

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 313
94TH GENERAL ASSEMBLY

Reported from the Committee on Commerce, Energy and the Environment, March 8, 2007, with recommendation that the Senate Committee Substitute do pass.

1161S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 700.010, 700.045, 700.056, 700.065, 700.070, 700.090, 700.100, 700.115, 700.450, 700.455, 700.460, 700.465, 700.470, and 700.650, RSMo, and to enact in lieu thereof thirteen new sections relating to manufactured homes, with penalty provisions.

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

Section A. Sections 700.010, 700.045, 700.056, 700.065, 700.070, 700.090, 700.100, 700.115, 700.450, 700.455, 700.460, 700.465, 700.470, and 700.650, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 700.010, 700.041, 700.045, 700.056, 700.065, 700.090, 700.095, 700.096, 700.097, 700.098, 700.100, 700.115, and 700.650, to read as follows:

700.010. As used in sections 700.010 to 700.500, for the purpose of sections 700.010 to 700.500, the following terms mean:

(1) "Authorized representative", any person, firm or corporation, or employee thereof, approved or hired by the commission to perform inspection services;

(2) "Code", the standards relating to manufactured homes, or modular units as adopted by the commission. The commission, in its discretion, may incorporate, in whole or in part, the standards codes promulgated by the American National Standards Institute, the United States Department of Housing and Urban Development or other recognized agencies or organizations;

(3) "Commission", the public service commission;

(4) "Dealer", any person, other than a manufacturer, who sells or offers for sale four or more **used homes or one or more new** manufactured homes,

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

14 or **one or more new** modular units in any consecutive twelve-month period;

15 (5) **"Installer", an individual who is licensed by the commission**
16 **to install manufactured homes, under sections 700.650 to 700.692;**

17 (6) **"Manufactured home", a factory-built structure or structures which,**
18 **in the traveling mode, is eight body feet or more in width or forty body feet or**
19 **more in length, or, when erected on site, contains three hundred twenty or more**
20 **square feet, equipped with the necessary service connections and made so as to**
21 **be readily movable as a unit or units on its or their own running gear and**
22 **designed to be used as a dwelling unit or units with or without a permanent**
23 **foundation. The phrase "without a permanent foundation" indicates that the**
24 **support system is constructed with the intent that the manufactured home placed**
25 **thereon may be moved from time to time at the convenience of the owner;**

26 [(6)] (7) **"Manufacturer", any person who manufactures manufactured**
27 **homes, or modular units, including persons who engage in importing**
28 **manufactured homes, or modular units for resale;**

29 [(7)] (8) **"Modular unit", a transportable building unit designed to be**
30 **used by itself or to be incorporated with similar units at a point-of-use into a**
31 **modular structure to be used for residential, commercial, educational or**
32 **industrial purposes. This definition shall not apply to structures under six**
33 **hundred fifty square feet used temporarily and exclusively for construction site**
34 **office purposes;**

35 [(8)] (9) **"New", being sold or offered for sale to the first purchaser for**
36 **purposes other than resale;**

37 [(9)] (10) **"Person", an individual, partnership, corporation or other legal**
38 **entity;**

39 [(10)] (11) **"Premises", a lot, plot, or parcel of land including the**
40 **buildings, structures, and manufactured homes thereon;**

41 [(11)] (12) **"Recreational park trailer", a recreational park trailer as**
42 **defined in the American National Standards Institute (ANSI) A119.5 Standard**
43 **on Recreational Park Trailers. A recreational park trailer is not a recreational**
44 **vehicle;**

45 [(12)] (13) **"Recreational vehicle", a recreational vehicle as defined in the**
46 **American National Standards Institute (ANSI) A119.2 Standard on Recreational**
47 **Vehicles;**

48 [(13)] (14) **"Seal", a device, label or insignia issued by the public service**
49 **commission, U.S. Department of Housing and Urban Development, or its agent,**

50 to be displayed on the exterior of the manufactured home, or modular unit to
51 evidence compliance with the code;

52 [(14)] (15) "Setup", the operations performed at the occupancy site which
53 renders a manufactured home or modular unit fit for habitation, which operations
54 include, but are not limited to, moving, blocking, leveling, supporting, and
55 assembling multiple or expandable units.

700.041. 1. There is hereby established a fund in the state
2 **treasury to be known as the "Manufactured Housing Customer Recovery**
3 **Fund" for the purpose of paying consumer claims pursuant to**
4 **procedures it may promulgate by rule. The public service commission**
5 **shall administer the manufactured housing consumer recovery fund**
6 **and all moneys in the fund shall be used solely as prescribed in this**
7 **section. Any interest earned from the investment of the moneys in the**
8 **fund shall be credited to the fund.**

9 **2. Claims approved by the commission pursuant to law may be**
10 **paid from the fund subject to appropriation. No claims may be**
11 **considered by the commission until after all other legal remedies have**
12 **been exhausted. The commission may establish an advisory committee**
13 **to assist with the evaluation of all claims filed by consumers. The**
14 **committee members shall be volunteers and serve without**
15 **compensation.**

16 **3. Notwithstanding the provisions of section 33.080, RSMo, to the**
17 **contrary, moneys in the manufactured housing consumer recovery fund**
18 **shall not be transferred to the credit of the general revenue fund at the**
19 **end of the biennium; however, the total amount in the manufactured**
20 **housing consumer recovery fund shall not exceed thirty-two percent of**
21 **the amount of the annual appropriation of the manufactured housing**
22 **fund from the preceding fiscal year. Moneys in the manufactured**
23 **housing consumer recovery fund may be transferred back to the**
24 **manufactured housing fund by appropriation.**

 700.045. It shall be a misdemeanor:

2 (1) For a manufacturer or dealer to manufacture, rent, lease, sell or offer
3 to sell any manufactured home or modular unit after January 1, 1977, unless
4 there is in effect a registration with the commission;

5 (2) To rent, lease, sell or offer to sell any new manufactured home or new
6 modular unit or used modular unit used for educational purposes manufactured
7 after January 1, 1974, which does not bear a seal as required by sections 700.010

8 to 700.115;

9 (3) To affix a seal or cause a seal to be affixed to any manufactured home
10 or modular unit which does not comply with the code;

11 (4) To alter a manufactured home or modular unit in a manner prohibited
12 by the provisions of sections 700.010 to 700.115;

13 (5) To fail to correct within a reasonable time not to exceed ninety days
14 after being ordered to do so in writing by an authorized representative of the
15 commission a code violation in a new manufactured home or new modular unit
16 or used modular unit used for educational purposes owned, manufactured or sold
17 if the same is manufactured after January 1, 1974. **Reasonable and necessary**
18 **extensions may be granted by the commission;** or

19 (6) To interfere with, obstruct, or hinder any authorized representative
20 of the commission in the performance of his or her duties.

700.056. Every dealer of a manufactured home offered for sale in this
2 state shall at the time of sale provide the purchaser with a bill of sale containing
3 at least the following: The total price of the unit, **serial number**, and its
4 contents, **the name or names of the person or persons responsible for the**
5 **installation and setup, including site preparation and waivers**, a list of
6 all furniture and appliances in the manufactured home, any other costs which
7 will be assessed to the purchaser **by the dealer or installer** such as
8 transportation, handling, or such other costs, and the sales tax payable for such
9 manufactured home.

700.065. All **new** manufactured homes located in this state shall be
2 anchored and tied down in accordance with the standards promulgated by the
3 commission pursuant to the provisions of sections 700.010 to 700.115 **and**
4 **sections 700.650 to 700.692.**

700.090. 1. Every manufacturer or dealer [of manufactured homes] who
2 sells or offers for sale, on consignment or otherwise, a manufactured home or
3 modular unit from or in the state of Missouri shall register [each location] with
4 the commission **each place of business at which the manufacturer or**
5 **dealer sells or offers for sale a manufactured home or modular unit.**

6 2. The commission shall issue a certificate of registration to a
7 manufacturer who:

8 (1) Completes and files with the commission an application for
9 registration which contains the following information:

10 (a) The name of the manufacturer;

11 (b) The address of the manufacturer and addresses of each factory owned
12 or operated by the manufacturer, if different from the address of the
13 manufacturer;

14 (c) If a corporation, the state of original incorporation, a list of the names
15 and addresses of all officers and directors of the corporation, and proof of the
16 filing of all franchise and sales tax forms required by Missouri law;

17 (d) If not a corporation, the name and address of the managing person or
18 persons responsible for overall operation of the manufacturer;

19 (2) Files with the commission an initial registration fee of seven hundred
20 fifty dollars in the form of a cashier's check or money order made payable to the
21 state of Missouri.

22 3. The commission shall issue a certificate of registration to a dealer who:

23 (1) Completes and files with the commission an application for
24 registration which contains the following information:

25 (a) The name of the dealer;

26 (b) The business address of the dealer and addresses of each separate
27 facility owned and operated by the dealer from which manufactured homes or
28 modular units are offered for sale if different from the business address of the
29 dealer;

30 (c) If a corporation, the state of original incorporation, a list of the names
31 and addresses of all officers and directors of the corporation, proof of the filing of
32 all franchise and sales tax forms required by Missouri law;

33 (d) If not a corporation, the name and address of the managing person or
34 persons responsible for the overall operations of the manufacturer;

35 (2) Files with the commission an initial registration fee of two hundred
36 dollars in the form of a cashier's check or money order made payable to the state
37 of Missouri;

38 (3) Files with the commission proof of compliance with the provisions of
39 section 301.280, RSMo.

40 4. The registration of any manufacturer or dealer shall be effective for a
41 period of one year and shall be renewed by the commission upon receipt by it
42 from the registered dealer of a renewal fee of seven hundred fifty dollars for
43 manufacturers and two hundred dollars for dealers and a form provided by the
44 commission upon which shall be placed any changes from the information
45 requested on the initial registration form.

46 5. The commission may stagger the renewal of certificates of registration

47 to provide for more equal distribution over the twelve months of the number of
48 registration renewals.

700.095. 1. Every dealer shall, on or before January fifteenth of
2 each year, make application for registration or renewal, and shall be
3 required to maintain a bona fide established place of business and shall
4 maintain a permanent enclosed building or structure, either owned in
5 fee or leased and actually occupied as a place of business by the
6 applicant for the selling, bartering, trading, or exchanging of
7 manufactured homes or modular units, where the public may contact
8 the owner or operator at any reasonable time and where the books,
9 records, files, and other matters required and necessary to conduct the
10 business shall be kept and maintained.

11 2. The application shall contain the business address, not a post-
12 office box address, and telephone number of the place where the books,
13 records, files, and other matters required and necessary to conduct the
14 business are located and where the same may be inspected during
15 normal daytime business hours.

16 3. Each application shall contain such additional information as
17 may be required by the commission to enable it to determine whether
18 the applicant is a bona fide dealer in fact and is of good moral
19 character.

20 4. On the payment of a registration or renewal fee of two
21 hundred dollars, there shall be assigned to each dealer a certificate of
22 registration in such form as the commission shall prescribe.

700.096. 1. Each person registered as a dealer under the
2 provisions of sections 700.010 to 700.115 shall file monthly reports with
3 the commission, which reports shall be in the form and manner and
4 contain the information required by the commission by rules
5 promulgated under chapter 536, RSMo, and shall permit an employee
6 of the commission or any law enforcement official to inspect, during
7 normal business hours, any of the following documents which are in his
8 or her possession or under his or her custody or control:

- 9 (1) Any title to any manufactured home or modular unit;
- 10 (2) Any application for title to any manufactured home or
11 modular unit;
- 12 (3) Any affidavit provided under chapter 301 or 407, RSMo;
- 13 (4) Any assignment of title to any manufactured home or modular

14 unit;

15 (5) Any disclosure statement or other document required by the
16 laws of the United States or any other state.

17 2. For purposes of this section, the term "law enforcement
18 official" means any of the following:

19 (1) Attorney general, or any person designated by him or her to
20 make such an inspection;

21 (2) Any prosecuting attorney or any person designated by a
22 prosecuting attorney to make such an inspection;

23 (3) Any member of the highway patrol;

24 (4) Any sheriff or deputy sheriff;

25 (5) Any peace officer certified under chapter 590, RSMo, acting
26 in his or her official capacity.

700.097. No insurance company, finance company, bank or trust
2 company shall be required to register with the commission in order to
3 sell any manufactured home or modular unit repossessed or purchased
4 by the company on the basis of total destruction or theft thereof when
5 the sale of the manufactured home or modular unit is in conformance
6 with applicable title and registration laws of this state.

700.098. 1. The commission may refuse to register an applicant
2 as a dealer, or may suspend the registration of an existing dealer from
3 one day to thirty days, or revoke the registration of a dealer, after a
4 written notice and a hearing when the commission is satisfied that the
5 applicant or dealer has failed to comply with the provisions set out in
6 sections 700.010 to 700.115. Notification of unfavorable action by the
7 commission on any application for registration or renewal of
8 registration must be accompanied by a notice informing the recipient
9 that the decision of the director may be appealed as provided in
10 chapter 386, RSMo.

11 2. It shall be unlawful for any person to hold forth or act as a
12 dealer who is not currently registered as a dealer by the commission as
13 required by sections 700.010 to 700.115.

700.100. 1. The commission may refuse to register or refuse to renew the
2 registration of any person who fails to comply with the provisions of [section
3 700.090 or this section] sections 700.010 to 700.115 or sections 700.650 to
4 700.692. Notification of unfavorable action by the commission on any application
5 for registration or renewal of registration must be delivered to the applicant

6 within thirty days from date it is received by the commission. Notification of
7 unfavorable action by the commission on any application for registration or
8 renewal of registration must be accompanied by a notice informing the recipient
9 that the decision of the commission may be appealed as provided in chapter 386,
10 RSMo.

11 2. The commission may consider a complaint filed with it charging a
12 registered manufacturer or dealer with a violation of the provisions of this
13 section, which charges, if proven, shall constitute grounds for revocation or
14 suspension of his registration, or the placing of the registered manufacturer or
15 dealer on probation.

16 3. The following specifications shall constitute grounds for the suspension,
17 revocation or placing on probation of a manufacturer's or dealer's registration:

18 (1) If required, failure to comply with the provisions of section 301.280,
19 RSMo;

20 (2) Failing to be in compliance with the provisions of section 700.090;

21 (3) If a corporation, failing to file all franchise or sales tax forms required
22 by Missouri law;

23 (4) Engaging in any conduct which constitutes a violation of the provisions
24 of section 407.020, RSMo;

25 (5) Failing to comply with the provisions of Sections 2301-2312 of Title 15
26 of the United States Code (Magnuson-Moss Warranty Act);

27 (6) As a dealer, failing to arrange for the proper initial setup of any new
28 manufactured home or modular unit sold from or in the state of Missouri, [unless
29 the dealer receives a written waiver of that service from the purchaser or his or
30 her authorized agent] **except as allowed under subsection 5 of section**
31 **700.656;**

32 (7) Requiring any person to purchase any type of insurance from that
33 manufacturer or dealer as a condition to his being sold any manufactured home
34 or modular unit;

35 (8) Requiring any person to arrange financing or utilize the services of
36 any particular financing service as a condition to his being sold any manufactured
37 home or modular unit; provided, however, the registered manufacturer or dealer
38 may reserve the right to establish reasonable conditions for the approval of any
39 financing source;

40 (9) Engaging in conduct in violation of section 700.045;

41 (10) Failing to comply with the provisions of section 301.210, RSMo;

42 (11) Failing to pay all necessary fees and assessments authorized
43 pursuant to sections 700.010 to 700.115.

44 **4. The commission may order that any suspension, revocation, or**
45 **probation ordered under subsection 3 of this section shall apply to all**
46 **manufacturer's or dealer's registrations that are held by the same**
47 **manufacturer or dealer or that are owned or controlled by the same**
48 **person or persons if a continued and consistent pattern of the**
49 **violations have been identified by the commission to be present with**
50 **each licensee under the same control or ownership.**

700.115. 1. Except as otherwise provided in subsections 2 and 3 of this
2 section, a violation of the provisions of sections 700.010 to 700.115 shall
3 constitute a violation of the provisions of section 407.020, RSMo. In addition to
4 the authority vested in the attorney general to enforce the provisions of that
5 section, he may petition the court and the court may enter an order revoking the
6 registration certificate of the defendant or defendants issued pursuant to the
7 provisions of section 700.090.

8 2. Notwithstanding any provisions of subsection 1 of this section to the
9 contrary, whoever violates any provision of this chapter shall be liable to the
10 state of Missouri for a civil penalty in an amount which shall not exceed one
11 thousand dollars for each such violation. **If, after a hearing, the commission**
12 **finds that person has violated any provision of this chapter, it shall**
13 **direct its general counsel to enforce the provisions of this subsection**
14 **by filing a petition in circuit court for such civil penalties.** Each
15 violation of this chapter shall constitute a separate violation with respect to each
16 manufactured home or **modular unit** or with respect to each failure or refusal
17 to allow or perform an act required by this chapter; except that, the maximum
18 civil penalty may not exceed one million dollars for any related series of
19 violations occurring within one year from the date of the first violation.

20 3. Any individual or director, officer, or agent of a corporation who
21 knowingly and willfully violates any provision of sections 700.010 to 700.115, in
22 a manner which threatens the health or safety of any purchaser, shall, upon
23 conviction therefor, be fined not more than one thousand dollars or imprisoned
24 for not more than one year, or both.

700.650. 1. Sections 700.650 to 700.692 shall be known and may be cited
2 as the "Manufactured Home Installation Act".

3 2. For the purposes of sections 700.650 to 700.692, the following terms

4 shall mean:

5 (1) "Applicant", a person who applies to the commission for a license or
6 limited-use license to install manufactured homes;

7 (2) "Commission", the Missouri public service commission;

8 (3) "Dealer", any person, other than a manufacturer, who sells or offers
9 for sale four or more **used homes or one or more new** manufactured homes,
10 **or one or more new modular units** in any consecutive twelve-month period;

11 (4) "Installation", work undertaken at the place of occupancy to ensure the
12 proper initial setup of a manufactured home which shall include the joining of all
13 sections of the home, installation of stabilization, support, and leveling systems,
14 assembly of multiple or expanded units, and installation of applicable utility
15 hookups and anchoring systems that render the home fit for habitation;

16 (5) "Installation standards", reasonable specifications for the installation
17 of a manufactured home;

18 (6) "Installer", an individual who is licensed by the commission to install
19 manufactured homes, pursuant to sections 700.650 to [700.680] **700.692**;

20 (7) "Manufactured home", a manufactured home as that term is defined
21 in subdivision (5) of section 700.010;

22 (8) "Manufacturer", any person who manufactures manufactured homes,
23 including persons who engage in importing manufactured homes for resale; and

24 (9) "Person", an individual, partnership, corporation, or other legal entity.

[700.070. Effective November 27, 1973, all purchasers of
2 manufactured homes shall, within thirty days from the date of
3 occupancy, anchor and secure the manufactured home in
4 accordance with the standards promulgated by the commission
5 pursuant to the provisions of sections 700.010 to 700.115.]

[700.450. As used in sections 700.450 to 700.470, the
2 following terms shall mean:

3 (1) "Commission", the public service commission;

4 (2) "Dealer", any person, including, but not limited to, real
5 estate brokers and salespersons, other than a manufacturer, who
6 sells or offers for sale four or more manufactured homes in any
7 consecutive twelve-month period;

8 (3) "Manufactured home", a factory-built structure or
9 structures which, in the traveling mode, is eight body feet or more
10 in width or forty body feet or more in length, or, when erected on

11 site, contains three hundred twenty or more square feet, equipped
12 with the necessary service connections and made so as to be readily
13 movable as a unit or units on its or their own running gear and
14 designed to be used as a dwelling unit or units with or without a
15 permanent foundation. The phrase "without a permanent
16 foundation" indicates that the support system is constructed with
17 the intent that the manufactured home placed thereon may be
18 moved from time to time at the convenience of the owner;

19 (4) "Manufacturer", any person who manufactures
20 manufactured homes, including persons who engage in importing
21 manufactured homes for resale;

22 (5) "Person", any individual, partnership, corporation or
23 other legal entity.]

[700.455. 1. Every dealer shall, on or before January
2 fifteenth of each year, instead of registering each manufactured
3 home dealt in, make a verified application, upon a blank for such
4 purpose to be furnished by the commission, for a distinctive
5 number for all the manufactured homes dealt in or controlled by
6 such dealer. The application shall contain, but need not be limited
7 to:

8 (1) When the applicant is a partnership, the name and
9 address of each partner, or, when the applicant is a corporation,
10 the names of the principal officers of the corporation and the state
11 in which it is incorporated. The application shall be verified by the
12 oath or affirmation of the applicant, if an individual, or in the
13 event an applicant is a partnership or corporation, then by a
14 partner or officer;

15 (2) A bona fide established place of business shall be
16 required for every dealer. A bona fide established place of business
17 for any dealer shall include a permanent enclosed building or
18 structure, either owned in fee or leased and actually occupied as a
19 place of business by the applicant for the selling, bartering, trading
20 or exchanging of manufactured homes, where the public may
21 contact the owner or operator at any reasonable time and where
22 the books, records, files and other matters required and necessary
23 to conduct the business shall be kept and maintained.

24 2. The application shall contain the business address, not
25 a post-office box, and telephone number of the place where the
26 books, records, files and other matters required and necessary to
27 conduct the business are located and where the same may be
28 inspected during normal daytime business hours.

29 3. Each application shall contain such additional
30 information as may be required by the commission to enable it to
31 determine whether the applicant is a bona fide dealer in fact and
32 is of good moral character.

33 4. On the payment of a registration fee of fifty dollars there
34 shall be assigned to each dealer a certificate of registration in such
35 form as the commission shall prescribe.]

 [700.460. 1. Each person registered as a dealer pursuant
2 to the provisions of sections 700.450 to 700.470 shall file monthly
3 reports with the commission, which reports shall be in the form
4 and manner and contain the information required by the
5 commission by rules promulgated pursuant to chapter 536, RSMo,
6 and shall permit an employee of the commission or any law
7 enforcement official to inspect, during normal business hours, any
8 of the following documents which are in his possession or under his
9 custody or control:

- 10 (1) Any title to any manufactured home;
11 (2) Any application for title to any manufactured home;
12 (3) Any affidavit provided pursuant to chapter 301 or 407,
13 RSMo;
14 (4) Any assignment of title to any manufactured home;
15 (5) Any disclosure statement or other document required by
16 the laws of the United States or any other state.

17 2. For purposes of this section, the term "law enforcement
18 official" shall mean any of the following:

- 19 (1) Attorney general, or any person designated by him to
20 make such an inspection;
21 (2) Any prosecuting attorney or any person designated by
22 a prosecuting attorney to make such an inspection;
23 (3) Any member of the highway patrol;
24 (4) Any sheriff or deputy sheriff;

25 (5) Any peace officer certified pursuant to chapter 590,
26 RSMo, acting in his official capacity.]

[700.465. No insurance company, finance company, bank or
2 trust company shall be required to register with the commission in
3 order to sell any manufactured home repossessed or purchased by
4 the company on the basis of total destruction or theft thereof when
5 the sale of the manufactured home is in conformance with
6 applicable title and registration laws of this state.]

[700.470. 1. The commission may refuse to register an
2 applicant as a dealer, or may suspend the registration of an
3 existing dealer from one day to thirty days, or revoke the
4 registration of a dealer, after a written notice and a hearing when
5 he is satisfied that the applicant or dealer has failed to comply
6 with the provisions set out in sections 700.450 to
7 700.470. Notification of unfavorable action by the commission on
8 any application for registration or renewal of registration must be
9 accompanied by a notice informing the recipient that the decision
10 of the director may be appealed as provided in chapter 536, RSMo.

11 2. It shall be unlawful for any person to hold forth or act as
12 a dealer who is not currently registered as a dealer by the
13 commission as required by sections 700.450 to 700.470.]

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