

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 707

AN ACT

To repeal sections 301.213, 301.550, 301.553, 301.557, 301.559, 301.560, 301.562, 301.563, 301.564, 301.566, 301.568, and 301.570, RSMo, and to enact in lieu thereof twelve new sections relating to vehicle sales, with existing penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 301.213, 301.550, 301.553, 301.557,
2 301.559, 301.560, 301.562, 301.563, 301.564, 301.566, 301.568,
3 and 301.570, RSMo, are repealed and twelve new sections enacted
4 in lieu thereof, to be known as sections 301.213, 301.550,
5 301.553, 301.557, 301.559, 301.560, 301.562, 301.563, 301.564,
6 301.566, 301.568, and 301.570, to read as follows:

7 301.213. 1. Notwithstanding the provisions of sections
8 301.200 and 301.210, any person licensed as a motor vehicle
9 dealer under sections 301.550 to 301.580 that has provided to the
10 director of revenue a surety bond or irrevocable letter of credit
11 in an amount not less than one hundred thousand dollars in a form
12 which complies with the requirements of section 301.560 and in
13 lieu of the [twenty-five] fifty thousand dollar bond otherwise
14 required for licensure as a motor vehicle dealer shall be
15 authorized to purchase or accept in trade any motor vehicle for

1 which there has been issued a certificate of ownership, and to
2 receive such vehicle subject to any existing liens thereon
3 created and perfected under sections 301.600 to 301.660 provided
4 the licensed dealer receives the following:

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

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

11 (3) A power of attorney from the owner to the licensed
12 dealer, in accordance with subsection 4 of section 301.300,
13 authorizing the licensed dealer to obtain a duplicate or
14 replacement title in the owner's name and sign any title
15 assignments on the owner's behalf.

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

23 3. If a licensed dealer complies with the requirements of
24 subsection 1 of this section, and such dealer has provided to the
25 director of revenue a surety bond or irrevocable letter of credit
26 in amount not less than one hundred thousand dollars in a form
27 which complies with the requirements of section 301.560 and in
28 lieu of the [twenty-five] fifty thousand dollar bond otherwise

1 required for licensure as a motor vehicle dealer, such dealer may
2 sell such vehicle prior to receiving and assigning to the
3 purchaser the certificate of ownership, provided such dealer
4 complies with the following:

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

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

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

19 (4) The dealer has signed an application for duplicate or
20 replacement title for the vehicle under subsection 4 of section
21 301.300 and provides a copy of the application to the purchaser,
22 along with a copy of the power of attorney required by subsection
23 1 of this section, and the dealer has prepared and delivered to
24 the purchaser an application for title for the vehicle in the
25 purchaser's name; and

26 (5) The dealer and the purchaser have entered into a
27 written agreement for the subsequent assignment and delivery of
28 such certificate of ownership, on a form prescribed by the

1 director of revenue, to take place at a time, not to exceed sixty
2 calendar days, after the time of delivery of the motor vehicle to
3 the purchaser. Such agreement shall require the purchaser to
4 provide to the dealer proof of financial responsibility in
5 accordance with chapter 303 and proof of comprehensive and
6 collision coverage on the motor vehicle. Such dealer shall
7 maintain the original or an electronic copy of the signed
8 agreement and deliver a copy of the signed agreement to the
9 purchaser. Such dealer shall also complete and deliver to the
10 director of revenue such form as the director shall prescribe
11 demonstrating that the purchaser has purchased the vehicle
12 without contemporaneous delivery of the title.

13
14 Notwithstanding any provision of law to the contrary, completion
15 of the requirements of this subsection shall constitute prima
16 facie evidence of an ownership interest vested in the purchaser
17 of the vehicle for all purposes other than for a subsequent
18 transfer of ownership of the vehicle by the purchaser, subject to
19 the rights of any secured lienholder of record; however, the
20 purchaser may use the dealer-supplied copy of the agreement to
21 transfer his or her ownership of the vehicle to an insurance
22 company in situations where the vehicle has been declared salvage
23 or a total loss by the insurance company as a result of a
24 settlement of a claim. Such insurance company may apply for a
25 salvage certificate of title or junking certificate pursuant to
26 the provisions of subsection 3 of section 301.193 in order to
27 transfer its interest in such vehicle. The purchaser may also
28 use the dealer-supplied copy of the agreement on the form

1 prescribed by the director of revenue as proof of ownership
2 interest. Any lender or insurance company may rely upon a copy
3 of the signed written agreement on the form prescribed by the
4 director of revenue as proof of ownership interest. Any lien
5 placed upon a vehicle based upon such signed written agreement
6 shall be valid and enforceable, notwithstanding the absence of a
7 certificate of ownership.

8 4. Following a sale or other transaction in which a
9 certificate of ownership has not been assigned from the owner to
10 the licensed dealer, the dealer shall, within ten business days,
11 apply for a duplicate or replacement certificate of ownership.
12 Upon receipt of a duplicate or replacement certificate of
13 ownership applied for under subsection 4 of section 301.300, the
14 dealer shall assign and deliver said certificate of ownership to
15 the purchaser of the vehicle within five business days. The
16 dealer shall maintain proof of the assignment and delivery of the
17 certificate of ownership to the purchaser. For purposes of this
18 subsection, a dealer shall be deemed to have delivered the
19 certificate of ownership to the purchaser upon either:

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

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

26 5. If a licensed dealer fails to comply with subsection 3
27 of this section, and the purchaser of the vehicle is thereby
28 damaged, then the dealer shall be liable to the purchaser of the

1 vehicle for actual damages, plus court costs and reasonable
2 attorney fees.

3 6. If a licensed dealer fails or is unable to comply with
4 subsection 4 of this section, and the purchaser of the vehicle is
5 thereby damaged, then the dealer shall be liable to the purchaser
6 of the vehicle for actual damages, plus court costs and
7 reasonable attorney fees. If the dealer cannot be found by the
8 purchaser after making reasonable attempts, or if the dealer
9 fails to assign and deliver the duplicate or replacement
10 certificate of ownership to the purchaser by the date agreed upon
11 by the dealer and the purchaser, as required by subsection 4 of
12 this section, then the purchaser may deliver to the director a
13 copy of the contract for sale of the vehicle, a copy of the
14 application for duplicate title provided by the dealer to the
15 purchaser, a copy of the secure power of attorney allowing the
16 dealer to assign the duplicate title, and the proof or other
17 evidence obtained by the purchaser from the dealer under
18 subsection 3 of this section. Thereafter, the director shall
19 mail by certified mail, return receipt requested, a notice to the
20 dealer at the last address given to the department by that
21 dealer. That notice shall inform the dealer that the director
22 intends to cancel any prior certificate of title which may have
23 been issued to the dealer on the vehicle and issue to the
24 purchaser a certificate of title in the name of the purchaser,
25 subject to any liens incurred by the purchaser in connection with
26 the purchase of the vehicle, unless the dealer, within ten
27 business days from the date of the director's notice, files with
28 the director a written objection to the director taking such

1 action. If the dealer does file a timely, written objection with
2 the director, then the director shall not take any further action
3 without an order from a court of competent jurisdiction.

4 However, if the dealer does not file a timely, written objection
5 with the director, then the director shall cancel the prior
6 certificate of title issued to the dealer on the vehicle and
7 issue a certificate of title to the purchaser of the vehicle,
8 subject to any liens incurred by the purchaser in connection with
9 the purchase of the vehicle and subject to the purchaser
10 satisfying all applicable taxes and fees associated with
11 registering the vehicle.

12 7. If a seller misrepresents to a dealer that the seller is
13 the owner of a vehicle and the dealer, the owner, any subsequent
14 purchaser, or any prior or subsequent lienholder is thereby
15 damaged, then the seller shall be liable to each such party for
16 actual and punitive damages, plus court costs and reasonable
17 attorney fees.

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

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

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

28 (2) The party from whom damages are sought has not

1 satisfied the written demand within thirty days after receipt of
2 the written demand.

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

9 301.550. 1. The definitions contained in section 301.010
10 shall apply to sections 301.550 to ~~[301.573]~~ 301.580, and in
11 addition as used in sections 301.550 to ~~[301.573]~~ 301.580, the
12 following terms mean:

13 (1) "Boat dealer", any natural person, partnership, or
14 corporation who, for a commission or with an intent to make a
15 profit or gain of money or other thing of value, sells, barter,
16 exchanges, leases or rents with the option to purchase, offers,
17 attempts to sell, or negotiates the sale of any vessel or vessel
18 trailer, whether or not the vessel or vessel trailer is owned by
19 such person. The sale of six or more vessels or vessel trailers
20 or both in any calendar year shall be required as evidence that
21 such person is eligible for licensure as a boat dealer under
22 sections 301.550 to ~~[301.573]~~ 301.580. The boat dealer shall
23 demonstrate eligibility for renewal of his license by selling six
24 or more vessels or vessel trailers or both in the prior calendar
25 year while licensed as a boat dealer pursuant to sections 301.550
26 to ~~[301.573]~~ 301.580;

27 (2) "Boat manufacturer", any person engaged in the
28 manufacturing, assembling or modification of new vessels or

1 vessel trailers as a regular business, including a person,
2 partnership or corporation which acts for and is under the
3 control of a manufacturer or assembly in connection with the
4 distribution of vessels or vessel trailers;

5 (3) "Department", the Missouri department of revenue;

6 (4) "Director", the director of the Missouri department of
7 revenue;

8 (5) "Emergency vehicles", motor vehicles used as
9 ambulances, law enforcement vehicles, and fire fighting and
10 assistance vehicles;

11 (6) "Manufacturer", any person engaged in the
12 manufacturing, assembling or modification of new motor vehicles
13 or trailers as a regular business, including a person,
14 partnership or corporation which acts for and is under the
15 control of a manufacturer or assembly in connection with the
16 distribution of motor vehicles or accessories for motor vehicles;

17 (7) "Motor vehicle broker", a person who holds himself out
18 through solicitation, advertisement, or otherwise as one who
19 offers to arrange a transaction involving the retail sale of a
20 motor vehicle, and who is not:

21 (a) A dealer, or any agent, or any employee of a dealer
22 when acting on behalf of a dealer;

23 (b) A manufacturer, or any agent, or employee of a
24 manufacturer when acting on behalf of a manufacturer;

25 (c) The owner of the vehicle involved in the transaction;
26 or

27 (d) A public motor vehicle auction or wholesale motor
28 vehicle auction where buyers are licensed dealers in this or any

1 other jurisdiction;

2 (8) "Motor vehicle dealer" or "dealer", any person who, for
3 commission or with an intent to make a profit or gain of money or
4 other thing of value, sells, barter, exchanges, leases or rents
5 with the option to purchase, or who offers or attempts to sell or
6 negotiates the sale of motor vehicles or trailers whether or not
7 the motor vehicles or trailers are owned by such person;
8 provided, however, an individual auctioneer or auction conducted
9 by an auctioneer licensed pursuant to chapter 343 shall not be
10 included within the definition of a motor vehicle dealer. The
11 sale of ~~[six]~~ eight or more motor vehicles or trailers in any
12 calendar year shall be required as evidence that such person is
13 engaged in the motor vehicle business and is eligible for
14 licensure as a motor vehicle dealer under sections 301.550 to
15 ~~[301.573]~~ 301.580. ~~[Any motor vehicle dealer licensed before~~
16 ~~August 28, 2007, shall be required to meet the minimum calendar~~
17 ~~year sales of six or more motor vehicles provided the dealer can~~
18 ~~prove the business achieved, cumulatively, six or more sales per~~
19 ~~year for the preceding twenty-four months in business; or if the~~
20 ~~dealer has not been in business for twenty-four months, the~~
21 ~~cumulative equivalent of one sale every two months for the months~~
22 ~~the dealer has been in business before August 28, 2007.] Any~~
23 ~~licensed motor vehicle dealer failing to meet the minimum vehicle~~
24 ~~sales requirements as referenced in this subsection shall not be~~
25 ~~qualified to renew his or her license for one year. To be~~
26 ~~eligible for license renewal, applicants [who reapply after the~~
27 ~~one-year period] shall meet the minimum requirement of ~~[six]~~~~
28 ~~eight sales per year;~~

1 (9) "New motor vehicle", any motor vehicle being
2 transferred for the first time from a manufacturer, distributor
3 or new vehicle dealer which has not been registered or titled in
4 this state or any other state and which is offered for sale,
5 barter or exchange by a dealer who is franchised to sell, barter
6 or exchange that particular make of motor vehicle. The term "new
7 motor vehicle" shall not include manufactured homes, as defined
8 in section 700.010;

9 (10) "New motor vehicle franchise dealer", any motor
10 vehicle dealer who has been franchised to deal in a certain make
11 of motor vehicle by the manufacturer or distributor of that make
12 and motor vehicle and who may, in line with conducting his
13 business as a franchise dealer, sell, barter or exchange used
14 motor vehicles;

15 (11) "Person" includes an individual, a partnership,
16 corporation, an unincorporated society or association, joint
17 venture or any other entity;

18 (12) "Powersport dealer", any motor vehicle dealer who
19 sells, either pursuant to a franchise agreement or otherwise,
20 primarily motor vehicles including but not limited to
21 motorcycles, all-terrain vehicles, and personal watercraft, as
22 those terms are defined in this chapter and chapter 306;

23 (13) "Public motor vehicle auction", any person, firm or
24 corporation who takes possession of a motor vehicle whether by
25 consignment, bailment or any other arrangement, except by title,
26 for the purpose of selling motor vehicles at a public auction by
27 a licensed auctioneer;

28 (14) "Recreational motor vehicle dealer", a dealer of new

1 or used motor vehicles designed, constructed or substantially
2 modified for use as temporary housing quarters, including
3 sleeping and eating facilities which are either permanently
4 attached to the motor vehicle or attached to a unit which is
5 securely attached to the motor vehicle;

6 (15) "Storage lot", an area within the same city or county
7 where a dealer may store excess vehicle inventory;

8 (16) "Trailer dealer", any person selling, either
9 exclusively or otherwise, trailers as defined in section 301.010.
10 A trailer dealer may acquire a motor vehicle for resale only as a
11 trade-in for a trailer. Notwithstanding the provisions of
12 section 301.010 and section 301.069, trailer dealers may purchase
13 one driveaway license plate to display such motor vehicle for
14 demonstration purposes. The sale of six or more trailers in any
15 calendar year shall be required as evidence that such person is
16 engaged in the trailer business and is eligible for licensure as
17 a trailer dealer under sections 301.550 to ~~[301.573]~~ 301.580.

18 [Any trailer dealer licensed before August 28, 2007, shall be
19 required to meet the minimum calendar year sales of six or more
20 trailers provided the dealer can prove the business achieved,
21 cumulatively, six or more sales per year for the preceding
22 twenty-four months in business; or if the dealer has not been in
23 business for twenty-four months, the cumulative equivalent of one
24 sale every two months for the months the dealer has been in
25 business before August 28, 2007.] Any licensed trailer dealer
26 failing to meet the minimum trailer and vehicle sales
27 requirements as referenced in this subsection shall not be
28 qualified to renew his or her license for one year. Applicants

1 who reapply after the one-year period shall meet the requirement
2 of six sales per year;

3 (17) "Used motor vehicle", any motor vehicle which is not a
4 new motor vehicle, as defined in sections 301.550 to ~~[301.573]~~
5 301.580, and which has been sold, bartered, exchanged or given
6 away or which may have had a title issued in this state or any
7 other state, or a motor vehicle so used as to be what is commonly
8 known as a secondhand motor vehicle. In the event of an
9 assignment of the statement of origin from an original franchise
10 dealer to any individual or other motor vehicle dealer other than
11 a new motor vehicle franchise dealer of the same make, the
12 vehicle so assigned shall be deemed to be a used motor vehicle
13 and a certificate of ownership shall be obtained in the
14 assignee's name. The term "used motor vehicle" shall not include
15 manufactured homes, as defined in section 700.010;

16 (18) "Used motor vehicle dealer", any motor vehicle dealer
17 who is not a new motor vehicle franchise dealer;

18 (19) "Vessel", every boat and watercraft defined as a
19 vessel in section 306.010;

20 (20) "Vessel trailer", any trailer, as defined by section
21 301.010 which is designed and manufactured for the purposes of
22 transporting vessels;

23 (21) "Wholesale motor vehicle auction", any person, firm or
24 corporation in the business of providing auction services solely
25 in wholesale transactions at its established place of business in
26 which the purchasers are motor vehicle dealers licensed by this
27 or any other jurisdiction, and which neither buys, sells nor owns
28 the motor vehicles it auctions in the ordinary course of its

1 business. Except as required by law with regard to the auction
2 sale of a government-owned motor vehicle, a wholesale motor
3 vehicle auction shall not provide auction services in connection
4 with the retail sale of a motor vehicle;

5 (22) "Wholesale motor vehicle dealer", a motor vehicle
6 dealer who sells motor vehicles only to other new motor vehicle
7 franchise dealers or used motor vehicle dealers or via auctions
8 limited to other dealers of any class.

9 2. For purposes of sections 301.550 to ~~[301.573]~~ 301.580,
10 neither the term motor vehicle nor the term trailer shall include
11 manufactured homes, as defined in section 700.010.

12 3. Dealers shall be divided into classes as follows:

- 13 (1) Boat dealers;
- 14 (2) Franchised new motor vehicle dealers;
- 15 (3) Used motor vehicle dealers;
- 16 (4) Wholesale motor vehicle dealers;
- 17 (5) Recreational motor vehicle dealers;
- 18 (6) Historic motor vehicle dealers;
- 19 (7) Classic motor vehicle dealers;
- 20 (8) Powersport dealers; and
- 21 (9) Trailer dealers.

22 301.553. 1. The department of revenue shall be responsible
23 for the licensing of all manufacturers, motor vehicle dealers,
24 boat dealers, wholesale motor vehicle auctions, public motor
25 vehicle auctions and wholesale motor vehicle dealers pursuant to
26 the provisions of sections 301.550 to ~~[301.573]~~ 301.580 and the
27 rules and regulations which it may adopt.

28 2. All the powers, duties and functions of the Missouri

1 motor vehicle commission, sections 301.550 to 301.573, in effect
2 immediately prior to July 1, 1997, are transferred by type I
3 transfer, as provided in the Omnibus State Reorganization Act of
4 1974, to the department of revenue. The rules and regulations
5 adopted by the commission which were adopted pursuant to this
6 section prior to July 1, 1997, shall continue in effect after
7 July 1, 1997.

8 3. All orders or decisions of the department shall be in
9 writing, signed by the director and the official seal affixed
10 thereto.

11 4. The department shall have the authority to promulgate
12 those rules and regulations necessary to perform the provisions
13 of sections 301.550 to ~~301.573~~ 301.580 and is vested with those
14 powers and duties necessary and proper to enable it to fully and
15 effectively carry out the provisions of sections 301.550 to
16 ~~301.573~~ 301.580. No rule or portion of a rule promulgated
17 under the authority of sections 301.550 to ~~301.573~~ 301.580
18 shall become effective unless it has been promulgated pursuant to
19 the provisions of section 536.024.

20 301.557. 1. The duties of the director shall include, but
21 not be limited to:

22 (1) The supervision and direction of the activities of the
23 department's employees;

24 (2) Keeping custody of the department's official seal and
25 affixing of this seal to all licenses and orders issued by the
26 department pursuant to sections 301.550 to ~~301.573~~ 301.580;

27 (3) The receipt and prompt disposition of all
28 correspondence or inquiries directed to the department;

1 (4) Maintaining a record of total number of annual new
2 motor vehicle sales by individual franchise dealers and a
3 separate record of total annual used motor vehicle sales by
4 individual motor vehicle dealers from the director of revenue.
5 These records will be available for public inspection;

6 (5) Being the custodian of the files and records of the
7 department;

8 (6) The performance of any other duty required in the
9 enforcement of sections 301.550 to [301.573] 301.580.

10 2. The director shall receive complaints concerning its
11 licensee's business or professional practices. The complaints
12 shall be logged into record, the record shall include at a
13 minimum, the licensee's name, the name of the complaining party,
14 if given, the date of the complaint and a brief statement of the
15 complaint and its ultimate disposition. Notwithstanding any
16 provisions of law to the contrary, such complaint shall be kept
17 in confidence by the director until such time as formal
18 proceedings are filed with the director, or the director disposes
19 of the complaint in accordance with section 301.562; provided
20 that upon inquiry from a licensee against whom a complaint has
21 been received, the director shall acknowledge to the licensee
22 that a complaint has been made. The licensee shall have access
23 to all complaints and information contained therein.

24 301.559. 1. It shall be unlawful for any person to engage
25 in business as or act as a motor vehicle dealer, boat dealer,
26 manufacturer, boat manufacturer, public motor vehicle auction,
27 wholesale motor vehicle auction or wholesale motor vehicle dealer
28 without first obtaining a license from the department as required

1 in sections 301.550 to ~~[301.573]~~ 301.580. Any person who
2 maintains or operates any business wherein a license is required
3 pursuant to the provisions of sections 301.550 to ~~[301.573]~~
4 301.580, without such license, is guilty of a class A
5 misdemeanor. Any person committing a second violation of
6 sections 301.550 to ~~[301.573]~~ 301.580 shall be guilty of a class
7 E felony.

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

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

1 except that every application for a license shall contain, in
2 addition to such information as the department may require, a
3 statement to the following facts:

4 (1) The name and business address, not a post office box,
5 of the applicant and the fictitious name, if any, under which
6 [he] the applicant intends to conduct [his] business[; and], the
7 applicant's regular business hours, and a phone number and email
8 address where the applicant may be contacted during regular
9 business hours. If the applicant [be] is a partnership, the
10 application shall list the name and residence address of each
11 partner, an indication of whether the partner is a limited or
12 general partner and the name under which the partnership business
13 is to be conducted. In the event that the applicant is a
14 corporation, the application shall list the names of the
15 principal officers of the corporation and the state in which it
16 is incorporated. Each application shall be verified by the oath
17 or affirmation of the applicant, if an individual, or in the
18 event an applicant is a partnership or corporation, then by a
19 partner or officer;

20 (2) Whether the application is being made for registration
21 as a manufacturer, boat manufacturer, new motor vehicle franchise
22 dealer, used motor vehicle dealer, wholesale motor vehicle
23 dealer, boat dealer, wholesale motor vehicle auction or a public
24 motor vehicle auction;

25 (3) When the application is for a new motor vehicle
26 franchise dealer, the application shall be accompanied by a copy
27 of the franchise agreement in the registered name of the
28 dealership setting out the appointment of the applicant as a

1 franchise holder and it shall be signed by the manufacturer, or
2 his authorized agent, or the distributor, or his authorized
3 agent, and shall include a description of the make of all motor
4 vehicles covered by the franchise. The department shall not
5 require a copy of the franchise agreement to be submitted with
6 each renewal application unless the applicant is now the holder
7 of a franchise from a different manufacturer or distributor from
8 that previously filed, or unless a new term of agreement has been
9 entered into;

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

13 4. No insurance company, finance company, credit union,
14 savings and loan association, bank or trust company shall be
15 required to obtain a license from the department in order to sell
16 any motor vehicle, trailer or vessel repossessed or purchased by
17 the company on the basis of total destruction or theft thereof
18 when the sale of the motor vehicle, trailer or vessel is in
19 conformance with applicable title and registration laws of this
20 state.

21 5. No person shall be issued a license to conduct a public
22 motor vehicle auction or wholesale motor vehicle auction if such
23 person has a violation of sections 301.550 to ~~[301.573]~~ 301.580
24 or other violations of chapter 301, sections 407.511 to 407.556,
25 or section 578.120 which resulted in a felony conviction or
26 finding of guilt or a violation of any federal motor vehicle laws
27 which resulted in a felony conviction or finding of guilt.

28 301.560. 1. In addition to the application forms

1 prescribed by the department, each applicant shall submit the
2 following to the department:

3 (1) Every application other than a renewal application for
4 a motor vehicle franchise dealer shall include a certification
5 that the applicant has a bona fide established place of business.
6 Such application shall include an annual certification that the
7 applicant has a bona fide established place of business for the
8 first three years and only for every other year thereafter. The
9 certification shall be performed by a uniformed member of the
10 Missouri state highway patrol or authorized or designated
11 employee stationed in the troop area in which the applicant's
12 place of business is located; except that in counties of the
13 first classification, certification may be performed by an
14 officer of a metropolitan police department when the applicant's
15 established place of business of distributing or selling motor
16 vehicles or trailers is in the metropolitan area where the
17 certifying metropolitan police officer is employed. When the
18 application is being made for licensure as a boat manufacturer or
19 boat dealer, certification shall be performed by a uniformed
20 member of the Missouri state water patrol stationed in the
21 district area in which the applicant's place of business is
22 located or by a uniformed member of the Missouri state highway
23 patrol stationed in the troop area in which the applicant's place
24 of business is located or, if the applicant's place of business
25 is located within the jurisdiction of a metropolitan police
26 department in a first class county, by an officer of such
27 metropolitan police department. A bona fide established place of
28 business for any new motor vehicle franchise dealer, used motor

1 vehicle dealer, boat dealer, powersport dealer, wholesale motor
2 vehicle dealer, trailer dealer, or wholesale or public auction
3 shall be a permanent enclosed building or structure, either owned
4 in fee or leased and actually occupied as a place of business by
5 the applicant for the selling, bartering, trading, servicing, or
6 exchanging of motor vehicles, boats, personal watercraft, or
7 trailers and wherein the public may contact the owner or operator
8 at any reasonable time, and wherein shall be kept and maintained
9 the books, records, files and other matters required and
10 necessary to conduct the business. The [applicant's place of
11 business] applicant shall [contain] maintain a working telephone
12 [which shall be maintained] number during the entire registration
13 year which will allow the public, the department, and law
14 enforcement to contact the applicant during regular business
15 hours. The applicant shall also maintain an email address during
16 the entire registration year which may be used for official
17 correspondence with the department. In order to qualify as a
18 bona fide established place of business for all applicants
19 licensed pursuant to this section there shall be an exterior sign
20 displayed carrying the name of the business set forth in letters
21 at least six inches in height and clearly visible to the public
22 and there shall be an area or lot which shall not be a public
23 street on which multiple vehicles, boats, personal watercraft, or
24 trailers may be displayed. The sign shall contain the name of
25 the dealership by which it is known to the public through
26 advertising or otherwise, which need not be identical to the name
27 appearing on the dealership's license so long as such name is
28 registered as a fictitious name with the secretary of state, has

1 been approved by its line-make manufacturer in writing in the
2 case of a new motor vehicle franchise dealer and a copy of such
3 fictitious name registration has been provided to the department.
4 Dealers who sell only emergency vehicles as defined in section
5 301.550 are exempt from maintaining a bona fide place of
6 business, including the related law enforcement certification
7 requirements, and from meeting the minimum yearly sales;

8 (2) The initial application for licensure shall include a
9 photograph, not to exceed eight inches by ten inches but no less
10 than five inches by seven inches, showing the business building,
11 lot, and sign. A new motor vehicle franchise dealer applicant
12 who has purchased a currently licensed new motor vehicle
13 franchised dealership shall be allowed to submit a photograph of
14 the existing dealership building, lot and sign but shall be
15 required to submit a new photograph upon the installation of the
16 new dealership sign as required by sections 301.550 to [301.573]
17 301.580. Applicants shall not be required to submit a photograph
18 annually unless the business has moved from its previously
19 licensed location, or unless the name of the business or address
20 has changed, or unless the class of business has changed;

21 (3) Every applicant as a new motor vehicle franchise
22 dealer, a used motor vehicle dealer, a powersport dealer, a
23 wholesale motor vehicle dealer, trailer dealer, or boat dealer
24 shall furnish with the application a corporate surety bond or an
25 irrevocable letter of credit as defined in section 400.5-102,
26 issued by any state or federal financial institution in the penal
27 sum of [twenty-five] fifty thousand dollars on a form approved by
28 the department. The bond or irrevocable letter of credit shall

1 be conditioned upon the dealer complying with the provisions of
2 the statutes applicable to new motor vehicle franchise dealers,
3 used motor vehicle dealers, powersport dealers, wholesale motor
4 vehicle dealers, trailer dealers, and boat dealers, and the bond
5 shall be an indemnity for any loss sustained by reason of the
6 acts of the person bonded when such acts constitute grounds for
7 the suspension or revocation of the dealer's license. The bond
8 shall be executed in the name of the state of Missouri for the
9 benefit of all aggrieved parties or the irrevocable letter of
10 credit shall name the state of Missouri as the beneficiary;
11 except, that the aggregate liability of the surety or financial
12 institution to the aggrieved parties shall, in no event, exceed
13 the amount of the bond or irrevocable letter of credit. The
14 proceeds of the bond or irrevocable letter of credit shall be
15 paid upon receipt by the department of a final judgment from a
16 Missouri court of competent jurisdiction against the principal
17 and in favor of an aggrieved party. Additionally, every
18 applicant as a new motor vehicle franchise dealer, a used motor
19 vehicle dealer, a powersport dealer, a wholesale motor vehicle
20 dealer, or boat dealer shall furnish with the application a copy
21 of a current dealer garage policy bearing the policy number and
22 name of the insurer and the insured;

23 (4) Payment of all necessary license fees as established by
24 the department. In establishing the amount of the annual license
25 fees, the department shall, as near as possible, produce
26 sufficient total income to offset operational expenses of the
27 department relating to the administration of sections 301.550 to
28 301.580. All fees payable pursuant to the provisions of sections

1 301.550 to 301.580, other than those fees collected for the
2 issuance of dealer plates or certificates of number collected
3 pursuant to subsection 6 of this section, shall be collected by
4 the department for deposit in the state treasury to the credit of
5 the "Motor Vehicle Commission Fund", which is hereby created.
6 The motor vehicle commission fund shall be administered by the
7 Missouri department of revenue. The provisions of section 33.080
8 to the contrary notwithstanding, money in such fund shall not be
9 transferred and placed to the credit of the general revenue fund
10 until the amount in the motor vehicle commission fund at the end
11 of the biennium exceeds two times the amount of the appropriation
12 from such fund for the preceding fiscal year or, if the
13 department requires permit renewal less frequently than yearly,
14 then three times the appropriation from such fund for the
15 preceding fiscal year. The amount, if any, in the fund which
16 shall lapse is that amount in the fund which exceeds the multiple
17 of the appropriation from such fund for the preceding fiscal
18 year.

19 2. In the event a new vehicle manufacturer, boat
20 manufacturer, motor vehicle dealer, wholesale motor vehicle
21 dealer, boat dealer, powersport dealer, wholesale motor vehicle
22 auction, trailer dealer, or a public motor vehicle auction
23 submits an application for a license for a new business and the
24 applicant has complied with all the provisions of this section,
25 the department shall make a decision to grant or deny the license
26 to the applicant within eight working hours after receipt of the
27 dealer's application, notwithstanding any rule of the department.

28 3. Except as otherwise provided in subsection 6 of this

1 section, upon the initial issuance of a license by the
2 department, the department shall assign a distinctive dealer
3 license number or certificate of number to the applicant and the
4 department shall issue one number plate or certificate bearing
5 the distinctive dealer license number or certificate of number
6 and two additional number plates or certificates of number within
7 eight working hours after presentment of the application and
8 payment by the applicant of a fee of fifty dollars for the first
9 plate or certificate and ten dollars and fifty cents for each
10 additional plate or certificate. Upon renewal, the department
11 shall issue the distinctive dealer license number or certificate
12 of number as quickly as possible. The issuance of such
13 distinctive dealer license number or certificate of number shall
14 be in lieu of registering each motor vehicle, trailer, vessel or
15 vessel trailer dealt with by a boat dealer, boat manufacturer,
16 manufacturer, public motor vehicle auction, wholesale motor
17 vehicle dealer, wholesale motor vehicle auction or new or used
18 motor vehicle dealer. The license plates described in this
19 section shall be made with fully reflective material with a
20 common color scheme and design, shall be clearly visible at
21 night, and shall be aesthetically attractive, as prescribed by
22 section 301.130.

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

26	New motor vehicle franchise dealers	D-0 through D-999
27	New powersport dealers [and motorcycle	
28	franchise dealers]	D-1000 through D-1999

1	Used motor vehicle[,] <u>and</u> used powersport[, and used	
2	motorcycle] dealers	D-2000 through D-9999
3	Wholesale motor vehicle dealers	W-0 through W-1999
4	Wholesale motor vehicle auctions	WA-0 through WA-999
5	New and used trailer dealers	T-0 through T-9999
6	Motor vehicle, trailer, and	
7	boat manufacturers	DM-0 through DM-999
8	Public motor vehicle auctions	A-0 through A-1999
9	Boat dealers	M-0 through M-9999
10	New and used recreational motor	
11	vehicle dealers	RV-0 through RV-999

12

13 For purposes of this subsection, qualified transactions shall

14 include the purchase of salvage titled vehicles by a licensed

15 salvage dealer. A used motor vehicle dealer who also holds a

16 salvage dealer's license shall be allowed one additional plate or

17 certificate number per fifty-unit qualified transactions

18 annually. In order for salvage dealers to obtain number plates

19 or certificates under this section, dealers shall submit to the

20 department of revenue on August first of each year a statement

21 certifying, under penalty of perjury, the dealer's number of

22 purchases during the reporting period of July first of the

23 immediately preceding year to June thirtieth of the present year.

24 The provisions of this subsection shall become effective on the

25 date the director of the department of revenue begins to reissue

26 new license plates under section 301.130, or on December 1, 2008,

27 whichever occurs first. If the director of revenue begins

28 reissuing new license plates under the authority granted under

1 section 301.130 prior to December 1, 2008, the director of the
2 department of revenue shall notify the revisor of statutes of
3 such fact.

4 5. Upon the sale of a currently licensed [new] motor
5 vehicle [franchise] dealership the department shall, upon
6 request, authorize the new approved dealer applicant to retain
7 the selling dealer's license number and shall cause the new
8 dealer's records to indicate such transfer. If the new approved
9 dealer applicant elects not to retain the selling dealer's
10 license number, the department shall issue the new dealer
11 applicant a new dealer's license number and an equal number of
12 plates or certificates as the department had issued to the
13 selling dealer.

14 6. In the case of motor vehicle dealers, the department
15 shall issue one number plate bearing the distinctive dealer
16 license number and may issue one additional number plate to the
17 applicant upon payment by the dealer of a fifty dollar fee for
18 the number plate bearing the distinctive dealer license number
19 and ten dollars and fifty cents for the additional number plate.
20 The department may issue a third plate to the motor vehicle
21 dealer upon completion of the dealer's fifteenth qualified
22 transaction and payment of a fee of ten dollars and fifty cents.

23 In the case of new motor vehicle manufacturers, [motor vehicle
24 dealers,] powersport dealers, recreational motor vehicle dealers,
25 and trailer dealers, the department shall issue one number plate
26 bearing the distinctive dealer license number and may issue two
27 additional number plates to the applicant upon payment by the
28 manufacturer or dealer of a fifty dollar fee for the number plate

1 bearing the distinctive dealer license number and ten dollars and
2 fifty cents for each additional number plate. [Such license
3 plates shall be made with fully reflective material with a common
4 color scheme and design, shall be clearly visible at night, and
5 shall be aesthetically attractive, as prescribed by section
6 301.130.] Boat dealers and boat manufacturers shall be entitled
7 to one certificate of number bearing such number upon the payment
8 of a fifty dollar fee. Additional number plates and as many
9 additional certificates of number may be obtained upon payment of
10 a fee of ten dollars and fifty cents for each additional plate or
11 certificate. New motor vehicle manufacturers shall not be issued
12 or possess more than three hundred forty-seven additional number
13 plates or certificates of number annually. New and used motor
14 vehicle dealers, powersport dealers, wholesale motor vehicle
15 dealers, boat dealers, and trailer dealers are limited to one
16 additional plate or certificate of number per ten-unit qualified
17 transactions annually. New and used recreational motor vehicle
18 dealers are limited to two additional plates or certificate of
19 number per ten-unit qualified transactions annually for their
20 first fifty transactions and one additional plate or certificate
21 of number per ten-unit qualified transactions thereafter. An
22 applicant seeking the issuance of an initial license shall
23 indicate on his or her initial application the applicant's
24 proposed annual number of sales in order for the director to
25 issue the appropriate number of additional plates or certificates
26 of number. A motor vehicle dealer, trailer dealer, boat dealer,
27 powersport dealer, recreational motor vehicle dealer, motor
28 vehicle manufacturer, boat manufacturer, or wholesale motor

1 vehicle dealer obtaining a distinctive dealer license plate or
2 certificate of number or additional license plate or additional
3 certificate of number, throughout the calendar year, shall be
4 required to pay a fee for such license plates or certificates of
5 number computed on the basis of one-twelfth of the full fee
6 prescribed for the original and duplicate number plates or
7 certificates of number for such dealers' licenses, multiplied by
8 the number of months remaining in the licensing period for which
9 the dealer or manufacturers shall be required to be licensed. In
10 the event of a renewing dealer, the fee due at the time of
11 renewal shall not be prorated. Wholesale and public auctions
12 shall be issued a certificate of dealer registration in lieu of a
13 dealer number plate. In order for dealers to obtain number
14 plates or certificates under this section, dealers shall submit
15 to the department of revenue on August first of each year a
16 statement certifying, under penalty of perjury, the dealer's
17 number of sales during the reporting period of July first of the
18 immediately preceding year to June thirtieth of the present year.

19 7. The plates issued pursuant to subsection 3 or 6 of this
20 section may be displayed on any motor vehicle owned by a new
21 motor vehicle manufacturer. The plates issued pursuant to
22 subsection 3 or 6 of this section may be displayed on any motor
23 vehicle or trailer owned and held for resale by a motor vehicle
24 dealer for use by a customer who is test driving the motor
25 vehicle, for use and display purposes during, but not limited to,
26 parades, private events, charitable events, or for use by an
27 employee or officer, but shall not be displayed on any motor
28 vehicle or trailer hired or loaned to others or upon any

1 regularly used service or wrecker vehicle. Motor vehicle dealers
2 may display their dealer plates on a tractor, truck or trailer to
3 demonstrate a vehicle under a loaded condition. Trailer dealers
4 may display their dealer license plates in like manner, except
5 such plates may only be displayed on trailers owned and held for
6 resale by the trailer dealer.

7 8. The certificates of number issued pursuant to subsection
8 3 or 6 of this section may be displayed on any vessel or vessel
9 trailer owned and held for resale by a boat manufacturer or a
10 boat dealer, and used by a customer who is test driving the
11 vessel or vessel trailer, or is used by an employee or officer on
12 a vessel or vessel trailer only, but shall not be displayed on
13 any motor vehicle owned by a boat manufacturer, boat dealer, or
14 trailer dealer, or vessel or vessel trailer hired or loaned to
15 others or upon any regularly used service vessel or vessel
16 trailer. Boat dealers and boat manufacturers may display their
17 certificate of number on a vessel or vessel trailer when
18 transporting a vessel or vessels to an exhibit or show.

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

25 10. (1) Every application for the issuance of a used motor
26 vehicle dealer's license shall be accompanied by proof that the
27 applicant, within the last twelve months, has completed an
28 educational seminar course approved by the department as

1 prescribed by subdivision (2) of this subsection. Wholesale and
2 public auto auctions and applicants currently holding a new or
3 used license for a separate dealership shall be exempt from the
4 requirements of this subsection. The provisions of this
5 subsection shall not apply to current new motor vehicle franchise
6 dealers or motor vehicle leasing agencies or applicants for a new
7 motor vehicle franchise or a motor vehicle leasing agency. The
8 provisions of this subsection shall not apply to used motor
9 vehicle dealers who were licensed prior to August 28, 2006.

10 (2) The educational seminar shall include, but is not
11 limited to, the dealer requirements of sections 301.550 to
12 ~~[301.573]~~ 301.580, the rules promulgated to implement, enforce,
13 and administer sections 301.550 to ~~[301.570]~~ 301.580, and any
14 other rules and regulations promulgated by the department.

15 301.562. 1. The department may refuse to issue or renew
16 any license required pursuant to sections 301.550 to 301.580 for
17 any one or any combination of causes stated in subsection 2 of
18 this section. The department shall notify the applicant or
19 licensee in writing at his or her last known address of the
20 reasons for the refusal to issue or renew the license and shall
21 advise the applicant or licensee of his or her right to file a
22 complaint with the administrative hearing commission as provided
23 by chapter 621.

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

1 (1) The applicant or license holder was previously the
2 holder of a license issued under sections 301.550 to 301.580,
3 which license was revoked for cause and never reissued by the
4 department, or which license was suspended for cause and the
5 terms of suspension have not been fulfilled;

6 (2) The applicant or license holder was previously a
7 partner, stockholder, director or officer controlling or managing
8 a partnership or corporation whose license issued under sections
9 301.550 to 301.580 was revoked for cause and never reissued or
10 was suspended for cause and the terms of suspension have not been
11 fulfilled;

12 (3) The applicant or license holder has, within ten years
13 prior to the date of the application, been finally adjudicated
14 and found guilty, or entered a plea of guilty or nolo contendere,
15 in a prosecution under the laws of any state or of the United
16 States, for any offense reasonably related to the qualifications,
17 functions, or duties of any business licensed under sections
18 301.550 to 301.580; for any offense, an essential element of
19 which is fraud, dishonesty, or an act of violence; or for any
20 offense involving moral turpitude, whether or not sentence is
21 imposed;

22 (4) Use of fraud, deception, misrepresentation, or bribery
23 in securing any license issued pursuant to sections 301.550 to
24 301.580;

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

28 (6) Violation of, or assisting or enabling any person to

1 violate any provisions of this chapter and chapters 143, 144,
2 306, 307, 407, 578, and 643 or of any lawful rule or regulation
3 adopted pursuant to this chapter and chapters 143, 144, 306, 307,
4 407, 578, and 643;

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

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

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

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

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

21 (12) Violations of sections 407.511 to 407.556, section
22 578.120, which resulted in a conviction or finding of guilt or
23 violation of any federal motor vehicle laws which result in a
24 conviction or finding of guilt.

25 3. Any such complaint shall be filed within one year of the
26 date upon which the department receives notice of an alleged
27 violation of an applicable statute or regulation. After the
28 filing of such complaint, the proceedings shall, except for the

1 matters set forth in subsection 5 of this section, be conducted
2 in accordance with the provisions of chapter 621. Upon a finding
3 by the administrative hearing commission that the grounds,
4 provided in subsection 2 of this section, for disciplinary action
5 are met, the department may, singly or in combination, refuse to
6 issue the person a license, issue a license for a period of less
7 than two years, issue a private reprimand, place the person on
8 probation on such terms and conditions as the department deems
9 appropriate for a period of one day to five years, suspend the
10 person's license from one day to six days, or revoke the person's
11 license for such period as the department deems appropriate. The
12 applicant or licensee shall have the right to appeal the decision
13 of the administrative hearing commission and department in the
14 manner provided in chapter 536.

15 4. Upon the suspension or revocation of any person's
16 license issued under sections 301.550 to 301.580, the department
17 shall recall any distinctive number plates that were issued to
18 that licensee. If any licensee who has been suspended or revoked
19 shall neglect or refuse to surrender his or her license or
20 distinctive number license plates issued under sections 301.550
21 to 301.580, the director shall direct any agent or employee of
22 the department or any law enforcement officer, to secure
23 possession thereof and return such items to the director. For
24 purposes of this subsection, a "law enforcement officer" means
25 any member of the highway patrol, any sheriff or deputy sheriff,
26 or any peace officer certified under chapter 590 acting in his or
27 her official capacity. Failure of the licensee to surrender his
28 or her license or distinctive number license plates upon demand

1 by the director, any agent or employee of the department, or any
2 law enforcement officer shall be a class A misdemeanor.

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

10 (1) The expiration or revocation of any corporate surety
11 bond or irrevocable letter of credit, as required by section
12 301.560, without submission of a replacement bond or letter of
13 credit which provides coverage for the entire period of
14 licensure;

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

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

19 (4) Three or more occurrences of violations which have been
20 established following proceedings before the administrative
21 hearing commission under subsection 3 of this section, or which
22 have been established following proceedings before the director
23 under subsection 6 of this section, of this chapter and chapters
24 143, 144, 306, 307, 578, and 643 or of any lawful rule or
25 regulation adopted under this chapter and chapters 143, 144, 306,
26 307, 578, and 643, not previously set forth herein.

27 6. (1) Any license issued under sections 301.550 to
28 301.580 [shall] may be suspended or revoked, following an

1 evidentiary hearing before the director or his or her designated
2 hearing officer, if affidavits or sworn testimony by an
3 authorized agent of the department alleges the occurrence of any
4 of the events or acts described in subsection 5 of this section.

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

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

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

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

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

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

1 (3) At any hearing before the director conducted under this
2 subsection, the director or his or her designated hearing officer
3 shall consider all evidence relevant to the issue of whether the
4 license should be suspended or revoked due to the occurrence of
5 any of the acts set forth in subsection 5 herein. Within twenty
6 business days after such hearing, the director or his or her
7 designated hearing officer shall issue a written order, with
8 findings of fact and conclusions of law, which either grants or
9 denies the issuance of an order of suspension or revocation. The
10 suspension or revocation shall be effective ten days after the
11 date of the order. The written order of the director or his or
12 her hearing officer shall be the final decision of the director
13 and shall be subject to judicial review under the provisions of
14 chapter 536.

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

19 7. In lieu of acting under subsection 2 or 6 of this
20 section, the department of revenue may enter into an agreement
21 with the holder of the license to ensure future compliance with
22 sections 301.210, 301.213, 307.380, sections 301.217 to 301.229,
23 and sections 301.550 to 301.580. Such agreement may include an
24 assessment fee not to exceed five hundred dollars per violation
25 or five thousand dollars in the aggregate unless otherwise
26 permitted by law, probation terms and conditions, and other
27 requirements as may be deemed appropriate by the department of
28 revenue and the holder of the license. Any fees collected by the

1 department of revenue under this subsection shall be deposited
2 into the motor vehicle commission fund created in section
3 301.560.

4 301.563. 1. The department or its designated
5 representative may issue process, subpoena witnesses, administer
6 oaths, examine books and papers, and require the production
7 thereof, and cause the deposition of any witness to be taken and
8 the costs thereof paid as other costs under sections 301.550 to
9 ~~[301.573]~~ 301.580. Any party may process to compel the
10 attendance of witnesses and the production of books and papers,
11 and at his own cost to take and use depositions in like manner as
12 in civil cases in the circuit court. The subpoena shall extend
13 to all parts of the state, and may be served as in civil actions
14 in the circuit court, but the costs of the service shall be as in
15 other civil actions. Each witness shall receive the fees and
16 mileage prescribed by law in civil cases, but the same shall not
17 be allowed as costs to the party in whose behalf the witness was
18 summoned unless the person who conducts the hearing certifies
19 that the testimony of the witness was necessary. All costs under
20 this section shall be approved by the department and paid out of
21 the Missouri motor vehicle commission fund established in section
22 301.560, except that if the department determines that any
23 proceedings are brought, prosecuted or defended without
24 reasonable ground, it may assess the whole cost of the
25 proceedings upon the party who brought, prosecuted or defended
26 the proceedings.

27 2. If any person subpoenaed to appear at any hearing or
28 proceeding fails to obey the command of such subpoena without

1 reasonable cause or if any person attending a hearing or
2 proceeding shall, without reasonable cause, refuse to be sworn or
3 to be examined or to answer a question or to produce a book or
4 paper or to subscribe or swear to his deposition, such person is
5 guilty of a class B misdemeanor and on conviction thereof shall
6 be punished by a fine of not more than five hundred dollars, or
7 by imprisonment in the county jail for not more than one year, or
8 by both such fine and imprisonment, and in the case of a
9 continuing violation, each day's continuance thereof shall be a
10 separate and distinct offense.

11 301.564. 1. Any person or his agent licensed or registered
12 as a manufacturer, motor vehicle dealer, wholesale motor vehicle
13 dealer, boat dealer, wholesale motor vehicle auction or a public
14 motor vehicle auction pursuant to the provisions of sections
15 301.550 to ~~[301.573]~~ 301.580, shall permit an employee of the
16 department of revenue or any law enforcement official to inspect,
17 during normal business hours, any of the following documents
18 which are in his possession or under his custody or control:

19 (1) Any title to any motor vehicle or vessel;

20 (2) Any application for title to any motor vehicle or
21 vessel;

22 (3) Any affidavit provided pursuant to sections 301.550 to
23 ~~[301.573]~~ 301.580 or chapter 407;

24 (4) Any assignment of title to any motor vehicle or vessel;

25 (5) Any disclosure statement or other document relating to
26 mileage or odometer readings required by the laws of the United
27 States or any other state;

28 (6) Any inventory and related documentation.

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

3 (1) Attorney general, or any person designated by him to
4 make such an inspection;

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

7 (3) Any member of the highway patrol or water patrol;

8 (4) Any sheriff or deputy sheriff;

9 (5) Any peace officer certified pursuant to chapter 590
10 acting in his official capacity.

11 301.566. 1. [A motor vehicle dealer may participate in no
12 more than two motor vehicle shows or sales annually and conduct
13 sales of motor vehicles away from the dealer's usual, licensed
14 place of business if either the requirements of subsection 2 or 3
15 of this section are met or the event is conducted for not more
16 than five consecutive days, the event does not require any motor
17 vehicle dealer participant to pay an unreasonably prohibitive
18 participation fee, and if a majority of the motor vehicle dealers
19 within a class of dealers described pursuant to subsection 3 of
20 section 301.550 in a city or town participate or are invited and
21 have the opportunity to participate in the event, except that a
22 recreational motor vehicle dealer classified in subdivision (5)
23 of subsection 3 of section 301.550 may participate in such a show
24 or sale even if a majority of recreational motor vehicle dealers
25 in a city or town do not participate in the event. If any show
26 or sale includes a class of dealer or franchised new vehicle
27 line-make, that is also represented by a same class dealer or
28 dealer representing the same line-make outside of the boundary

1 lines of the city or town and is within ten miles of where the
2 show or sale is to take place, the dealer outside of the boundary
3 lines of the city or town shall be invited to participate in the
4 show or sale. The department shall consider such events to be
5 proper in all respects and as if each dealer participant was
6 conducting business at the dealer's usual business location.
7 Nothing contained in this section shall be construed as applying
8 to the sale of motor vehicles or trailers through either a
9 wholesale motor vehicle auction or public motor vehicle auction.]

10 Except as provided in this section, it shall be unlawful for a
11 motor vehicle dealer to sell or offer to sell any motor vehicle
12 away from the dealer's registered place of business.

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

20 (1) Have in effect a valid license, pursuant to sections
21 301.550 to 301.575, from the department for the sale of used
22 motor vehicles;

23 (2) No off-site sale may exceed five days in duration, and
24 only one sale may be held per year, per county;

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

28 (4) Advise the department, at least ten days prior to the

1 sale, of the date, location and duration of each off-site sale;

2 (5)] The sale of vehicles at off-site sales shall be
3 limited to sales by a seller of vehicles used and titled solely
4 in its ordinary course of business, and such sales shall be held
5 in conjunction with a credit union and limited to members of the
6 credit union, thus constituting a private sale to be advertised
7 to members only[;]_.

8 [(6)] 3. Off-site sales by a seller of vehicles used and
9 titled solely in its ordinary course of business may also be held
10 in conjunction with other financial institutions provided that
11 any such sale event shall be held on the premises of the
12 financial institution, and sales shall be limited to persons who
13 were customers of the financial institution prior to the date of
14 the sale event. Off-site sales held with such other financial
15 institutions shall be limited to one sale per year per
16 institution[;]

17 (7) The sale of motor vehicles which have the designation
18 of the current model year, except discontinued models, is
19 prohibited at off-site sales until subsequent model year
20 designated vehicles of the same manufacture and model are offered
21 for sale to the public].

22 4. A motor vehicle dealer may participate in up to two off-
23 premise motor vehicle shows or sales annually and conduct sales
24 of motor vehicles away from the dealer's registered place of
25 business, which for purposes of this section shall be considered
26 "off-premise events" provided the following:

27 (1) The off-premise event shall be conducted for not more
28 than five consecutive days;

1 (2) The off-premise event shall not require any motor
2 vehicle dealer participant to pay an unreasonably prohibitive
3 participation fee.

4 (a) Participation fees may include those costs reasonably
5 necessary for the off-premise event such as rental of real
6 property and provision of insurance coverage.

7 (b) If a participation fee is required, the fee shall be
8 the same for all motor vehicle dealers participating in the
9 event, but in no event shall any participation fee exceed five
10 hundred dollars per participant;

11 (3) A majority of motor vehicle dealers within a class of
12 dealers described in subsection 3 of section 301.550 that are
13 located within the city or town in which the off-premise event is
14 situated participate in the event or are notified via mail or
15 electronic means and have the opportunity to participate in the
16 event;

17 (4) A majority of motor vehicle dealers within a class of
18 dealers described in subsection 3 of section 301.550 that are
19 located within a ten mile radius of the location of the off-
20 premise event participate in the event or are notified via mail
21 or electronic means and have the opportunity to participate in
22 the event;

23 (5) Notices provided pursuant to subsections (3) and (4) of
24 this section shall be provided not less than forty-five days
25 before the off-premise event is to take place and invited dealers
26 shall be given at least five business days to respond to the
27 notice;

28 (6) The organizer of the off-premise event shall provide a

1 copy of the notices issued pursuant to subsections (3) and (4) of
2 this section to the director at the time they are mailed or
3 electronically transmitted to the prospective participants; and

4 (7) No motor vehicle dealer shall participate in any off-
5 premise event that is more than ten miles from its licensed
6 location.

7 [3.] 5. Provided the requirements of this section are met,
8 the department shall consider such events to be proper in all
9 respects and as if each dealer participant was conducting
10 business at the dealer's usual business location. Nothing
11 contained in this section shall be construed as applying to the
12 sale of motor vehicles or trailers through either a wholesale
13 motor vehicle auction or public motor vehicle auction. A
14 recreational motor vehicle dealer, as classified by subdivision
15 (5) of subsection 3 of section 301.550, may participate in an
16 off-premise event even if a majority of recreational motor
17 vehicle dealers in a city or town do not participate in the
18 event.

19 6. A recreational vehicle dealer, as that term is defined
20 in section 700.010, who is licensed in another state may
21 participate in recreational vehicle shows or exhibits with
22 recreational vehicles within this state in which less than fifty
23 dealers participate as exhibitors with permission of the dealer's
24 licensed manufacturer if all of the following conditions exist:

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

28 (2) More than fifty percent of the participating

1 recreational vehicle dealers are licensed motor vehicle dealers
2 in this state; and

3 (3) The state in which the recreational vehicle is licensed
4 is a state contiguous to Missouri and the state permits
5 recreational vehicle dealers licensed in Missouri to participate
6 in recreational vehicle shows in such state pursuant to
7 conditions substantially equivalent to the conditions which are
8 imposed on dealers from such state who participate in
9 recreational vehicle shows in Missouri.

10 [4.] 7. A recreational vehicle dealer licensed in another
11 state may participate in a vehicle show or exhibition in Missouri
12 which has, when it opens to the public, at least fifty dealers
13 displaying recreational vehicles if the show or exhibition is
14 trade-oriented and is predominantly funded by recreational
15 vehicle manufacturers. All of the participating dealers who are
16 not licensed in Missouri shall be licensed as recreational
17 vehicle dealers by the state of their residence.

18 [5.] 8. A recreational vehicle dealer licensed in another
19 state who intends to participate in a vehicle show or exhibition
20 in this state shall send written notification of such intended
21 participation to the department of revenue at least thirty days
22 prior to the vehicle show or exhibition. Upon receipt of such
23 written notification, the department of revenue shall make a
24 determination regarding compliance with the provisions of this
25 section. If such recreational vehicle dealer would be unable to
26 participate in the vehicle show or exhibition in this state
27 pursuant to this section, the department of revenue shall notify
28 the recreational vehicle dealer at least fifteen days prior to

1 the vehicle show or exhibition of the inability to participate in
2 the vehicle show or exhibition in this state.

3 [6.] 9. The department [of revenue] may assess a fine of up
4 to one thousand dollars for the off-premise sale or display of
5 any motor vehicle in violation of this section.

6 301.568. New motor vehicles may be exchanged for resale
7 from one new motor vehicle [franchise] franchised dealer to
8 another who is franchised to sell the same make of new motor
9 vehicles by assignment of the manufacturer's statement of origin.
10 Such exchange shall not be deemed to be a sale and shall not
11 require the motor vehicle dealer to register and make application
12 for a certificate of ownership as set out in this chapter.
13 However, when an exchange by assignment of the manufacturer's
14 statement of origin is between a new motor vehicle [franchise]
15 franchised dealer and another motor vehicle dealer who has a
16 franchise for a different make of motor vehicle or a motor
17 vehicle dealer who is not a new motor vehicle [franchise]
18 franchised dealer, the transaction shall be deemed a sale and
19 shall void the resale of that motor vehicle as a new motor
20 vehicle, and it shall be unlawful for any motor vehicle dealer to
21 hold forth, offer for sale, advertise or sell such motor vehicle
22 as a new motor vehicle. A motor vehicle dealer shall not assign
23 ownership on any vehicle in a retail sale by the assignment of a
24 manufacturer's statement of origin unless he is [enfranchised]
25 franchised by the manufacturer to sell that particular make of
26 vehicle; however, this provision shall not take effect if the
27 motor vehicle dealer and the manufacturer are in the process of
28 negotiating a new franchise agreement, or the motor vehicle

1 dealer has filed a timely protest to the manufacturer or appealed
2 under section 407.825 of the motor vehicle franchise practices
3 act. The provisions of this section shall not apply to mobile
4 homes or trailers.

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

14 (1) Licensed as a motor vehicle dealer by the department
15 under the provisions of sections 301.550 to ~~[301.573]~~ 301.580;

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

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

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

23 2. Any person, partnership, corporation, company or
24 association that has reason to believe that the provisions of
25 this section are being violated shall file a complaint with the
26 prosecuting attorney in the county in which the violation
27 occurred. The prosecuting attorney shall investigate the
28 complaint and take appropriate action.

1 3. For the purposes of sections 301.550 to ~~301.573~~
2 301.580, the sale, barter, exchange, lease or rental with option
3 to purchase of six or more motor vehicles in a calendar year by
4 any person, partnership, corporation, company or association,
5 whether or not the motor vehicles are owned by them, shall be
6 prima facie evidence of intent to make a profit or gain of money
7 and such person, partnership, corporation, company or association
8 shall be deemed to be acting as a motor vehicle dealer without a
9 license.

10 4. Any person, partnership, corporation, company or
11 association who violates subsection 1 of this section is guilty
12 of a class A misdemeanor. A second or subsequent conviction
13 shall be deemed a class E felony.

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