

FIRST REGULAR SESSION

SENATE BILL NO. 484

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Read 1st time February 28, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1962S.011

AN ACT

To repeal sections 301.280, 301.559, 301.560, 301.562, 301.566, and 301.570, RSMo, and to enact in lieu thereof six new sections relating to the regulation of motor vehicle dealers, with existing penalty provisions.

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

Section A. Sections 301.280, 301.559, 301.560, 301.562, 301.566, and
2 301.570, RSMo, are repealed and six new sections enacted in lieu thereof, to be
3 known as sections 301.280, 301.559, 301.560, 301.562, 301.566, and 301.570, to
4 read as follows:

301.280. 1. Every motor vehicle dealer, **trailer**, and boat dealer shall
2 **[make a monthly] file with the department of revenue, in an electronic**
3 **format prescribed by the director, a weekly** report to the department of
4 revenue, **[on blanks to be prescribed by the department of revenue,]** giving the
5 following information: date of the sale of each motor vehicle, boat, trailer and
6 all-terrain vehicle sold; the name and address of the buyer; the name of the
7 manufacturer; year of manufacture; model of vehicle; vehicle identification
8 number; style of vehicle; odometer setting; and it shall also state whether the
9 motor vehicle, boat, trailer or all-terrain vehicle is new or **[secondhand]**
10 **used**. Each **[monthly]** sales report filed by a motor vehicle dealer who collects
11 sales tax under subsection 8 of section 144.070 shall also include the amount of
12 state and local sales tax collected for each motor vehicle sold if sales tax was
13 due. The odometer reading is not required when reporting the sale of any motor
14 vehicle that is ten years old or older, any motor vehicle having a gross vehicle
15 weight rating of more than sixteen thousand pounds, new vehicles that are
16 transferred on a manufacturer's statement of origin between one franchised motor

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

17 vehicle dealer and another, or boats, all-terrain vehicles or trailers. The sale of
18 all thirty-day temporary permits, without exception, shall be recorded in the
19 appropriate [space] **electronic field** on the dealer's [monthly] sales report by
20 recording the complete permit number issued on the motor vehicle or trailer sale
21 listed. The [monthly] sales report shall be completed in full, **electronically**
22 **submitted** and [signed by an officer, partner, or owner of the dealership, and]
23 actually received by the department of revenue on or before the [fifteenth day of
24 the month succeeding the month] **Thursday succeeding the week** for which
25 the sales are being reported. If no sales occur in any given [month] **week**, a
26 report shall be submitted for that [month] **week** indicating no sales. Any vehicle
27 dealer who fails to file a [monthly] **weekly** report or who fails to file a timely
28 report shall be subject to disciplinary action as prescribed in section 301.562 or
29 a penalty assessed by the director not to exceed three hundred dollars per
30 violation. [Every motor vehicle and boat dealer shall retain copies of the monthly
31 sales report as part of the records to be maintained at the dealership location and
32 shall hold them available for inspection by appropriate law enforcement officials
33 and officials of the department of revenue.] Every vehicle, **trailer, and boat**
34 dealer [selling twenty or more vehicles a month shall file the monthly sales report
35 with the department in an electronic format. Any dealer] filing a [monthly] sales
36 report in an electronic format shall be exempt from filing the notice of transfer
37 required by section 301.196. [For any dealer not filing electronically, the notice
38 of transfer required by section 301.196 shall be submitted with the monthly sales
39 report as prescribed by the director.]

40 2. Every dealer and every person operating a public garage shall keep a
41 correct record of the vehicle identification number, odometer setting,
42 manufacturer's name of all motor vehicles or trailers accepted by him for the
43 purpose of sale, rental, storage, repair or repainting, together with the name and
44 address of the person delivering such motor vehicle or trailer to the dealer or
45 public garage keeper, and the person delivering such motor vehicle or trailer shall
46 record such information in a file kept by the dealer or garage keeper. The record
47 shall be kept for five years and be open for inspection by law enforcement
48 officials, members or authorized or designated employees of the Missouri highway
49 patrol, and persons, agencies and officials designated by the director of revenue.

50 3. Every dealer and every person operating a public garage in which a
51 motor vehicle remains unclaimed for a period of fifteen days shall, within five
52 days after the expiration of that period, report the motor vehicle as unclaimed to

53 the director of revenue. Such report shall be on a form prescribed by the director
54 of revenue. A motor vehicle left by its owner whose name and address are known
55 to the dealer or his employee or person operating a public garage or his employee
56 is not considered unclaimed. Any dealer or person operating a public garage who
57 fails to report a motor vehicle as unclaimed as herein required forfeits all claims
58 and liens for its garaging, parking or storing.

59 4. The director of revenue shall maintain appropriately indexed
60 cumulative records of unclaimed vehicles reported to the director. Such records
61 shall be kept open to public inspection during reasonable business hours.

62 5. The alteration or obliteration of the vehicle identification number on
63 any such motor vehicle shall be prima facie evidence of larceny, and the dealer
64 or person operating such public garage shall upon the discovery of such
65 obliteration or alteration immediately notify the highway patrol, sheriff, marshal,
66 constable or chief of police of the municipality where the dealer or garage keeper
67 has his place of business, and shall hold such motor vehicle or trailer for a period
68 of forty-eight hours for the purpose of an investigation by the officer so notified.

69 6. Any person who knowingly makes a false statement or omission of a
70 material fact in a monthly sales report to the department of revenue, as described
71 in subsection 1 of this section, shall be deemed guilty of a class A misdemeanor.

301.559. 1. It shall be unlawful for any person to engage in business as
2 or act as a motor vehicle dealer, boat dealer, manufacturer, boat manufacturer,
3 public motor vehicle auction, wholesale motor vehicle auction or wholesale motor
4 vehicle dealer without first obtaining a license from the department as required
5 in sections 301.550 to 301.573. Any person who maintains or operates any
6 business wherein a license is required pursuant to the provisions of sections
7 301.550 to 301.573, without such license, is guilty of a class A misdemeanor. Any
8 person committing a second violation of sections 301.550 to 301.573 shall be
9 guilty of a class D felony.

10 2. All dealer licenses shall expire on December thirty-first of the
11 designated license period. The department shall notify each person licensed
12 under sections 301.550 to 301.573 of the date of license expiration and the
13 amount of the fee required for renewal. The notice shall be mailed at least ninety
14 days before the date of license expiration to the licensee's last known business
15 address. The director shall have the authority to issue licenses valid for a period
16 of up to two years and to stagger the license periods for administrative efficiency
17 and equalization of workload, at the sole discretion of the director.

18 3. Every manufacturer, boat manufacturer, motor vehicle dealer,
19 wholesale motor vehicle dealer, wholesale motor vehicle auction, boat dealer or
20 public motor vehicle auction shall make application to the department for
21 issuance of a license. The application shall be on forms prescribed by the
22 department and shall be issued under the terms and provisions of sections
23 301.550 to 301.573 and require all applicants, as a condition precedent to the
24 issuance of a license, to provide such information as the department may deem
25 necessary to determine that the applicant is bona fide and of good moral
26 character, except that every application for a license shall contain, in addition to
27 such information as the department may require, a statement to the following
28 facts:

29 (1) The name and business address, not a post office box, of the applicant
30 and the fictitious name, if any, under which he intends to conduct his business;
31 and if the applicant be a partnership, the name and residence address of each
32 partner, an indication of whether the partner is a limited or general partner
33 **[and], the percent of ownership of all partners and** the name under which
34 the partnership business is to be conducted. In the event that the applicant is
35 a corporation, the application shall list the names of the principal officers of the
36 corporation and the state in which it is incorporated. Each application shall be
37 verified by the oath or affirmation of the applicant, if an individual, or in the
38 event an applicant is a partnership or corporation, then by a partner or officer;

39 (2) Whether the application is being made for registration as a
40 manufacturer, boat manufacturer, new motor vehicle franchise dealer, used motor
41 vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor
42 vehicle auction or a public motor vehicle auction;

43 (3) When the application is for a new motor vehicle franchise dealer, the
44 application shall be accompanied by a copy of the franchise agreement in the
45 registered name of the dealership setting out the appointment of the applicant as
46 a franchise holder and it shall be signed by the manufacturer, or his authorized
47 agent, or the distributor, or his authorized agent, and shall include a description
48 of the make of all motor vehicles covered by the franchise. The department shall
49 not require a copy of the franchise agreement to be submitted with each renewal
50 application unless the applicant is now the holder of a franchise from a different
51 manufacturer or distributor from that previously filed, or unless a new term of
52 agreement has been entered into;

53 (4) When the application is for a public motor vehicle auction, that the

54 public motor vehicle auction has met the requirements of section 301.561.

55 4. No insurance company, finance company, credit union, savings and loan
56 association, bank or trust company shall be required to obtain a license from the
57 department in order to sell any motor vehicle, trailer or vessel repossessed or
58 purchased by the company on the basis of total destruction or theft thereof when
59 the sale of the motor vehicle, trailer or vessel is in conformance with applicable
60 title and registration laws of this state.

61 5. No person shall be issued a license to conduct a public motor vehicle
62 auction or wholesale motor vehicle auction if such person has a violation of
63 sections 301.550 to 301.573 or other violations of chapter 301, sections 407.511
64 to 407.556, or section 578.120 which resulted in a felony conviction or finding of
65 guilt or a violation of any federal motor vehicle laws which resulted in a felony
66 conviction or finding of guilt.

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

3 (1) Every application other than a renewal application for a motor vehicle
4 franchise dealer shall include a certification that the applicant has a bona fide
5 established place of business. Such application shall include an annual
6 certification that the applicant has a bona fide established place of business for
7 the first three years and only for every other year thereafter. The certification
8 shall be performed by a uniformed member of the Missouri state highway patrol
9 or authorized or designated employee stationed in the troop area in which the
10 applicant's place of business is located; except that in counties of the first
11 classification, certification may be performed by an officer of a metropolitan police
12 department when the applicant's established place of business of distributing or
13 selling motor vehicles or trailers is in the metropolitan area where the certifying
14 metropolitan police officer is employed. When the application is being made for
15 licensure as a boat manufacturer or boat dealer, certification shall be performed
16 by a uniformed member of the Missouri state water patrol stationed in the
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] **upon renewal** unless the business has moved from its
56 previously licensed location, or unless the name of the business or address has
57 changed, or unless the 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 400.5-102, issued by any
62 state or federal financial institution in the penal sum of [twenty-five] **fifty**
63 thousand dollars on a form approved by the department. The bond or irrevocable
64 letter of credit shall be conditioned upon the dealer complying with the provisions
65 of the statutes applicable to new motor vehicle franchise dealers, used motor
66 vehicle dealers, powersport dealers, wholesale motor vehicle dealers, trailer
67 dealers, and boat dealers, and the bond shall be an indemnity for any loss
68 sustained by reason of the acts of the person bonded when such acts constitute
69 grounds for the suspension or revocation of the dealer's license. The bond shall
70 be executed in the name of the state of Missouri for the benefit of all aggrieved
71 parties or the irrevocable letter of credit shall name the state of Missouri as the
72 beneficiary; except, that the aggregate liability of the surety or financial
73 institution to the aggrieved parties shall, in no event, exceed the amount of the
74 bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter
75 of credit shall be paid upon receipt by the department of a final judgment from
76 a Missouri court of competent jurisdiction against the principal and in favor of
77 an aggrieved party. Additionally, every applicant as a new motor vehicle
78 franchise dealer, a used motor vehicle dealer, a powersport dealer, a wholesale
79 motor vehicle dealer, or boat dealer shall furnish with the application a copy of
80 a current dealer [garage] **motor vehicle dealer physical damage policy**
81 **intended to cover inventory loss to vehicles on the motor vehicle**
82 **dealer's lot. The policy [bearing] shall bear** the policy number and name of
83 the insurer and the insured;

84 (4) Payment of all necessary license fees as established by the
85 department. In establishing the amount of the annual license fees, the
86 department shall, as near as possible, produce sufficient total income to offset
87 operational expenses of the department relating to the administration of sections
88 301.550 to 301.580. All fees payable pursuant to the provisions of sections
89 301.550 to 301.580, [other than those fees collected for the issuance of dealer
90 plates or certificates of number collected pursuant to subsection 6 of this section,]
91 shall be collected by the department for deposit in the state treasury to the credit
92 of the "Motor Vehicle Commission Fund", which is hereby created. The motor
93 vehicle commission fund shall be administered by the Missouri department of
94 revenue. The provisions of section 33.080 to the contrary notwithstanding, money
95 in such fund shall not be transferred and placed to the credit of the general

96 revenue fund until the amount in the motor vehicle commission fund at the end
 97 of the biennium exceeds two times the amount of the appropriation from such
 98 fund for the preceding fiscal year or, if the department requires permit renewal
 99 less frequently than yearly, then three times the appropriation from such fund
 100 for the preceding fiscal year. The amount, if any, in the fund which shall lapse
 101 is that amount in the fund which exceeds the multiple of the appropriation from
 102 such fund for the preceding fiscal year.

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

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

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

- 125 New motor vehicle franchise dealers. D-0 through D-999
- 126 New powersport dealers and motorcycle
 127 franchise dealers D-1000 through D-1999
- 128 Used motor vehicle, used powersport,
 129 and used motorcycle dealers D-2000 through D-9999
- 130 Wholesale motor vehicle dealers. W-0 through W-1999
- 131 Wholesale motor vehicle auctions. WA-0 through WA-999

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

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

158 6. In the case of new motor vehicle manufacturers, motor vehicle dealers,
159 powersport dealers, recreational motor vehicle dealers, and trailer dealers, the
160 department shall issue one number plate bearing the distinctive dealer license
161 number and may issue two additional number plates to the applicant upon
162 payment by the manufacturer or dealer of a fifty dollar fee for the number plate
163 bearing the distinctive dealer license number and ten dollars and fifty cents for
164 each additional number plate. Such license plates shall be made with fully
165 reflective material with a common color scheme and design, shall be clearly
166 visible at night, and shall be aesthetically attractive, as prescribed by section
167 301.130. Boat dealers and boat manufacturers shall be entitled to one certificate

168 of number bearing such number upon the payment of a [fifty] **one hundred**
169 dollar fee. Additional number plates and as many additional certificates of
170 number may be obtained upon payment of a fee of [ten] **fifteen** dollars [and fifty
171 cents] for each additional plate or certificate. New motor vehicle manufacturers
172 shall not be issued or possess more than three hundred forty-seven additional
173 number plates or certificates of number annually. New and used motor vehicle
174 dealers, powersport dealers, wholesale motor vehicle dealers, boat dealers, and
175 trailer dealers are limited to one additional plate or certificate of number per
176 ten-unit qualified transactions annually. New and used recreational motor
177 vehicle dealers are limited to two additional plates or certificate of number per
178 ten-unit qualified transactions annually for their first fifty transactions and one
179 additional plate or certificate of number per ten-unit qualified transactions
180 thereafter. An applicant seeking the issuance of an initial license shall indicate
181 on his or her initial application the applicant's proposed annual number of sales
182 in order for the director to issue the appropriate number of additional plates or
183 certificates of number. A motor vehicle dealer, trailer dealer, boat dealer,
184 powersport dealer, recreational motor vehicle dealer, motor vehicle manufacturer,
185 boat manufacturer, or wholesale motor vehicle dealer obtaining a distinctive
186 dealer license plate or certificate of number or additional license plate or
187 additional certificate of number, throughout the calendar year, shall be required
188 to pay a fee for such license plates or certificates of number computed on the
189 basis of one-twelfth of the full fee prescribed for the original and duplicate
190 number plates or certificates of number for such dealers' licenses, multiplied by
191 the number of months remaining in the licensing period for which the dealer or
192 manufacturers shall be required to be licensed. In the event of a renewing dealer,
193 the fee due at the time of renewal shall not be prorated. Wholesale and public
194 auctions shall be issued a certificate of dealer registration in lieu of a dealer
195 number plate. In order for dealers to obtain number plates or certificates under
196 this section, dealers shall submit to the department of revenue on August first of
197 each year a statement certifying, under penalty of perjury, the dealer's number
198 of sales during the reporting period of July first of the immediately preceding
199 year to June thirtieth of the present year.

200 7. The plates issued pursuant to subsection 3 or 6 of this section may be
201 displayed on any motor vehicle owned by a new motor vehicle manufacturer. The
202 plates issued pursuant to subsection 3 or 6 of this section may be displayed on
203 any motor vehicle or trailer owned and held for resale by a motor vehicle dealer

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

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

224 9. If any law enforcement officer has probable cause to believe that any
225 license plate or certificate of number issued under subsection 3 or 6 of this section
226 is being misused in violation of subsection 7 or 8 of this section, the license plate
227 or certificate of number may be seized and surrendered to the department.

228 10. (1) Every application for the issuance of a used motor vehicle dealer's
229 license shall be accompanied by proof that the applicant, within the last twelve
230 months, has completed an educational seminar course approved by the
231 department as prescribed by subdivision (2) of this subsection. Wholesale and
232 public auto auctions and applicants currently holding a new or used license for
233 a separate dealership shall be exempt from the requirements of this
234 subsection. The provisions of this subsection shall not apply to current new
235 motor vehicle franchise dealers or motor vehicle leasing agencies or applicants for
236 a new motor vehicle franchise or a motor vehicle leasing agency. The provisions
237 of this subsection shall not apply to used motor vehicle dealers who were licensed
238 prior to August 28, 2006.

239 (2) The educational seminar shall include, but is not limited to, the dealer

240 requirements of sections 301.550 to 301.573, the rules promulgated to implement,
241 enforce, and administer sections 301.550 to 301.570, and any other rules and
242 regulations promulgated by the department.

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

8 2. The department may cause a complaint to be filed with the
9 administrative hearing commission as provided by chapter 621 against any holder
10 of any license issued under sections 301.550 to 301.573 for any one or any
11 combination of the following causes:

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

16 (2) The applicant or license holder was previously a partner, stockholder,
17 director or officer controlling or managing a partnership or corporation whose
18 license issued under sections 301.550 to 301.573 was revoked for cause and never
19 reissued or was suspended for cause and the terms of suspension have not been
20 fulfilled;

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

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

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

32 (6) Violation of, or assisting or enabling any person to violate any
33 provisions of this chapter and chapters 143, 144, 306, 307, 407, 578, and 643 or

34 of any lawful rule or regulation adopted pursuant to this chapter and chapters
35 143, 144, 306, 307, 407, 578, and 643;

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

40 (8) The applicant or license holder has failed to pay the proper application
41 or license fee or other fees required pursuant to this chapter or chapter 306 or
42 fails to establish or maintain a bona fide place of business;

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

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

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

48 (12) Violations of sections 407.511 to 407.556, section 578.120, which
49 resulted in a conviction or finding of guilt or violation of any federal motor vehicle
50 laws which result in a conviction or finding of guilt.

51 3. Any such complaint shall be filed within one year of the date upon
52 which the department receives notice of an alleged violation of an applicable
53 statute or regulation. After the filing of such complaint, the proceedings shall,
54 except for the matters set forth in subsection 5 of this section, be conducted in
55 accordance with the provisions of chapter 621. Upon a finding by the
56 administrative hearing commission that the grounds, provided in subsection 2 of
57 this section, for disciplinary action are met, the department may, singly or in
58 combination, refuse to issue the person a license, issue a license for a period of
59 less than two years, issue a private reprimand, place the person on probation on
60 such terms and conditions as the department deems appropriate for a period of
61 one day to five years, suspend the person's license from one day to six days, or
62 revoke the person's license for such period as the department deems
63 appropriate. The applicant or licensee shall have the right to appeal the decision
64 of the administrative hearing commission and department in the manner
65 provided in chapter 536.

66 4. Upon the suspension or revocation of any person's license issued under
67 sections 301.550 to 301.573, the department shall recall any distinctive number
68 plates that were issued to that licensee. If any licensee who has been suspended
69 or revoked shall neglect or refuse to surrender his or her license or distinctive

70 number license plates issued under sections 301.550 to 301.580, the director shall
71 direct any agent or employee of the department or any law enforcement officer,
72 to secure possession thereof and return such items to the director. For purposes
73 of this subsection, a "law enforcement officer" means any member of the highway
74 patrol, any sheriff or deputy sheriff, or any peace officer certified under chapter
75 590 acting in his or her official capacity. Failure of the licensee to surrender his
76 or her license or distinctive number license plates upon demand by the director,
77 any agent or employee of the department, or any law enforcement officer shall be
78 a class A misdemeanor.

79 5. Notwithstanding the foregoing provisions of this section, the following
80 events or acts by the holder of any license issued under sections 301.550 to
81 301.580 are deemed to present a clear and present danger to the public welfare
82 and shall be considered cause for suspension or revocation of such license under
83 the procedure set forth in subsection 6 of this section, at the discretion of the
84 director:

85 (1) The expiration or revocation of any corporate surety bond or
86 irrevocable letter of credit, as required by section 301.560, without submission of
87 a replacement bond or letter of credit which provides coverage for the entire
88 period of licensure;

89 (2) The failure to maintain a bona fide established place of business as
90 required by section 301.560;

91 (3) Criminal convictions as set forth in subdivision (3) of subsection 2 of
92 this section; or

93 (4) Three or more occurrences of violations which have been established
94 following proceedings before the administrative hearing commission under
95 subsection 3 of this section, or which have been established following proceedings
96 before the director under subsection 6 of this section, of this chapter and chapters
97 143, 144, 306, 307, 578, and 643 or of any lawful rule or regulation adopted under
98 this chapter and chapters 143, 144, 306, 307, 578, and 643, not previously set
99 forth herein.

100 6. (1) Any license issued under sections 301.550 to 301.580 shall be
101 suspended or revoked, following an evidentiary hearing before the director or his
102 or her designated hearing officer, if affidavits or sworn testimony by an
103 authorized agent of the department alleges the occurrence of any of the events or
104 acts described in subsection 5 of this section.

105 (2) For any license which the department believes may be subject to

106 suspension or revocation under this subsection, the director shall immediately
107 issue a notice of hearing to the licensee of record. The director's notice of
108 hearing:

109 (a) Shall be served upon the licensee personally or by first class mail to
110 the dealer's last known address, as registered with the director;

111 (b) Shall be based on affidavits or sworn testimony presented to the
112 director, and shall notify the licensee that such information presented therein
113 constitutes cause to suspend or revoke the licensee's license;

114 (c) Shall provide the licensee with a minimum of ten days' notice prior to
115 hearing;

116 (d) Shall specify the events or acts which may provide cause for
117 suspension or revocation of the license, and shall include with the notice a copy
118 of all affidavits, sworn testimony or other information presented to the director
119 which support discipline of the license; and

120 (e) Shall inform the licensee that he or she has the right to attend the
121 hearing and present any evidence in his or her defense, including evidence to
122 show that the event or act which may result in suspension or revocation has been
123 corrected to the director's satisfaction, and that he or she may be represented by
124 counsel at the hearing.

125 (3) At any hearing before the director conducted under this subsection, the
126 director or his or her designated hearing officer shall consider all evidence
127 relevant to the issue of whether the license should be suspended or revoked due
128 to the occurrence of any of the acts set forth in subsection 5 herein. Within
129 twenty business days after such hearing, the director or his or her designated
130 hearing officer shall issue a written order, with findings of fact and conclusions
131 of law, which either grants or denies the issuance of an order of suspension or
132 revocation. The suspension or revocation shall be effective ten days after the date
133 of the order. The written order of the director or his or her hearing officer shall
134 be the final decision of the director and shall be subject to judicial review under
135 the provisions of chapter 536.

136 (4) Notwithstanding the provisions of this chapter or chapter 610 or 621
137 to the contrary, the proceedings under this [section] **subsection** shall be closed
138 and no order shall be made public until it is final, for purposes of appeal.

301.566. 1. A motor vehicle dealer may participate in no more than two
2 motor vehicle shows or sales annually and conduct sales of motor vehicles away
3 from the dealer's usual, licensed place of business if either the requirements of

4 subsection 2 or 3 of this section are met or the event is conducted for not more
5 than five consecutive days, the event does not require any motor vehicle dealer
6 participant to pay an unreasonably prohibitive participation fee, and if [a
7 majority] **all** of the motor vehicle dealers within a class of dealers described
8 pursuant to subsection 3 of section 301.550 in a city or town **where the show**
9 **or sale is to take place** participate or are invited and have the opportunity to
10 participate in the event, except that a recreational motor vehicle dealer classified
11 in subdivision (5) of subsection 3 of section 301.550 may participate in such a
12 show or sale even if a majority of recreational motor vehicle dealers in a city or
13 town do not participate in the event. If any show or sale includes a class of
14 dealer or franchised new vehicle line-make, that is also represented by a same
15 class dealer or dealer representing the same line-make outside of the boundary
16 lines of the city or town **where the show or sale is to take place** and is
17 within ten miles of where the show or sale is to take place, the dealer outside of
18 the boundary lines of the city or town shall be invited to participate in the show
19 or sale. The department shall consider such events to be proper in all respects
20 and as if each dealer participant was conducting business at the dealer's usual
21 business location. Nothing contained in this section shall be construed as
22 applying to the sale of motor vehicles or trailers through either a wholesale motor
23 vehicle auction or public motor vehicle auction.

24 2. Any person, partnership, corporation or association disposing of
25 vehicles used and titled solely in its ordinary course of business as provided in
26 section 301.570 may sell at retail such vehicles away from that person's bona fide
27 established place of business, thus constituting an off-site sale, by adhering to
28 each of the following conditions with regard to each and every off-site sale
29 conducted:

30 (1) Have in effect a valid license, pursuant to sections 301.550 to 301.575,
31 from the department for the sale of used motor vehicles;

32 (2) No off-site sale may exceed five days in duration, and only one sale
33 **per person, partnership, corporation, or association** may be held per year,
34 per county;

35 (3) Pay to the motor vehicle commission fund, pursuant to section 301.560,
36 a permit fee of [five hundred fifty] **one thousand** dollars for each off-site sale
37 event;

38 (4) Advise the department, at least [ten] **thirty** days prior to the sale, of
39 the date, location and duration of each off-site **show or sale**;

40 (5) [The sale of vehicles at off-site sales shall be limited to sales by a
41 seller of vehicles used and titled solely in its ordinary course of business, and
42 such sales shall be held in conjunction with a credit union and limited to
43 members of the credit union, thus constituting a private sale to be advertised to
44 members only;

45 (6) Off-site sales by a seller of vehicles used and titled solely in its
46 ordinary course of business may also be held in conjunction with other financial
47 institutions provided that any such sale event shall be held on the premises of the
48 financial institution, and sales shall be limited to persons who were customers of
49 the financial institution prior to the date of the sale event. Off-site sales held
50 with such other financial institutions shall be limited to one sale per year per
51 institution;

52 (7)] **Invite potential participants required by subsection 1 of this**
53 **section at least sixty days prior to the date of the show or sale;**

54 (6) The sale of motor vehicles which have the designation of the current
55 model year, except discontinued models, is prohibited at off-site sales until
56 subsequent model year designated vehicles of the same manufacture and model
57 are offered for sale to the public.

58 3. A recreational vehicle dealer, as that term is defined in section 700.010,
59 who is licensed in another state may participate in recreational vehicle shows or
60 exhibits with recreational vehicles within this state in which less than fifty
61 dealers participate as exhibitors with permission of the dealer's licensed
62 manufacturer if all of the following conditions exist:

63 (1) The show or exhibition has a minimum of ten recreational vehicle
64 dealers licensed as motor vehicle dealers in this state;

65 (2) More than fifty percent of the participating recreational vehicle dealers
66 are licensed motor vehicle dealers in this state; and

67 (3) The state in which the recreational vehicle is licensed is a state
68 contiguous to Missouri and the state permits recreational vehicle dealers licensed
69 in Missouri to participate in recreational vehicle shows in such state pursuant to
70 conditions substantially equivalent to the conditions which are imposed on
71 dealers from such state who participate in recreational vehicle shows in Missouri.

72 4. A recreational vehicle dealer licensed in another state may participate
73 in a vehicle show or exhibition in Missouri which has, when it opens to the public,
74 at least fifty dealers displaying recreational vehicles if the show or exhibition is
75 trade-oriented and is predominantly funded by recreational vehicle

76 manufacturers. All of the participating dealers who are not licensed in Missouri
77 shall be licensed as recreational vehicle dealers by the state of their residence.

78 5. A recreational vehicle dealer licensed in another state who intends to
79 participate in a vehicle show or exhibition in this state shall send written
80 notification of such intended participation to the department of revenue at least
81 thirty days prior to the vehicle show or exhibition. Upon receipt of such written
82 notification, the department of revenue shall make a determination regarding
83 compliance with the provisions of this section. If such recreational vehicle dealer
84 would be unable to participate in the vehicle show or exhibition in this state
85 pursuant to this section, the department of revenue shall notify the recreational
86 vehicle dealer at least fifteen days prior to the vehicle show or exhibition of the
87 inability to participate in the vehicle show or exhibition in this state.

88 6. The department of revenue may assess a fine of up to one thousand
89 dollars for any violation of this section.

301.570. 1. It shall be unlawful for any person, partnership, corporation,
2 company or association, unless the seller is a financial institution, or is selling
3 repossessed motor vehicles or is disposing of vehicles used and titled solely in its
4 ordinary course of business or is a collector of antique motor vehicles, to sell or
5 display with an intent to sell ~~[six]~~ **twelve** or more motor vehicles in a calendar
6 year, except when such motor vehicles are registered in the name of the seller,
7 unless such person, partnership, corporation, company or association is:

8 (1) Licensed as a motor vehicle dealer by the department under the
9 provisions of sections 301.550 to 301.573;

10 (2) Exempt from licensure as a motor vehicle dealer pursuant to
11 subsection 4 of section 301.559;

12 (3) Selling commercial motor vehicles with a gross weight of at least
13 nineteen thousand five hundred pounds, but only with respect to such commercial
14 motor vehicles;

15 (4) An auctioneer, acting at the request of the owner at an auction, when
16 such auction is not a public motor vehicle auction.

17 2. Any person, partnership, corporation, company or association that has
18 reason to believe that the provisions of this section are being violated shall file
19 a complaint with the prosecuting attorney in the county in which the violation
20 occurred. The prosecuting attorney shall investigate the complaint and take
21 appropriate action.

22 3. For the purposes of sections 301.550 to 301.573, the sale, barter,

23 exchange, lease or rental with option to purchase of six or more motor vehicles in
24 a calendar year by any person, partnership, corporation, company or association,
25 whether or not the motor vehicles are owned by them, shall be prima facie
26 evidence of intent to make a profit or gain of money and such person, partnership,
27 corporation, company or association shall be deemed to be acting as a motor
28 vehicle dealer without a license.

29 4. Any person, partnership, corporation, company or association who
30 violates subsection 1 of this section is guilty of a class A misdemeanor. A second
31 or subsequent conviction shall be deemed a class D felony.

32 5. The provisions of this section shall not apply to liquidation of an estate.

✓

Bill

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