

SECOND REGULAR SESSION

SENATE BILL NO. 1042

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRIESHEIMER.

Read 1st time January 12, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

3584S.011

AN ACT

To repeal section 301.562, RSMo, and to enact in lieu thereof one new section relating to the licensure of motor vehicle dealers and manufacturers.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 301.562, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.562, to read as follows:

301.562. 1. The department may refuse to issue or renew any license required pursuant to sections 301.550 to 301.573 for any one or any combination of causes stated in subsection 2 of this section. The department shall notify the applicant or licensee in writing at his last known address of the reasons for the refusal to issue or renew the license and shall advise the applicant or licensee of his right to [appeal the decision of the department as provided in chapter 536, RSMo] **file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.**

2. The department may [take such disciplinary action as provided in subsection 3 of this section upon a written notice and an opportunity to be heard in substantially the same manner as provided in chapter 536, RSMo] **cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo,** against any holder of any license issued under sections 301.550 to 301.573 for any one or any combination of the following causes:

(1) The applicant or license holder was previously the holder of a license issued under sections 301.550 to 301.573, which license was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of suspension have not been fulfilled;

(2) The applicant or license holder was previously a partner, stockholder, director or officer controlling or managing a partnership or corporation whose license issued under

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

sections 301.550 to 301.573 was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled;

(3) The applicant or license holder has, within ten years prior to the date of the application, been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any business licensed under sections 301.550 to 301.573; for any offense, an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(4) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to sections 301.550 to 301.573;

(5) Obtaining or attempting to obtain any money, commission, fee, barter, exchange or other compensation by fraud, deception or misrepresentation;

(6) Violation of, or assisting or enabling any person to violate any provisions of sections 301.550 to 301.573 or of any lawful rule or regulation adopted pursuant to sections 301.550 to 301.573;

(7) The applicant or license holder has filed an application for a license which, as of its effective date, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(8) The applicant or license holder has failed to pay the proper application or license fee or fails to establish or maintain a bona fide place of business;

(9) Uses or permits the use of any special license or license plate assigned to him for any purpose other than those permitted by law;

(10) The applicant or license holder is finally adjudged insane or incompetent by a court of competent jurisdiction;

(11) Use of any advertisement or solicitation which is false;

(12) Violations of sections 301.550 to 301.573 or violations of this chapter, sections 407.511 to 407.556, RSMo, section 578.120, RSMo, which resulted in a felony conviction or finding of guilt or violation of any federal motor vehicle laws which result in a felony conviction or finding of guilt.

3. Any such complaint shall be filed within one year of the date upon which the department receives notice of an alleged violation of an applicable statute or regulation. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the [department] administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the department may, singly or in combination, refuse to issue the person a license, issue a private reprimand, place the

person on probation on such terms and conditions as the department deems appropriate for a period of one day to five years, suspend the person's license from one day to six days, or revoke the person's license for such period as the department deems appropriate. The applicant or licensee shall have the right to appeal the decision of the **administrative hearing commission and** department in the manner provided in chapter 536, RSMo.

4. Upon the suspension or revocation of any person's license issued under sections 301.550 to 301.573, the department shall recall any distinctive number plates that were issued to that licensee.

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