

AUTOMOBILE SALVAGE AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Motor Vehicle Business Regulation Act by amending provisions relating to salvage vehicles.

Highlighted Provisions:

This bill:

- ▶ repeals the provisions that authorize a person to offer for sale, sell, or exchange a vehicle with a salvage certificate at or through a motor vehicle auction to certain purchasers;

- ▶ repeals a provision that limits the number of vehicles with salvage certificates that an operator of a motor vehicle auction may offer for sale, sell, or exchange at or through a motor vehicle auction in any 12 month period to certain purchasers;

- ▶ repeals a provision that authorizes the Tax Commission to impose an administrative entrance fee on certain persons that enter a motor vehicle auction for certain purposes;

- ▶ repeals the requirement that a purchaser of a vehicle with a salvage certificate title the vehicle within 15 days of the purchase in certain circumstances;

- ▶ repeals the prohibition on an operator of a motor vehicle auction from offering for sale, selling, or exchanging vehicles with a salvage certificate to certain purchasers;

- ▶ repeals certain requirements for an operator of a motor vehicle auction;

- ▶ repeals criminal and civil penalties relating to not titling a vehicle with a salvage



28 certificate within 15 days of the purchase; and

29 ▶ makes technical changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **41-3-201**, as last amended by Laws of Utah 2010, Chapter 393

37 **41-3-201.7**, as last amended by Laws of Utah 2010, Chapter 393

38 **41-3-701**, as last amended by Laws of Utah 2009, Chapter 234

39 **41-3-702**, as last amended by Laws of Utah 2009, Chapter 234



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

42 Section 1. Section **41-3-201** is amended to read:

43 **41-3-201. Licenses required -- Restitution -- Education.**

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

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

48 (a) a dealer;

49 (b) salvage vehicle buyer;

50 (c) salesperson;

51 (d) manufacturer;

52 (e) transporter;

53 (f) dismantler;

54 (g) distributor;

55 (h) factory branch and representative;

56 (i) distributor branch and representative;

57 (j) crusher;

58 (k) remanufacturer; or

59 (1) body shop.

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

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

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

68 ~~[(i) to an out-of-state or out-of-country purchaser not licensed under this section, but
69 that is authorized to do business in the domestic or foreign jurisdiction in which the person is
70 domiciled or registered to do business; and]~~

71 ~~[(ii) subject to the restriction in Subsection (3)(d), to an in-state purchaser not licensed
72 under this section that:]~~

73 ~~[(A) is registered to do business in Utah; and]~~

74 ~~[(B) has a Utah sales tax license.]~~

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

79 ~~[(e) (i) An in-state purchaser of a vehicle with a salvage certificate as defined in
80 Section 41-1a-1001 that is purchased at or through a motor vehicle auction shall title the
81 vehicle within 15 days of the purchase if the purchaser does not have a salvage vehicle buyer
82 license, dealer license, body shop license, or dismantler license issued in accordance with
83 Section 41-3-202.]~~

84 ~~[(ii) An operator of a motor vehicle auction may not offer for sale, sell, or exchange
85 additional vehicles with a salvage certificate as defined in Section 41-1a-1001 at or through a
86 motor vehicle auction to a purchaser if notified that the purchaser has not titled previously
87 purchased vehicles with a salvage certificate as required under Subsection (3)(c)(i).]~~

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

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

93 ~~[(4) (a) An operator of a motor vehicle auction shall keep a record of the sale of each~~
94 ~~salvage vehicle.]~~

95 ~~[(b) A record described under Subsection (4)(a) shall contain:]~~

96 ~~[(i) the purchaser's name and address; and]~~

97 ~~[(ii) the year, make, and vehicle identification number for each salvage vehicle sold.]~~

98 ~~[(c) An operator of a motor vehicle auction shall:]~~

99 ~~[(i) retain the record described in this Subsection (4) for five years from the date of~~
100 ~~sale; and]~~

101 ~~[(ii) make a record described in this Subsection (4) available for inspection by the~~
102 ~~division at the location of the motor vehicle auction during normal business hours.]~~

103 ~~[(5) (a) An operator of a motor vehicle auction that sells a salvage vehicle to a person~~
104 ~~that is an out-of-country buyer shall:]~~

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

107 ~~[(ii) stamp in each unused reassignment space on the back of the title the words "FOR~~
108 ~~EXPORT ONLY."]~~

109 ~~[(b) The words "FOR EXPORT ONLY" shall be:]~~

110 ~~[(i) at least two inches wide; and]~~

111 ~~[(ii) clearly legible.]~~

112 ~~[(6)] (4) A supplemental license shall be secured by a dealer, manufacturer,~~
113 ~~remanufacturer, transporter, dismantler, crusher, or body shop for each additional place of~~
114 ~~business maintained by the licensee.~~

115 ~~[(7)] (5) A person who has been convicted of any law relating to motor vehicle~~
116 ~~commerce or motor vehicle fraud may not be issued a license unless full restitution regarding~~
117 ~~those convictions has been made.~~

118 ~~[(8)] (6) (a) The division may not issue a license to a new applicant for a new or used~~
119 ~~motor vehicle dealer license, a new or used motorcycle dealer license, or a small trailer dealer~~
120 ~~license unless the new applicant completes an eight-hour orientation class approved by the~~

121 division that includes education on motor vehicle laws and rules.

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

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

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

126 (A) providers of the orientation class; and

127 (B) costs of the orientation class.

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

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

131 (A) ethics training;

132 (B) motor vehicle title and registration processes;

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

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

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

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

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

138 Section 2. Section **41-3-201.7** is amended to read:

139 **41-3-201.7. Supplemental license for additional place of business restrictions --**

140 **Exceptions.**

141 (1) (a) Subject to the requirements of Subsection (2), a supplemental license for an
142 additional place of business issued pursuant to Subsection 41-3-201[~~(6)~~](4) may only be issued
143 to a dealer if the dealer is:

144 (i) licensed in accordance with Section 41-3-202;

145 (ii) bonded in accordance with Section 41-3-205; and

146 (iii) in compliance with existing rules promulgated by the administrator of the division
147 under Section 41-3-105.

148 (b) A supplemental license for a permanent additional place of business may only be
149 issued to a used motor vehicle dealer if:

150 (i) the dealer independently satisfies the bond requirements under Section 41-3-205 for
151 the permanent additional place of business;

152 (ii) the dealer is in compliance with existing rules promulgated by the administrator of
153 the division under Section 41-3-105; and

154 (iii) the permanent additional place of business meets all the requirements for a
155 principal place of business.

156 (2) (a) Except as provided in Subsections (2)(c) and (3), a supplemental license for an
157 additional place of business issued pursuant to Subsection 41-3-201[(6)](4) for a new motor
158 vehicle dealer may not be issued for an additional place of business that is beyond the
159 geographic specifications outlined as the area of responsibility in the dealer's franchise
160 agreement.

161 (b) A new motor vehicle dealer shall provide the administrator with a copy of the
162 portion of the new motor vehicle dealer's franchise agreement identifying the dealer's area of
163 responsibility before being issued a supplemental license for an additional place of business.

164 (c) The restrictions under Subsections (2)(a) and (b) do not apply to a new motor
165 vehicle dealer if the license for an additional place of business is being issued for the sale of
166 used motor vehicles.

167 (3) The provisions of Subsection (2) do not apply if the additional place of business is
168 a trade show or exhibition if:

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

170 (b) the trade show or exhibition takes place at a location other than the principal place
171 of business of one of the dealers participating in the trade show or exhibition.

172 (4) A supplemental license for a temporary additional place of business issued to a
173 used motor vehicle dealer may not be for longer than 10 consecutive days.

174 Section 3. Section **41-3-701** is amended to read:

175 **41-3-701. Violations as misdemeanors.**

176 (1) Except as otherwise provided in this chapter, any person who violates this chapter
177 is guilty of a class B misdemeanor.

178 (2) (a) [~~(i) Except as provided in Subsection (2)(a)(ii), a~~] A person who violates
179 Section 41-3-201 is guilty of a class A misdemeanor.

180 [~~(ii) A person who violates the requirement to title a vehicle with a salvage certificate~~
181 ~~within 15 days of purchasing the vehicle at a motor vehicle auction under Subsection~~
182 ~~41-3-201(3)(c) is guilty of a class C misdemeanor.~~]

183 (b) Once a person has met the criteria for the offense of acting as a dealer without a
184 license, each additional motor vehicle the person sells, displays for sale, offers for sale or
185 exchange, or leases in that 12-month period without becoming licensed under Section 41-3-202
186 is a separate violation.

187 (3) A person who violates Section 41-3-301 is guilty of a class A misdemeanor unless
188 the selling dealer complies with the requirements of Section 41-3-403.

189 (4) A person who violates Section 41-3-207.5 is guilty of a class A misdemeanor.
190 Section 4. Section **41-3-702** is amended to read:

191 **41-3-702. Civil penalty for violation.**

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

194 (a) Level I:

195 (i) failing to display business license;

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

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

200 (iv) issuing a temporary permit improperly;

201 (v) failing to maintain records;

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

204 (vii) special plate violation; and

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

206 (b) Level II:

207 (i) failing to report sale;

208 (ii) dismantling without a permit;

209 (iii) manufacturing without meeting construction or vehicle identification number
210 standards;

211 (iv) withholding customer license plates; or

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

213 (c) Level III:

- 214 (i) operating without a principal place of business;
- 215 (ii) selling a new motor vehicle without holding the franchise;
- 216 (iii) crushing a motor vehicle without proper evidence of ownership;
- 217 (iv) selling from an unlicensed location;
- 218 (v) altering a temporary permit;
- 219 (vi) refusal to furnish copies of records;
- 220 (vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;
- 221 (viii) advertising violation;
- 222 (ix) failing to separately identify the fees required by [Title 41,] Chapter 1a, Motor
- 223 Vehicle Act; and
- 224 (x) encouraging or conspiring with unlicensed persons to solicit for prospective
- 225 purchasers[~~;~~and].
- 226 [~~(xi) failing to title a vehicle with a salvage certificate that is purchased at or through a~~
- 227 ~~motor vehicle auction within 15 days of the purchase as required under Subsection~~
- 228 ~~41-3-201(3)(e).]~~
- 229 (2) (a) The schedule of civil penalties for violations of Subsection (1) is:
- 230 (i) Level I: \$25 for the first offense, \$100 for the second offense, and \$250 for the third
- 231 and subsequent offenses;
- 232 (ii) Level II: \$100 for the first offense, \$250 for the second offense, and \$1,000 for the
- 233 third and subsequent offenses; and
- 234 (iii) Level III: \$250 for the first offense, \$1,000 for the second offense, and \$5,000 for
- 235 the third and subsequent offenses.
- 236 (b) When determining under this section if an offense is a second or subsequent
- 237 offense, only prior offenses committed within the 12 months prior to the commission of the
- 238 current offense may be considered.
- 239 (3) The following are civil violations in addition to criminal violations under Section
- 240 41-1a-1008:
- 241 (a) knowingly selling a salvage vehicle, as defined in Section 41-1a-1001, without
- 242 disclosing that the salvage vehicle has been repaired or rebuilt;
- 243 (b) knowingly making a false statement on a vehicle damage disclosure statement, as
- 244 defined in Section 41-1a-1001; or

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

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

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

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

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

Legislative Review Note
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Office of Legislative Research and General Counsel