

MOTOR VEHICLE BUSINESS REGULATION AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Motor Vehicle Business Regulation Act by amending provisions relating to prohibitions for a licensed motor vehicle dealer or salesperson.

Highlighted Provisions:

This bill:

- ▶ repeals the prohibition on a licensed dealer or sales person selling, offering for sale, leasing, or offering for lease a motor vehicle on consecutive days of Saturday and Sunday; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-3-210, as last amended by Laws of Utah 2007, Chapter 322

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

Section 1. Section **41-3-210** is amended to read:

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



- 28 (1) The holder of any license issued under this chapter may not:
- 29 (a) intentionally publish, display, or circulate any advertising that is misleading or
- 30 inaccurate in any material fact or that misrepresents any of the products sold, manufactured,
- 31 remanufactured, handled, or furnished by a licensee;
- 32 (b) intentionally publish, display, or circulate any advertising without identifying the
- 33 seller as the licensee by including in the advertisement the full name under which the licensee
- 34 is licensed or the licensee's number assigned by the division;
- 35 (c) violate this chapter or the rules made by the administrator;
- 36 (d) violate any law of the state respecting commerce in motor vehicles or any rule
- 37 respecting commerce in motor vehicles made by any licensing or regulating authority of the
- 38 state;
- 39 (e) engage in business as a new motor vehicle dealer, special equipment dealer, used
- 40 motor vehicle dealer, motor vehicle crusher, or body shop without having in effect a bond as
- 41 required in this chapter;
- 42 (f) act as a dealer, dismantler, crusher, manufacturer, transporter, remanufacturer, or
- 43 body shop without maintaining a principal place of business;
- 44 (g) engage in a business respecting the selling or exchanging of new or new and used
- 45 motor vehicles for which he is not licensed, including selling or exchanging a new motor
- 46 vehicle for which the licensee does not have a franchise, but this Subsection (1)(g) does not
- 47 apply to a special equipment dealer who sells a new special equipment motor vehicle with a
- 48 gross vehicle weight of 12,000 or more pounds after installing special equipment on the motor
- 49 vehicle;
- 50 (h) dismantle or transport to a crusher for crushing or other disposition any motor
- 51 vehicle without first obtaining a dismantling or junk permit under Section [41-1a-1009](#),
- 52 [41-1a-1010](#), or [41-1a-1011](#);
- 53 (i) as a new motor vehicle dealer, special equipment dealer, or used motor vehicle
- 54 dealer fail to give notice of sales or transfers as required in Section [41-3-301](#);
- 55 (j) advertise or otherwise represent, or knowingly allow to be advertised or represented
- 56 on his behalf or at his place of business, that no down payment is required in connection with
- 57 the sale of a motor vehicle when a down payment is required and the buyer is advised or
- 58 induced to finance a down payment by a loan in addition to any other loan financing the

59 remainder of the purchase price of the motor vehicle;

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

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

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

70 (n) sell, display for sale, or offer for sale motor vehicles at any location other than the
71 principal place of business or additional places of business licensed under this chapter; this
72 provision is construed to prevent dealers, salespersons, or any other representative of a
73 dealership from selling, displaying, or offering motor vehicles for sale from their homes or
74 other unlicensed locations;

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

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

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

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

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

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

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

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

90 (ii) possess a franchise from the manufacturer of the new motor vehicle sold, displayed
91 for sale, offered for sale, or exchanged by the licensee; or

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

95 (2) (a) If a new motor vehicle is constructed in more than one stage, such as a motor
96 home, ambulance, or van conversion, the licensee shall advertise, represent, sell, and exchange
97 the vehicle as the make designated by the final stage manufacturer, except in those specific
98 situations where the licensee possesses a franchise from the initial or first stage manufacturer,
99 presumably the manufacturer of the motor vehicle's chassis.

100 (b) Sales of multiple stage manufactured motor vehicles shall include the transfer to the
101 purchaser of a valid manufacturer's statement or certificate of origin from each manufacturer
102 under Section [41-3-301](#).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

165 ~~[(11) (a) Except as provided in Subsection (11)(c), or in cases of undue hardship or~~
166 ~~emergency as provided by rule by the division, a dealer or salesperson licensed under this~~
167 ~~chapter may not, on consecutive days of Saturday and Sunday, sell, offer for sale, lease, or offer~~
168 ~~for lease a motor vehicle.]~~

169 ~~[(b) Each day a motor vehicle is sold, offered for sale, leased, or offered for lease in~~
170 ~~violation of Subsection (11)(a) and each motor vehicle sold, offered for sale, leased, or offered~~
171 ~~for lease in violation of Subsection (11)(a) shall constitute a separate offense.]~~

172 ~~[(c) The provisions of Subsection (11)(a) shall not apply to a dealer participating in a~~
173 ~~trade show or exhibition if:]~~

174 ~~[(i) there are five or more dealers participating in the trade show or exhibition; and]~~

175 ~~[(ii) the trade show or exhibition takes place at a location other than the principal place~~
176 ~~of business of one of the dealers participating in the trade show or exhibition.]~~

177 ~~[(12)]~~ (11) For purposes of imposing the sales and use tax under Title 59, Chapter 12,
178 Sales and Use Tax Act, a licensee issuing a temporary permit under Section 41-3-302 shall
179 separately identify the fees required by Title 41, Chapter 1a, Motor Vehicle Act.

180 ~~[(13)]~~ (12) (a) A dismantler or dealer engaged in the business of dismantling motor
181 vehicles for the sale of parts or salvage shall identify any vehicles or equipment used by the
182 dismantler or dealer for transporting parts or salvage on the highways.

- 183 (b) The identification required under Subsection [~~13~~] (12)(a) shall:
- 184 (i) include the name, address, and license number of the dismantler or dealer; and
- 185 (ii) be conspicuously displayed on both sides of the vehicle or equipment in clearly
- 186 legible letters and numerals not less than two inches in height.

Legislative Review Note
Office of Legislative Research and General Counsel