of the state and for payment to the commission in the manner and at the time provided  
920 for in this chapter.

921 (f) If any seller, during any reporting period, collects as a tax an amount in excess of  
922 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller  
923 shall remit to the commission the full amount of the tax imposed under this chapter, plus any  
924 excess.

925 (g) If the accounting methods regularly employed by the seller in the transaction of the  
926 seller's business are such that reports of sales made during a calendar month or quarterly period

927 will impose unnecessary hardships, the commission may accept reports at intervals that will, in  
928 the commission's opinion, better suit the convenience of the taxpayer or seller and will not  
929 jeopardize collection of the tax.

930 (h) (i) For a purchase paid with specie legal tender as defined in Section [59-1-1501.1](#),  
931 and until such time as the commission accepts specie legal tender for the payment of a tax  
932 under this chapter, if the commission requires a seller to remit a tax under this chapter in legal  
933 tender other than specie legal tender, the seller shall state on the seller's books and records and  
934 on an invoice, bill of sale, or similar document provided to the purchaser:

935 (A) the purchase price in specie legal tender and in the legal tender the seller is  
936 required to remit to the commission;

937 (B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie  
938 legal tender and in the legal tender the seller is required to remit to the commission;

939 (C) the tax rate under this chapter applicable to the purchase; and

940 (D) the date of the purchase.

941 (ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of  
942 tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the  
943 specie legal tender the purchaser paid.

944 (B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
945 commission may make rules for determining the amount of tax due under Subsection (3)(h)(i)  
946 if the London fixing price is not available for a particular day.

947 (4) (a) Except as provided in Subsections (5) through (7) and Section [59-12-108](#), the  
948 sales or use tax imposed by this chapter is due and payable to the commission quarterly on or  
949 before the last day of the month next succeeding each calendar quarterly period.

950 (b) (i) Each seller shall, on or before the last day of the month next succeeding each  
951 calendar quarterly period, file with the commission a return for the preceding quarterly period.

952 (ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the  
953 tax required under this chapter to be collected or paid for the period covered by the return.

954 (c) Except as provided in Subsection (5)(c), a return shall contain information and be in  
955 a form the commission prescribes by rule.

956 (d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be  
957 based on the total nonexempt sales made during the period for which the return is filed,

958 including both cash and charge sales.

959 (ii) For a sale that includes the delivery or installation of tangible personal property at a  
960 location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery  
961 or installation is separately stated on an invoice or receipt, a seller may compute the tax due on  
962 the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that  
963 sale during each period for which the seller receives payment for the sale.

964 (e) (i) The use tax as computed in the return shall be based on the total amount of  
965 purchases for storage, use, or other consumption in this state made during the period for which  
966 the return is filed, including both cash and charge purchases.

967 (ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser  
968 who is required to remit taxes under this chapter, but is not required to remit taxes monthly in  
969 accordance with Section [59-12-108](#), and who converts tangible personal property into real  
970 property.

971 (B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the  
972 taxes due under this chapter on tangible personal property for which the qualifying purchaser  
973 claims an exemption as allowed under Subsection [59-12-104](#)(23) or (25) based on the period in  
974 which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C),  
975 for the conversion of the tangible personal property into real property.

976 (C) A qualifying purchaser remitting taxes due under this chapter in accordance with  
977 Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the  
978 qualifying purchaser's purchase of the tangible personal property that was converted into real  
979 property multiplied by a fraction, the numerator of which is the payment received in the period  
980 for the qualifying purchaser's sale of the tangible personal property that was converted into real  
981 property and the denominator of which is the entire sales price for the qualifying purchaser's  
982 sale of the tangible personal property that was converted into real property.

983 (D) A qualifying purchaser may remit taxes due under this chapter in accordance with  
984 this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in  
985 the qualifying purchaser's regular course of business identify by reasonable and verifiable  
986 standards that the tangible personal property was converted into real property.

987 (f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3,  
988 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making



989 returns and paying the taxes.

990 (ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

991 (g) The commission may require returns and payment of the tax to be made for other  
992 than quarterly periods if the commission considers it necessary in order to ensure the payment  
993 of the tax imposed by this chapter.

994 (h) (i) The commission may require a seller that files a simplified electronic return with  
995 the commission to file an additional electronic report with the commission.

996 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
997 commission may make rules providing:

998 (A) the information required to be included in the additional electronic report described  
999 in Subsection (4)(h)(i); and

1000 (B) one or more due dates for filing the additional electronic report described in  
1001 Subsection (4)(h)(i).

1002 (5) (a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a  
1003 seller that is:

1004 (i) registered under the agreement;

1005 (ii) described in Subsection (2)(c); and

1006 (iii) not a:

1007 (A) model 1 seller;

1008 (B) model 2 seller; or

1009 (C) model 3 seller.

1010 (b) (i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in  
1011 accordance with Subsection (2)(c) is due and payable:

1012 (A) to the commission;

1013 (B) annually; and

1014 (C) on or before the last day of the month immediately following the last day of each  
1015 calendar year.

1016 (ii) The commission may require that a tax a remote seller collects in accordance with  
1017 Subsection (2)(c) be due and payable:

1018 (A) to the commission; and

1019 (B) on the last day of the month immediately following any month in which the seller

1020 accumulates a total of at least \$1,000 in agreement sales and use tax.

1021 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection

1022 (5)(b), the remote seller shall file a return:

1023 (A) with the commission;

1024 (B) with respect to the tax;

1025 (C) containing information prescribed by the commission; and

1026 (D) on a form prescribed by the commission.

1027 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1028 commission shall make rules prescribing:

1029 (A) the information required to be contained in a return described in Subsection

1030 (5)(c)(i); and

1031 (B) the form described in Subsection (5)(c)(i)(D).

1032 (d) A tax a remote seller collects in accordance with this Subsection (5) shall be

1033 calculated on the basis of the total amount of taxable transactions under Subsection

1034 [59-12-103](#)(1) the remote seller completes, including:

1035 (i) a cash transaction; and

1036 (ii) a charge transaction.

1037 (6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified

1038 electronic return collects in accordance with this chapter is due and payable:

1039 (i) monthly on or before the last day of the month immediately following the month for

1040 which the seller collects a tax under this chapter; and

1041 (ii) for the month for which the seller collects a tax under this chapter.

1042 (b) A tax a remote seller that files a simplified electronic return collects in accordance

1043 with this chapter is due and payable as provided in Subsection (5).

1044 (7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer,

1045 including an online dealer as defined in Section [41-3-102](#), the purchaser shall pay the sales or

1046 use tax directly to the commission if the vehicle is subject to titling or registration under the

1047 laws of this state.

1048 (b) The commission shall collect the tax described in Subsection (7)(a) when the

1049 vehicle is titled or registered.

1050 (8) If any sale of tangible personal property or any other taxable transaction under

- 1051 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not  
1052 responsible for the collection or payment of the tax imposed on the sale and the retailer is  
1053 responsible for the collection or payment of the tax imposed on the sale if:
- 1054 (a) the retailer represents that the personal property is purchased by the retailer for  
1055 resale; and
  - 1056 (b) the personal property is not subsequently resold.
- 1057 (9) If any sale of property or service subject to the tax is made to a person prepaying  
1058 sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a  
1059 contractor or subcontractor of that person, the person to whom such payment or consideration  
1060 is payable is not responsible for the collection or payment of the sales or use tax and the person  
1061 prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax  
1062 if the person prepaying the sales or use tax represents that the amount prepaid as sales or use  
1063 tax has not been fully credited against sales or use tax due and payable under the rules  
1064 promulgated by the commission.
- 1065 (10) (a) For purposes of this Subsection (10):
- 1066 (i) Except as provided in Subsection (10)(a)(ii), "bad debt" is as defined in Section  
1067 166, Internal Revenue Code.
  - 1068 (ii) Notwithstanding Subsection (10)(a)(i), "bad debt" does not include:
    - 1069 (A) an amount included in the purchase price of tangible personal property, a product  
1070 transferred electronically, or a service that is:
      - 1071 (I) not a transaction described in Subsection 59-12-103(1); or
      - 1072 (II) exempt under Section 59-12-104;
    - 1073 (B) a financing charge;
    - 1074 (C) interest;
    - 1075 (D) a tax imposed under this chapter on the purchase price of tangible personal  
1076 property, a product transferred electronically, or a service;
    - 1077 (E) an uncollectible amount on tangible personal property or a product transferred  
1078 electronically that:
      - 1079 (I) is subject to a tax under this chapter; and
      - 1080 (II) remains in the possession of a seller until the full purchase price is paid;
    - 1081 (F) an expense incurred in attempting to collect any debt; or

- 1082 (G) an amount that a seller does not collect on repossessed property.
- 1083 (b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later
- 1084 becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax
- 1085 under this chapter is calculated on a return.
- 1086 (ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the
- 1087 total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on
- 1088 the qualifying purchaser's purchase of tangible personal property converted into real property to
- 1089 the extent that:
  - 1090 (A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal
  - 1091 property converted into real property;
  - 1092 (B) the qualifying purchaser's sale of that tangible personal property converted into real
  - 1093 property later becomes bad debt; and
  - 1094 (C) the books and records that the qualifying purchaser keeps in the qualifying
  - 1095 purchaser's regular course of business identify by reasonable and verifiable standards that the
  - 1096 tangible personal property was converted into real property.
- 1097 (c) A seller may file a refund claim with the commission if:
  - 1098 (i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds
  - 1099 the amount of the seller's sales that are subject to a tax under this chapter for that same time
  - 1100 period; and
  - 1101 (ii) as provided in Section [59-1-1410](#).
- 1102 (d) A bad debt deduction under this section may not include interest.
- 1103 (e) A bad debt may be deducted under this Subsection (10) on a return for the time
- 1104 period during which the bad debt:
  - 1105 (i) is written off as uncollectible in the seller's books and records; and
  - 1106 (ii) would be eligible for a bad debt deduction:
    - 1107 (A) for federal income tax purposes; and
    - 1108 (B) if the seller were required to file a federal income tax return.
- 1109 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
- 1110 claims a refund under this Subsection (10), the seller shall report and remit a tax under this
- 1111 chapter:
  - 1112 (i) on the portion of the bad debt the seller recovers; and

- 1113 (ii) on a return filed for the time period for which the portion of the bad debt is  
1114 recovered.
- 1115 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection  
1116 (10)(f), a seller shall apply amounts received on the bad debt in the following order:
- 1117 (i) in a proportional amount:
- 1118 (A) to the purchase price of the tangible personal property, product transferred  
1119 electronically, or service; and
- 1120 (B) to the tax due under this chapter on the tangible personal property, product  
1121 transferred electronically, or service; and
- 1122 (ii) to:
- 1123 (A) interest charges;
- 1124 (B) service charges; and
- 1125 (C) other charges.
- 1126 (h) A seller's certified service provider may make a deduction or claim a refund for bad  
1127 debt on behalf of the seller:
- 1128 (i) in accordance with this Subsection (10); and
- 1129 (ii) if the certified service provider credits or refunds the entire amount of the bad debt  
1130 deduction or refund to the seller.
- 1131 (i) A seller may allocate bad debt among the states that are members of the agreement  
1132 if the seller's books and records support that allocation.
- 1133 (11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full  
1134 amount of tax required by this chapter.
- 1135 (b) A violation of this section is punishable as provided in Section 59-1-401.
- 1136 (c) Each person who fails to pay any tax to the state or any amount of tax required to be  
1137 paid to the state, except amounts determined to be due by the commission under Chapter 1,  
1138 Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time  
1139 required by this chapter, or who fails to file any return as required by this chapter, shall pay, in  
1140 addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.
- 1141 (d) For purposes of prosecution under this section, each quarterly tax period in which a  
1142 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the  
1143 tax required to be remitted, constitutes a separate offense.

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**Legislative Review Note**  
**as of 2-23-15 5:38 PM**

**Office of Legislative Research and General Counsel**