

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 707
99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHATZ.

Offered March 7, 2018.

Senate Substitute adopted, March 7, 2018.

Taken up for Perfection March 7, 2018. Bill declared Perfected and Ordered Printed.

ADRIANE D. CROUSE, Secretary.

5008S.06P

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:

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2 301.562, 301.563, 301.564, 301.566, 301.568, and 301.570, RSMo, are repealed and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

301.213. 1. Notwithstanding the provisions of sections 301.200 and
2 301.210, any person licensed as a motor vehicle dealer under sections 301.550 to
3 301.580 that has provided to the director of revenue a surety bond or irrevocable
4 letter of credit in an amount not less than one hundred thousand dollars in a
5 form which complies with the requirements of section 301.560 and in lieu of the
6 [twenty-five] **fifty** thousand dollar bond otherwise required for licensure as a
7 motor vehicle dealer shall be authorized to purchase or accept in trade any motor
8 vehicle for which there has been issued a certificate of ownership, and to receive
9 such vehicle subject to any existing liens thereon created and perfected under

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

10 sections 301.600 to 301.660 provided the licensed dealer receives the following:

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

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

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

301.550. 1. The definitions contained in section 301.010 shall apply to
2 sections 301.550 to [301.573] **301.580**, and in addition as used in sections 301.550
3 to [301.573] **301.580**, the following terms mean:

4 (1) "Boat dealer", any natural person, partnership, or corporation who, for
5 a commission or with an intent to make a profit or gain of money or other thing
6 of value, sells, barter, exchanges, leases or rents with the option to purchase,
7 offers, attempts to sell, or negotiates the sale of any vessel or vessel trailer,
8 whether or not the vessel or vessel trailer is owned by such person. The sale of
9 six or more vessels or vessel trailers or both in any calendar year shall be

10 required as evidence that such person is eligible for licensure as a boat dealer
11 under sections 301.550 to [301.573] **301.580**. The boat dealer shall demonstrate
12 eligibility for renewal of his license by selling six or more vessels or vessel
13 trailers or both in the prior calendar year while licensed as a boat dealer
14 pursuant to sections 301.550 to [301.573] **301.580**;

15 (2) "Boat manufacturer", any person engaged in the manufacturing,
16 assembling or modification of new vessels or vessel trailers as a regular business,
17 including a person, partnership or corporation which acts for and is under the
18 control of a manufacturer or assembly in connection with the distribution of
19 vessels or vessel trailers;

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

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

22 (5) "Emergency vehicles", motor vehicles used as ambulances, law
23 enforcement vehicles, and fire fighting and assistance vehicles;

24 (6) "Manufacturer", any person engaged in the manufacturing, assembling
25 or modification of new motor vehicles or trailers as a regular business, including
26 a person, partnership or corporation which acts for and is under the control of a
27 manufacturer or assembly in connection with the distribution of motor vehicles
28 or accessories for motor vehicles;

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

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

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

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

37 (d) A public motor vehicle auction or wholesale motor vehicle auction
38 where buyers are licensed dealers in this or any other jurisdiction;

39 (8) "Motor vehicle dealer" or "dealer", any person who, for commission or
40 with an intent to make a profit or gain of money or other thing of value, sells,
41 barter, exchanges, leases or rents with the option to purchase, or who offers or
42 attempts to sell or negotiates the sale of motor vehicles or trailers whether or not
43 the motor vehicles or trailers are owned by such person; provided, however, an
44 individual auctioneer or auction conducted by an auctioneer licensed pursuant to
45 chapter 343 shall not be included within the definition of a motor vehicle

46 dealer. The sale of **[six] eight** or more motor vehicles or trailers in any calendar
47 year shall be required as evidence that such person is engaged in the motor
48 vehicle business and is eligible for licensure as a motor vehicle dealer under
49 sections 301.550 to **[301.573] 301.580**. [Any motor vehicle dealer licensed before
50 August 28, 2007, shall be required to meet the minimum calendar year sales of
51 six or more motor vehicles provided the dealer can prove the business achieved,
52 cumulatively, six or more sales per year for the preceding twenty-four months in
53 business; or if the dealer has not been in business for twenty-four months, the
54 cumulative equivalent of one sale every two months for the months the dealer has
55 been in business before August 28, 2007.] Any licensed motor vehicle dealer
56 failing to meet the minimum vehicle sales requirements as referenced in this
57 subsection shall not be qualified to renew his or her license for one year. **To be**
58 **eligible for license renewal**, applicants [who reapply after the one-year
59 period] shall meet the **minimum** requirement of **[six] eight** sales per year;

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

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

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

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

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

81 (14) "Recreational motor vehicle dealer", a dealer of new or used motor

82 vehicles designed, constructed or substantially modified for use as temporary
83 housing quarters, including sleeping and eating facilities which are either
84 permanently attached to the motor vehicle or attached to a unit which is securely
85 attached to the motor vehicle;

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

88 (16) "Trailer dealer", any person selling, either exclusively or otherwise,
89 trailers as defined in section 301.010. A trailer dealer may acquire a motor
90 vehicle for resale only as a trade-in for a trailer. Notwithstanding the provisions
91 of section 301.010 and section 301.069, trailer dealers may purchase one
92 driveaway license plate to display such motor vehicle for demonstration
93 purposes. The sale of six or more trailers in any calendar year shall be required
94 as evidence that such person is engaged in the trailer business and is eligible for
95 licensure as a trailer dealer under sections 301.550 to ~~[301.573]~~ **301.580**. [Any
96 trailer dealer licensed before August 28, 2007, shall be required to meet the
97 minimum calendar year sales of six or more trailers provided the dealer can prove
98 the business achieved, cumulatively, six or more sales per year for the preceding
99 twenty-four months in business; or if the dealer has not been in business for
100 twenty-four months, the cumulative equivalent of one sale every two months for
101 the months the dealer has been in business before August 28, 2007.] Any licensed
102 trailer dealer failing to meet the minimum trailer and vehicle sales requirements
103 as referenced in this subsection shall not be qualified to renew his or her license
104 for one year. Applicants who reapply after the one-year period shall meet the
105 requirement of six sales per year;

106 (17) "Used motor vehicle", any motor vehicle which is not a new motor
107 vehicle, as defined in sections 301.550 to ~~[301.573]~~ **301.580**, and which has been
108 sold, bartered, exchanged or given away or which may have had a title issued in
109 this state or any other state, or a motor vehicle so used as to be what is commonly
110 known as a secondhand motor vehicle. In the event of an assignment of the
111 statement of origin from an original franchise dealer to any individual or other
112 motor vehicle dealer other than a new motor vehicle franchise dealer of the same
113 make, the vehicle so assigned shall be deemed to be a used motor vehicle and a
114 certificate of ownership shall be obtained in the assignee's name. The term "used
115 motor vehicle" shall not include manufactured homes, as defined in section
116 700.010;

117 (18) "Used motor vehicle dealer", any motor vehicle dealer who is not a

118 new motor vehicle franchise dealer;

119 (19) "Vessel", every boat and watercraft defined as a vessel in section
120 306.010;

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

123 (21) "Wholesale motor vehicle auction", any person, firm or corporation in
124 the business of providing auction services solely in wholesale transactions at its
125 established place of business in which the purchasers are motor vehicle dealers
126 licensed by this or any other jurisdiction, and which neither buys, sells nor owns
127 the motor vehicles it auctions in the ordinary course of its business. Except as
128 required by law with regard to the auction sale of a government-owned motor
129 vehicle, a wholesale motor vehicle auction shall not provide auction services in
130 connection with the retail sale of a motor vehicle;

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

134 2. For purposes of sections 301.550 to [301.573] **301.580**, neither the term
135 motor vehicle nor the term trailer shall include manufactured homes, as defined
136 in section 700.010.

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

138 (1) Boat dealers;

139 (2) Franchised new motor vehicle dealers;

140 (3) Used motor vehicle dealers;

141 (4) Wholesale motor vehicle dealers;

142 (5) Recreational motor vehicle dealers;

143 (6) Historic motor vehicle dealers;

144 (7) Classic motor vehicle dealers;

145 (8) Powersport dealers; and

146 (9) Trailer dealers.

301.553. 1. The department of revenue shall be responsible for the
2 licensing of all manufacturers, motor vehicle dealers, boat dealers, wholesale
3 motor vehicle auctions, public motor vehicle auctions and wholesale motor vehicle
4 dealers pursuant to the provisions of sections 301.550 to [301.573] **301.580** and
5 the rules and regulations which it may adopt.

6 2. All the powers, duties and functions of the Missouri motor vehicle
7 commission, sections 301.550 to 301.573, in effect immediately prior to July 1,

8 1997, are transferred by type I transfer, as provided in the Omnibus State
9 Reorganization Act of 1974, to the department of revenue. The rules and
10 regulations adopted by the commission which were adopted pursuant to this
11 section prior to July 1, 1997, shall continue in effect after July 1, 1997.

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

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

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

2 (1) The supervision and direction of the activities of the department's
3 employees;

4 (2) Keeping custody of the department's official seal and affixing of this
5 seal to all licenses and orders issued by the department pursuant to sections
6 301.550 to [301.573] **301.580**;

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

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

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

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

16 2. The director shall receive complaints concerning its licensee's business
17 or professional practices. The complaints shall be logged into record, the record
18 shall include at a minimum, the licensee's name, the name of the complaining
19 party, if given, the date of the complaint and a brief statement of the complaint
20 and its ultimate disposition. Notwithstanding any provisions of law to the
21 contrary, such complaint shall be kept in confidence by the director until such
22 time as formal proceedings are filed with the director, or the director disposes of
23 the complaint in accordance with section 301.562; provided that upon inquiry

24 from a licensee against whom a complaint has been received, the director shall
25 acknowledge to the licensee that a complaint has been made. The licensee shall
26 have access to all complaints and information contained therein.

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 shall notify each person licensed
12 under sections 301.550 to [301.573] **301.580** of the date of license expiration and
13 the amount of the fee required for renewal. The notice shall be mailed at least
14 ninety days before the date of license expiration to the licensee's last known
15 business address. The director shall have the authority to issue licenses valid for
16 a period of up to two years and to stagger the license periods for administrative
17 efficiency and equalization of workload, at the sole discretion of the director.

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

29 (1) The name and business address, not a post office box, of the applicant
30 and the fictitious name, if any, under which [he] **the applicant** intends to
31 conduct [his] business[; and], **the applicant's regular business hours, and**
32 **a phone number and email address where the applicant may be**
33 **contacted during regular business hours.** If the applicant [be] is a

34 partnership, the **application shall list the** name and residence address of each
35 partner, an indication of whether the partner is a limited or general partner and
36 the name under which the partnership business is to be conducted. In the event
37 that the applicant is a corporation, the application shall list the names of the
38 principal officers of the corporation and the state in which it is
39 incorporated. Each application shall be verified by the oath or affirmation of the
40 applicant, if an individual, or in the event an applicant is a partnership or
41 corporation, then by a partner or officer;

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

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

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

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

64 5. No person shall be issued a license to conduct a public motor vehicle
65 auction or wholesale motor vehicle auction if such person has a violation of
66 sections 301.550 to [301.573] **301.580** or other violations of chapter 301, sections
67 407.511 to 407.556, or section 578.120 which resulted in a felony conviction or
68 finding of guilt or a violation of any federal motor vehicle laws which resulted in
69 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 motor vehicle
4 franchise dealer shall include a certification that the applicant has a bona fide
5 established place of business. Such application shall include an annual
6 certification that the applicant has a bona fide established place of business for
7 the first three years and only for every other year thereafter. The certification
8 shall be performed by a uniformed member of the Missouri state highway patrol
9 or authorized or designated employee stationed in the troop area in which the
10 applicant's place of business is located; except that in counties of the first
11 classification, certification may be performed by an officer of a metropolitan police
12 department when the applicant's established place of business of distributing or
13 selling motor vehicles or trailers is in the metropolitan area where the certifying
14 metropolitan police officer is employed. When the application is being made for
15 licensure as a boat manufacturer or boat dealer, certification shall be performed
16 by a uniformed member of the Missouri state water patrol stationed in the
17 district area in which the applicant's place of business is located or by a
18 uniformed member of the Missouri state highway patrol stationed in the troop
19 area in which the applicant's place of business is located or, if the applicant's
20 place of business is located within the jurisdiction of a metropolitan police
21 department in a first class county, by an officer of such metropolitan police
22 department. A bona fide established place of business for any new motor vehicle
23 franchise dealer, used motor vehicle dealer, boat dealer, powersport dealer,
24 wholesale motor vehicle dealer, trailer dealer, or wholesale or public auction shall
25 be a permanent enclosed building or structure, either owned in fee or leased and
26 actually occupied as a place of business by the applicant for the selling, bartering,
27 trading, servicing, or exchanging of motor vehicles, boats, personal watercraft, or
28 trailers and wherein the public may contact the owner or operator at any
29 reasonable time, and wherein shall be kept and maintained the books, records,
30 files and other matters required and necessary to conduct the business. The
31 [applicant's place of business] **applicant** shall [contain] **maintain** a working
32 telephone [which shall be maintained] **number** during the entire registration
33 year **which will allow the public, the department, and law enforcement**
34 **to contact the applicant during regular business hours. The applicant**
35 **shall also maintain an email address during the entire registration year**
36 **which may be used for official correspondence with the department. In**

37 order to qualify as a bona fide established place of business for all applicants
38 licensed pursuant to this section there shall be an exterior sign displayed
39 carrying the name of the business set forth in letters at least six inches in height
40 and clearly visible to the public and there shall be an area or lot which shall not
41 be a public street on which multiple vehicles, boats, personal watercraft, or
42 trailers may be displayed. The sign shall contain the name of the dealership by
43 which it is known to the public through advertising or otherwise, which need not
44 be identical to the name appearing on the dealership's license so long as such
45 name is registered as a fictitious name with the secretary of state, has been
46 approved by its line-maker manufacturer in writing in the case of a new motor
47 vehicle franchise dealer and a copy of such fictitious name registration has been
48 provided to the department. Dealers who sell only emergency vehicles as defined
49 in section 301.550 are exempt from maintaining a bona fide place of business,
50 including the related law enforcement certification requirements, and from
51 meeting the minimum yearly sales;

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

63 (3) Every applicant as a new motor vehicle franchise dealer, a used motor
64 vehicle dealer, a powersport dealer, a wholesale motor vehicle dealer, trailer
65 dealer, or boat dealer shall furnish with the application a corporate surety bond
66 or an irrevocable letter of credit as defined in section 400.5-102, issued by any
67 state or federal financial institution in the penal sum of [twenty-five] **fifty**
68 thousand dollars on a form approved by the department. The bond or irrevocable
69 letter of credit shall be conditioned upon the dealer complying with the provisions
70 of the statutes applicable to new motor vehicle franchise dealers, used motor
71 vehicle dealers, powersport dealers, wholesale motor vehicle dealers, trailer
72 dealers, and boat dealers, and the bond shall be an indemnity for any loss

73 sustained by reason of the acts of the person bonded when such acts constitute
74 grounds for the suspension or revocation of the dealer's license. The bond shall
75 be executed in the name of the state of Missouri for the benefit of all aggrieved
76 parties or the irrevocable letter of credit shall name the state of Missouri as the
77 beneficiary; except, that the aggregate liability of the surety or financial
78 institution to the aggrieved parties shall, in no event, exceed the amount of the
79 bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter
80 of credit shall be paid upon receipt by the department of a final judgment from
81 a Missouri court of competent jurisdiction against the principal and in favor of
82 an aggrieved party. Additionally, every applicant as a new motor vehicle
83 franchise dealer, a used motor vehicle dealer, a powersport dealer, a wholesale
84 motor vehicle dealer, or boat dealer shall furnish with the application a copy of
85 a current dealer garage policy bearing the policy number and name of the insurer
86 and the insured;

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

106 2. In the event a new vehicle manufacturer, boat manufacturer, motor
107 vehicle dealer, wholesale motor vehicle dealer, boat dealer, powersport dealer,
108 wholesale motor vehicle auction, trailer dealer, or a public motor vehicle auction

109 submits an application for a license for a new business and the applicant has
 110 complied with all the provisions of this section, the department shall make a
 111 decision to grant or deny the license to the applicant within eight working hours
 112 after receipt of the dealer's application, notwithstanding any rule of the
 113 department.

114 **3. Except as otherwise provided in subsection 6 of this section,**
 115 upon the initial issuance of a license by the department, the department shall
 116 assign a distinctive dealer license number or certificate of number to the
 117 applicant and the department shall issue one number plate or certificate bearing
 118 the distinctive dealer license number or certificate of number and two additional
 119 number plates or certificates of number within eight working hours after
 120 presentment of the application **and payment by the applicant of a fee of**
 121 **fifty dollars for the first plate or certificate and ten dollars and fifty**
 122 **cents for each additional plate or certificate.** Upon renewal, the
 123 department shall issue the distinctive dealer license number or certificate of
 124 number as quickly as possible. The issuance of such distinctive dealer license
 125 number or certificate of number shall be in lieu of registering each motor vehicle,
 126 trailer, vessel or vessel trailer dealt with by a boat dealer, boat manufacturer,
 127 manufacturer, public motor vehicle auction, wholesale motor vehicle dealer,
 128 wholesale motor vehicle auction or new or used motor vehicle dealer. **The**
 129 **license plates described in this section shall be made with fully**
 130 **reflective material with a common color scheme and design, shall be**
 131 **clearly visible at night, and shall be aesthetically attractive, as**
 132 **prescribed by section 301.130.**

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

135	New motor vehicle franchise dealers	D-0 through D-999
136	New powersport dealers [and motorcycle	
137	franchise dealers]	D-1000 through D-1999
138	Used motor vehicle[,] and used	
139	powersport[, and used motorcycle]	
140	dealers	D-2000 through D-9999
141	Wholesale motor vehicle dealers	W-0 through W-1999
142	Wholesale motor vehicle auctions	WA-0 through WA-999
143	New and used trailer dealers	T-0 through T-9999
144	Motor vehicle, trailer, and boat	

145	manufacturers	DM-0 through DM-999
146	Public motor vehicle auctions	A-0 through A-1999
147	Boat dealers	M-0 through M-9999
148	New and used recreational motor	
149	vehicle dealers	RV-0 through RV-999

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

165 5. Upon the sale of a currently licensed [new] motor vehicle [franchise]
 166 dealership the department shall, upon request, authorize the new approved dealer
 167 applicant to retain the selling dealer's license number and shall cause the new
 168 dealer's records to indicate such transfer. **If the new approved dealer**
 169 **applicant elects not to retain the selling dealer's license number, the**
 170 **department shall issue the new dealer applicant a new dealer's license**
 171 **number and an equal number of plates or certificates as the**
 172 **department had issued to the selling dealer.**

173 6. **In the case of motor vehicle dealers, the department shall**
 174 **issue one number plate bearing the distinctive dealer license number**
 175 **and may issue one additional number plate to the applicant upon**
 176 **payment by the dealer of a fifty dollar fee for the number plate bearing**
 177 **the distinctive dealer license number and ten dollars and fifty cents for**
 178 **the additional number plate. The department may issue a third plate**
 179 **to the motor vehicle dealer upon completion of the dealer's fifteenth**
 180 **qualified transaction and payment of a fee of ten dollars and fifty cents.**

181 In the case of new motor vehicle manufacturers, [motor vehicle dealers,]
182 powersport dealers, recreational motor vehicle dealers, and trailer dealers, the
183 department shall issue one number plate bearing the distinctive dealer license
184 number and may issue two additional number plates to the applicant upon
185 payment by the manufacturer or dealer of a fifty dollar fee for the number plate
186 bearing the distinctive dealer license number and ten dollars and fifty cents for
187 each additional number plate. [Such license plates shall be made with fully
188 reflective material with a common color scheme and design, shall be clearly
189 visible at night, and shall be aesthetically attractive, as prescribed by section
190 301.130.] Boat dealers and boat manufacturers shall be entitled to one certificate
191 of number bearing such number upon the payment of a fifty dollar fee. Additional
192 number plates and as many additional certificates of number may be obtained
193 upon payment of a fee of ten dollars and fifty cents for each additional plate or
194 certificate. New motor vehicle manufacturers shall not be issued or possess more
195 than three hundred forty-seven additional number plates or certificates of number
196 annually. New and used motor vehicle dealers, powersport dealers, wholesale
197 motor vehicle dealers, boat dealers, and trailer dealers are limited to one
198 additional plate or certificate of number per ten-unit qualified transactions
199 annually. New and used recreational motor vehicle dealers are limited to two
200 additional plates or certificate of number per ten-unit qualified transactions
201 annually for their first fifty transactions and one additional plate or certificate
202 of number per ten-unit qualified transactions thereafter. An applicant seeking
203 the issuance of an initial license shall indicate on his or her initial application
204 the applicant's proposed annual number of sales in order for the director to issue
205 the appropriate number of additional plates or certificates of number. A motor
206 vehicle dealer, trailer dealer, boat dealer, powersport dealer, recreational motor
207 vehicle dealer, motor vehicle manufacturer, boat manufacturer, or wholesale
208 motor vehicle dealer obtaining a distinctive dealer license plate or certificate of
209 number or additional license plate or additional certificate of number, throughout
210 the calendar year, shall be required to pay a fee for such license plates or
211 certificates of number computed on the basis of one-twelfth of the full fee
212 prescribed for the original and duplicate number plates or certificates of number
213 for such dealers' licenses, multiplied by the number of months remaining in the
214 licensing period for which the dealer or manufacturers shall be required to be
215 licensed. In the event of a renewing dealer, the fee due at the time of renewal
216 shall not be prorated. Wholesale and public auctions shall be issued a certificate

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

223 7. The plates issued pursuant to subsection 3 or 6 of this section may be
224 displayed on any motor vehicle owned by a new motor vehicle manufacturer. The
225 plates issued pursuant to subsection 3 or 6 of this section may be displayed on
226 any motor vehicle or trailer owned and held for resale by a motor vehicle dealer
227 for use by a customer who is test driving the motor vehicle, for use and display
228 purposes during, but not limited to, parades, private events, charitable events,
229 or for use by an employee or officer, but shall not be displayed on any motor
230 vehicle or trailer hired or loaned to others or upon any regularly used service or
231 wrecker vehicle. Motor vehicle dealers may display their dealer plates on a
232 tractor, truck or trailer to demonstrate a vehicle under a loaded
233 condition. Trailer dealers may display their dealer license plates in like manner,
234 except such plates may only be displayed on trailers owned and held for resale
235 by the trailer dealer.

236 8. The certificates of number issued pursuant to subsection 3 or 6 of this
237 section may be displayed on any vessel or vessel trailer owned and held for resale
238 by a boat manufacturer or a boat dealer, and used by a customer who is test
239 driving the vessel or vessel trailer, or is used by an employee or officer on a vessel
240 or vessel trailer only, but shall not be displayed on any motor vehicle owned by
241 a boat manufacturer, boat dealer, or trailer dealer, or vessel or vessel trailer
242 hired or loaned to others or upon any regularly used service vessel or vessel
243 trailer. Boat dealers and boat manufacturers may display their certificate of
244 number on a vessel or vessel trailer when transporting a vessel or vessels to an
245 exhibit or show.

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

250 10. (1) Every application for the issuance of a used motor vehicle dealer's
251 license shall be accompanied by proof that the applicant, within the last twelve
252 months, has completed an educational seminar course approved by the

253 department as prescribed by subdivision (2) of this subsection. Wholesale and
254 public auto auctions and applicants currently holding a new or used license for
255 a separate dealership shall be exempt from the requirements of this
256 subsection. The provisions of this subsection shall not apply to current new
257 motor vehicle franchise dealers or motor vehicle leasing agencies or applicants for
258 a new motor vehicle franchise or a motor vehicle leasing agency. The provisions
259 of this subsection shall not apply to used motor vehicle dealers who were licensed
260 prior to August 28, 2006.

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

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

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

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

16 (2) The applicant or license holder was previously a partner, stockholder,
17 director or officer controlling or managing a partnership or corporation whose
18 license issued under sections 301.550 to 301.580 was revoked for cause and never
19 reissued or was suspended for cause and the terms of suspension have not been
20 fulfilled;

21 (3) The applicant or license holder has, within ten years prior to the date
22 of the application, been finally adjudicated and found guilty, or entered a plea of
23 guilty or nolo contendere, in a prosecution under the laws of any state or of the
24 United States, for any offense reasonably related to the qualifications, functions,

25 or duties of any business licensed under sections 301.550 to 301.580; for any
26 offense, an essential element of which is fraud, dishonesty, or an act of violence;
27 or for any offense involving moral turpitude, whether or not sentence is imposed;

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

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

32 (6) Violation of, or assisting or enabling any person to violate any
33 provisions of this chapter and chapters 143, 144, 306, 307, 407, 578, and 643 or
34 of any lawful rule or regulation adopted pursuant to this chapter and chapters
35 143, 144, 306, 307, 407, 578, and 643;

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

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

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

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

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

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

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

61 one day to five years, suspend the person's license from one day to six days, or
62 revoke the person's license for such period as the department deems
63 appropriate. The applicant or licensee shall have the right to appeal the decision
64 of the administrative hearing commission and department in the manner
65 provided in chapter 536.

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

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

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

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

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

93 (4) Three or more occurrences of violations which have been established
94 following proceedings before the administrative hearing commission under
95 subsection 3 of this section, or which have been established following proceedings
96 before the director under subsection 6 of this section, of this chapter and chapters

97 143, 144, 306, 307, 578, and 643 or of any lawful rule or regulation adopted under
98 this chapter and chapters 143, 144, 306, 307, 578, and 643, not previously set
99 forth herein.

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

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

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

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

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

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

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

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

133 of the order. The written order of the director or his or her hearing officer shall
134 be the final decision of the director and shall be subject to judicial review under
135 the provisions of chapter 536.

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

139 7. In lieu of acting under subsection 2 or 6 of this section, the department
140 of revenue may enter into an agreement with the holder of the license to ensure
141 future compliance with sections 301.210, 301.213, 307.380, sections 301.217 to
142 301.229, and sections 301.550 to 301.580. Such agreement may include an
143 assessment fee not to exceed five hundred dollars per violation or five thousand
144 dollars in the aggregate unless otherwise permitted by law, probation terms and
145 conditions, and other requirements as may be deemed appropriate by the
146 department of revenue and the holder of the license. Any fees collected by the
147 department of revenue under this subsection shall be deposited into the motor
148 vehicle commission fund created in section 301.560.

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

19 2. If any person subpoenaed to appear at any hearing or proceeding fails
20 to obey the command of such subpoena without reasonable cause or if any person

21 attending a hearing or proceeding shall, without reasonable cause, refuse to be
22 sworn or to be examined or to answer a question or to produce a book or paper or
23 to subscribe or swear to his deposition, such person is guilty of a class B
24 misdemeanor and on conviction thereof shall be punished by a fine of not more
25 than five hundred dollars, or by imprisonment in the county jail for not more
26 than one year, or by both such fine and imprisonment, and in the case of a
27 continuing violation, each day's continuance thereof shall be a separate and
28 distinct offense.

301.564. 1. Any person or his agent licensed or registered as a
2 manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, boat dealer,
3 wholesale motor vehicle auction or a public motor vehicle auction pursuant to the
4 provisions of sections 301.550 to [301.573] **301.580**, shall permit an employee of
5 the department of revenue or any law enforcement official to inspect, during
6 normal business hours, any of the following documents which are in his
7 possession or under his custody or control:

- 8 (1) Any title to any motor vehicle or vessel;
- 9 (2) Any application for title to any motor vehicle or vessel;
- 10 (3) Any affidavit provided pursuant to sections 301.550 to [301.573]
11 **301.580** or chapter 407;
- 12 (4) Any assignment of title to any motor vehicle or vessel;
- 13 (5) Any disclosure statement or other document relating to mileage or
14 odometer readings required by the laws of the United States or any other state;
- 15 (6) Any inventory and related documentation.

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

- 18 (1) Attorney general, or any person designated by him to make such an
19 inspection;
- 20 (2) Any prosecuting attorney or any person designated by a prosecuting
21 attorney to make such an inspection;
- 22 (3) Any member of the highway patrol or water patrol;
- 23 (4) Any sheriff or deputy sheriff;
- 24 (5) Any peace officer certified pursuant to chapter 590 acting in his official
25 capacity.

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. The department
18 shall consider such events to be proper in all respects and as if each dealer
19 participant was conducting business at the dealer's usual business
20 location. Nothing contained in this section shall be construed as applying to the
21 sale of motor vehicles or trailers through either a wholesale motor vehicle auction
22 or public motor vehicle auction.] **Except as provided in this section, it shall**
23 **be unlawful for a motor vehicle dealer to sell or offer to sell any motor**
24 **vehicle away from the dealer's registered place of business.**

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

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

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

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

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

39 (5)] The sale of vehicles at off-site sales shall be limited to sales by a seller

40 of vehicles used and titled solely in its ordinary course of business, and such sales
41 shall be held in conjunction with a credit union and limited to members of the
42 credit union, thus constituting a private sale to be advertised to members only[;].

43 [(6)] **3.** Off-site sales by a seller of vehicles used and titled solely in its
44 ordinary course of business may also be held in conjunction with other financial
45 institutions provided that any such sale event shall be held on the premises of the
46 financial institution, and sales shall be limited to persons who were customers of
47 the financial institution prior to the date of the sale event. Off-site sales held
48 with such other financial institutions shall be limited to one sale per year per
49 institution[;

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

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

59 **(1) The off-premise event shall be conducted for not more than**
60 **five consecutive days;**

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

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

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

69 **(3) A majority of motor vehicle dealers within a class of dealers**
70 **described in subsection 3 of section 301.550 that are located within the**
71 **city or town in which the off-premise event is situated participate in**
72 **the event or are notified via mail or electronic means and have the**
73 **opportunity to participate in the event;**

74 **(4) A majority of motor vehicle dealers within a class of dealers**
75 **described in subsection 3 of section 301.550 that are located within a**

76 **ten mile radius of the location of the off-premise event participate in**
77 **the event or are notified via mail or electronic means and have the**
78 **opportunity to participate in the event;**

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

83 **(6) The organizer of the off-premise event shall provide a copy**
84 **of the notices issued pursuant to subsections (3) and (4) of this section**
85 **to the director at the time they are mailed or electronically transmitted**
86 **to the prospective participants; and**

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

89 **[3.] 5. Provided the requirements of this section are met, the**
90 **department shall consider such events to be proper in all respects and**
91 **as if each dealer participant was conducting business at the dealer's**
92 **usual business location. Nothing contained in this section shall be**
93 **construed as applying to the sale of motor vehicles or trailers through**
94 **either a wholesale motor vehicle auction or public motor vehicle**
95 **auction. A recreational motor vehicle dealer, as classified by**
96 **subdivision (5) of subsection 3 of section 301.550, may participate in an**
97 **off-premise event even if a majority of recreational motor vehicle**
98 **dealers in a city or town do not participate in the event.**

99 **6. A recreational vehicle dealer, as that term is defined in section 700.010,**
100 **who is licensed in another state may participate in recreational vehicle shows or**
101 **exhibits with recreational vehicles within this state in which less than fifty**
102 **dealers participate as exhibitors with permission of the dealer's licensed**
103 **manufacturer if all of the following conditions exist:**

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

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

108 **(3) The state in which the recreational vehicle is licensed is a state**
109 **contiguous to Missouri and the state permits recreational vehicle dealers licensed**
110 **in Missouri to participate in recreational vehicle shows in such state pursuant to**
111 **conditions substantially equivalent to the conditions which are imposed on**

112 dealers from such state who participate in recreational vehicle shows in Missouri.

113 [4.] 7. A recreational vehicle dealer licensed in another state may
114 participate in a vehicle show or exhibition in Missouri which has, when it opens
115 to the public, at least fifty dealers displaying recreational vehicles if the show or
116 exhibition is trade-oriented and is predominantly funded by recreational vehicle
117 manufacturers. All of the participating dealers who are not licensed in Missouri
118 shall be licensed as recreational vehicle dealers by the state of their residence.

119 [5.] 8. A recreational vehicle dealer licensed in another state who intends
120 to participate in a vehicle show or exhibition in this state shall send written
121 notification of such intended participation to the department of revenue at least
122 thirty days prior to the vehicle show or exhibition. Upon receipt of such written
123 notification, the department of revenue shall make a determination regarding
124 compliance with the provisions of this section. If such recreational vehicle dealer
125 would be unable to participate in the vehicle show or exhibition in this state
126 pursuant to this section, the department of revenue shall notify the recreational
127 vehicle dealer at least fifteen days prior to the vehicle show or exhibition of the
128 inability to participate in the vehicle show or exhibition in this state.

129 [6.] 9. The department [of revenue] may assess a fine of up to one
130 thousand dollars for **the off-premise sale or display of any motor vehicle**
131 **in violation of this section.**

301.568. New motor vehicles may be exchanged for resale from one new
2 motor vehicle [franchise] **franchised** dealer to another who is franchised to sell
3 the same make of new motor vehicles by assignment of the manufacturer's
4 statement of origin. Such exchange shall not be deemed to be a sale and shall not
5 require the motor vehicle dealer to register and make application for a certificate
6 of ownership as set out in this chapter. However, when an exchange by
7 assignment of the manufacturer's statement of origin is between a new motor
8 vehicle [franchise] **franchised** dealer and another motor vehicle dealer who has
9 a franchise for a different make of motor vehicle or a motor vehicle dealer who is
10 not a new motor vehicle [franchise] **franchised** dealer, the transaction shall be
11 deemed a sale and shall void the resale of that motor vehicle as a new motor
12 vehicle, and it shall be unlawful for any motor vehicle dealer to hold forth, offer
13 for sale, advertise or sell such motor vehicle as a new motor vehicle. A motor
14 vehicle dealer shall not assign ownership on any vehicle in a retail sale by the
15 assignment of a manufacturer's statement of origin unless he is [enfranchised]
16 **franchised** by the manufacturer to sell that particular make of vehicle; however,

17 this provision shall not take effect if the motor vehicle dealer and the
18 manufacturer are in the process of negotiating a new franchise agreement, or the
19 motor vehicle dealer has filed a timely protest to the manufacturer or appealed
20 under section 407.825 of the motor vehicle franchise practices act. The provisions
21 of this section shall not apply to mobile homes or trailers.

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

8 (1) Licensed as a motor vehicle dealer by the department under the
9 provisions of sections 301.550 to [301.573] **301.580**;

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

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

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

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

22 3. For the purposes of sections 301.550 to [301.573] **301.580**, the sale,
23 barter, exchange, lease or rental with option to purchase of six or more motor
24 vehicles in a calendar year by any person, partnership, corporation, company or
25 association, whether or not the motor vehicles are owned by them, shall be prima
26 facie evidence of intent to make a profit or gain of money and such person,
27 partnership, corporation, company or association shall be deemed to be acting as
28 a motor vehicle dealer without a license.

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

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

✓

Unofficial

Bill

Copy