

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 357

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR PURGASON.

Read 1st time February 11, 2009, and ordered printed.

Read 2nd time February 16, 2009, and referred to the Committee on Transportation.

Reported from the Committee March 11, 2009, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up March 30, 2009. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

1606S.01P

AN ACT

To repeal section 301.560, RSMo, and to enact in lieu thereof one new section relating to motor vehicle dealer insurance.

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

Section A. Section 301.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.560, to read as follows:

301.560. 1. In addition to the application forms prescribed by the department, each applicant shall submit the following to the department:

(1) Every application other than a renewal application for a motor vehicle franchise dealer shall include a certification that the applicant has a bona fide established place of business. Such application shall include an annual certification that the applicant has a bona fide established place of business for the first three years and only for every other year thereafter. The certification shall be performed by a uniformed member of the Missouri state highway patrol or authorized or designated employee stationed in the troop area in which the applicant's place of business is located; except that in counties of the first classification, certification may be performed by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed. When the application is being made for licensure as a boat manufacturer or boat dealer, certification shall be performed by a uniformed member of the Missouri state water patrol stationed in the

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

17 district area in which the applicant's place of business is located or by a
18 uniformed member of the Missouri state highway patrol stationed in the troop
19 area in which the applicant's place of business is located or, if the applicant's
20 place of business is located within the jurisdiction of a metropolitan police
21 department in a first class county, by an officer of such metropolitan police
22 department. A bona fide established place of business for any new motor vehicle
23 franchise dealer, used motor vehicle dealer, boat dealer, powersport dealer,
24 wholesale motor vehicle dealer, trailer dealer, or wholesale or public auction shall
25 be a permanent enclosed building or structure, either owned in fee or leased and
26 actually occupied as a place of business by the applicant for the selling, bartering,
27 trading, servicing, or exchanging of motor vehicles, boats, personal watercraft, or
28 trailers and wherein the public may contact the owner or operator at any
29 reasonable time, and wherein shall be kept and maintained the books, records,
30 files and other matters required and necessary to conduct the business. The
31 applicant's place of business shall contain a working telephone which shall be
32 maintained during the entire registration year. In order to qualify as a bona fide
33 established place of business for all applicants licensed pursuant to this section
34 there shall be an exterior sign displayed carrying the name of the business set
35 forth in letters at least six inches in height and clearly visible to the public and
36 there shall be an area or lot which shall not be a public street on which multiple
37 vehicles, boats, personal watercraft, or trailers may be displayed. The sign shall
38 contain the name of the dealership by which it is known to the public through
39 advertising or otherwise, which need not be identical to the name appearing on
40 the dealership's license so long as such name is registered as a fictitious name
41 with the secretary of state, has been approved by its line-make manufacturer in
42 writing in the case of a new motor vehicle franchise dealer and a copy of such
43 fictitious name registration has been provided to the department. Dealers who
44 sell only emergency vehicles as defined in section 301.550 are exempt from
45 maintaining a bona fide place of business, including the related law enforcement
46 certification requirements, and from meeting the minimum yearly sales;

47 (2) The initial application for licensure shall include a photograph, not to
48 exceed eight inches by ten inches but no less than five inches by seven inches,
49 showing the business building, lot, and sign. A new motor vehicle franchise
50 dealer applicant who has purchased a currently licensed new motor vehicle
51 franchised dealership shall be allowed to submit a photograph of the existing
52 dealership building, lot and sign but shall be required to submit a new

53 photograph upon the installation of the new dealership sign as required by
54 sections 301.550 to 301.573. Applicants shall not be required to submit a
55 photograph annually unless the business has moved from its previously licensed
56 location, or unless the name of the business or address has changed, or unless the
57 class of business has changed;

58 (3) Every applicant as a new motor vehicle franchise dealer, a used motor
59 vehicle dealer, a powersport dealer, a wholesale motor vehicle dealer, trailer
60 dealer, or boat dealer shall furnish with the application a corporate surety bond
61 or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by
62 any state or federal financial institution in the penal sum of twenty-five thousand
63 dollars on a form approved by the department. The bond or irrevocable letter of
64 credit shall be conditioned upon the dealer complying with the provisions of the
65 statutes applicable to new motor vehicle franchise dealers, used motor vehicle
66 dealers, powersport dealers, wholesale motor vehicle dealers, trailer dealers, and
67 boat dealers, and the bond shall be an indemnity for any loss sustained by reason
68 of the acts of the person bonded when such acts constitute grounds for the
69 suspension or revocation of the dealer's license. The bond shall be executed in
70 the name of the state of Missouri for the benefit of all aggrieved parties or the
71 irrevocable letter of credit shall name the state of Missouri as the beneficiary;
72 except, that the aggregate liability of the surety or financial institution to the
73 aggrieved parties shall, in no event, exceed the amount of the bond or irrevocable
74 letter of credit. The proceeds of the bond or irrevocable letter of credit shall be
75 paid upon receipt by the department of a final judgment from a Missouri court of
76 competent jurisdiction against the principal and in favor of an aggrieved
77 party. Additionally, every applicant as a new motor vehicle franchise dealer, a
78 used motor vehicle dealer, a powersport dealer, a wholesale motor vehicle dealer,
79 [trailer dealer,] or boat dealer shall furnish with the application a copy of a
80 current dealer garage policy bearing the policy number and name of the insurer
81 and the insured;

82 (4) Payment of all necessary license fees as established by the
83 department. In establishing the amount of the annual license fees, the
84 department shall, as near as possible, produce sufficient total income to offset
85 operational expenses of the department relating to the administration of sections
86 301.550 to 301.573. All fees payable pursuant to the provisions of sections
87 301.550 to 301.573, other than those fees collected for the issuance of dealer
88 plates or certificates of number collected pursuant to subsection 6 of this section,

89 shall be collected by the department for deposit in the state treasury to the credit
90 of the "Motor Vehicle Commission Fund", which is hereby created. The motor
91 vehicle commission fund shall be administered by the Missouri department of
92 revenue. The provisions of section 33.080, RSMo, to the contrary
93 notwithstanding, money in such fund shall not be transferred and placed to the
94 credit of the general revenue fund until the amount in the motor vehicle
95 commission fund at the end of the biennium exceeds two times the amount of the
96 appropriation from such fund for the preceding fiscal year or, if the department
97 requires permit renewal less frequently than yearly, then three times the
98 appropriation from such fund for the preceding fiscal year. The amount, if any,
99 in the fund which shall lapse is that amount in the fund which exceeds the
100 multiple of the appropriation from such fund for the preceding fiscal year.

101 2. In the event a new vehicle manufacturer, boat manufacturer, motor
102 vehicle dealer, wholesale motor vehicle dealer, boat dealer, powersport dealer,
103 wholesale motor vehicle auction, trailer dealer, or a public motor vehicle auction
104 submits an application for a license for a new business and the applicant has
105 complied with all the provisions of this section, the department shall make a
106 decision to grant or deny the license to the applicant within eight working hours
107 after receipt of the dealer's application, notwithstanding any rule of the
108 department.

109 3. Upon the initial issuance of a license by the department, the
110 department shall assign a distinctive dealer license number or certificate of
111 number to the applicant and the department shall issue one number plate or
112 certificate bearing the distinctive dealer license number or certificate of number
113 and two additional number plates or certificates of number within eight working
114 hours after presentment of the application. Upon renewal, the department shall
115 issue the distinctive dealer license number or certificate of number as quickly as
116 possible. The issuance of such distinctive dealer license number or certificate of
117 number shall be in lieu of registering each motor vehicle, trailer, vessel or vessel
118 trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public
119 motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle
120 auction or new or used motor vehicle dealer.

121 4. Notwithstanding any other provision of the law to the contrary, the
122 department shall assign the following distinctive dealer license numbers to:

123 New motor vehicle franchise

124 dealers..... D-0 through D-999

125 New powersport dealers and motorcycle franchise
126 dealers. D-1000 through D-1999
127 Used motor vehicle, used powersport, and used motorcycle
128 dealers. D-2000 through D-9999
129 Wholesale motor vehicle
130 dealers. W-0 through W-1999
131 Wholesale motor vehicle
132 auctions. WA-0 through WA-999
133 New and used trailer
134 dealers..... T-0 through T-9999
135 Motor vehicle, trailer, and boat
136 manufacturers..... DM-0 through DM-999
137 Public motor vehicle
138 auctions..... A-0 through A-1999
139 Boat dealers..... M-0 through M-9999
140 New and used recreational motor vehicle
141 dealers. RV-0 through RV-999
142 For purposes of this subsection, qualified transactions shall include the purchase
143 of salvage titled vehicles by a licensed salvage dealer. A used motor vehicle
144 dealer who also holds a salvage dealer's license shall be allowed one additional
145 plate or certificate number per fifty-unit qualified transactions annually. In order
146 for salvage dealers to obtain number plates or certificates under this section,
147 dealers shall submit to the department of revenue on August first of each year a
148 statement certifying, under penalty of perjury, the dealer's number of purchases
149 during the reporting period of July first of the immediately preceding year to
150 June thirtieth of the present year. The provisions of this subsection shall become
151 effective on the date the director of the department of revenue begins to reissue
152 new license plates under section 301.130, or on December 1, 2008, whichever
153 occurs first. If the director of revenue begins reissuing new license plates under
154 the authority granted under section 301.130 prior to December 1, 2008, the
155 director of the department of revenue shall notify the revisor of statutes of such
156 fact.

157 5. Upon the sale of a currently licensed new motor vehicle franchise
158 dealership the department shall, upon request, authorize the new approved dealer
159 applicant to retain the selling dealer's license number and shall cause the new
160 dealer's records to indicate such transfer.

161 6. In the case of new motor vehicle manufacturers, motor vehicle dealers,
162 powersport dealers, recreational motor vehicle dealers, and trailer dealers, the
163 department shall issue one number plate bearing the distinctive dealer license
164 number and may issue two additional number plates to the applicant upon
165 payment by the manufacturer or dealer of a fifty dollar fee for the number plate
166 bearing the distinctive dealer license number and ten dollars and fifty cents for
167 each additional number plate. Such license plates shall be made with fully
168 reflective material with a common color scheme and design, shall be clearly
169 visible at night, and shall be aesthetically attractive, as prescribed by section
170 301.130. Boat dealers and boat manufacturers shall be entitled to one certificate
171 of number bearing such number upon the payment of a fifty dollar fee. Additional
172 number plates and as many additional certificates of number may be obtained
173 upon payment of a fee of ten dollars and fifty cents for each additional plate or
174 certificate. New motor vehicle manufacturers shall not be issued or possess more
175 than three hundred forty-seven additional number plates or certificates of number
176 annually. New and used motor vehicle dealers, powersport dealers, wholesale
177 motor vehicle dealers, boat dealers, and trailer dealers are limited to one
178 additional plate or certificate of number per ten-unit qualified transactions
179 annually. New and used recreational motor vehicle dealers are limited to two
180 additional plates or certificate of number per ten-unit qualified transactions
181 annually for their first fifty transactions and one additional plate or certificate
182 of number per ten-unit qualified transactions thereafter. An applicant seeking
183 the issuance of an initial license shall indicate on his or her initial application
184 the applicant's proposed annual number of sales in order for the director to issue
185 the appropriate number of additional plates or certificates of number. A motor
186 vehicle dealer, trailer dealer, boat dealer, powersport dealer, recreational motor
187 vehicle dealer, motor vehicle manufacturer, boat manufacturer, or wholesale
188 motor vehicle dealer obtaining a distinctive dealer license plate or certificate of
189 number or additional license plate or additional certificate of number, throughout
190 the calendar year, shall be required to pay a fee for such license plates or
191 certificates of number computed on the basis of one-twelfth of the full fee
192 prescribed for the original and duplicate number plates or certificates of number
193 for such dealers' licenses, multiplied by the number of months remaining in the
194 licensing period for which the dealer or manufacturers shall be required to be
195 licensed. In the event of a renewing dealer, the fee due at the time of renewal
196 shall not be prorated. Wholesale and public auctions shall be issued a certificate

197 of dealer registration in lieu of a dealer number plate. In order for dealers to
198 obtain number plates or certificates under this section, dealers shall submit to
199 the department of revenue on August first of each year a statement certifying,
200 under penalty of perjury, the dealer's number of sales during the reporting period
201 of July first of the immediately preceding year to June thirtieth of the present
202 year.

203 7. The plates issued pursuant to subsection 3 or 6 of this section may be
204 displayed on any motor vehicle owned by a new motor vehicle manufacturer. The
205 plates issued pursuant to subsection 3 or 6 of this section may be displayed on
206 any motor vehicle or trailer owned and held for resale by a motor vehicle dealer
207 for use by a customer who is test driving the motor vehicle, for use and display
208 purposes during, but not limited to, parades, private events, charitable events,
209 or for use by an employee or officer, but shall not be displayed on any motor
210 vehicle or trailer hired or loaned to others or upon any regularly used service or
211 wrecker vehicle. Motor vehicle dealers may display their dealer plates on a
212 tractor, truck or trailer to demonstrate a vehicle under a loaded
213 condition. Trailer dealers may display their dealer license plates in like manner,
214 except such plates may only be displayed on trailers owned and held for resale
215 by the trailer dealer.

216 8. The certificates of number issued pursuant to subsection 3 or 6 of this
217 section may be displayed on any vessel or vessel trailer owned and held for resale
218 by a boat manufacturer or a boat dealer, and used by a customer who is test
219 driving the vessel or vessel trailer, or is used by an employee or officer on a vessel
220 or vessel trailer only, but shall not be displayed on any motor vehicle owned by
221 a boat manufacturer, boat dealer, or trailer dealer, or vessel or vessel trailer
222 hired or loaned to others or upon any regularly used service vessel or vessel
223 trailer. Boat dealers and boat manufacturers may display their certificate of
224 number on a vessel or vessel trailer when transporting a vessel or vessels to an
225 exhibit or show.

226 9. (1) Every application for the issuance of a used motor vehicle dealer's
227 license shall be accompanied by proof that the applicant, within the last twelve
228 months, has completed an educational seminar course approved by the
229 department as prescribed by subdivision (2) of this subsection. Wholesale and
230 public auto auctions and applicants currently holding a new or used license for
231 a separate dealership shall be exempt from the requirements of this
232 subsection. The provisions of this subsection shall not apply to current new

233 motor vehicle franchise dealers or motor vehicle leasing agencies or applicants for
234 a new motor vehicle franchise or a motor vehicle leasing agency. The provisions
235 of this subsection shall not apply to used motor vehicle dealers who were licensed
236 prior to August 28, 2006.

237 (2) The educational seminar shall include, but is not limited to, the dealer
238 requirements of sections 301.550 to 301.573, the rules promulgated to implement,
239 enforce, and administer sections 301.550 to 301.570, and any other rules and
240 regulations promulgated by the department.

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