

FIRST REGULAR SESSION

SENATE BILL NO. 492

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HEGEMAN.

Read 1st time February 28, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2055S.01I

AN ACT

To repeal sections 301.213, 301.559, 301.560, 301.562, and 301.566, RSMo, and to enact in lieu thereof five new sections relating to motor vehicle dealers, with existing penalty provisions.

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

Section A. Sections 301.213, 301.559, 301.560, 301.562, and 301.566, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 301.213, 301.559, 301.560, 301.562, and 301.566, to read as follows:

301.213. 1. Notwithstanding the provisions of sections 301.200 and 301.210, any person licensed as a motor vehicle dealer under sections 301.550 to 301.580 that has provided to the director of revenue a surety bond or irrevocable letter of credit in an amount not less than one hundred thousand dollars in a form which complies with the requirements of section 301.560 and in lieu of the [twenty-five] **fifty** thousand dollar bond otherwise required for licensure as a motor vehicle dealer shall be authorized to purchase or accept in trade any motor vehicle for which there has been issued a certificate of ownership, and to receive such vehicle subject to any existing liens thereon created and perfected under sections 301.600 to 301.660 provided the licensed dealer receives the following:

(1) A signed written contract between the licensed dealer and the owner of the vehicle outlining the terms of the sale or acceptance in trade of such motor vehicle without transfer of the certificate of ownership; and

(2) Physical delivery of the vehicle to the licensed dealer; and

(3) A power of attorney from the owner to the licensed dealer, in accordance with subsection 4 of section 301.300, authorizing the licensed dealer to obtain a duplicate or replacement title in the owner's name and sign any title

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

18 assignments on the owner's behalf.

19 2. If the dealer complies with the requirements of subsection 1 of this
20 section, the sale or trade of the vehicle to the dealer shall be considered final,
21 subject to any existing liens created and perfected under sections 301.600 to
22 301.660. Once the prior owner of the motor vehicle has physically delivered the
23 motor vehicle to the licensed dealer, the prior owners' insurable interest in such
24 vehicle shall cease to exist.

25 3. If a licensed dealer complies with the requirements of subsection 1 of
26 this section, and such dealer has provided to the director of revenue a surety bond
27 or irrevocable letter of credit in amount not less than one hundred thousand
28 dollars in a form which complies with the requirements of section 301.560 and in
29 lieu of the [twenty-five] **fifty** thousand dollar bond otherwise required for
30 licensure as a motor vehicle dealer, such dealer may sell such vehicle prior to
31 receiving and assigning to the purchaser the certificate of ownership, provided
32 such dealer complies with the following:

33 (1) All outstanding liens created on the vehicle pursuant to sections
34 301.600 to 301.660 have been paid in full, and the dealer provides a copy of proof
35 or other evidence to the purchaser; and

36 (2) The dealer has obtained proof or other evidence from the department
37 of revenue confirming that no outstanding child support liens exist upon the
38 vehicle at the time of sale and provides a copy of said proof or other evidence to
39 the purchaser; and

40 (3) The dealer has obtained proof or other evidence from the department
41 of revenue confirming that all applicable state sales tax has been satisfied on the
42 sale of the vehicle to the previous owner and provides a copy of said proof or other
43 evidence to the purchaser; and

44 (4) The dealer has signed an application for duplicate or replacement title
45 for the vehicle under subsection 4 of section 301.300 and provides a copy of the
46 application to the purchaser, along with a copy of the power of attorney required
47 by subsection 1 of this section, and the dealer has prepared and delivered to the
48 purchaser an application for title for the vehicle in the purchaser's name; and

49 (5) The dealer and the purchaser have entered into a written agreement
50 for the subsequent assignment and delivery of such certificate of ownership, on
51 a form prescribed by the director of revenue, to take place at a time, not to exceed
52 sixty calendar days, after the time of delivery of the motor vehicle to the
53 purchaser. Such agreement shall require the purchaser to provide to the dealer

54 proof of financial responsibility in accordance with chapter 303 and proof of
55 comprehensive and collision coverage on the motor vehicle. Such dealer shall
56 maintain the original or an electronic copy of the signed agreement and deliver
57 a copy of the signed agreement to the purchaser. Such dealer shall also complete
58 and deliver to the director of revenue such form as the director shall prescribe
59 demonstrating that the purchaser has purchased the vehicle without
60 contemporaneous delivery of the title.

61 Notwithstanding any provision of law to the contrary, completion of the
62 requirements of this subsection shall constitute prima facie evidence of an
63 ownership interest vested in the purchaser of the vehicle for all purposes other
64 than for a subsequent transfer of ownership of the vehicle by the purchaser,
65 subject to the rights of any secured lienholder of record; however, the purchaser
66 may use the dealer-supplied copy of the agreement to transfer his or her
67 ownership of the vehicle to an insurance company in situations where the vehicle
68 has been declared salvage or a total loss by the insurance company as a result of
69 a settlement of a claim. Such insurance company may apply for a salvage
70 certificate of title or junking certificate pursuant to the provisions of subsection
71 3 of section 301.193 in order to transfer its interest in such vehicle. The
72 purchaser may also use the dealer-supplied copy of the agreement on the form
73 prescribed by the director of revenue as proof of ownership interest. Any lender
74 or insurance company may rely upon a copy of the signed written agreement on
75 the form prescribed by the director of revenue as proof of ownership interest. Any
76 lien placed upon a vehicle based upon such signed written agreement shall be
77 valid and enforceable, notwithstanding the absence of a certificate of ownership.

78 4. Following a sale or other transaction in which a certificate of ownership
79 has not been assigned from the owner to the licensed dealer, the dealer shall,
80 within ten business days, apply for a duplicate or replacement certificate of
81 ownership. Upon receipt of a duplicate or replacement certificate of ownership
82 applied for under subsection 4 of section 301.300, the dealer shall assign and
83 deliver said certificate of ownership to the purchaser of the vehicle within five
84 business days. The dealer shall maintain proof of the assignment and delivery
85 of the certificate of ownership to the purchaser. For purposes of this subsection,
86 a dealer shall be deemed to have delivered the certificate of ownership to the
87 purchaser upon either:

88 (1) Physical delivery of the certificate of ownership to any of the
89 purchasers identified in the contract with such dealer; or

90 (2) Mailing of the certificate, postage prepaid, return receipt requested,
91 to any of the purchasers at any of their addresses identified in the contract with
92 such dealer.

93 5. If a licensed dealer fails to comply with subsection 3 of this section, and
94 the purchaser of the vehicle is thereby damaged, then the dealer shall be liable
95 to the purchaser of the vehicle for actual damages, plus court costs and
96 reasonable attorney fees.

97 6. If a licensed dealer fails or is unable to comply with subsection 4 of this
98 section, and the purchaser of the vehicle is thereby damaged, then the dealer
99 shall be liable to the purchaser of the vehicle for actual damages, plus court costs
100 and reasonable attorney fees. If the dealer cannot be found by the purchaser
101 after making reasonable attempts, or if the dealer fails to assign and deliver the
102 duplicate or replacement certificate of ownership to the purchaser by the date
103 agreed upon by the dealer and the purchaser, as required by subsection 4 of this
104 section, then the purchaser may deliver to the director a copy of the contract for
105 sale of the vehicle, a copy of the application for duplicate title provided by the
106 dealer to the purchaser, a copy of the secure power of attorney allowing the dealer
107 to assign the duplicate title, and the proof or other evidence obtained by the
108 purchaser from the dealer under subsection 3 of this section. Thereafter, the
109 director shall mail by certified mail, return receipt requested, a notice to the
110 dealer at the last address given to the department by that dealer. That notice
111 shall inform the dealer that the director intends to cancel any prior certificate of
112 title which may have been issued to the dealer on the vehicle and issue to the
113 purchaser a certificate of title in the name of the purchaser, subject to any liens
114 incurred by the purchaser in connection with the purchase of the vehicle, unless
115 the dealer, within ten business days from the date of the director's notice, files
116 with the director a written objection to the director taking such action. If the
117 dealer does file a timely, written objection with the director, then the director
118 shall not take any further action without an order from a court of competent
119 jurisdiction. However, if the dealer does not file a timely, written objection with
120 the director, then the director shall cancel the prior certificate of title issued to
121 the dealer on the vehicle and issue a certificate of title to the purchaser of the
122 vehicle, subject to any liens incurred by the purchaser in connection with the
123 purchase of the vehicle and subject to the purchaser satisfying all applicable
124 taxes and fees associated with registering the vehicle.

125 7. If a seller misrepresents to a dealer that the seller is the owner of a

126 vehicle and the dealer, the owner, any subsequent purchaser, or any prior or
127 subsequent lienholder is thereby damaged, then the seller shall be liable to each
128 such party for actual and punitive damages, plus court costs and reasonable
129 attorney fees.

130 8. When a lienholder is damaged as a result of a licensed dealer's acts,
131 errors, omissions, or violations of this section, then the dealer shall be liable to
132 the lienholder for actual damages, plus court costs and reasonable attorney fees.

133 9. No court costs or attorney fees shall be awarded under this section
134 unless, prior to filing any such action, the following conditions have been met:

135 (1) The aggrieved party seeking damages has delivered an itemized
136 written demand of the party's actual damages to the party from whom damages
137 are sought; and

138 (2) The party from whom damages are sought has not satisfied the written
139 demand within thirty days after receipt of the written demand.

140 10. The department of revenue may use a dealer's repeated or intentional
141 violation of this section as a cause to suspend, revoke, or refuse to issue or renew
142 any license required pursuant to sections 301.550 to 301.580, in addition to the
143 causes set forth in section 301.562. The hearing process shall be the same as that
144 established in subsection 6 of section 301.562.

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] **301.580**. Any person who maintains or operates
6 any business wherein a license is required pursuant to the provisions of sections
7 301.550 to [301.573] **301.580**, without such license, is guilty of a class A
8 misdemeanor. Any person committing a second violation of sections 301.550 to
9 [301.573] **301.580** shall be guilty of a class E felony.

10 2. All dealer licenses shall expire on December thirty-first of the
11 designated license period. **The department may stagger the expiration**
12 **date to equalize the workload.** The department shall notify each person
13 licensed under sections 301.550 to [301.573] **301.580** of the date of license
14 expiration and the amount of the fee required for renewal. The notice shall be
15 mailed at least ninety days before the date of license expiration to the licensee's
16 last known business address. The director shall have the authority to issue
17 licenses valid for a period of up to two years and to stagger the license periods for

18 administrative efficiency and equalization of workload, at the sole discretion of
19 the director.

20 3. Every manufacturer, boat manufacturer, motor vehicle dealer,
21 wholesale motor vehicle dealer, wholesale motor vehicle auction, boat dealer or
22 public motor vehicle auction shall make application to the department for
23 issuance of a license. The application shall be on forms prescribed by the
24 department and shall be issued under the terms and provisions of sections
25 301.550 to [301.573] **301.580** and require all applicants, as a condition precedent
26 to the issuance of a license, to provide such information as the department may
27 deem necessary to determine that the applicant is bona fide and of good moral
28 character, except that every application for a license shall contain, in addition to
29 such information as the department may require, a statement to the following
30 facts:

31 (1) The name and business address, not a post office box, of the applicant
32 and the fictitious name, if any, under which [he] **the applicant** intends to
33 conduct [his] business; [and] **the applicant's regular business hours, and**
34 **a phone number and email address where the applicant may be**
35 **contacted during regular business hours.** If the applicant [be] is a
36 partnership, **the application shall list** the name and residence address of each
37 partner, [an indication of] **indicate** whether the partner is a limited or general
38 partner and the name under which the partnership business is to be conducted.
39 In the event that the applicant is a corporation, the application shall list the
40 names of the principal officers of the corporation and the state in which it is
41 incorporated. **In the event that the applicant is a limited liability**
42 **company established pursuant to the Missouri limited liability company**
43 **act, or other similar act of another state, the application shall list the**
44 **name and residence address of all members and managers of the**
45 **limited liability company and the state in which the limited liability**
46 **company is headquartered.** Each application shall be verified by the oath or
47 affirmation of the applicant, if an individual, or in the event an applicant is a
48 partnership [or], corporation, **or limited liability company**, then by a partner
49 [or], officer, **or member**;

50 (2) Whether the application is being made for registration as a
51 manufacturer, boat manufacturer, new motor vehicle franchise dealer, used motor
52 vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor
53 vehicle auction or a public motor vehicle auction;

54 (3) When the application is for a new motor vehicle franchise dealer, the
55 application shall be accompanied by a copy of the franchise agreement in the
56 registered name of the dealership setting out the appointment of the applicant as
57 a franchise holder and it shall be signed by the manufacturer, or his authorized
58 agent, or the distributor, or his authorized agent, and shall include a description
59 of the make of all motor vehicles covered by the franchise. The department shall
60 not require a copy of the franchise agreement to be submitted with each renewal
61 application unless the applicant is now the holder of a franchise from a different
62 manufacturer or distributor from that previously filed, or unless a new term of
63 agreement has been entered into;

64 (4) When the application is for a public motor vehicle auction, that the
65 public motor vehicle auction has met the requirements of section 301.561.

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

72 5. No person shall be issued a license to conduct a public motor vehicle
73 auction or wholesale motor vehicle auction if such person has a violation of
74 sections 301.550 to [301.573] **301.580** or other violations of chapter 301, sections
75 407.511 to 407.556, or section 578.120 which resulted in a felony conviction or
76 finding of guilt or a violation of any federal motor vehicle laws which resulted in
77 a felony 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 **new** motor
4 vehicle franchise dealer shall include a certification that the applicant has a bona
5 fide 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 **or, in the discretion of the director,**
11 **may be performed by an employee of the department;** except that in
12 counties of the first classification, certification may be performed by an officer of

13 a metropolitan police department when the applicant's established place of
14 business of distributing or selling motor vehicles or trailers is in the metropolitan
15 area where the certifying metropolitan police officer is employed. When the
16 application is being made for licensure as a boat manufacturer or boat dealer,
17 certification shall be performed by a uniformed member of the Missouri state
18 water patrol stationed in the district area in which the applicant's place of
19 business is located or by a uniformed member of the Missouri state highway
20 patrol stationed in the troop area in which the applicant's place of business is
21 located or, if the applicant's place of business is located within the jurisdiction of
22 a metropolitan police department in a first class county, by an officer of such
23 metropolitan police department. A bona fide established place of business for any
24 new motor vehicle franchise dealer, used motor vehicle dealer, boat dealer,
25 powersport dealer, wholesale motor vehicle dealer, trailer dealer, or wholesale or
26 public auction shall be a permanent enclosed building or structure, either owned
27 in fee or leased and actually occupied as a place of business by the applicant for
28 the selling, bartering, trading, servicing, or exchanging of motor vehicles, boats,
29 personal watercraft, or trailers and wherein the public may contact the owner or
30 operator at any reasonable time, and wherein shall be kept and maintained the
31 books, records, files and other matters required and necessary to conduct the
32 business. The applicant's place of business shall **[contain] have** a working
33 telephone **number** which shall be maintained during the entire registration year
34 **and which shall allow the public, the department, and law enforcement**
35 **to contact the applicant during regular business hours. The applicant's**
36 **place of business shall also maintain an email address that may be used**
37 **for official correspondence with the department.** In order to qualify as a
38 bona fide established place of business for all applicants licensed pursuant to this
39 section there shall be an exterior sign displayed carrying the name of the
40 business set forth in letters at least six inches in height and clearly visible to the
41 public and there shall be an area or lot which shall not be a public street on
42 which multiple vehicles, boats, personal watercraft, or trailers may be
43 displayed. The sign shall contain the name of the dealership by which it is
44 known to the public through advertising or otherwise, which need not be identical
45 to the name appearing on the dealership's license so long as such name is
46 registered as a fictitious name with the secretary of state, has been approved by
47 its line-make manufacturer in writing in the case of a new motor vehicle
48 franchise dealer and a copy of such fictitious name registration has been provided

49 to the department. Dealers who sell only emergency vehicles as defined in section
50 301.550 are exempt from maintaining a bona fide place of business, including the
51 related law enforcement certification requirements, and from meeting the
52 minimum yearly sales;

53 (2) The initial application for licensure shall include a photograph **or**
54 **photographs**, not to exceed eight inches by ten inches but no less than five
55 inches by seven inches, showing the business building, lot, and sign. A new
56 motor vehicle franchise dealer applicant who has purchased a currently licensed
57 new motor vehicle franchised dealership shall be allowed to submit a photograph
58 of the existing dealership building, lot and sign but shall be required to submit
59 a new photograph upon the installation of the new dealership sign as required by
60 sections 301.550 to [301.573] **301.580**. Applicants shall not be required to submit
61 a photograph annually unless the business has moved from its previously licensed
62 location, or unless the name of the business or address has changed, or unless the
63 class of business has changed;

64 (3) Every applicant as a new motor vehicle franchise dealer, a used motor
65 vehicle dealer, a powersport dealer, a wholesale motor vehicle dealer, trailer
66 dealer, or boat dealer shall furnish with the application a corporate surety bond
67 or an irrevocable letter of credit as defined in section 400.5-102, issued by any
68 state or federal financial institution in the penal sum of [twenty-five] **fifty**
69 thousand dollars on a form approved by the department. The bond or irrevocable
70 letter of credit shall be conditioned upon the dealer complying with the provisions
71 of the statutes applicable to new motor vehicle franchise dealers, used motor
72 vehicle dealers, powersport dealers, wholesale motor vehicle dealers, trailer
73 dealers, and boat dealers, and the bond shall be an indemnity for any loss
74 sustained by reason of the acts of the person bonded when such acts constitute
75 grounds for the suspension or revocation of the dealer's license. The bond shall
76 be executed in the name of the state of Missouri for the benefit of all aggrieved
77 parties or the irrevocable letter of credit shall name the state of Missouri as the
78 beneficiary; except, that the aggregate liability of the surety or financial
79 institution to the aggrieved parties shall, in no event, exceed the amount of the
80 bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter
81 of credit shall be paid upon receipt by the department of a final judgment from
82 a Missouri court of competent jurisdiction against the principal and in favor of
83 an aggrieved party. Additionally, every applicant as a new motor vehicle
84 franchise dealer, a used motor vehicle dealer, a powersport dealer, a wholesale

85 motor vehicle dealer, or boat dealer shall furnish with the application a copy of
86 a current dealer garage policy bearing the policy number and name of the insurer
87 and the insured;

88 (4) Payment of all necessary license fees as established by the
89 department. In establishing the amount of the annual license fees, the
90 department shall, as near as possible, produce sufficient total income to offset
91 operational expenses of the department relating to the administration of sections
92 301.550 to 301.580. All fees payable pursuant to the provisions of sections
93 301.550 to 301.580, other than those fees collected for the issuance of dealer
94 plates or certificates of number collected pursuant to subsection 6 of this section,
95 shall be collected by the department for deposit in the state treasury to the credit
96 of the "Motor Vehicle Commission Fund", which is hereby created. The motor
97 vehicle commission fund shall be administered by the Missouri department of
98 revenue. The provisions of section 33.080 to the contrary notwithstanding, money
99 in such fund shall not be transferred and placed to the credit of the general
100 revenue fund until the amount in the motor vehicle commission fund at the end
101 of the biennium exceeds two times the amount of the appropriation from such
102 fund for the preceding fiscal year or, if the department requires permit renewal
103 less frequently than yearly, then three times the appropriation from such fund
104 for the preceding fiscal year. The amount, if any, in the fund which shall lapse
105 is that amount in the fund which exceeds the multiple of the appropriation from
106 such fund for the preceding fiscal year.

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

115 3. Upon the initial issuance of a license by the department, the
116 department shall assign a distinctive dealer license number or certificate of
117 number to the applicant and the department shall issue one number plate or
118 certificate bearing the distinctive dealer license number or certificate of number
119 and two additional number plates or certificates of number within eight working
120 hours after presentment of the application. Upon renewal, the department shall

121 issue the distinctive dealer license number or certificate of number as quickly as
122 possible. The issuance of such distinctive dealer license number or certificate of
123 number shall be in lieu of registering each motor vehicle, trailer, vessel or vessel
124 trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public
125 motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle
126 auction or new or used motor vehicle dealer.

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

129 New motor vehicle franchise dealers D-0 through D-999
130 New powersport dealers and motorcycle franchise dealers D-1000 through D-1999
131 Used motor vehicle, used powersport, and used

132 motorcycle dealers D-2000 through D-9999

133 Wholesale motor vehicle dealers W-0 through W-1999

134 Wholesale motor vehicle auctions WA-0 through WA-999

135 New and used trailer dealers T-0 through T-9999

136 Motor vehicle, trailer, and boat manufacturers DM-0 through DM-999

137 Public motor vehicle auctions A-0 through A-1999

138 Boat dealers M-0 through M-9999

139 New and used recreational motor vehicle dealers RV-0 through RV-999

140 For purposes of this subsection, qualified transactions shall include the purchase
141 of salvage titled vehicles by a licensed salvage dealer. A used motor vehicle
142 dealer who also holds a salvage dealer's license shall be allowed one additional
143 plate or certificate number per fifty-unit qualified transactions annually. In order
144 for salvage dealers to obtain number plates or certificates under this section,
145 dealers shall submit to the department of revenue on August first of each year a
146 statement certifying, under penalty of perjury, the dealer's number of purchases
147 during the reporting period of July first of the immediately preceding year to
148 June thirtieth of the present year. [The provisions of this subsection shall
149 become effective on the date the director of the department of revenue begins to
150 reissue new license plates under section 301.130, or on December 1, 2008,
151 whichever occurs first. If the director of revenue begins reissuing new license
152 plates under the authority granted under section 301.130 prior to December 1,
153 2008, the director of the department of revenue shall notify the revisor of statutes
154 of such fact.]

155 5. Upon the sale of a currently licensed new motor vehicle franchise
156 dealership the department shall, upon request, authorize the new approved dealer

157 applicant to retain the selling dealer's license number and shall cause the new
158 dealer's records to indicate such transfer.

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

193 licensed. In the event of a renewing dealer, the fee due at the time of renewal
194 shall not be prorated. Wholesale and public auctions shall be issued a certificate
195 of dealer registration in lieu of a dealer number plate. In order for dealers to
196 obtain number plates or certificates under this section, dealers shall submit to
197 the department of revenue on August first of each year a statement certifying,
198 under penalty of perjury, the dealer's number of sales during the reporting period
199 of July first of the immediately preceding year to June thirtieth of the present
200 year.

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

license shall be accompanied by proof that the applicant, within the last twelve months, has completed an educational seminar course approved by the department as prescribed by subdivision (2) of this subsection. Wholesale and public auto auctions and applicants currently holding a new or used license for a separate dealership shall be exempt from the requirements of this subsection. The provisions of this subsection shall not apply to [current new motor vehicle franchise dealers or motor vehicle leasing agencies or] applicants for a new motor vehicle franchise or a motor vehicle leasing agency. [The provisions of this subsection shall not apply to used motor vehicle dealers who were licensed prior to August 28, 2006.]

(2) The educational seminar shall include, but is not limited to, the dealer requirements of sections 301.550 to [301.573] **301.580**, the rules promulgated to implement, enforce, and administer sections 301.550 to [301.570] **301.580**, and any other rules and regulations promulgated by the department.

301.562. 1. The department may refuse to issue or renew any license required pursuant to sections 301.550 to 301.580 for any one or any combination of causes stated in subsection 2 of this section. The department shall notify the applicant or licensee in writing at his or her last known address of the reasons for the refusal to issue or renew the license and shall advise the applicant or licensee of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621.

2. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any license issued under sections 301.550 to 301.580 for any one or any combination of the following causes:

(1) The applicant or license holder was previously the holder of a license issued under sections 301.550 to 301.580, which license was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of suspension have not been fulfilled, **or which licensee was placed upon a probationary period pursuant to a settlement agreement entered into by the parties pursuant to subsection 7 of this section and the terms of the probation have not been fulfilled;**

(2) The applicant or license holder was previously a partner, stockholder, director or officer controlling or managing a partnership or corporation **or member of a limited liability company** whose license issued under sections 301.550 to 301.580 was revoked for cause and never reissued or was suspended

23 for cause and the terms of suspension have not been fulfilled **or was placed**
24 **upon a probationary period pursuant to a settlement agreement**
25 **entered into by the parties pursuant to subsection 7 of this section and**
26 **the terms of the probation have not been fulfilled;**

27 (3) The applicant or license holder has, within ten years prior to the date
28 of the application, been finally adjudicated and found guilty, or entered a plea of
29 guilty or nolo contendere, in a prosecution under the laws of any state or of the
30 United States, for any offense reasonably related to the qualifications, functions,
31 or duties of any business licensed under sections 301.550 to 301.580; for any
32 offense, an essential element of which is fraud, dishonesty, or an act of violence;
33 or for any offense involving moral turpitude, whether or not sentence is imposed;

34 (4) Use of fraud, deception, misrepresentation, or bribery in securing any
35 license issued pursuant to sections 301.550 to 301.580;

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

38 (6) Violation of, or assisting or enabling any person to violate any
39 provisions of this chapter and chapters 143, 144, 306, 307, 407, 578, and 643 or
40 of any lawful rule or regulation adopted pursuant to this chapter and chapters
41 143, 144, 306, 307, 407, 578, and 643;

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

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

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

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

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

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

57 3. Any such complaint shall be filed within one year of the date upon
58 which the department receives notice of an alleged violation of an applicable

59 statute or regulation. After the filing of such complaint, the proceedings shall,
60 except for the matters set forth in subsection 5 of this section, be conducted in
61 accordance with the provisions of chapter 621. Upon a finding by the
62 administrative hearing commission that the grounds, provided in subsection 2 of
63 this section, for disciplinary action are met, the department may, singly or in
64 combination, refuse to issue the person a license, issue a license for a period of
65 less than two years, issue a private reprimand, place the person on probation on
66 such terms and conditions as the department deems appropriate for a period of
67 one day to five years, suspend the person's license from one day to six days, or
68 revoke the person's license for such period as the department deems appropriate,
69 **or enter into a settlement agreement in accordance with subsection 7**
70 **of this section.** The applicant or licensee shall have the right to appeal the
71 decision of the administrative hearing commission and department in the manner
72 provided in chapter 536.

73 4. Upon the suspension or revocation of any person's license issued under
74 sections 301.550 to 301.580, the department shall recall any distinctive number
75 plates that were issued to that licensee. If any licensee who has been suspended
76 or revoked shall neglect or refuse to surrender his or her license or distinctive
77 number license plates issued under sections 301.550 to 301.580, the director shall
78 direct any agent or employee of the department or any law enforcement officer,
79 to secure possession thereof and return such items to the director. For purposes
80 of this subsection, a "law enforcement officer" means any member of the highway
81 patrol, any sheriff or deputy sheriff, or any peace officer certified under chapter
82 590 acting in his or her official capacity. Failure of the licensee to surrender his
83 or her license or distinctive number license plates upon demand by the director,
84 any agent or employee of the department, or any law enforcement officer shall be
85 a class A misdemeanor.

86 5. Notwithstanding the foregoing provisions of this section, the following
87 events or acts by the holder of any license issued under sections 301.550 to
88 301.580 are deemed to present a clear and present danger to the public welfare
89 and shall be considered cause for suspension or revocation of such license under
90 the procedure set forth in subsection 6 of this section, at the discretion of the
91 director:

92 (1) The expiration or revocation of any corporate surety bond or
93 irrevocable letter of credit, as required by section 301.560, without submission of
94 a replacement bond or letter of credit which provides coverage for the entire

95 period of licensure;

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

98 (3) Criminal convictions as set forth in subdivision (3) of subsection 2 of
99 this section; [or]

100 (4) Three or more occurrences of violations which have been established
101 following proceedings before the administrative hearing commission under
102 subsection 3 of this section, or which have been established following proceedings
103 before the director under subsection 6 of this section, of this chapter and chapters
104 143, 144, 306, 307, 578, and 643 or of any lawful rule or regulation adopted under
105 this chapter and chapters 143, 144, 306, 307, 578, and 643, not previously set
106 forth herein; or

107 **(5) The license holder was previously an owner, partner,**
108 **stockholder, director, officer, member, or manager controlling or**
109 **managing a partnership, corporation, or limited liability company**
110 **whose license issued under sections 301.217 to 301.229 or sections**
111 **301.550 to 301.580 was revoked for cause and never reissued or was**
112 **suspended for cause and the terms of the suspension have not been**
113 **fulfilled or was placed upon a probationary period pursuant to a**
114 **settlement agreement entered into by the parties pursuant to**
115 **subsection 7 of this section and the terms of the probation have not**
116 **been fulfilled.**

117 6. (1) Any license issued under sections 301.550 to 301.580 shall be
118 suspended or revoked, following an evidentiary hearing before the director or his
119 or her designated hearing officer, if affidavits or sworn testimony by an
120 authorized agent of the department alleges the occurrence of any of the events or
121 acts described in subsection 5 of this section.

122 (2) For any license which the department believes may be subject to
123 suspension or revocation under this subsection, the director shall immediately
124 issue a notice of hearing to the licensee of record. The director's notice of
125 hearing:

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

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

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

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

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

142 (3) At any hearing before the director conducted under this subsection, the
143 director or his or her designated hearing officer shall consider all evidence
144 relevant to the issue of whether the license should be suspended or revoked due
145 to the occurrence of any of the acts set forth in subsection 5 herein. Within
146 twenty business days after such hearing, the director or his or her designated
147 hearing officer shall issue a written order, with findings of fact and conclusions
148 of law, which either grants or denies the issuance of an order of suspension or
149 revocation. **[The] If an order of suspension or revocation is entered, it shall**
150 **be effective ten days after the date of the order. The written order of the director**
151 **or his or her hearing officer shall be the final decision of the director and shall**
152 **be subject to judicial review under the provisions of [chapter 536] sections**
153 **536.100 to 536.140. The order may also give the licensee five days to**
154 **accept terms of probation proposed by the director in lieu of an order**
155 **of suspension or revocation.**

156 (4) Notwithstanding the provisions of this chapter or chapter 610 or 621
157 to the contrary, the proceedings under this section shall be closed and no order
158 shall be made public until it is final, for purposes of appeal.

159 7. In lieu of acting under subsection 2 or 6 of this section, the department
160 of revenue may enter into an agreement with the holder of the license to ensure
161 future compliance with sections 301.210, 301.213, 307.380, sections 301.217 to
162 301.229, and sections 301.550 to 301.580. Such agreement may include an
163 assessment fee not to exceed five hundred dollars per violation or five thousand
164 dollars in the aggregate unless otherwise permitted by law, probation terms and
165 conditions, **issuance of a license for a period of less than one year**, and
166 other requirements as may be deemed appropriate by the department of revenue

167 and the holder of the license. Any fees collected by the department of revenue
168 under this subsection shall be deposited into the motor vehicle commission fund
169 created in section 301.560.

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 majority
7 of the motor vehicle dealers within a class of dealers described pursuant to
8 subsection 3 of section 301.550 in a city or town participate or are invited and
9 have the opportunity to participate in the event, except that a recreational motor
10 vehicle dealer classified in subdivision (5) of subsection 3 of section 301.550 may
11 participate in such a show or sale even if a majority of recreational motor vehicle
12 dealers in a city or town do not participate in the event. If any show or sale
13 includes a class of dealer or franchised new vehicle line-make, that is also
14 represented by a same class dealer or dealer representing the same line-make
15 outside of the boundary lines of the city or town and is within ten miles of where
16 the show or sale is to take place, the dealer outside of the boundary lines of the
17 city or town shall be invited to participate in the show or sale] **at events or**
18 **sales approved by the director pursuant to this section. For purposes**
19 **of this section, such events shall be deemed "off-premise events". If**
20 **approved pursuant to the requirements in subsection 2 of this section,**
21 the department shall consider such **off-premise** events to be proper in all
22 respects and as if each dealer participant was conducting business at the dealer's
23 usual business location. Nothing contained in this section shall be construed as
24 applying to the sale of motor vehicles or trailers through either a wholesale motor
25 vehicle auction or public motor vehicle auction.

26 2. [Any person, partnership, corporation or association disposing of
27 vehicles used and titled solely in its ordinary course of business as provided in
28 section 301.570 may sell at retail such vehicles away from that person's bona fide
29 established place of business, thus constituting an off-site sale, by adhering to
30 each of the following conditions with regard to each and every off-site sale
31 conducted] **The director shall approve only those applications for off-**
32 **premise events which meet the following requirements:**

33 (1) **The host of the off-premise event shall have in effect a [valid]**

34 **current motor vehicle dealer** license[,] **issued** pursuant to sections 301.550
35 to 301.575[, from the department for the sale of used motor vehicles];

36 (2) [No off-site sale may exceed] **The proposed off-premise event**
37 **shall be conducted on consecutive days, excluding Sundays, and the**
38 **duration of such event shall not exceed** five **consecutive** days [in duration,
39 and only one sale may be held per year, per county] **excluding Sundays;**

40 (3) [Pay to the motor vehicle commission fund, pursuant to section
41 301.560, a permit fee of five hundred fifty dollars for each off-site sale event;

42 (4) Advise the department, at least ten days prior to the sale, of the date,
43 location and duration of each off-site sale;

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

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

55 (7) The sale of motor vehicles which have the designation of the current
56 model year, except discontinued models, is prohibited at off-site sales until
57 subsequent model year designated vehicles of the same manufacture and model
58 are offered for sale to the public.] **The host may only host one off-premise**
59 **event during any twelve month period;**

60 (4) **No more than one off-premise event shall be permitted during**
61 **any twelve month period per county;**

62 (5) **An approved off-premise event shall be conducted only within**
63 **fifteen miles of the host's licensed business location if such licensed**
64 **business location is located in a county with a population of less than**
65 **one hundred thousand persons, or within five miles of host's licensed**
66 **business location if the licensed business location is located in a county**
67 **with a population of one hundred thousand persons or more;**

68 (6) **The host of the off-premise event shall not require any**
69 **participant to pay a participation fee in an amount that is**

70 unreasonable, and all participants shall be charged the same
71 participation fee. Unless all dealers invited to participate in the event
72 agree on the participation fee, the host shall submit the proposed fee
73 to the director for the director's approval. In determining if a
74 participation fee is reasonable, the director shall consider those costs
75 reasonably necessary for the event, such as rental of real property and
76 insurance coverage;

77 (7) All motor vehicle dealers within a class of dealers described
78 in subsection 3 of section 301.550 in the city or town in which the sale
79 or event is located shall be notified of the off-premise event and
80 allowed to participate if they desire. If the off-premise event is to be
81 conducted in a county with a population of less than one hundred
82 thousand persons, then the host shall notify all licensed dealers within
83 the class of participating dealer which are located within fifteen miles
84 of the location for the off-premise event, and be allowed to participate
85 if they desire. If the off-premise event is to be conducted in a county
86 with a population of one hundred thousand persons or more, then the
87 host shall notify all licensed dealers within the class of participating
88 dealers which are located within five miles from the location of the off-
89 premise event and be allowed to participate if they desire;

90 (8) A majority of the dealers in the class of dealers participating
91 in the off-premise event who are located within the distance of the
92 event as set forth in subdivision (7) of this subsection shall participate
93 in the off-premise event;

94 (9) If a motor vehicle dealer licensed as a used motor vehicle
95 dealer applies to host an off-premise event, then such dealer shall also
96 provide notice to each new motor vehicle franchise dealer within the
97 areas described in subdivision (7) of this subsection and invite those
98 dealers to participate in the show or sale with their used vehicles;

99 (10) The host applies to the director for permission to host the
100 off-premise event on a form provided by the director at least sixty days
101 prior to the event if a participation fee is requested, or at least forty
102 days prior to the event if no participation fee is requested;

103 (11) The host provides to the director such information as the
104 director may request to determine if the host has complied with the
105 requirements of this section;

106 (12) Notices provided to dealers pursuant to this section shall be

107 **provided at least thirty days before the start of the off-premise event,**
108 **and dealers shall be allowed no less than five business days within**
109 **which to respond to the notice. If a participation fee is required, then**
110 **no notice shall be sent to a dealer until the participation fee is**
111 **approved by the director;**

112 **(13) No participating dealer shall sell a vehicle at an off-premise**
113 **event unless the vehicle is titled to that participating dealer or the**
114 **participating dealer holds a manufacture's certificate of origin for that**
115 **vehicle.**

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

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

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

125 (3) The state in which the recreational vehicle is licensed is a state
126 contiguous to Missouri and the state permits recreational vehicle dealers licensed
127 in Missouri to participate in recreational vehicle shows in such state pursuant to
128 conditions substantially equivalent to the conditions which are imposed on
129 dealers from such state who participate in recreational vehicle shows in Missouri.

130 4. A recreational vehicle dealer licensed in another state may participate
131 in a vehicle show or exhibition in Missouri which has, when it opens to the public,
132 at least fifty dealers displaying recreational vehicles if the show or exhibition is
133 trade-oriented and is predominantly funded by recreational vehicle
134 manufacturers. All of the participating dealers who are not licensed in Missouri
135 shall be licensed as recreational vehicle dealers by the state of their residence.

136 5. A recreational vehicle dealer licensed in another state who intends to
137 participate in a vehicle show or exhibition in this state shall send written
138 notification of such intended participation to the department of revenue at least
139 thirty days prior to the vehicle show or exhibition. Upon receipt of such written
140 notification, the department of revenue shall make a determination regarding
141 compliance with the provisions of this section. If such recreational vehicle dealer
142 would be unable to participate in the vehicle show or exhibition in this state

143 pursuant to this section, the department of revenue shall notify the recreational
144 vehicle dealer at least fifteen days prior to the vehicle show or exhibition of the
145 inability to participate in the vehicle show or exhibition in this state.

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

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