

2012 Kansas Statutes

8-2401. Definitions. As used in this act, the following words and phrases shall have the meanings:

(a) "Vehicle dealer" means any person who: (1) For commission, money or other thing of value is engaged in the business of buying, selling or offering or attempting to negotiate a sale of an interest in vehicles; or (2) for commission, money or other thing of value is engaged in the business of buying, selling or offering or attempting to negotiate a sale of an interest in motor vehicles as an auction motor vehicle dealer as defined in (bb); but does not include: (A) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court, or any bank, trustee or lending company or institution which is subject to state or federal regulations as such, with regard to its disposition of repossessed vehicles; (B) public officers while performing their official duties; (C) employees of persons enumerated in provisions (A) and (B), when engaged in the specific performance of their duties as such employees; (D) auctioneers conducting auctions for persons enumerated in provisions (A), (B) or (C); or (E) auctioneers who, while engaged in conducting an auction of tangible personal property for others, offer for sale: (i) Vehicles which have been used primarily in a farm or business operation by the owner offering the vehicle for sale, including all vehicles which qualified for a farm vehicle tag at the time of sale except vehicles owned by a business engaged primarily in the business of leasing or renting passenger cars; (ii) vehicles which meet the statutory definition of antique vehicles; or (iii) vehicles for no more than four principals or households per auction. All sales of vehicles exempted pursuant to provision (E), except truck, truck tractors, pole trailers, trailers and semitrailers as defined by K.S.A. 8-126, and amendments thereto, shall be registered in Kansas prior to the sale.

(b) "New vehicle dealer" means any vehicle dealer who is a party to an agreement, with a first or second stage manufacturer or distributor, which agreement authorizes the vehicle dealer to sell, exchange or transfer new motor vehicles, trucks, motorcycles, or trailers or parts and accessories made or sold by such first or second stage manufacturer or distributor and obligates the vehicle dealer to fulfill the warranty commitments of such first or second stage manufacturer or distributor.

(c) "Used vehicle dealer" means any person actively engaged in the business of buying, selling or exchanging used vehicles.

(d) "Vehicle salesperson" means any person who is employed as a salesperson by a vehicle dealer to sell vehicles.

(e) "Board" means the vehicle dealer review board created by this act.

(f) "Director" means the director of vehicles, or a designee of the director.

(g) "Division" means the division of vehicles of the department of revenue.

(h) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, and is required to be registered under the provisions of article 1 of chapter 8 of Kansas Statutes Annotated, except that such term shall include micro utility trucks, as defined in K.S.A. 8-126, and amendments thereto, but shall not include motorized bicycles, and such term shall not include manufactured homes or mobile homes. As used herein, the terms "manufactured home" and "mobile home" shall have the meanings ascribed to them by K.S.A. 58-4202, and amendments thereto.

(i) "Motor vehicle" means any vehicle other than a motorized bicycle, which is self-propelled and is required to be registered under the provisions of article 1 of chapter 8 of Kansas Statutes Annotated, except that such term shall include micro utility trucks, as defined in K.S.A. 8-126, and amendments thereto.

(j) "Licensor" means the director or division or both.

(k) "First stage manufacturer" means any person who manufactures, assembles and sells new vehicles to new vehicle dealers for resale in this state.

(l) "Second stage manufacturer" means any person who assembles, installs or permanently affixes body, cab or special unit equipment to a chassis supplied by a first stage manufacturer, distributor or other supplier and sells the resulting new vehicles to new vehicle dealers for resale in this state.

(m) "First stage converter" means any person who is engaged in the business of affixing to a chassis supplied by a first stage manufacturer, distributor or other supplier, specially constructed body units to result in motor vehicles used as, but not limited to, buses, wreckers, cement trucks and trash compactors.

(n) "Second stage converter" means any person who is engaged in the business of adding to, subtracting from or modifying previously assembled or manufactured vehicles and sells the resulting converted vehicles at retail or wholesale.

(o) "Distributor" means any person who sells or distributes for resale new vehicles to new vehicle dealers in this state or who maintains distributor representatives in this state.

(p) "Wholesaler" means any person who purchases vehicles for the purpose of resale to a vehicle dealer.

(q) "Factory branch" means any branch office maintained in this state by a first or second stage manufacturer for the sale of new vehicles to distributors, or for the sale of new vehicles to new vehicle dealers, or for directing or supervising, in whole or in part, its representatives in this state.

(r) "Distributor branch" means any branch office similar to subsection (q) maintained by a distributor for the same purposes as a factory branch.

(s) "Factory representative" means a representative employed by a first or second stage manufacturer or factory branch for the purpose of making or promoting the sale of its new vehicles to new vehicle dealers, or for supervising or contacting its new vehicle dealers or prospective new vehicle dealers with respect to the promotion and sale of such vehicles and parts or accessories for the same.

(t) "Distributor representative" means any representative similar to subsection (s) employed by a distributor or distributor branch for the same purpose as a factory representative.

(u) "Person" means any natural person, partnership, firm, corporation or association.

(v) "New motor vehicle" means any motor vehicle which has never been titled or registered and has not been substantially driven or operated.

(w) "Franchise agreement" means any contract or franchise or any other terminology used to describe the contractual relationship between first or second stage manufacturers, distributors and vehicle dealers, by which:

(1) A right is granted one party to engage in the business of offering, selling or otherwise distributing goods or services under a marketing plan or system prescribed in substantial part by the other party, and in which there is a community of interest in the marketing of goods or services at wholesale or retail, by lease, agreement or otherwise; and

(2) the operation of the grantee's business pursuant to such agreement is substantially associated with the

grantor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the grantor or an affiliate of the grantor.

(x) "Broker" means any person who, for a fee, commission, money, other thing of value, valuable consideration or benefit, either directly or indirectly, arranges or offers to arrange a transaction involving the sale of a vehicle, or is engaged in the business of: (1) Selling or buying vehicles for other persons as an agent, middleman or negotiator; or (2) bringing buyers and sellers of vehicles together, but such term shall not include any person registered as a salvage vehicle pool or any person engaged in a business in which the acts described in this subsection are only incidentally performed or which are performed or authorized within the requirements or scope of any other category of license, or not prohibited, in the manner authorized by the vehicle dealers' and manufacturers' licensing act.

(y) "Salvage vehicle dealer" means any person engaged in the business of buying, selling or exchanging used vehicles and primarily engaged in the business of the distribution at wholesale or retail of used motor vehicle parts and includes establishments primarily engaged in dismantling motor vehicles for the purpose of selling parts.

(z) "Lending agency" means any person, desiring to be licensed under this act and engaged in the business of financing or lending money to any person to be used in the purchase or financing of a vehicle.

(aa) "Established place of business" means a building or structure, other than a building or structure all or part of which is occupied or used as a residence, owned either in fee or leased and designated as an office or place to receive mail and keep records and conduct the routine of business. To qualify as an established place of business, there shall be located therein an operable telephone which shall be listed with the telephone company under the name of the licensed business, except that a vehicle dealer who derives at least 50% of such person's income from operating a farm as a resident thereof, the established place of business may be the farm residence of such vehicle dealer and the operable telephone may be located in such residence when such dealer engages only in vehicles and equipment not required to have vehicle registration to travel on a highway.

(bb) "Auction motor vehicle dealer" means any person who for commission, money or other thing of value is engaged in an auction of motor vehicles except that the sales of such motor vehicles shall involve only motor vehicles owned by licensed motor vehicle dealers and sold to licensed motor vehicle dealers, except that any auction motor vehicle dealer, registered as such and lawfully operating prior to June 30, 1980, shall be deemed to be and have been properly licensed under this act from and after July 1, 1980. For the purposes of this subsection, an auction is a private sale of motor vehicles where any and all licensed motor vehicle dealers who choose to do so are permitted to attend and offer bids and the private sale of such motor vehicles is to the highest bidder.

(cc) "Licensee" means any person issued a valid license pursuant to this act.

(dd) "Dealer" means a vehicle dealer as defined by this act, unless the context otherwise requires.

(ee) "Insurance company" means any person desiring to be licensed under this act and engaged in the business of writing or servicing insurance related to vehicles.

(ff) "Supplemental place of business" means a business location other than that of the established place of business of the dealer which may be operated by the dealer on a continuous year-round basis and, for new vehicle dealers, is within the defined area of responsibility in their franchise agreement, and for all other dealers is within the same city or county where the established place of business of the dealer is operated.

(gg) "Salvage yard" means the place owned or leased and regularly occupied by a person, firm or corporation licensed under the provisions of this act for the principal purpose of engaging in the business of a salvage vehicle dealer. Salvage yard shall include the location where the:

- (1) Products for sale are displayed and offered for sale;
- (2) books and records required for the conduct of the business are maintained;
- (3) records are kept in the normal daily business activity; and
- (4) records are made available for inspection.

(hh) "Salvage vehicle pool" means any person who as an agent for a third party is primarily engaged in the business of storing, displaying and offering for sale salvage vehicles.

(ii) "Major component part" means any vehicle part including the front clip, rear clip, doors, frame, chassis, engine, transmission, transaxle, cab, bed and box bearing the public vehicle identification number or engine number, if manufactured prior to 1981; or any vehicle part bearing a derivative of such number.

(jj) "Recreational motor vehicle" means a recreational vehicle as defined by subsection (f) of K.S.A. 75-1212, and amendments thereto.

(kk) "Vehicle crusher" means any person, other than a vehicle recycler or a scrap metal recycler, who engages in the business of flattening, crushing or otherwise processing nonrepairable vehicles for recycling. Vehicle crushers include, but are not limited to, persons who use fixed or mobile equipment to flatten or crush nonrepairable vehicles for a vehicle recycler or a scrap metal recycler.

(ll) "Vehicle recycler" means a person who engages in the business of acquiring, dismantling, removing parts from or destroying nonrepairable vehicles for the primary purpose of reselling the vehicle parts.

(mm) "Scrap metal recycler" means a person who engages in the business of shredding or otherwise processing nonrepairable vehicles or other scrap metal into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap for sale for remelting purposes.

(nn) "Nonrepairable vehicle" means any motor vehicle which: (1) Has been damaged, destroyed, wrecked, burned or submerged in water to the extent that such motor vehicle is incapable of safe operation for use on roads or highways and has no resale value except as a source of parts or scrap only; or (2) the owner irreversibly designates as a source of parts or scrap.

(oo) "Rebuilder" means a person who is engaged in the business of rebuilding salvage vehicles, as defined in K.S.A. 8-196, and amendments thereto, and selling such rebuilt salvage vehicles.

History: L. 1980, ch. 36, § 1; L. 1981, ch. 48, § 1; L. 1984, ch. 26, § 2; L. 1984, ch. 45, § 1; L. 1985, ch. 54, § 1; L. 1986, ch. 49, § 1; L. 1988, ch. 52, § 1; L. 1988, ch. 51, § 1; L. 1988, ch. 43, § 2; L. 1990, ch. 52, § 1; L. 1991, ch. 33, § 18; L. 1993, ch. 252, § 5; L. 1994, ch. 302, § 3; L. 2008, ch. 167, § 9; L. 2009, ch. 63, § 3; July 1.