

1 **NEW AUTO DEALER FRANCHISE AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Kim Coleman**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to the sale of new motor vehicles.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ creates a license for a person to act as an online manufacturer dealer;
- 14 ▶ allows a licensed online manufacturer dealer to:
 - 15 • sell or offer to sell a motor vehicle online; and
 - 16 • offer to sell and display a motor vehicle in person;
- 17 ▶ creates a license for an online manufacturer salesperson;
- 18 ▶ creates a license for a person to act as a small manufacturer dealer;
- 19 ▶ allows a licensed small manufacturer dealer to sell, offer to sell, and display a motor
- 20 vehicle; and
- 21 ▶ exempts an online manufacturer dealer and a small manufacturer dealer from the
- 22 provisions of the New Automobile Franchise Act.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

- 29 [41-1a-802](#), as last amended by Laws of Utah 2005, Chapter 32
- 30 [41-3-102](#), as last amended by Laws of Utah 2014, Chapter 237
- 31 [41-3-103](#), as last amended by Laws of Utah 2010, Chapter 393
- 32 [41-3-105](#), as last amended by Laws of Utah 2010, Chapter 393
- 33 [41-3-201](#), as last amended by Laws of Utah 2013, Chapter 463
- 34 [41-3-202](#), as last amended by Laws of Utah 2009, Chapter 78
- 35 [41-3-204](#), as last amended by Laws of Utah 2008, Chapter 388
- 36 [41-3-205](#), as last amended by Laws of Utah 2010, Chapter 342
- 37 [41-3-209](#), as last amended by Laws of Utah 2012, Chapter 145
- 38 [41-3-210](#), as last amended by Laws of Utah 2007, Chapter 322
- 39 [41-3-601](#), as last amended by Laws of Utah 2015, Chapter 93
- 40 [41-3-802](#), as last amended by Laws of Utah 1995, Chapter 7
- 41 [59-12-107](#), as last amended by Laws of Utah 2012, Chapters 178, 312, and 399

42 ENACTS:

- 43 [13-14-108](#), Utah Code Annotated 1953
- 44 [41-3-202.1](#), Utah Code Annotated 1953
- 45 [41-3-202.2](#), Utah Code Annotated 1953

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

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

49 **13-14-108. Applicability.**

50 This chapter does not apply to:

- 51 (1) an online manufacturer dealer licensed under Section [41-3-202](#); or
- 52 (2) a small manufacturer dealer licensed under Section [41-3-202](#).

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

54 **41-1a-802. Identification number inspectors -- Duties.**

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

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

59 Motor Vehicle Safety Inspection Act;

60 (d) an official inspection station certified inspector;

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

62 and

63 (f) all peace officers of the state.

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

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

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

69 (c) verify the facts in the application.

70 Section 3. Section 41-3-102 is amended to read:

71 **41-3-102. Definitions.**

72 As used in this chapter:

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

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

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

80 (4) "Board" means the advisory board created in Section 41-3-106.

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

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

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

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

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

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

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

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

96 (b) "Dismantler" includes a person who dismantles three or more motor vehicles in any
97 12-month period.

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

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

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

108 (13) "Division" means the Motor Vehicle Enforcement Division created in Section
109 [41-3-104](#).

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

113 (15) "Factory representative" means a person and each officer and employee of the
114 person engaged as a representative of a manufacturer of motor vehicles or by a factory branch
115 to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or for
116 supervising or contacting the dealers or prospective dealers of the manufacturer or the factory
117 branch.

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

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

125 (18) "Motorcycle" [~~has the same meaning as~~] means the same as that term is defined in
126 Section 41-1a-102.

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

- 128 (i) self-propelled;
- 129 (ii) a trailer, travel trailer, or semitrailer; or
- 130 (iii) an off-highway vehicle or small trailer.

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

- 132 (i) mobile homes as defined in Section 41-1a-102;
- 133 (ii) trailers of 750 pounds or less unladen weight;
- 134 (iii) farm tractors and other machines and tools used in the production, harvesting, and
135 care of farm products; and
- 136 (iv) park model recreational vehicles as defined in Section 41-1a-102.

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

141 (21) "Off-highway vehicle" [~~has the same meaning as provided~~] means the same as that
142 term is defined in Section 41-22-2.

143 (22) "Online manufacturer dealer" means a person that:

144 (a) is a manufacturer;

145 (b) sells, displays for sale, or offers for sale or exchange:

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

147 (ii) only motor vehicles that the person manufactured;

148 (c) sells a motor vehicle exclusively online;

149 (d) offers, in person, to sell a motor vehicle online; and

150 (e) displays a motor vehicle for sale online or at a physical location.

151 (23) "Online manufacturer salesperson" means an individual who, for compensation, is

152 employed directly, indirectly, regularly, or occasionally by an online manufacturer dealer to
153 sell, purchase, or exchange, or to negotiate for the sale, purchase, or exchange of, a motor
154 vehicle.

155 [~~(22)~~] (24) "Pawnbroker" means a person whose business is to lend money on security
156 of personal property deposited with him.

157 [~~(23)~~] (25) (a) "Principal place of business" means a site or location in this state:

158 [~~(a)~~] (i) devoted exclusively to the business for which the dealer, manufacturer,
159 remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses
160 incidental to them;

161 [~~(b)~~] (ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely
162 indicate the boundary and to admit a definite description with space adequate to permit the
163 display of three or more new, or new and used, or used motor vehicles and sufficient parking
164 for the public; and

165 [~~(c)~~] (iii) that includes a permanent enclosed building or structure large enough to
166 accommodate the office of the establishment and to provide a safe place to keep the books and
167 other records of the business, at which the principal portion of the business is conducted and
168 the books and records kept and maintained.

169 (b) "Principal place of business" includes, for an online manufacturer dealer, the place
170 in the state where an online manufacturer dealer displays a motor vehicle for sale.

171 [~~(24)~~] (26) "Remanufacturer" means a person who reconstructs used motor vehicles
172 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, to change the body style
173 and appearance of the motor vehicle or who constructs or assembles motor vehicles from used
174 or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or
175 more motor vehicles in any 12-month period.

176 [~~(25)~~] (27) "Salesperson" means an individual who for a salary, commission, or
177 compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by
178 any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to
179 negotiate for the sale, purchase, or exchange of motor vehicles.

180 (28) "Small manufacturer dealer" means a person that:

181 (a) is a manufacturer; and

182 (b) sells, displays for sale, or offers for sale or exchange:

- 183 (i) three or more new motor vehicles in any 12-month period;
- 184 (ii) fewer than 300 motor vehicles in any 12-month period; and
- 185 (iii) only motor vehicles that the person manufactured.

186 (29) "Small manufacturer salesperson" means an individual who, for compensation, is
 187 employed directly, indirectly, regularly, or occasionally by a small manufacturer dealer to sell,
 188 purchase, or exchange, or to negotiate for the sale, purchase, or exchange of, a motor vehicle.

189 [~~26~~] (30) "Semitrailer" has the same meaning as defined in Section 41-1a-102.

190 [~~27~~] (31) "Small trailer" means a trailer that has an unladen weight of more than 750
 191 pounds, but less than 2,000 pounds.

192 [~~28~~] (32) "Special equipment" includes a truck mounted crane, cherry picker, material
 193 lift, post hole digger, and a utility or service body.

194 [~~29~~] (33) "Special equipment dealer" means a new or new and used motor vehicle
 195 dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle
 196 weight of 12,000 or more pounds and installing special equipment on the incomplete motor
 197 vehicle.

198 [~~30~~] (34) "Trailer" has the same meaning as defined in Section 41-1a-102.

199 [~~31~~] (35) "Transporter" means a person engaged in the business of transporting motor
 200 vehicles as described in Section 41-3-202.

201 [~~32~~] (36) "Travel trailer" has the same meaning as provided in Section 41-1a-102.

202 [~~33~~] (37) "Used motor vehicle" means a vehicle that has been titled and registered to
 203 a purchaser other than a dealer or has been driven 7,500 or more miles, unless the vehicle is a
 204 trailer, or semitrailer, in which case the mileage limit does not apply.

205 [~~34~~] (38) "Wholesale motor vehicle auction" means a dealer primarily engaged in the
 206 business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by
 207 this or any other jurisdiction.

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

209 **41-3-103. Exceptions to "dealer" definition -- Dealer licensed in other state.**

210 [~~Under this chapter:~~]

211 (1) A person is not considered a dealer under this chapter if the person is:

212 [~~1~~] (a) [~~An~~] an insurance company, bank, finance company, company registered as a
 213 title lender under Title 7, Chapter 24, Title Lending Registration Act, or a company registered

214 as a check casher or deferred deposit lender under Title 7, Chapter 23, Check Cashing and
 215 Deferred Deposit Lending Registration Act~~[-]~~;

216 (b) a public utility company~~[-]~~;

217 (c) a commission impound yard~~[-]~~;

218 (d) a federal or state ~~[governmental agency, or any]~~ government entity;

219 (e) a political subdivision of ~~[any of them or any other person coming]~~ the state; or

220 (f) a person that:

221 (i) comes into possession of a motor vehicle as an incident to ~~[its]~~ the person's regular
 222 business~~[-that]~~; and

223 (ii) sells the motor vehicle under a contractual ~~[rights that it may have]~~ right that the
 224 person has in the motor vehicle ~~[is not considered a dealer]~~.

225 ~~[(b)]~~ (2) A person who sells or exchanges only those motor vehicles that the person has
 226 owned for over 12 months is not considered a dealer under this chapter.

227 ~~[(2)]~~ (3) (a) A person engaged in leasing motor vehicles is not considered as coming
 228 into possession of the motor vehicles incident to the person's regular business.

229 (b) A pawnbroker engaged in selling, exchanging, or pawning motor vehicles is
 230 considered as coming into possession of the motor vehicles incident to the person's regular
 231 business and ~~[must be licensed as a]~~ is required to obtain a used motor vehicle dealer license.

232 ~~[(3)]~~ (4) A person currently licensed as a dealer or salesperson by another state or
 233 country and not currently under license suspension or revocation by the administrator may only
 234 sell motor vehicles in this state to licensed dealers, dismantlers, or manufacturers, and only at
 235 their places of business.

236 (5) Except as provided in Section [41-3-202.2](#), or as expressly provided in this chapter,
 237 an online manufacturer dealer is not considered a dealer under this chapter if, as of May 10,
 238 2016, the online manufacturer dealer is not the franchisor of a franchise that sells the online
 239 manufacturer dealer's line-make.

240 (6) A small manufacturer dealer is not considered a dealer under this chapter except as
 241 provided in Section [41-3-202.2](#) or as expressly provided in this chapter.

242 (7) Except as otherwise expressly provided in this chapter, an online manufacturer
 243 salesperson or a small manufacturer salesperson is subject to the same requirements under this
 244 chapter as a salesperson.

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

246 **41-3-105. Administrator's powers and duties -- Administrator and investigators**
247 **to be law enforcement officers.**

248 (1) The administrator may make rules to carry out the purposes of this chapter and
249 Sections [41-1a-1001](#) through [41-1a-1007](#) according to the procedures and requirements of Title
250 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

254 (b) The administrator, assistant administrator, and all investigators shall be law
255 enforcement officers certified by peace officer standards and training as required by Section
256 [53-13-103](#).

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

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

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

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

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

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

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

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

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

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

- 276 (A) the municipality, with the street and number, if any;
- 277 (B) if located outside of any municipality, a general description so that the location can
278 be determined; and
- 279 (C) any other places of business operated and maintained by the applicant in
280 conjunction with the principal place of business;
- 281 (v) (A) if the application is for a new motor vehicle dealer's license, the name of each
282 motor vehicle the applicant has been enfranchised to sell or exchange, and the name and
283 address of the manufacturer or distributor who has enfranchised the applicant[;]; and
- 284 (B) if the application is for a new motor vehicle dealer's license, an online
285 manufacturer dealer license, or a small manufacturer dealer license, the names and addresses of
286 the individuals who will act as salespersons under authority of the license;
- 287 (vi) except for an applicant for an online manufacturer dealer license or a small
288 manufacturer dealer license, at least five years of business history;
- 289 (vii) the federal tax identification number issued to the dealer; and
- 290 (viii) the sales and use tax license number issued to the dealer under Title 59, Chapter
291 12, Sales and Use Tax Act.
- 292 (5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement
293 Administrator, State of Utah," to authenticate the acts of the administrator's office.
- 294 (6) (a) The administrator may require that the licensee erect or post signs or devices on
295 the licensee's principal place of business and any other sites, equipment, or locations operated
296 and maintained by the licensee in conjunction with the licensee's business.
- 297 (b) The signs or devices shall state the licensee's name, principal place of business,
298 type and number of licenses, and any other information that the administrator considers
299 necessary to identify the licensee.
- 300 (c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah
301 Administrative Rulemaking Act, determining allowable size and shape of signs or devices,
302 their lettering and other details, and their location.
- 303 (7) (a) The administrator shall provide for quarterly meetings of the advisory board and
304 may call special meetings.
- 305 (b) Notices of all meetings shall be sent to each member not fewer than five days prior
306 to the meeting.

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

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

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

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

318 (d) investigate traffic accidents and secure testimony of witnesses or persons involved;
319 and

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

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

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

324 **41-3-201. Licenses required -- Restitution -- Education.**

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

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

329 (a) a dealer;

330 (b) salvage vehicle buyer;

331 (c) salesperson;

332 (d) manufacturer;

333 (e) transporter;

334 (f) dismantler;

335 (g) distributor;

336 (h) factory branch and representative;

337 (i) distributor branch and representative;

- 338 (j) crusher;
- 339 (k) remanufacturer; [or]
- 340 (l) body shop[-];
- 341 (m) online manufacturer dealer;
- 342 (n) online manufacturer salesperson;
- 343 (o) small manufacturer dealer; or
- 344 (p) small manufacturer 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).

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, or a small trailer dealer license
452 unless the new applicant completes an eight-hour orientation class approved by the division
453 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 manufacturer dealer's license permits the licensee to:
- 498 (a) operate as an online manufacturer dealer;
- 499 (b) sell or offer to sell, exchange, or offer to exchange a motor vehicle online;
- 500 (c) offer to sell, offer to exchange, and display a vehicle in person;
- 501 (d) sell or offer to sell a display motor vehicle in person as provided in Section
- 502 [41-3-202.1](#);
- 503 (e) operate as a body shop; and
- 504 (f) dismantle a motor vehicle.
- 505 (4) A small manufacturer dealer's license permits the licensee to:
- 506 (a) operate as a small manufacturer dealer;
- 507 (b) sell or offer to sell, exchange, or offer to exchange a motor vehicle;
- 508 (c) operate as a body shop; and
- 509 (d) dismantle a motor vehicle.
- 510 [~~3~~] (5) A new motorcycle, off-highway vehicle, and small trailer dealer's license
- 511 permits the licensee to:
- 512 (a) offer for sale, sell, or exchange new motorcycles, off-highway vehicles, or small
- 513 trailers if the licensee possesses a franchise from the manufacturer of the motorcycle,
- 514 off-highway vehicle, or small trailer offered for sale, sold, or exchanged by the licensee;
- 515 (b) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, or small
- 516 trailers; and
- 517 (c) dismantle motorcycles, off-highway vehicles, or small trailers.
- 518 [~~4~~] (6) A used motorcycle, off-highway vehicle, and small trailer dealer's license
- 519 permits the licensee to:
- 520 (a) offer for sale, sell, or exchange used motorcycles, off-highway vehicles, and small
- 521 trailers; and
- 522 (b) dismantle motorcycles, off-highway vehicles, or small trailers.
- 523 [~~5~~] (7) (a) Except as provided in Subsection [~~5~~] (7)(b), a salesperson's license

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

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

529 (8) An online manufacturer salesperson's license permits the licensee to sell, purchase,
530 or exchange, or to negotiate for the sale, purchase, or exchange of, a new motor vehicle for one
531 online manufacturer dealer.

532 (9) A small manufacturer salesperson's license permits the licensee to sell, purchase, or
533 exchange, or to negotiate for the sale, purchase, or exchange of, a new motor vehicle for one
534 small manufacturer dealer.

535 [~~(6)~~] (10) (a) A manufacturer's license permits the licensee to construct or assemble
536 motor vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, at an
537 established place of business and to remanufacture motor vehicles.

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

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

542 [~~(7)~~] (11) A transporter's license permits the licensee to transport or deliver motor
543 vehicles subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, from a
544 manufacturing, assembling, or distributing point or from a dealer, to dealers, distributors, or
545 sales agents of a manufacturer or remanufacturer, to or from detail or repair shops, and to
546 financial institutions or places of storage from points of repossession.

547 [~~(8)~~] (12) A dismantler's license permits the licensee to dismantle motor vehicles
548 subject to registration under Title 41, Chapter 1a, Motor Vehicle Act, for the purpose of
549 reselling parts or for salvage, or selling dismantled or salvage vehicles to a crusher or other
550 dismantler.

551 [~~(9)~~] (13) A distributor or factory branch and distributor branch's license permits the
552 licensee to sell and distribute new motor vehicles, parts, and accessories to their franchised
553 dealers.

554 [~~(10)~~] (14) A representative's license, for factory representatives or distributor

555 representatives permits the licensee to contact the licensee's authorized dealers for the purpose
556 of making or promoting the sale of motor vehicles, parts, and accessories.

557 ~~[(11)]~~ (15) (a) (i) A remanufacturer's license permits the licensee to construct,
558 reconstruct, assemble, or reassemble motor vehicles subject to registration under Title 41,
559 Chapter 1a, Motor Vehicle Act, from used or new motor vehicles or parts.

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

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

564 ~~[(12)]~~ (16) A crusher's license permits the licensee to engage in the business of
565 crushing or shredding motor vehicles subject to registration under Title 41, Chapter 1a, Motor
566 Vehicle Act, for the purpose of reducing the useable materials and metals to a more compact
567 size for recycling.

568 ~~[(13)]~~ (17) A body shop's license permits the licensee to rebuild, restore, repair, or
569 paint primarily the body of motor vehicles damaged by collision or natural disaster, and to
570 dismantle motor vehicles.

571 ~~[(14)]~~ (18) A special equipment dealer's license permits the licensee to:

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

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

576 (c) operate as a body shop; and

577 (d) dismantle motor vehicles.

578 ~~[(15)]~~ (19) (a) A salvage vehicle buyer license permits the licensee to bid on or
579 purchase a vehicle with a salvage certificate as defined in Section [41-1a-1001](#) at any motor
580 vehicle auction.

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

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

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

- 589 (i) business history;
590 (ii) salvage vehicle qualifications;
591 (iii) ability to properly handle and dispose of environmental hazardous materials
592 associated with salvage vehicles; and
593 (iv) record in demonstrating compliance with the provisions of this chapter.

594 Section 8. Section **41-3-202.1** is enacted to read:

595 **41-3-202.1. Online manufacturer dealer license.**

596 (1) An online manufacturer dealer may apply to the administrator under Section
597 41-3-105 for an online manufacturer dealer license via the same procedure described in Section
598 41-3-201 for a dealer license.

599 (2) An online manufacturer dealer is subject to the requirements of this chapter for a
600 dealer under:

- 601 (a) Part 3, Temporary Permits;
602 (b) Part 4, Disclosure Requirements;
603 (c) Part 5, Special Dealer License Plates; and
604 (d) Part 7, Penalties.

605 (3) (a) Except as provided in Subsection (3)(b), an online manufacturer dealer may not
606 sell a motor vehicle in person.

607 (b) An online manufacturer dealer may sell or offer to sell, in person, a vehicle that was
608 previously used as a display vehicle.

609 (4) An online manufacturer dealer shall designate, at minimum, one person in the state
610 to act as the online manufacturer dealer's authorized service center for the purpose of warranty
611 service repairs.

612 Section 9. Section **41-3-202.2** is enacted to read:

613 **41-3-202.2. Small manufacturer dealer license.**

614 (1) A small manufacturer dealer may apply to the administrator under Section 41-3-105
615 for a small manufacturer dealer license via the same procedure described in Section 41-3-201
616 for a dealer license.

617 (2) A small manufacturer dealer is subject to the requirements of this chapter for a
618 dealer under:

619 (a) Part 3, Temporary Permits;

620 (b) Part 4, Disclosure Requirements;

621 (c) Part 5, Special Dealer License Plates; and

622 (d) Part 7, Penalties.

623 (3) A small manufacturer dealer may display a motor vehicle that the small
624 manufacturer dealer manufactured for the purpose of a test drive.

625 (4) A small manufacturer dealer may sell a vehicle the small manufacturer dealer
626 manufactured via a consignment sale under Part 8, Consignment Sales Act.

627 (5) A small manufacturer dealer shall designate, at minimum, one person in the state to
628 act as the small manufacturer dealer's authorized service center for the purpose of warranty
629 service repairs.

630 Section 10. Section **41-3-204** is amended to read:

631 **41-3-204. Licenses -- Principal place of business as prerequisite -- Change of**
632 **location -- Relinquishment on loss of principal place of business.**

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

634 (i) dealers;

635 (ii) special equipment dealers;

636 (iii) manufacturers;

637 (iv) transporters;

638 (v) remanufacturers;

639 (vi) dismantlers;

640 (vii) crushers;

641 (viii) body shops; and

642 (ix) distributors who:

643 (A) are located within the state; or

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

645 (b) ~~[The]~~ Except as provided in Subsection (4), the administrator may not issue a
646 license under Subsection (1)(a) to an applicant who does not have a principal place of business.

647 (c) If a licensee changes the location of his principal place of business, he shall

648 immediately notify the administrator and a new license shall be granted for the unexpired
649 portion of the term of the original license at no additional fee.

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

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

656 (3) The physical location in the state where an online manufacturer dealer displays a
657 vehicle for sale is the online manufacturer dealer's principal place of business for the purpose
658 of this chapter.

659 (4) The administrator may issue a license to an online manufacturer dealer or a small
660 manufacturer dealer that does not have a principal place of business if:

661 (a) the online manufacturer dealer or small manufacturer dealer submits a business plan
662 to the administrator that includes a proposed principal place of business; and

663 (b) the administrator approves the business plan described in Subsection (4)(a).

664 Section 11. Section **41-3-205** is amended to read:

665 **41-3-205. Licenses -- Bonds required -- Maximum liability -- Action against**
666 **surety -- Loss of bond.**

667 (1) (a) Before a dealer's, online manufacturer dealer's, small manufacturer dealer's,
668 special equipment dealer's, crusher's, or body shop's license is issued, the applicant shall file
669 with the administrator a corporate surety bond in the amount of:

670 [~~(i) \$50,000 until June 30, 2006, and \$75,000 on or after July 1, 2006;~~]

671 (i) \$75,000 for a motor vehicle dealer's license, online manufacturer dealer's license, or
672 small manufacturer dealer's license;

673 [~~(ii) \$20,000 until June 30, 2006, and \$75,000 on or after July 1, 2006;~~]

674 (ii) \$75,000 for a special equipment dealer's license;

675 (iii) \$10,000 for a motorcycle, off-highway vehicle, or small trailer dealer's or crusher's
676 license; or

677 (iv) \$20,000 for a body shop's license.

678 (b) The corporate surety shall be licensed to do business within the state and have a

679 rating of at least B+ by the A.M. Best Company.

680 (c) The form of the bond:

681 (i) shall be approved by the attorney general;

682 (ii) shall be conditioned upon the applicant's conducting business as a dealer, online

683 manufacturer dealer, or small manufacturer dealer without:

684 (A) fraud;

685 (B) fraudulent representation;

686 (C) violating Subsection 41-3-301(1) which requires a dealer to submit or deliver a

687 certificate of title or manufacturer's certificate of origin; or

688 (D) violating Subsection 41-3-402(1) which requires payoff of liens on motor vehicles

689 traded in; and

690 (iii) may be continuous in form.

691 (d) The total aggregate liability on the bond to all persons making claims, regardless of

692 the number of claimants or the number of years a bond remains in force, may not exceed the

693 amount of the bond.

694 (2) (a) A cause of action under Subsection (1) may not be maintained against a surety

695 unless:

696 (i) a claim is filed in writing with the administrator within one year after the cause of

697 action arose; and

698 (ii) the action is commenced within two years after the claim was filed with the

699 administrator.

700 (b) The surety or principal shall notify the administrator if a claim on the bond is

701 successfully prosecuted or settled against the surety or principal.

702 (3) (a) A surety or principal may not make a payment on a surety bond to any claimant

703 until six months have expired from the date when the first claim on the bond was filed with the

704 surety or principal in writing.

705 (b) After six months have expired following the filing of the first bond claim, the

706 surety or principal shall:

707 (i) assess the validity of all claims on the bond; and

708 (ii) submit a distribution assessment determined in accordance with Subsection (3)(c)

709 regarding the bond proceeds to the claimants of valid claims for approval.

710 (c) (i) If the total verifiable claims on the bond are less than the bond amount, then
711 each bond claimant shall be entitled to the full amount of a valid claim.

712 (ii) If the total verifiable claims exceed the bond amount, then the proceeds shall be
713 distributed pro rata to the bond claimants of valid claims.

714 (d) If the distribution assessment under Subsection (3)(b) is not unanimously approved
715 by the claimants of all valid claims on the bond, the principal or surety shall file an interpleader
716 action in the state district court where the defaulting [~~dealer was~~] person subject to the bond is
717 licensed.

718 (4) (a) A person making a claim on the bond shall be awarded attorney fees in cases
719 successfully prosecuted or settled against the surety or principal if the bond has not been
720 depleted.

721 (b) A surety or principal may not be awarded attorney fees that exceed \$2,500 for an
722 interpleader action filed under Subsection (3)(d).

723 (5) (a) (i) If a person who is a dealer, online manufacturer dealer, small manufacturer
724 dealer, body shop, or crusher loses possession of the bond required by this chapter, the [~~dealer,~~
725 ~~body shop, or crusher~~] person's license is automatically suspended.

726 (ii) All licenses, pocket cards, temporary permits, and special plates issued to the
727 licensee shall be immediately returned to the administrator.

728 (b) A dealer, online manufacturer dealer, small manufacturer dealer, body shop, or
729 crusher may not continue to use or permit to be used licenses, pocket cards, temporary permits,
730 or special plates until the required bond is on file with the administrator and the license has
731 been reinstated.

732 (6) A representative or consignee of a [~~dealer~~] person who is a dealer, online
733 manufacturer dealer, or small manufacturer dealer is not required to file a bond if the [~~dealer~~
734 ~~for whom the representative or consignee acts~~] person fully complies with the provisions of
735 this chapter.

736 Section 12. Section **41-3-209** is amended to read:

737 **41-3-209. Administrator's findings -- Suspension and revocation of license.**

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

740 (2) (a) On December 1, 2010, the administrator shall suspend the license of a

741 salesperson who fails to submit to the division fingerprints as required under Subsection
742 [41-3-205.5\(1\)\(b\)](#) on or before November 30, 2010.

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

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

747 (i) lack of a principal place of business;

748 (ii) except for an online manufacturer dealer, lack of a sales tax license required under
749 Title 59, Chapter 12, Sales and Use Tax Act;

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

751 (iv) current revocation or suspension of a dealer, online manufacturer dealer, small
752 manufacturer dealer, dismantler, auction, [~~or~~] salesperson, online manufacturer dealer
753 salesperson, or manufacturer dealer salesperson license issued in another state;

754 (v) nonpayment of required fees;

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

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

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

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

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

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

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

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

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

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

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

778 (b) revoke the license.

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

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

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

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

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

789 Section 13. Section **41-3-210** is amended to read:

790 **41-3-210. License holders -- Prohibitions and requirements.**

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

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

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

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

799 (d) violate any law of the state respecting commerce in motor vehicles or any rule
800 respecting commerce in motor vehicles made by any licensing or regulating authority of the
801 state;

802 (e) engage in business as a new motor vehicle dealer, special equipment dealer, used

803 motor vehicle dealer, motor vehicle crusher, or body shop without having in effect a bond as
804 required in this chapter;

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

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

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

814 (ii) an online manufacturer dealer that manufactures the motor vehicles that the online
815 manufacturer dealer sells; or

816 (iii) a small manufacturer dealer that manufactures the motor vehicles that the small
817 manufacturer dealer sells;

818 (h) dismantle or transport to a crusher for crushing or other disposition any motor
819 vehicle without first obtaining a dismantling or junk permit under Section [41-1a-1009](#),
820 [41-1a-1010](#), or [41-1a-1011](#);

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

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

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

833 (l) as a manufacturer or remanufacturer assemble a motor vehicle that does not comply

834 with construction, safety, or vehicle identification number standards fixed by law or rule of any
835 licensing or regulating authority;

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

839 (n) except for an online manufacturer dealer that sells or offers to sell a motor vehicle
840 online, sell, display for sale, or offer for sale motor vehicles at any location other than the
841 principal place of business or additional places of business licensed under this chapter; this
842 provision is construed to prevent dealers, salespersons, or any other representative of a
843 dealership from selling, displaying, or offering motor vehicles for sale from their homes or
844 other unlicensed locations;

845 (o) ~~(†)~~ except for an online manufacturer dealer or small manufacturer dealer,
846 maintain, as a dealer, dismantler, body shop, or manufacturer~~[-maintain]~~;

847 (i) a principal place of business or additional place of business that shares any common
848 area with a business or activity not directly related to motor vehicle commerce; or

849 (ii) ~~[maintain any places]~~ a place of business that ~~[share any]~~ shares a common area
850 with ~~[another]~~ a dealer, dismantler, body shop, or manufacturer;

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

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

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

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

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

860 (i) (A) have a new motor vehicle dealer's license under Section [41-3-202](#); and

861 ~~[(†)]~~ (B) possess a franchise from the manufacturer of the new motor vehicle sold,
862 displayed for sale, offered for sale, or exchanged by the licensee; or

863 (ii) have an online manufacturer dealer or a small manufacturer dealer license under
864 Section [41-3-202](#); or

865 (u) as a new motor vehicle dealer or used motor vehicle dealer, encourage or conspire
866 with any person who has not obtained a salesperson's license to solicit for prospective
867 purchasers.

868 (2) (a) If a new motor vehicle is constructed in more than one stage, such as a motor
869 home, ambulance, or van conversion, the licensee shall advertise, represent, sell, and exchange
870 the vehicle as the make designated by the final stage manufacturer, [~~except in those specific~~
871 ~~situations where~~] unless:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

962 Section 14. Section **41-3-601** is amended to read:

963 **41-3-601. Fees.**

964 (1) The administrator shall collect fees determined by the commission under Section
965 [63J-1-504](#) for each of the following:

- 966 (a) new motor vehicle dealer's license;
- 967 (b) used motor vehicle dealer's license;
- 968 (c) online manufacturer dealer's license;
- 969 (d) small manufacturer dealer's license;
- 970 [~~(e)~~] (e) new motorcycle, off-highway vehicle, and small trailer dealer;
- 971 [~~(f)~~] (f) used motorcycle, off-highway vehicle, and small trailer dealer;
- 972 [~~(g)~~] (g) motor vehicle salesperson's license;
- 973 [~~(h)~~] (h) motor vehicle salesperson's transfer or reissue fee;
- 974 (i) online manufacturer salesperson's license;
- 975 (j) small manufacturer salesperson's license;
- 976 [~~(k)~~] (k) motor vehicle manufacturer's license;
- 977 [~~(l)~~] (l) motor vehicle transporter's license;
- 978 [~~(m)~~] (m) motor vehicle dismantler's license;
- 979 [~~(n)~~] (n) motor vehicle crusher's license;
- 980 [~~(o)~~] (o) motor vehicle remanufacturer's license;
- 981 [~~(p)~~] (p) body shop's license;
- 982 [~~(q)~~] (q) distributor or factory branch and distributor branch's license;
- 983 [~~(r)~~] (r) representative's license;
- 984 [~~(s)~~] (s) dealer plates;
- 985 [~~(t)~~] (t) dismantler plates;
- 986 [~~(u)~~] (u) manufacturer plates;
- 987 [~~(v)~~] (v) transporter plates;
- 988 [~~(w)~~] (w) damaged plate replacement;

989 ~~[(t)]~~ (x) in-transit permits;
 990 ~~[(u)]~~ (y) loaded demonstration permits;
 991 ~~[(v)]~~ (z) additional place of business;
 992 ~~[(w)]~~ (aa) special equipment dealer's license;
 993 ~~[(x)]~~ (bb) temporary permits; and
 994 ~~[(y)]~~ (cc) temporary sports event registration certificates.

995 (2) (a) To pay for training certified vehicle inspectors and enforcement under Sections
 996 [41-1a-1001](#) through [41-1a-1008](#), the State Tax Commission shall establish and the
 997 administrator shall collect inspection fees determined by the commission under Section
 998 [63J-1-504](#).

999 (b) The division shall use fees collected under Subsection (2)(a) as dedicated credits to
 1000 be used toward the costs of the division.

1001 (3) (a) At the time of application, the administrator shall collect a fee of \$200 for each
 1002 salvage vehicle buyer license.

1003 (b) The administrator may retain a portion of the fee under Subsection (3)(a) to offset
 1004 the administrator's actual costs of administering and enforcing salvage vehicle buyer licenses.

1005 (4) A fee imposed under Subsection (1)(x) or (y):

1006 (a) shall be deposited into the Motor Vehicle Enforcement Division Temporary Permit
 1007 Restricted Account created by Section [41-3-110](#); and

1008 (b) is not subject to Subsection [63J-2-202](#)(2).

1009 Section 15. Section [41-3-802](#) is amended to read:

1010 **[41-3-802](#). Definitions.**

1011 As used in this part:

1012 (1) (a) "Consignee" means a dealer who accepts vehicles for sale under an agreement
 1013 that the dealer will pay the consignor for any sold vehicle and will return any unsold vehicles.

1014 **(b) "Consignee" includes a person authorized by a small manufacturer dealer to act as a**
 1015 **cosignee for a vehicle manufactured by the small manufacturer dealer.**

1016 ~~[(b)]~~ (c) "Consignee" does not include a wholesale motor vehicle auction.

1017 (2) "Consignor" means a person who places a vehicle with a consignee for
 1018 consignment sale.

1019 Section 16. Section [59-12-107](#) is amended to read:

1020 **59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or**
1021 **other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other**
1022 **liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt --**
1023 **Penalties and interest.**

1024 (1) As used in this section:

1025 (a) "Ownership" means direct ownership or indirect ownership through a parent,
1026 subsidiary, or affiliate.

1027 (b) "Related seller" means a seller that:

1028 (i) meets one or more of the criteria described in Subsection (2)(a)(i); and

1029 (ii) delivers tangible personal property, a service, or a product transferred electronically
1030 that is sold:

1031 (A) by a seller that does not meet one or more of the criteria described in Subsection
1032 (2)(a)(i); and

1033 (B) to a purchaser in the state.

1034 (c) "Substantial ownership interest" means an ownership interest in a business entity if
1035 that ownership interest is greater than the degree of ownership of equity interest specified in 15
1036 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

1037 (2) (a) Except as provided in Subsection (2)(e), Section [59-12-107.1](#), or Section
1038 [59-12-123](#), and subject to Subsection (2)(f), each seller shall pay or collect and remit the sales
1039 and use taxes imposed by this chapter if within this state the seller:

1040 (i) has or utilizes:

1041 (A) an office;

1042 (B) a distribution house;

1043 (C) a sales house;

1044 (D) a warehouse;

1045 (E) a service enterprise; or

1046 (F) a place of business similar to Subsections (2)(a)(i)(A) through (E);

1047 (ii) maintains a stock of goods;

1048 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
1049 state, unless the seller's only activity in the state is:

1050 (A) advertising; or

- 1051 (B) solicitation by:
1052 (I) direct mail;
1053 (II) electronic mail;
1054 (III) the Internet;
1055 (IV) telecommunications service; or
1056 (V) a means similar to Subsection (2)(a)(iii)(A) or (B);
1057 (iv) regularly engages in the delivery of property in the state other than by:
1058 (A) common carrier; or
1059 (B) United States mail; or
1060 (v) regularly engages in an activity directly related to the leasing or servicing of
1061 property located within the state.
- 1062 (b) A seller is considered to be engaged in the business of selling tangible personal
1063 property, a service, or a product transferred electronically for use in the state, and shall pay or
1064 collect and remit the sales and use taxes imposed by this chapter if:
- 1065 (i) the seller holds a substantial ownership interest in, or is owned in whole or in
1066 substantial part by, a related seller; and
- 1067 (ii) (A) the seller sells the same or a substantially similar line of products as the related
1068 seller and does so under the same or a substantially similar business name; or
1069 (B) the place of business described in Subsection (2)(a)(i) of the related seller or an in
1070 state employee of the related seller is used to advertise, promote, or facilitate sales by the seller
1071 to a purchaser.
- 1072 (c) A seller that does not meet one or more of the criteria provided for in Subsection
1073 (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection
1074 (2)(b):
- 1075 (i) except as provided in Subsection (2)(c)(ii), may voluntarily:
1076 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and
1077 (B) remit the tax to the commission as provided in this part; or
1078 (ii) notwithstanding Subsection (2)(c)(i), shall collect a tax on a transaction described
1079 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.
- 1080 (d) The collection and remittance of a tax under this chapter by a seller that is
1081 registered under the agreement may not be used as a factor in determining whether that seller is

1082 required by Subsection (2) to:

1083 (i) pay a tax, fee, or charge under:

1084 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1085 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

1086 (C) Section 19-6-714;

1087 (D) Section 19-6-805;

1088 (E) Section 69-2-5;

1089 (F) Section 69-2-5.5;

1090 (G) Section 69-2-5.6; or

1091 (H) this title; or

1092 (ii) collect and remit a tax, fee, or charge under:

1093 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1094 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

1095 (C) Section 19-6-714;

1096 (D) Section 19-6-805;

1097 (E) Section 69-2-5;

1098 (F) Section 69-2-5.5;

1099 (G) Section 69-2-5.6; or

1100 (H) this title.

1101 (e) A person shall pay a use tax imposed by this chapter on a transaction described in

1102 Subsection 59-12-103(1) if:

1103 (i) the seller did not collect a tax imposed by this chapter on the transaction; and

1104 (ii) the person:

1105 (A) stores the tangible personal property or product transferred electronically in the

1106 state;

1107 (B) uses the tangible personal property or product transferred electronically in the state;

1108 or

1109 (C) consumes the tangible personal property or product transferred electronically in the

1110 state.

1111 (f) The ownership of property that is located at the premises of a printer's facility with

1112 which the retailer has contracted for printing and that consists of the final printed product,

1113 property that becomes a part of the final printed product, or copy from which the printed
1114 product is produced, shall not result in the retailer being considered to have or maintain an
1115 office, distribution house, sales house, warehouse, service enterprise, or other place of
1116 business, or to maintain a stock of goods, within this state.

1117 (3) (a) Except as provided in Section [59-12-107.1](#), a tax under this chapter shall be
1118 collected from a purchaser.

1119 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
1120 cent, in excess of the tax computed at the rates prescribed by this chapter.

1121 (c) (i) Each seller shall:

1122 (A) give the purchaser a receipt for the tax collected; or

1123 (B) bill the tax as a separate item and declare the name of this state and the seller's
1124 sales and use tax license number on the invoice for the sale.

1125 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
1126 and relieves the purchaser of the liability for reporting the tax to the commission as a
1127 consumer.

1128 (d) A seller is not required to maintain a separate account for the tax collected, but is
1129 considered to be a person charged with receipt, safekeeping, and transfer of public money.

1130 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
1131 benefit of the state and for payment to the commission in the manner and at the time provided
1132 for in this chapter.

1133 (f) If any seller, during any reporting period, collects as a tax an amount in excess of
1134 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller
1135 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
1136 excess.

1137 (g) If the accounting methods regularly employed by the seller in the transaction of the
1138 seller's business are such that reports of sales made during a calendar month or quarterly period
1139 will impose unnecessary hardships, the commission may accept reports at intervals that will, in
1140 the commission's opinion, better suit the convenience of the taxpayer or seller and will not
1141 jeopardize collection of the tax.

1142 (h) (i) For a purchase paid with specie legal tender as defined in Section [59-1-1501.1](#),
1143 and until such time as the commission accepts specie legal tender for the payment of a tax

1144 under this chapter, if the commission requires a seller to remit a tax under this chapter in legal
1145 tender other than specie legal tender, the seller shall state on the seller's books and records and
1146 on an invoice, bill of sale, or similar document provided to the purchaser:

1147 (A) the purchase price in specie legal tender and in the legal tender the seller is
1148 required to remit to the commission;

1149 (B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie
1150 legal tender and in the legal tender the seller is required to remit to the commission;

1151 (C) the tax rate under this chapter applicable to the purchase; and

1152 (D) the date of the purchase.

1153 (ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of
1154 tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the
1155 specie legal tender the purchaser paid.

1156 (B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1157 commission may make rules for determining the amount of tax due under Subsection (3)(h)(i)
1158 if the London fixing price is not available for a particular day.

1159 (4) (a) Except as provided in Subsections (5) through (7) and Section [59-12-108](#), the
1160 sales or use tax imposed by this chapter is due and payable to the commission quarterly on or
1161 before the last day of the month next succeeding each calendar quarterly period.

1162 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
1163 calendar quarterly period, file with the commission a return for the preceding quarterly period.

1164 (ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the
1165 tax required under this chapter to be collected or paid for the period covered by the return.

1166 (c) Except as provided in Subsection (5)(c), a return shall contain information and be in
1167 a form the commission prescribes by rule.

1168 (d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be
1169 based on the total nonexempt sales made during the period for which the return is filed,
1170 including both cash and charge sales.

1171 (ii) For a sale that includes the delivery or installation of tangible personal property at a
1172 location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery
1173 or installation is separately stated on an invoice or receipt, a seller may compute the tax due on
1174 the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that

1175 sale during each period for which the seller receives payment for the sale.

1176 (e) (i) The use tax as computed in the return shall be based on the total amount of
1177 purchases for storage, use, or other consumption in this state made during the period for which
1178 the return is filed, including both cash and charge purchases.

1179 (ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser
1180 who is required to remit taxes under this chapter, but is not required to remit taxes monthly in
1181 accordance with Section 59-12-108, and who converts tangible personal property into real
1182 property.

1183 (B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the
1184 taxes due under this chapter on tangible personal property for which the qualifying purchaser
1185 claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in
1186 which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C),
1187 for the conversion of the tangible personal property into real property.

1188 (C) A qualifying purchaser remitting taxes due under this chapter in accordance with
1189 Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the
1190 qualifying purchaser's purchase of the tangible personal property that was converted into real
1191 property multiplied by a fraction, the numerator of which is the payment received in the period
1192 for the qualifying purchaser's sale of the tangible personal property that was converted into real
1193 property and the denominator of which is the entire sales price for the qualifying purchaser's
1194 sale of the tangible personal property that was converted into real property.

1195 (D) A qualifying purchaser may remit taxes due under this chapter in accordance with
1196 this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in
1197 the qualifying purchaser's regular course of business identify by reasonable and verifiable
1198 standards that the tangible personal property was converted into real property.

1199 (f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3,
1200 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making
1201 returns and paying the taxes.

1202 (ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

1203 (g) The commission may require returns and payment of the tax to be made for other
1204 than quarterly periods if the commission considers it necessary in order to ensure the payment
1205 of the tax imposed by this chapter.

1206 (h) (i) The commission may require a seller that files a simplified electronic return with
1207 the commission to file an additional electronic report with the commission.

1208 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1209 commission may make rules providing:

1210 (A) the information required to be included in the additional electronic report described
1211 in Subsection (4)(h)(i); and

1212 (B) one or more due dates for filing the additional electronic report described in
1213 Subsection (4)(h)(i).

1214 (5) (a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a
1215 seller that is:

1216 (i) registered under the agreement;

1217 (ii) described in Subsection (2)(c); and

1218 (iii) not a:

1219 (A) model 1 seller;

1220 (B) model 2 seller; or

1221 (C) model 3 seller.

1222 (b) (i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in
1223 accordance with Subsection (2)(c) is due and payable:

1224 (A) to the commission;

1225 (B) annually; and

1226 (C) on or before the last day of the month immediately following the last day of each
1227 calendar year.

1228 (ii) The commission may require that a tax a remote seller collects in accordance with
1229 Subsection (2)(c) be due and payable:

1230 (A) to the commission; and

1231 (B) on the last day of the month immediately following any month in which the seller
1232 accumulates a total of at least \$1,000 in agreement sales and use tax.

1233 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection
1234 (5)(b), the remote seller shall file a return:

1235 (A) with the commission;

1236 (B) with respect to the tax;

- 1237 (C) containing information prescribed by the commission; and
1238 (D) on a form prescribed by the commission.
- 1239 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1240 commission shall make rules prescribing:
- 1241 (A) the information required to be contained in a return described in Subsection
1242 (5)(c)(i); and
- 1243 (B) the form described in Subsection (5)(c)(i)(D).
- 1244 (d) A tax a remote seller collects in accordance with this Subsection (5) shall be
1245 calculated on the basis of the total amount of taxable transactions under Subsection
1246 59-12-103(1) the remote seller completes, including:
- 1247 (i) a cash transaction; and
1248 (ii) a charge transaction.
- 1249 (6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified
1250 electronic return collects in accordance with this chapter is due and payable:
- 1251 (i) monthly on or before the last day of the month immediately following the month for
1252 which the seller collects a tax under this chapter; and
1253 (ii) for the month for which the seller collects a tax under this chapter.
- 1254 (b) A tax a remote seller that files a simplified electronic return collects in accordance
1255 with this chapter is due and payable as provided in Subsection (5).
- 1256 (7) (a) On each vehicle sale made by ~~[other than]~~ a person who is not a regular licensed
1257 vehicle dealer, or licensed online manufacturer dealer or small manufacturer dealer as defined
1258 in Section 41-3-102, the purchaser shall pay the sales or use tax directly to the commission if
1259 the vehicle is subject to titling or registration under the laws of this state.
- 1260 (b) The commission shall collect the tax described in Subsection (7)(a) when the
1261 vehicle is titled or registered.
- 1262 (8) If any sale of tangible personal property or any other taxable transaction under
1263 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not
1264 responsible for the collection or payment of the tax imposed on the sale and the retailer is
1265 responsible for the collection or payment of the tax imposed on the sale if:
- 1266 (a) the retailer represents that the personal property is purchased by the retailer for
1267 resale; and

1268 (b) the personal property is not subsequently resold.

1269 (9) If any sale of property or service subject to the tax is made to a person prepaying
1270 sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a
1271 contractor or subcontractor of that person, the person to whom such payment or consideration
1272 is payable is not responsible for the collection or payment of the sales or use tax and the person
1273 prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax
1274 if the person prepaying the sales or use tax represents that the amount prepaid as sales or use
1275 tax has not been fully credited against sales or use tax due and payable under the rules
1276 promulgated by the commission.

1277 (10) (a) For purposes of this Subsection (10):

1278 (i) Except as provided in Subsection (10)(a)(ii), "bad debt" is as defined in Section
1279 166, Internal Revenue Code.

1280 (ii) Notwithstanding Subsection (10)(a)(i), "bad debt" does not include:

1281 (A) an amount included in the purchase price of tangible personal property, a product
1282 transferred electronically, or a service that is:

1283 (I) not a transaction described in Subsection 59-12-103(1); or

1284 (II) exempt under Section 59-12-104;

1285 (B) a financing charge;

1286 (C) interest;

1287 (D) a tax imposed under this chapter on the purchase price of tangible personal
1288 property, a product transferred electronically, or a service;

1289 (E) an uncollectible amount on tangible personal property or a product transferred
1290 electronically that:

1291 (I) is subject to a tax under this chapter; and

1292 (II) remains in the possession of a seller until the full purchase price is paid;

1293 (F) an expense incurred in attempting to collect any debt; or

1294 (G) an amount that a seller does not collect on repossessed property.

1295 (b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later
1296 becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax
1297 under this chapter is calculated on a return.

1298 (ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the

1299 total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on
1300 the qualifying purchaser's purchase of tangible personal property converted into real property to
1301 the extent that:

1302 (A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal
1303 property converted into real property;

1304 (B) the qualifying purchaser's sale of that tangible personal property converted into real
1305 property later becomes bad debt; and

1306 (C) the books and records that the qualifying purchaser keeps in the qualifying
1307 purchaser's regular course of business identify by reasonable and verifiable standards that the
1308 tangible personal property was converted into real property.

1309 (c) A seller may file a refund claim with the commission if:

1310 (i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds
1311 the amount of the seller's sales that are subject to a tax under this chapter for that same time
1312 period; and

1313 (ii) as provided in Section [59-1-1410](#).

1314 (d) A bad debt deduction under this section may not include interest.

1315 (e) A bad debt may be deducted under this Subsection (10) on a return for the time
1316 period during which the bad debt:

1317 (i) is written off as uncollectible in the seller's books and records; and

1318 (ii) would be eligible for a bad debt deduction:

1319 (A) for federal income tax purposes; and

1320 (B) if the seller were required to file a federal income tax return.

1321 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
1322 claims a refund under this Subsection (10), the seller shall report and remit a tax under this
1323 chapter:

1324 (i) on the portion of the bad debt the seller recovers; and

1325 (ii) on a return filed for the time period for which the portion of the bad debt is
1326 recovered.

1327 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection
1328 (10)(f), a seller shall apply amounts received on the bad debt in the following order:

1329 (i) in a proportional amount:

- 1330 (A) to the purchase price of the tangible personal property, product transferred
1331 electronically, or service; and
- 1332 (B) to the tax due under this chapter on the tangible personal property, product
1333 transferred electronically, or service; and
- 1334 (ii) to:
- 1335 (A) interest charges;
1336 (B) service charges; and
1337 (C) other charges.
- 1338 (h) A seller's certified service provider may make a deduction or claim a refund for bad
1339 debt on behalf of the seller:
- 1340 (i) in accordance with this Subsection (10); and
1341 (ii) if the certified service provider credits or refunds the entire amount of the bad debt
1342 deduction or refund to the seller.
- 1343 (i) A seller may allocate bad debt among the states that are members of the agreement
1344 if the seller's books and records support that allocation.
- 1345 (11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full
1346 amount of tax required by this chapter.
- 1347 (b) A violation of this section is punishable as provided in Section [59-1-401](#).
1348 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
1349 paid to the state, except amounts determined to be due by the commission under Chapter 1,
1350 Part 14, Assessment, Collections, and Refunds Act, or Section [59-12-111](#), within the time
1351 required by this chapter, or who fails to file any return as required by this chapter, shall pay, in
1352 addition to the tax, penalties and interest as provided in Sections [59-1-401](#) and [59-1-402](#).
- 1353 (d) For purposes of prosecution under this section, each quarterly tax period in which a
1354 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
1355 tax required to be remitted, constitutes a separate offense.