

US Official News

May 11, 2013 Saturday

LENGTH: 44545 words

HEADLINE: Utah State Legislature: H.B. 71

DATELINE: Salt Lake City

BODY:

Utah State Legislature, The State of Utah has issued the following news release:

MOBILE AND MANUFACTURED HOME AMENDMENTS

2
2013 GENERAL SESSION

3
STATE OF UTAH

4
Chief Sponsor: Marc K. Roberts

5
Senate Sponsor: John L. Valentine

6
7 LONG TITLE

8 General Description:

9 This bill modifies the Motor Vehicle Act and the Mortgage Lending and Servicing Act
10 to address treatment of a mobile home or manufactured home as real property.

11 Highlighted Provisions:

12 This bill:

13 . modifies definitions;

14 . repeals language in the Motor Vehicle Act regarding obtaining an affidavit of
15 affixture and receipt of surrender of ownership documents;

16 . modifies references to affidavit of affixture and receipt of surrender of ownership
17 documents;

18 . provides a process to convert a mobile home or manufactured home to an
19 improvement to real property if the certificate of title has been lost or destroyed and
20 a duplicate title cannot be obtained; and

21 . makes technical and conforming amendments.

22 Money Appropriated in this Bill:

23 None

24 Other Special Clauses:

25 This bill provides an effective date.

26 Utah Code Sections Affected:

27 AMENDS:

28 41-1a-102, as last amended by Laws of Utah 2011, Chapter 340
29 41-1a-503, as last amended by Laws of Utah 2006, Chapters 232 and 252
30 41-1a-506, as last amended by Laws of Utah 2009, Chapter 72
31 41-1a-509, as last amended by Laws of Utah 1992, Chapter 218 and renumbered and
32 amended by Laws of Utah 1992, Chapter 1
33 41-1a-510, as last amended by Laws of Utah 2010, Chapter 324
34 41-1a-519, as last amended by Laws of Utah 2006, Chapter 252
35 41-1a-709, as last amended by Laws of Utah 1993, Chapter 221
36 59-12-102 (Superseded 07/01/14), as last amended by Laws of Utah 2012, Chapters
37 255, 312, 405, and 410
38 59-12-102 (Effective 07/01/14), as last amended by Laws of Utah 2012, Chapters 255,
39 312, 405, 410, and 424
40 70D-2-401, as renumbered and amended by Laws of Utah 2009, Chapter 72
41

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

43 Section 1. Section 41-1a-102 is amended to read:

44 41-1a-102. Definitions.

45 As used in this chapter:

46 (1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

47 (2) "Actual weight" means the actual unladen weight of a vehicle or combination of
48 vehicles as operated and certified to by a weighmaster.

49 [(3) "Affidavit of Mobile Home Affixture" means the affidavit of affixture described in
50 Section 41-1a-503 .]

51 [(4)] (3) "All-terrain type I vehicle" has the same meaning provided in Section 41-22-2 .

52 [(5)] (4) "All-terrain type II vehicle" has the same meaning provided in Section
53 41-22-2 .

54 [(6)] (5) "Amateur radio operator" means any person licensed by the Federal
55 Communications Commission to engage in private and experimental two-way radio operation
56 on the amateur band radio frequencies.

57 [(7)] (6) "Branded title" means a title certificate that is labeled:

58 (a) rebuilt and restored to operation;

59 (b) flooded and restored to operation; or

60 (c) not restored to operation.

61 [(8)] (7) "Camper" means any structure designed, used, and maintained primarily to be
62 mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a
63 mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for
64 camping.

65 [(9)] (8) "Certificate of title" means a document issued by a jurisdiction to establish a
66 record of ownership between an identified owner and the described vehicle, vessel, or outboard
67 motor.

68 [(10)] (9) "Certified scale weigh ticket" means a weigh ticket that has been issued by a
69 weighmaster.

70 [(11)] (10) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or
71 maintained for the transportation of persons or property that operates:

72 (a) as a carrier for hire, compensation, or profit; or

73 (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the
74 owner's commercial enterprise.

75 [(12)] (11) "Commission" means the State Tax Commission.

76 [(13)] (12) "Dealer" means a person engaged or licensed to engage in the business of
77 buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright
78 or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an
79 established place of business for the sale, lease, trade, or display of vehicles, vessels, or
80 outboard motors.

81 [(14)] (13) "Division" means the Motor Vehicle Division of the commission, created in
82 Section 41-1a-106 .

83 [(15)] (14) "Essential parts" means all integral and body parts of a vehicle of a type
84 required to be registered in this state, the removal, alteration, or substitution of which would

85 tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or
86 mode of operation.

87 [(16)] (15) "Farm tractor" means every motor vehicle designed and used primarily as a
88 farm implement for drawing plows, mowing machines, and other implements of husbandry.

89 [(17)] (16) (a) "Farm truck" means a truck used by the owner or operator of a farm

90 solely for his own use in the transportation of:

91 (i) farm products, including livestock and its products, poultry and its products,
92 floricultural and horticultural products;

93 (ii) farm supplies, including tile, fence, and every other thing or commodity used in
94 agricultural, floricultural, horticultural, livestock, and poultry production; and

95 (iii) livestock, poultry, and other animals and things used for breeding, feeding, or
96 other purposes connected with the operation of a farm.

97 (b) "Farm truck" does not include the operation of trucks by commercial processors of
98 agricultural products.

99 [(18)] (17) "Fleet" means one or more commercial vehicles.

100 [(19)] (18) "Foreign vehicle" means a vehicle of a type required to be registered,
101 brought into this state from another state, territory, or country other than in the ordinary course
102 of business by or through a manufacturer or dealer, and not registered in this state.

103 [(20)] (19) "Gross laden weight" means the actual weight of a vehicle or combination
104 of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

105 [(21)] (20) "Highway" or "street" means the entire width between property lines of
106 every way or place of whatever nature when any part of it is open to the public, as a matter of
107 right, for purposes of vehicular traffic.

108 [(22)] (21) (a) "Identification number" means the identifying number assigned by the
109 manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard
110 motor.

111 (b) "Identification number" includes a vehicle identification number, state assigned
112 identification number, hull identification number, and motor serial number.

113 [(23)] (22) "Implement of husbandry" means every vehicle designed or adapted and
114 used exclusively for an agricultural operation and only incidentally operated or moved upon the
115 highways.

116 [(24)] (23) (a) "In-state miles" means the total number of miles operated in this state
117 during the preceding year by fleet power units.

118 (b) If fleets are composed entirely of trailers or semitrailers, "in-state miles" means the
119 total number of miles that those vehicles were towed on Utah highways during the preceding
120 year.

121 [(25)] (24) "Interstate vehicle" means any commercial vehicle operated in more than
122 one state, province, territory, or possession of the United States or foreign country.

123 [(26)] (25) "Jurisdiction" means a state, district, province, political subdivision,
124 territory, or possession of the United States or any foreign country.

125 [(27)] (26) "Lienholder" means a person with a security interest in particular property.

126 [(28)] (27) "Manufactured home" means a transportable factory built housing unit
127 constructed on or after June 15, 1976, according to the Federal Home Construction and Safety
128 Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is
129 eight body feet or more in width or 40 body feet or more in length, or when erected on site, is
130 400 or more square feet, and which is built on a permanent chassis and designed to be used as a
131 dwelling with or without a permanent foundation when connected to the required utilities, and
132 includes the plumbing, heating, air-conditioning, and electrical systems.

133 [(29)] (28) "Manufacturer" means a person engaged in the business of constructing,
134 manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or
135 outboard motors for the purpose of sale or trade.

136 [(30)] (29) "Mobile home" means a transportable factory built housing unit built prior
137 to June 15, 1976, in accordance with a state mobile home code which existed prior to the
138 Federal Manufactured Housing and Safety Standards Act (HUD Code).

139 [(31)] (30) "Motorboat" has the same meaning as provided in Section 73-18-2 .

140 [(32)] (31) "Motorcycle" means a motor vehicle having a saddle for the use of the rider

141 and designed to travel on not more than three wheels in contact with the ground.
142 [(33)] (32) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for
143 use and operation on the highways.
144 (b) "Motor vehicle" does not include an off-highway vehicle.
145 [(34)] (33) (a) "Nonresident" means a person who is not a resident of this state as
146 defined by Section 41-1a-202 , and who does not engage in intrastate business within this state
147 and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.
148 (b) A person who engages in intrastate business within this state and operates in that
149 business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in
150 interstate commerce, maintains any vehicle in this state as the home station of that vehicle is
151 considered a resident of this state, insofar as that vehicle is concerned in administering this

152 chapter.

153 [(35)] (34) "Odometer" means a device for measuring and recording the actual distance
154 a vehicle travels while in operation, but does not include any auxiliary odometer designed to be
155 periodically reset.

156 [(36)] (35) "Off-highway implement of husbandry" has the same meaning as provided
157 in Section 41-22-2 .

158 [(37)] (36) "Off-highway vehicle" has the same meaning as provided in Section
159 41-22-2 .

160 [(38)] (37) "Operate" means to drive or be in actual physical control of a vehicle or to
161 navigate a vessel.

162 [(39)] (38) "Outboard motor" means a detachable self-contained propulsion unit,
163 excluding fuel supply, used to propel a vessel.

164 [(40)] (39) (a) "Owner" means a person, other than a lienholder, holding title to a
165 vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is
166 subject to a security interest.

167 (b) If a vehicle is the subject of an agreement for the conditional sale or installment
168 sale or mortgage of the vehicle with the right of purchase upon performance of the conditions
169 stated in the agreement and with an immediate right of possession vested in the conditional
170 vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the
171 conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this
172 chapter.

173 (c) If a vehicle is the subject of an agreement to lease, the lessor is considered the
174 owner until the lessee exercises his option to purchase the vehicle.

175 [(41)] (40) "Personalized license plate" means a license plate that has displayed on it a
176 combination of letters, numbers, or both as requested by the owner of the vehicle and assigned
177 to the vehicle by the division.

178 [(42)] (41) (a) "Pickup truck" means a two-axle motor vehicle with motive power
179 manufactured, remanufactured, or materially altered to provide an open cargo area.

180 (b) "Pickup truck" includes motor vehicles with the open cargo area covered with a
181 camper, camper shell, tarp, removable top, or similar structure.

182 [(43)] (42) "Pneumatic tire" means every tire in which compressed air is designed to

183 support the load.

184 [(44)] (43) "Preceding year" means a period of 12 consecutive months fixed by the
185 division that is within 16 months immediately preceding the commencement of the registration
186 or license year in which proportional registration is sought. The division in fixing the period
187 shall conform it to the terms, conditions, and requirements of any applicable agreement or
188 arrangement for the proportional registration of vehicles.

189 [(45)] (44) "Public garage" means every building or other place where vehicles or
190 vessels are kept and stored and where a charge is made for the storage and keeping of vehicles
191 and vessels.

192 (45) "Receipt of surrender of ownership documents" means the receipt of surrender of
193 ownership documents described in Section 41-1a-503 .

194 (46) "Reconstructed vehicle" means every vehicle of a type required to be registered in
195 this state that is materially altered from its original construction by the removal, addition, or
196 substitution of essential parts, new or used.

197 (47) "Recreational vehicle" has the same meaning as provided in Section 13-14-102 .
198 (48) "Registration" means a document issued by a jurisdiction that allows operation of
199 a vehicle or vessel on the highways or waters of this state for the time period for which the
200 registration is valid and that is evidence of compliance with the registration requirements of the
201 jurisdiction.

202 (49) (a) "Registration year" means a 12 consecutive month period commencing with
203 the completion of all applicable registration criteria.

204 (b) For administration of a multistate agreement for proportional registration the
205 division may prescribe a different 12-month period.

206 (50) "Repair or replacement" means the restoration of vehicles, vessels, or outboard
207 motors to a sound working condition by substituting any inoperative part of the vehicle, vessel,
208 or outboard motor, or by correcting the inoperative part.

209 (51) "Replica vehicle" means:

210 (a) a street rod that meets the requirements under Subsection 41-21-1 (1)(a)(i)(B); or

211 (b) a custom vehicle that meets the requirements under Subsection

212 41-6a-1507 (1)(a)(i)(B).

213 (52) "Road tractor" means every motor vehicle designed and used for drawing other

214 vehicles and constructed so it does not carry any load either independently or any part of the
215 weight of a vehicle or load that is drawn.

216 (53) "Sailboat" has the same meaning as provided in Section 73-18-2 .

217 (54) "Security interest" means an interest that is reserved or created by a security
218 agreement to secure the payment or performance of an obligation and that is valid against third
219 parties.

220 (55) "Semitrailer" means every vehicle without motive power designed for carrying
221 persons or property and for being drawn by a motor vehicle and constructed so that some part
222 of its weight and its load rests or is carried by another vehicle.

223 (56) "Special group license plate" means a type of license plate designed for a
224 particular group of people or a license plate authorized and issued by the division in accordance
225 with Section 41-1a-418 .

226 (57) (a) "Special interest vehicle" means a vehicle used for general transportation
227 purposes and that is:

228 (i) 20 years or older from the current year; or

229 (ii) a make or model of motor vehicle recognized by the division director as having
230 unique interest or historic value.

231 (b) In making his determination under Subsection (57)(a), the division director shall
232 give special consideration to:

233 (i) a make of motor vehicle that is no longer manufactured;

234 (ii) a make or model of motor vehicle produced in limited or token quantities;

235 (iii) a make or model of motor vehicle produced as an experimental vehicle or one
236 designed exclusively for educational purposes or museum display; or

237 (iv) a motor vehicle of any age or make that has not been substantially altered or
238 modified from original specifications of the manufacturer and because of its significance is
239 being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a
240 leisure pursuit.

241 (58) (a) "Special mobile equipment" means every vehicle:

242 (i) not designed or used primarily for the transportation of persons or property;

243 (ii) not designed to operate in traffic; and

244 (iii) only incidentally operated or moved over the highways.

245 (b) "Special mobile equipment" includes:

246 (i) farm tractors;

247 (ii) off-road motorized construction or maintenance equipment including backhoes,
248 bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

249 (iii) ditch-digging apparatus.

250 (c) "Special mobile equipment" does not include a commercial vehicle as defined
251 under Section 72-9-102 .

252 (59) "Specially constructed vehicle" means every vehicle of a type required to be

253 registered in this state, not originally constructed under a distinctive name, make, model, or
254 type by a generally recognized manufacturer of vehicles, and not materially altered from its
255 original construction.
256 (60) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.
257 (61) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions
258 during the preceding year by power units.
259 (b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means
260 the number of miles that those vehicles were towed on the highways of all jurisdictions during
261 the preceding year.
262 (62) "Trailer" means a vehicle without motive power designed for carrying persons or
263 property and for being drawn by a motor vehicle and constructed so that no part of its weight
264 rests upon the towing vehicle.
265 (63) "Transferee" means a person to whom the ownership of property is conveyed by
266 sale, gift, or any other means except by the creation of a security interest.
267 (64) "Transferor" means a person who transfers his ownership in property by sale, gift,
268 or any other means except by creation of a security interest.
269 (65) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle
270 without motive power, designed as a temporary dwelling for travel, recreational, or vacation
271 use that does not require a special highway movement permit when drawn by a self-propelled
272 motor vehicle.
273 (66) "Truck tractor" means a motor vehicle designed and used primarily for drawing
274 other vehicles and not constructed to carry a load other than a part of the weight of the vehicle
275 and load that is drawn.

276 (67) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle,
277 manufactured home, and mobile home.
278 (68) "Vessel" has the same meaning as provided in Section 73-18-2 .
279 (69) "Vintage vehicle" has the same meaning as provided in Section 41-21-1 .
280 (70) "Waters of this state" has the same meaning as provided in Section 73-18-2 .
281 (71) "Weighmaster" means a person, association of persons, or corporation permitted
282 to weigh vehicles under this chapter.
283 Section 2. Section 41-1a-503 is amended to read:
284 41-1a-503. Certificate of title or receipt of surrender of ownership documents
285 required -- Application by owner.
286 (1) The owner of a manufactured home or mobile home shall apply to the division for a
287 certificate of title unless the manufactured home or mobile home is previously registered as real
288 property under Subsection 41-1a-506 (1).
289 (2) (a) An owner of a manufactured home or mobile home previously issued a
290 certificate of title who attaches that manufactured home or mobile home to real property shall
291 apply for [an Affidavit of Mobile Home Affixture] a receipt of surrender of ownership
292 documents within 45 days of attaching to the real property.
293 (b) Upon application, the division shall issue [an Affidavit of Mobile Home Affixture]
294 a receipt of surrender of ownership documents in lieu of a certificate of title.
295 (c) However, manufactured homes and mobile homes are not exempt from the other
296 requirements of this part.
297 (3) (a) The owner of a manufactured home or mobile home previously issued [an
298 Affidavit of Mobile Home Affixture] a receipt of surrender of ownership documents who
299 separates that manufactured home or mobile home from the real property shall apply for a
300 certificate of title within 45 days of the separation[, prior to] and before any transfer of
301 ownership of that manufactured home or mobile home.
302 (b) Upon application, the division shall issue a certificate of title in lieu of [an
303 Affidavit of Mobile Home Affixture] a receipt of surrender of ownership documents.
304 Section 3. Section 41-1a-506 is amended to read:
305 41-1a-506. Exceptions to title requirements for manufactured homes or mobile
306 homes.

307 (1) A manufactured home or mobile home in this state is subject to the titling
308 provisions of this part except:

309 (a) a manufactured home or mobile home owned and operated by the federal
310 government; and
311 (b) a manufactured home or mobile home that has been converted to real property
312 under Section 70D-2-401 [if:].
313 [(i) (A) an Affidavit of Mobile Home Affixture is issued by the division for that home;
314 and]
315 [(B) the home is permanently affixed to real property; or]
316 [(ii) (A) the home is permanently affixed to real property;]
317 [(B) the home is not registered with the division;]
318 [(C) the home is taxed as an improvement to real estate by the county assessor as
319 permitted under Section 59-2-1503 ; and]
320 [(D) the manufacturer's identification number or numbers are included in the deed or
321 loan document recorded with the county recorder.]
322 (2) A manufactured home or mobile home previously converted to real property but
323 that has been separated from the real property is subject to the titling provisions of this part
324 upon separation.
325 Section 4. Section 41-1a-509 is amended to read:
326 41-1a-509. Manufacturer's certificate of origin or title.
327 (1) If a vehicle other than an off-highway vehicle older than a 1988 model year, or a
328 vessel or outboard motor older than a 1985 model year has not been previously titled, the
329 application for certificate of title shall include the manufacturer's certificate of origin properly
330 endorsed for transfer.
331 (2) The manufacturer's certificate of origin shall show:
332 (a) the date of sale to the dealer or person first receiving it from the manufacturer;
333 (b) the name of the dealer or person;
334 (c) a description sufficient to identify the vehicle, vessel, or outboard motor; and
335 (d) a certification by the dealer that the vehicle, vessel, or outboard motor was new
336 when sold to the applicant.
337 (3) (a) If the vehicle, vessel, or outboard motor is from a state or foreign country that

338 does not issue or require certificates of title, the owner shall submit a bill of sale, sworn
339 statement of ownership, or any other evidence of ownership required by the division.
340 (b) The division may refuse to issue a certificate of title or [an affidavit of Mobile
341 Home Affixture] receipt of surrender of ownership documents if the applicant fails to submit
342 the evidence of ownership required.
343 Section 5. Section 41-1a-510 is amended to read:
344 41-1a-510. Sales tax payment required.
345 (1) (a) Except as provided in Subsection (1)(b), the division before issuing a certificate
346 of title to a vehicle, vessel, or outboard motor shall require from every applicant:
347 (i) a receipt from the division showing that the sales tax has been paid to the state on
348 the sale of the vehicle, vessel, or outboard motor upon which application for certificate of title
349 has been made; or
350 (ii) a certificate from the division showing that no sales tax is due.
351 (b) If a licensed dealer has made a report of sale, no receipt or certificate is required.
352 (2) The division may also issue [an Affidavit of Mobile Home Affixture] a receipt of
353 surrender of ownership documents for a manufactured home or mobile home if the applicant
354 complies with Subsection (1).
355 Section 6. Section 41-1a-519 is amended to read:
356 41-1a-519. Dealer requirements for certificate of title or affidavit of affixture and
357 receipt of surrender of title.
358 (1) If a dealer delivers a new off-highway vehicle, vessel, or outboard motor to the
359 purchaser, the dealer shall apply for issuance of a certificate of title or [Affidavit of Mobile
360 Home Affixture] receipt of surrender of ownership documents, as appropriate, in the
361 purchaser's name within 45 days of the date of sale.
362 (2) A dealer who purchases or takes in trade a used off-highway vehicle, vessel, or
363 outboard motor on which a certificate of title has previously been issued is not required to
364 apply for a certificate of title.
365 Section 7. Section 41-1a-709 is amended to read:

366 41-1a-709. Dealer transfer of used off-highway vehicle, vessel, or outboard motor.
367 Upon the resale or subsequent transfer by a dealer of a used off-highway vehicle, vessel,
368 or outboard motor, the dealer shall endorse the certificate of title and forward it, accompanied

369 by the transferee's application for a certificate of title, or if desired by the purchaser, and as
370 applicable, [an affidavit of Mobile Home Affixture] a receipt of surrender of ownership
371 documents, to the division.

372 Section 8. Section 59-12-102 (Superseded 07/01/14) is amended to read:

373 59-12-102 (Superseded 07/01/14). Definitions.

374 As used in this chapter:

375 (1) "800 service" means a telecommunications service that:

376 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

377 (b) is typically marketed:

378 (i) under the name 800 toll-free calling;

379 (ii) under the name 855 toll-free calling;

380 (iii) under the name 866 toll-free calling;

381 (iv) under the name 877 toll-free calling;

382 (v) under the name 888 toll-free calling; or

383 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

384 Federal Communications Commission.

385 (2) (a) "900 service" means an inbound toll telecommunications service that:

386 (i) a subscriber purchases;

387 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to

388 the subscriber's:

389 (A) prerecorded announcement; or

390 (B) live service; and

391 (iii) is typically marketed:

392 (A) under the name 900 service; or

393 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

394 Communications Commission.

395 (b) "900 service" does not include a charge for:

396 (i) a collection service a seller of a telecommunications service provides to a

397 subscriber; or

398 (ii) the following a subscriber sells to the subscriber's customer:

399 (A) a product; or

400 (B) a service.

401 (3) (a) "Admission or user fees" includes season passes.

402 (b) "Admission or user fees" does not include annual membership dues to private

403 organizations.

404 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on

405 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax

406 Agreement after November 12, 2002.

407 (5) "Agreement combined tax rate" means the sum of the tax rates: