

1 **MOTOR VEHICLE SELLING AND TITLING**

2 **REQUIREMENTS**

3 2012 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Stephen H. Urquhart**

6 House Sponsor: Don L. Ipson

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Motor Vehicle Code by amending provisions relating to selling
11 and titling a motor vehicle.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ provides definitions;
- 15 ▶ provides that upon the endorsement and assignment of a certificate of title, the same
16 certificate of title may not be reendorsed and reassigned to a new owner with
17 exceptions;
- 18 ▶ provides that a person may not sell, offer for sale, or display for sale or exchange a
19 motor vehicle unless the person is:
 - 20 • licensed under the Motor Vehicle Business Regulation Act;
 - 21 • the lienholder or owner of the vehicle;
 - 22 • a person who has lawfully repossessed the vehicle;
 - 23 • a holder of a statutory lien on the vehicle who is selling the vehicle through a
24 motor vehicle auction;
 - 25 • a person lawfully donating a vehicle to a nonprofit charitable organization;
 - 26 • a non-profit charitable organization that receives donated vehicles and sells or
27 disposes of them;
 - 28 • a person lawfully selling the person's immediate family member's vehicle; or
 - 29 • a personal representative, trustee, guardian, executor, administrator, sheriff,

30 government entity, or other person who sells a vehicle under the powers and duties granted or
31 imposed by law;

32 ▶ requires a new owner of a transferred vehicle, vessel, or outboard motor to obtain a
33 certificate of title with exceptions;

34 ▶ establishes penalties and fines for violating the provisions; and

35 ▶ makes technical changes.

36 **Money Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 None

40 **Utah Code Sections Affected:**

41 AMENDS:

42 **41-1a-702**, as last amended by Laws of Utah 1993, Chapter 221

43 **41-1a-705**, as enacted by Laws of Utah 1992, Chapter 1 and last amended by Laws of
44 Utah 1992, Chapter 218

45 **41-3-702**, as last amended by Laws of Utah 2009, Chapter 234



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

48 Section 1. Section **41-1a-702** is amended to read:

49 **41-1a-702. Endorsement of assignment and warranty of title -- Co-owners.**

50 (1) (a) To transfer a vehicle, vessel, or outboard motor the owner shall endorse the
51 certificate of title issued for the vehicle, vessel, or outboard motor in the space for assignment
52 and warranty of title.

53 (b) The endorsement and assignment shall include a statement of all liens or
54 encumbrances on the vehicle, vessel, or outboard motor.

55 (c) Upon the endorsement and assignment of a certificate of title, the same certificate
56 of title may not be reendorsed and reassigned to a new owner except as provided in Section
57 41-1a-705.

58 (2) (a) If a title certificate reflects the names of two or more people as co-owners in the
59 alternative by use of the word "or" or "and/or," each co-owner is considered to have granted the
60 other co-owners the absolute right to endorse and deliver title and to dispose of the vehicle,
61 vessel, or outboard motor.

62 (b) If the title certificate reflects the names of two or more people as co-owners in the
63 conjunctive by use of the word "and," or the title does not reflect any alternative or conjunctive
64 word, the endorsement of each co-owner is required to transfer title to the vehicle, vessel, or
65 outboard motor.

66 (3) The owner shall deliver the certificate of title containing the odometer disclosure
67 statement required under Section 41-1a-902 and the certificate of registration to the purchaser
68 or transferee at the time of, or within 48 hours after delivering the vehicle, vessel, or outboard
69 motor, as applicable, except as provided for under Sections 41-3-301, 41-1a-519, and
70 41-1a-709.

71 Section 2. Section **41-1a-705** is amended to read:

72 **41-1a-705. Persons that may sell, offer for sale, or display for sale a vehicle,**
73 **vessel, or outboard motor -- New owner shall title -- Penalties.**

74 (1) As used in this section, "immediate family member" means a person's spouse, child,
75 spouse of a child living in the person's home, or parent.

76 (2) (a) A person may not sell, offer for sale, or display for sale or exchange any vehicle,
77 vessel, or outboard motor unless the person is:

78 (i) a person licensed under Chapter 3, Motor Vehicle Business Regulation Act;

79 (ii) a motor vehicle auction;

80 (iii) the lienholder or owner of the vehicle, vessel, or outboard motor as evidenced by
81 the person's name being printed by the division on the certificate of title;

82 (iv) a person who has lawfully repossessed the vehicle, vessel, or outboard motor;

83 (v) a holder of a statutory lien on the vehicle who is selling the vehicle, vessel, or
84 outboard motor through a motor vehicle auction;

85 (vi) a person lawfully donating the vehicle, vessel, or outboard motor to a non-profit

86 charitable organization;

87 (vii) a non-profit charitable organization that receives donated vehicles and sells or
88 disposes of them; or

89 (viii) a person lawfully selling the person's immediate family member's vehicle, vessel,
90 or outboard motor.

91 (b) Subsection (2)(a) does not apply to a personal representative, trustee, guardian,
92 executor, administrator, sheriff, government entity, or other person who sells a vehicle, vessel,
93 or outboard motor under the powers and duties granted or imposed by law.

94 ~~[(1) The]~~ (3) Unless the new owner is a person listed in Subsections (2)(a)(i) through
95 (viii), the new owner of a transferred vehicle, vessel, or outboard motor [may either] shall
96 obtain a [new registration and] certificate of title for the vehicle, vessel, or outboard motor
97 transferred to [him or transfer his title or interest in that vehicle, vessel, or outboard motor to a
98 third party] the new owner.

99 ~~[(2) A transferee may title a]~~

100 (4) Unless the new owner is a person listed in Subsections (2)(a)(i) through (viii), the
101 owner of the vehicle, vessel, or outboard motor shall title the vehicle, vessel, or outboard motor
102 by completing an application and presenting to the division a properly endorsed certificate of
103 title, duplicate certificate of title, or other document of authority along with any additional
104 documents the division may require to transfer the title.

105 (5) (a) A person who violates the provisions of Subsection (2) is guilty of a class B
106 misdemeanor.

107 (b) A person who violates any of the provisions of this section shall pay all fees and
108 taxes required under this chapter that resulted from the violation.

109 (c) Each vehicle sold, offered for sale, or displayed for sale in violation of this section
110 shall be a separate offense.

111 (6) Nothing in this section applies to a person purchasing a vehicle from a motor
112 vehicle auction if the purchased vehicle is being transported out of the state.

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

114 **41-3-702. Civil penalty for violation.**

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

117 (a) Level I:

118 (i) failing to display business license;

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

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

123 (iv) issuing a temporary permit improperly;

124 (v) failing to maintain records;

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

127 (vii) special plate violation; and

128 (viii) failing to maintain a sign at a principal place of business.

129 (b) Level II:

130 (i) failing to report sale;

131 (ii) dismantling without a permit;

132 (iii) manufacturing without meeting construction or vehicle identification number
133 standards;

134 (iv) withholding customer license plates; or

135 (v) selling a motor vehicle on consecutive days of Saturday and Sunday.

136 (c) Level III:

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

138 (ii) selling a new motor vehicle without holding the franchise;

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

140 (iv) selling from an unlicensed location;

141 (v) altering a temporary permit;

- 142 (vi) refusal to furnish copies of records;
- 143 (vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;
- 144 (viii) advertising violation;
- 145 (ix) failing to separately identify the fees required by Title 41, Chapter 1a, Motor
- 146 Vehicle Act; [~~and~~]
- 147 (x) encouraging or conspiring with unlicensed persons to solicit for prospective
- 148 purchasers; [~~and~~]
- 149 (xi) failing to title a vehicle with a salvage certificate that is purchased at or through a
- 150 motor vehicle auction within 15 days of the purchase as required under Subsection
- 151 41-3-201(3)(e)[-]; and
- 152 (xii) selling, offering for sale, or displaying for sale or exchange a vehicle, vessel, or
- 153 outboard motor in violation of Section 41-1a-705.
- 154 (2) (a) The schedule of civil penalties for violations of Subsection (1) is:
- 155 (i) Level I: \$25 for the first offense, \$100 for the second offense, and \$250 for the third
- 156 and subsequent offenses;
- 157 (ii) Level II: \$100 for the first offense, \$250 for the second offense, and \$1,000 for the
- 158 third and subsequent offenses; and
- 159 (iii) Level III: \$250 for the first offense, \$1,000 for the second offense, and \$5,000 for
- 160 the third and subsequent offenses.
- 161 (b) When determining under this section if an offense is a second or subsequent
- 162 offense, only prior offenses committed within the 12 months prior to the commission of the
- 163 current offense may be considered.
- 164 (3) The following are civil violations in addition to criminal violations under Section
- 165 41-1a-1008:
- 166 (a) knowingly selling a salvage vehicle, as defined in Section 41-1a-1001, without
- 167 disclosing that the salvage vehicle has been repaired or rebuilt;
- 168 (b) knowingly making a false statement on a vehicle damage disclosure statement, as
- 169 defined in Section 41-1a-1001; or

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

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

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

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

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