

1 **SALVAGE AND NONREPAIRABLE VEHICLE AMENDMENTS**

2 2013 GENERAL SESSION

3 STATE OF UTAH

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

5 House Sponsor: Bradley G. Last

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to salvage and nonrepairable vehicles.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ provides that a vehicle that has been issued a nonrepairable certificate may not be
13 registered;

14 ▶ requires an operator of a motor vehicle auction, for a vehicle with a salvage
15 certificate purchased at a motor vehicle auction, to electronically apply for a salvage
16 certificate of title and provide evidence of compliance with certain requirements;

17 ▶ provides that a vehicle sold at or through a motor vehicle auction to an out-of-state
18 purchaser with a nonrepairable or salvage certificate may not be certificated in Utah
19 until the vehicle has been certificated out-of-state;

20 ▶ prohibits a person who has been convicted of any law relating to motor vehicle
21 commerce or motor vehicle fraud from purchasing a vehicle with a salvage or
22 nonrepairable certificate;

23 ▶ provides that certain in-state purchasers who are not licensed as a salvage vehicle
24 buyer:

25 • may not bid on or purchase more than five salvage vehicles with a nonrepairable
26 or salvage certificate in any 12-month period;

27 • may not offer for sale, sell, or exchange more than two vehicles with a salvage
28 certificate in any 12-month period to a person not licensed as a salvage vehicle

29 buyer; or

- 30 • may not offer for sale, sell, or exchange a vehicle with a nonrepairable
- 31 certificate to a person not licensed as a salvage vehicle buyer;
- 32 ▸ provides that an operator of a motor vehicle auction, a dealer, or a consignor may
- 33 not sell a vehicle with a nonrepairable or salvage certificate to certain buyers if the
- 34 Motor Vehicle Division has informed the operator of the motor vehicle auction, the
- 35 dealer, or the consignor in writing that the buyer is prohibited from purchasing a
- 36 vehicle with a nonrepairable or salvage certificate;
- 37 ▸ provides penalties for the knowing or intentional concealment, removal, destruction,
- 38 or alteration of a disclosure statement or of a branded certificate of title;
- 39 ▸ establishes a private cause of action for certain owners who violate the requirement
- 40 to disclose that a vehicle is a salvage vehicle; and
- 41 ▸ makes technical corrections.

42 Money Appropriated in this Bill:

43 None

44 Other Special Clauses:

45 None

46 Utah Code Sections Affected:

47 AMENDS:

48 **41-1a-202**, as last amended by Laws of Utah 2008, Chapter 36

49 **41-1a-1004**, as last amended by Laws of Utah 2009, Chapter 168

50 **41-1a-1008**, as renumbered and amended by Laws of Utah 1992, Chapter 1

51 **41-3-201**, as last amended by Laws of Utah 2012, Chapter 390

52 ENACTS:

53 **41-1a-1008.5**, Utah Code Annotated 1953



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

56 Section 1. Section **41-1a-202** is amended to read:

57 **41-1a-202. Definitions -- Vehicles exempt from registration -- Registration of**

58 **vehicles after establishing residency.**

59 (1) In this section:

60 (a) "Domicile" means the place:

61 (i) where an individual has a fixed permanent home and principal establishment;

62 (ii) to which the individual if absent, intends to return; and

63 (iii) in which the individual and his family voluntarily reside, not for a special or

64 temporary purpose, but with the intention of making a permanent home.

65 (b) (i) "Resident" means any of the following:

66 (A) an individual who:

67 (I) has established a domicile in this state;

68 (II) regardless of domicile, remains in this state for an aggregate period of six months

69 or more during any calendar year;

70 (III) engages in a trade, profession, or occupation in this state or who accepts

71 employment in other than seasonal work in this state and who does not commute into the state;

72 (IV) declares himself to be a resident of this state for the purpose of obtaining a driver
73 license or motor vehicle registration; or

74 (V) declares himself a resident of Utah to obtain privileges not ordinarily extended to
75 nonresidents, including going to school, or placing children in school without paying

76 nonresident tuition or fees; or

77 (B) any individual, partnership, limited liability company, firm, corporation,
78 association, or other entity that:

79 (I) maintains a main office, branch office, or warehouse facility in this state and that
80 bases and operates a motor vehicle in this state; or

81 (II) operates a motor vehicle in intrastate transportation for other than seasonal work.

82 (ii) "Resident" does not include any of the following:

83 (A) a member of the military temporarily stationed in Utah;

84 (B) an out-of-state student, as classified by the institution of higher education, enrolled
85 with the equivalent of seven or more quarter hours, regardless of whether the student engages

86 in a trade, profession, or occupation in this state or accepts employment in this state; and

87 (C) an individual domiciled in another state or a foreign country that:

88 (I) is engaged in public, charitable, educational, or religious services for a government
89 agency or an organization that qualifies for tax-exempt status under Internal Revenue Code
90 Section 501(c)(3);

91 (II) is not compensated for services rendered other than expense reimbursements; and

92 (III) is temporarily in Utah for a period not to exceed 24 months.

93 (2) Registration under this chapter is not required for any:

94 (a) vehicle registered in another state and owned by a nonresident of the state or
95 operating under a temporary registration permit issued by the division or a dealer authorized by
96 this chapter, driven or moved upon a highway in conformance with the provisions of this
97 chapter relating to manufacturers, transporters, dealers, lien holders, or interstate vehicles;

98 (b) vehicle driven or moved upon a highway only for the purpose of crossing the
99 highway from one property to another;

100 (c) implement of husbandry, whether of a type otherwise subject to registration or not,
101 that is only incidentally operated or moved upon a highway;

102 (d) special mobile equipment;

103 (e) vehicle owned or leased by the federal government;

104 (f) motor vehicle not designed, used, or maintained for the transportation of passengers
105 for hire or for the transportation of property if the motor vehicle is registered in another state
106 and is owned and operated by a nonresident of this state;

107 (g) vehicle or combination of vehicles designed, used, or maintained for the
108 transportation of persons for hire or for the transportation of property if the vehicle or
109 combination of vehicles is registered in another state and is owned and operated by a
110 nonresident of this state and if the vehicle or combination of vehicles has a gross laden weight
111 of 26,000 pounds or less;

112 (h) trailer of 750 pounds or less unladen weight and not designed, used, and maintained
113 for hire for the transportation of property or person;

- 114 (i) manufactured home or mobile home;
- 115 (j) off-highway vehicle currently registered under Section 41-22-3 if the off-highway
- 116 vehicle is:
 - 117 (i) being towed;
 - 118 (ii) operated on a street or highway designated as open to off-highway vehicle use; or
 - 119 (iii) operated in the manner prescribed in Subsections 41-22-10.3(1) through (3);
 - 120 (k) off-highway implement of husbandry operated in the manner prescribed in
 - 121 Subsections 41-22-5.5(3) through (5);
 - 122 (l) modular and prebuilt homes conforming to the uniform building code and presently
 - 123 regulated by the United States Department of Housing and Urban Development that are not
 - 124 constructed on a permanent chassis;
 - 125 (m) electric assisted bicycle defined under Section 41-6a-102;
 - 126 (n) motor assisted scooter defined under Section 41-6a-102; or
 - 127 (o) electric personal assistive mobility device defined under Section 41-6a-102.
- 128 (3) Unless otherwise exempted under Subsection (2), registration under this chapter is
- 129 required for any motor vehicle, combination of vehicles, trailer, semitrailer, or vintage vehicle
- 130 within 60 days of the owner establishing residency in this state.
- 131 (4) A motor vehicle that is registered under Section 41-3-306 is exempt from the
- 132 registration requirements of this part for the time period that the registration under Section
- 133 41-3-306 is valid.
- 134 (5) A vehicle that has been issued a nonrepairable certificate may not be registered
- 135 under this chapter.

136 Section 2. Section **41-1a-1004** is amended to read:

137 **41-1a-1004. Certificate of title -- Salvage vehicles.**

- 138 (1) If the division is able to ascertain the fact, at the time application is made for initial
- 139 registration or transfer of ownership of a salvage vehicle, the title shall be branded:
 - 140 (a) rebuilt and restored to operation;
 - 141 (b) in a flood and restored to operation; or

142 (c) not restored to operation.

143 (2) (a) (i) Except as provided in Subsection (2)(b), before the sale of a vehicle for
144 which a salvage certificate or branded title has been issued, the seller shall provide the
145 prospective purchaser with written notification that a salvage certificate or a branded title has
146 been issued for the vehicle.

147 (ii) If the vehicle is a salvage vehicle, the notification shall be as required in Section
148 41-1a-1005.3.

149 (b) The requirement to provide written notification under Subsection (2)(a) does not
150 apply if the prospective purchaser is:

151 (i) a licensed motor vehicle dealer whose primary business is auctioning salvage motor
152 vehicles to licensed salvage vehicle buyers; or

153 (ii) an insurance company, if the sale of the vehicle is the result of a total loss
154 settlement.

155 (3) (a) An advertisement for the sale of a vehicle for which a salvage certificate or
156 branded title has been issued shall disclose that a salvage certificate or branded title has been
157 issued for the vehicle.

158 (b) The advertisement disclosure under Subsection (3)(a) shall:

159 (i) be displayed at least as prominently as the description of the advertised vehicle is
160 displayed; and

161 (ii) use the words "salvage certificate" or "branded title" in the advertisement.

162 Section 3. Section **41-1a-1008** is amended to read:

163 **41-1a-1008. Criminal penalty for violation.**

164 [†] (1) Except as provided in Subsection (2) or unless otherwise provided, it is a class
165 A misdemeanor to knowingly violate Sections 41-1a-1001 through 41-1a-1007[~~, unless another~~
166 penalty is specifically provided].

167 (2) Any owner, who is not a manufacturer, dealer, motor vehicle auction, or consignor
168 to a motor vehicle auction not licensed under Section 41-3-201, who knowingly or
169 intentionally conceals, removes, destroys, or alters a disclosure statement or a certificate of title

170 branded under Section 41-3-201 or Sections 41-1a-1004 through 41-1a-1005.3 is guilty of a:

171 (a) class A misdemeanor; or

172 (b) third degree felony if the person has previously been convicted two or more times
173 of knowingly or intentionally concealing, removing, destroying, or altering a disclosure
174 statement or a certificate of title branded under Section 41-3-201 or Sections 41-1a-1004
175 through 41-1a-1005.3.

176 (3) Criminal penalties under this chapter are not exclusive, but are in addition to those
177 under Section 76-10-1801.

178 (4) Each vehicle sold, offered for sale, or displayed for sale in violation of Section
179 41-1a-1005.3 shall be a separate offense.

180 Section 4. Section **41-1a-1008.5** is enacted to read:

181 **41-1a-1008.5. Private cause of action.**

182 (1) Any owner who is not a manufacturer, dealer, motor vehicle auction, or consignor
183 to a motor vehicle auction not licensed under Section 41-3-201 and who violates Section
184 41-1a-1005.3 is liable to the purchaser for:

185 (a) actual damages if the purchaser elects to retain the salvage vehicle, or the value of
186 the consideration paid for the salvage vehicle if the purchaser elects rescission;

187 (b) the costs of the action and reasonable attorney fees;

188 (c) up to three times the value of the actual damages or the consideration as exemplary
189 damages; and

190 (d) other equitable relief, including rescission and restitution, the court determines to
191 be proper in addition to damages and costs.

192 (2) Actual damages include:

193 (a) the difference between the actual market value of the salvage vehicle or
194 nonconforming vehicle at the time of purchase and the contract price;

195 (b) towing;

196 (c) repair;

197 (d) storage expenses;

- 198 (e) rental of substitute transportation;
- 199 (f) food and lodging expenses;
- 200 (g) lost wages;
- 201 (h) finance charges;
- 202 (i) sales or use tax;
- 203 (j) other governmental fees;
- 204 (k) lease charges; and
- 205 (l) other incidental and consequential damages.
- 206 (3) The remedies provided in this section are not exclusive but are in addition to any
- 207 other remedies provided by law.

208 Section 5. Section **41-3-201** is amended to read:

209 **41-3-201. Licenses required -- Restitution -- Education.**

210 (1) As used in this section, "new applicant" means a person who is applying for a

211 license that the person has not been issued during the previous licensing year.

212 (2) A person may not act as any of the following without having procured a license

213 issued by the administrator:

- 214 (a) a dealer;
- 215 (b) salvage vehicle buyer;
- 216 (c) salesperson;
- 217 (d) manufacturer;
- 218 (e) transporter;
- 219 (f) dismantler;
- 220 (g) distributor;
- 221 (h) factory branch and representative;
- 222 (i) distributor branch and representative;
- 223 (j) crusher;
- 224 (k) remanufacturer; or
- 225 (l) body shop.

226 (3) (a) Except as provided in Subsection (3)(c), a person may not bid on or purchase a
227 vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001 at or
228 through a motor vehicle auction unless the person is a licensed salvage vehicle buyer.

229 (b) Except as provided in Subsection (3)(c), a person may not offer for sale, sell, or
230 exchange a vehicle with a nonrepairable or salvage certificate as defined in Section 41-1a-1001
231 at or through a motor vehicle auction except to a licensed salvage vehicle buyer.

232 (c) A person may offer for sale, sell, or exchange a vehicle with a nonrepairable or
233 salvage certificate as defined in Section 41-1a-1001 at or through a motor vehicle auction:

234 (i) to an out-of-state or out-of-country purchaser not licensed under this section, but
235 that is authorized to do business in the domestic or foreign jurisdiction in which the person is
236 domiciled or registered to do business;

237 (ii) subject to the restrictions in Subsection (3)(d), to an in-state purchaser not licensed
238 under this section that:

239 (A) has a valid business license in Utah; and

240 (B) has a Utah sales tax license; and

241 (iii) to a crusher.

242 (d) (i) An operator of a motor vehicle auction shall verify that an in-state purchaser not
243 licensed under this section has the licenses required in Subsection (3)(c)(ii).

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

248 (iii) The five vehicle limitation under this Subsection (3)(d) applies to each Utah sales
249 tax license and not to each person with the authority to use a sales tax license.

250 (iv) An operator of a motor vehicle auction may not sell a vehicle with a nonrepairable
251 certificate as defined in Section 41-1a-1001 to a purchaser otherwise allowed to purchase a
252 vehicle under Subsection (3)(c)(ii).

253 (e) For a vehicle with a salvage certificate purchased under Subsection (3)(c)(ii), an

282 described in Subsection (3)(e)(ii) on its website.

283 ~~[(f)]~~ (g) The commission may impose an administrative entrance fee established in
284 accordance with the procedures and requirements of Section 63J-1-504 not to exceed \$10 on a
285 person not holding a license described in Subsection (3)(e)(i) that enters the physical premises
286 of a motor vehicle auction for the purpose of viewing available salvage vehicles prior to an
287 auction.

288 (h) A vehicle sold at or through a motor vehicle auction to an out-of-state purchaser
289 with a nonrepairable or salvage certificate may not be certificated in Utah until the vehicle has
290 been certificated out-of-state.

291 (4) (a) An operator of a motor vehicle auction shall keep a record of the sale of each
292 salvage vehicle.

293 (b) A record described under Subsection (4)(a) shall contain:

294 (i) the purchaser's name and address; and

295 (ii) the year, make, and vehicle identification number for each salvage vehicle sold.

296 (c) An operator of a motor vehicle auction shall:

297 (i) provide the record described in Subsection (4)(a) electronically in a method
298 approved by the division to the division within two business days of the completion of the
299 motor vehicle auction;

300 (ii) retain the record described in this Subsection (4) for five years from the date of
301 sale; and

302 (iii) make a record described in this Subsection (4) available for inspection by the
303 division at the location of the motor vehicle auction during normal business hours.

304 (5) (a) If applicable, an operator of a motor vehicle auction shall comply with the
305 reporting requirements of the National Motor Vehicle Title Information System overseen by
306 the United States Department of Justice if the person sells a vehicle with a salvage certificate to
307 an in-state purchaser under Subsection (3)(c)(ii).

308 (b) The Motor Vehicle Division shall include a link to the National Motor Vehicle
309 Title Information System on its website.

310 (6) (a) An operator of a motor vehicle auction that sells a salvage vehicle to a person
311 that is an out-of-country buyer shall:

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

314 (ii) stamp in each unused reassignment space on the back of the title the words "FOR
315 EXPORT ONLY."

316 (b) The words "FOR EXPORT ONLY" shall be:

317 (i) at least two inches wide; and

318 (ii) clearly legible.

319 (7) A supplemental license shall be secured by a dealer, manufacturer, remanufacturer,
320 transporter, dismantler, crusher, or body shop for each additional place of business maintained
321 by the licensee.

322 (8) (a) A person who has been convicted of any law relating to motor vehicle
323 commerce or motor vehicle fraud may not be issued a license or purchase a vehicle with a
324 salvage or nonrepairable certificate unless full restitution regarding those convictions has been
325 made.

326 (b) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a
327 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (8)(a) if
328 the division has informed the operator of the motor vehicle auction, the dealer, or the consignor
329 in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or
330 salvage certificate under Subsection (8)(a).

331 (9) (a) The division may not issue a license to a new applicant for a new or used motor
332 vehicle dealer license, a new or used motorcycle dealer license, or a small trailer dealer license
333 unless the new applicant completes an eight-hour orientation class approved by the division
334 that includes education on motor vehicle laws and rules.

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

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

- 338 (d) (i) The division shall approve:
- 339 (A) providers of the orientation class; and
- 340 (B) costs of the orientation class.
- 341 (ii) A provider of an orientation class shall submit the orientation class curriculum to
- 342 the division for approval prior to teaching the orientation class.
- 343 (iii) A provider of an orientation class shall include in the orientation materials:
- 344 (A) ethics training;
- 345 (B) motor vehicle title and registration processes;
- 346 (C) provisions of Title 13, Chapter 5, Unfair Practices Act, relating to motor vehicles;
- 347 (D) Department of Insurance requirements relating to motor vehicles;
- 348 (E) Department of Public Safety requirements relating to motor vehicles;
- 349 (F) federal requirements related to motor vehicles as determined by the division; and
- 350 (G) any required disclosure compliance forms as determined by the division.
- 351 (10) A person or purchaser described in Subsection (3)(c)(ii):
- 352 (a) may not purchase more than five salvage vehicles with a nonrepairable or salvage
- 353 certificate as defined in Section 41-1a-1001 in any 12-month period;
- 354 (b) may not, without first complying with Section 41-1a-705, offer for sale, sell, or
- 355 exchange more than two vehicles with a salvage certificate as defined in Section 41-1a-1001 in
- 356 any 12-month period to a person not licensed under this section; and
- 357 (c) may not, without first complying with Section 41-1a-705, offer for sale, sell, or
- 358 exchange a vehicle with a nonrepairable certificate as defined in Section 41-1a-1001 to a
- 359 person not licensed under this section.
- 360 (11) An operator of a motor vehicle auction, a dealer, or a consignor may not sell a
- 361 vehicle with a nonrepairable or salvage certificate to a buyer described in Subsection (10)(a) if
- 362 the division has informed the operator of the motor vehicle auction, the dealer, or the consignor
- 363 in writing that the buyer is prohibited from purchasing a vehicle with a nonrepairable or
- 364 salvage certificate under Subsection (10)(a).