

# HB0194S01 compared with HB0194

~~text~~ shows text that was in HB0194 but was deleted in HB0194S01.

inserted text shows text that was not in HB0194 but was inserted into HB0194S01.

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Representative Colin W. Jack proposes the following substitute bill:

## MOTOR VEHICLE DEALER REQUIREMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Colin W. Jack**

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

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### LONG TITLE

#### General Description:

This bill prohibits a motor vehicle dealer from charging a fee or charge in addition to the negotiated purchase price as a condition of the sale.

#### Highlighted Provisions:

This bill:

- ▶ prohibits a motor vehicle dealer from requiring a purchaser to pay, as a condition of the sale, a fee or charge in addition to the negotiated purchase, other than ~~sales and use taxes, temporary permit fees, required title fees, and required registration fees~~;
  - certain fees required by state or federal law;
  - a dealer documentary service fee; and
  - certain increases in price imposed by a manufacturer for semi-tractors with a gross vehicle weight rating over 14,000 pounds;

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- ▶ specifies the civil penalties for a violation;
- ▶ requires a motor vehicle dealer to provide and execute a transaction disclosure form;
- ▶ requires the State Tax Commission to create the transaction disclosure form; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ None }~~ This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

41-3-211, as enacted by Laws of Utah 2010, Chapter 342

41-3-702, as last amended by Laws of Utah 2019, Chapter 424

ENACTS:

41-3-401.6, Utah Code Annotated 1953

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

Section 1. Section 41-3-211 is amended to read:

#### **41-3-211. Unlawful acts or practices.**

(1) A licensee may not knowingly or intentionally engage in any of the following unlawful acts or practices:

(a) provide a financial institution or person being contacted to provide financing for the purchase of a motor vehicle, a motor vehicle contract of sale, document of sale, contract, request for proposal, or other document that does not accurately state:

(i) the terms of the motor vehicle purchase; or

(ii) if the vehicle is a rebuilt vehicle;

(b) sell a motor vehicle to a purchaser that is subject to financing that is not the motor vehicle described in a motor vehicle contract of sale, document of sale, contract, request for proposal, or other document as of the time the contract of sale, document of sale, contract, request for proposal, or other document provided to the financial institution or person providing financing; [or]

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(c) make payments on any loan or lease on a motor vehicle subject to a loan or lease that is subject to the payoff requirements of Subsection 41-3-402(1)~~[-]; or~~

(d) except as provided in Subsection (3), require a purchaser to pay as a condition of the sale:

(i) an amount higher than the negotiated purchase price; or

(ii) any fee or charge in addition to the negotiated purchase price.

(2) The provisions of Subsection (1)(c) do not prohibit a dealer from making one or more loan or lease payments for a motor vehicle if making the payments is:

(a) stated in writing in a motor vehicle contract of sale, document of sale, contract, request for proposal, or other document; or

(b) stated in the notice to the lienholder of the trade-in of the vehicle as required by Subsection 41-3-402(5).

(3) Subsection (1)(d) does not prohibit a licensee from charging any of the following in addition to the negotiated purchase price~~f~~:

~~— (a) sales and use taxes as required by Title 59, Chapter 12, Sales and Use Tax Act;~~

~~— (b) detailed on the transaction disclosure form required pursuant to Section 41-3-401.6:~~

(a) a temporary permit fee pursuant to Section 41-1a-211;

(~~f~~~~c~~) b) a fee required in Chapter 1a, Part 5, Titling Requirement;~~f or~~

(~~f~~~~d~~) c) motor vehicle registration fees required under this title~~f~~.

~~f~~;

(d) a dealer documentary service fee as described in rules made in accordance with Sections 41-3-301 and 41-3-302;

(e) sales and use taxes as required by Title 59, Chapter 12, Sales and Use Tax Act;

(f) for the purchase of a semi-tractor with a gross vehicle weight rating of over 14,000 pounds, an increase to the negotiated purchase price paid by the licensee that is imposed by the manufacturer after the negotiated purchase price is determined by the licensee and the purchaser; or

(g) any other tax or fee required by federal or state law to be paid by the purchaser of a motor vehicle.

~~(3)~~ (4) (a) [~~A~~] Except as provided in Subsection (4)(b), a person who violates the provisions of this section is subject to the penalties provided in Section 41-3-701 and

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Subsection 41-3-702(1)(a).

(b) A person who violates Subsection (1)(d) is subject to the penalties provided in ~~Section 41-3-701 and~~ Subsection 41-3-702(1)(c).

(5) Subsection (1)(d) does not apply to a sale at auction and does not prohibit a licensee who conducts an auction from charging the winning bidder fees related to the auction or other vehicle-related services.

Section 2. Section 41-3-401.6 is enacted to read:

### 41-3-401.6. Transaction disclosure form.

(1) (a) Before a sale is finalized, a licensee shall provide the transaction disclosure form described in Subsection (3).

(b) The licensee and the purchaser shall each execute the transaction disclosure form to memorialize the negotiated terms and prices of the sale.

(c) The licensee shall provide the purchaser a copy of the transaction disclosure form.

(2) The commission shall create the transaction disclosure form as described in Subsection (3).

(3) The transaction disclosure form shall include:

(a) the negotiated sale price of the vehicle;

(b) the negotiated value of the trade-in vehicle, if applicable;

(c) an itemized list of the following legally required taxes and fees:

(i) a temporary permit fee pursuant to Section 41-1a-211;

(ii) a fee required in Chapter 1a, Part 5, Titling Requirement;

(iii) motor vehicle registration fees required under this title;

(iv) a dealer documentary service fee as described in rules made in accordance with

Sections 41-3-301 and 41-3-302;

(v) sales and use taxes required by Title 59, Chapter 12, Sales and Use Tax Act; and

(vi) any other taxes or fees required by federal or state law to be paid by the purchaser of a motor vehicle.

(d) the subtotal of the amounts described in Subsections (3)(a) through (c);

(e) any other optional charges as negotiated by the licensee and purchaser; and

(f) the total amount for which the licensee agrees to seek arrangements for financing, if applicable.

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(4) A transaction disclosure form described in this section is not required for a sale at auction.

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

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

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

(a) Level I:

(i) failing to display business license;

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

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

(iv) issuing a temporary permit improperly;

(v) failing to maintain records;

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

(vii) special plate violation;

(viii) failing to maintain a sign at a principal place of business; or

(ix) failing to store a salvage vehicle purchased at a motor vehicle auction in a secure location until the purchaser or a transporter has provided the proper documentation to take possession of the salvage vehicle.

(b) Level II:

(i) failing to report sale;

(ii) dismantling without a permit;

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

(iv) withholding customer license plates;

(v) selling a motor vehicle on consecutive days of Saturday and Sunday; or

(vi) failing to record and report the sale of a salvage vehicle at a motor vehicle auction as described in Section 41-3-201.

(c) Level III:

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- (i) operating without a principal place of business;
  - (ii) selling a new motor vehicle as a dealer who is not a direct-sale manufacturer without holding the franchise;
  - (iii) crushing a motor vehicle without proper evidence of ownership;
  - (iv) selling from an unlicensed location;
  - (v) altering a temporary permit;
  - (vi) refusal to furnish copies of records;
  - (vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles;
  - (viii) advertising violation;
  - (ix) failing to separately identify the fees required by Title 41, Chapter 1a, Motor Vehicle Act;
  - (x) encouraging or conspiring with unlicensed persons to solicit for prospective purchasers; ~~or~~
  - (xi) selling, offering for sale, or displaying for sale or exchange a vehicle, vessel, or outboard motor in violation of Section 41-1a-705~~;~~ or
  - ~~(d) xii) A~~ violation of Subsection 41-3-211(1)(d) is a Level IV civil violation.
- (2) (a) The schedule of civil penalties for violations of Subsection (1) is:
- (i) Level I: \$25 for the first offense, \$100 for the second offense, and \$250 for the third and subsequent offenses;
  - (ii) Level II: \$100 for the first offense, \$250 for the second offense, and \$1,000 for the third and subsequent offenses; ~~and~~
  - (iii) Level III: \$250 for the first offense, \$1,000 for the second offense, and \$5,000 for the third and subsequent offenses ~~and~~
  - ~~(iv) Level IV: \$1,000 for the first offense, \$5,000 for the second offense, and \$10,000 for the third and subsequent offenses.~~
- ~~†~~ (b) When determining under this section if an offense is a second or subsequent offense, only prior offenses committed within the 12 months before the commission of the current offense may be considered.
- (3) Knowingly selling a salvage vehicle, as defined in Section 41-1a-1001, without disclosing that the salvage vehicle has been repaired or rebuilt is a civil violation in addition to a criminal violation under Section 41-1a-1008.

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

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

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

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

**Section 4. Effective date.**

**This bill takes effect on June 1, 2023.**