

SECOND REGULAR SESSION

# SENATE BILL NO. 1046

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

Read 1st time February 26, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5632S.011

## AN ACT

To repeal section 301.558, RSMo, and to enact in lieu thereof one new section relating to administrative fees imposed by dealers licensed by the department of revenue, with an existing penalty provision.

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

Section A. Section 301.558, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.558, to read as follows:

301.558. 1. A motor vehicle dealer, boat dealer, or powersport dealer may fill in the blanks on standardized forms in connection with the sale or lease of a new or used motor vehicle, vessel, or vessel trailer if the motor vehicle dealer, boat dealer, or powersport dealer does not charge for the services of filling in the blanks or otherwise charge for preparing documents.

2. A motor vehicle dealer, boat dealer, or powersport dealer may charge an administrative fee in connection with the sale or lease of a new or used motor vehicle, vessel, or vessel trailer for the storage of documents or any other administrative or clerical services not prohibited by this section. A portion of the administrative fee may result in profit to the motor vehicle dealer, boat dealer, or powersport dealer.

3. No motor vehicle dealer, boat dealer, or powersport dealer that sells or leases new or used motor vehicles, vessels, or vessel trailers and imposes an administrative fee of [less than two] **four** hundred dollars **or less** in connection with the sale or lease of a new or used vehicle, vessel, or vessel trailer for the storage of documents or any other administrative or clerical services shall be deemed to be engaging in the unauthorized practice of law. **The maximum administrative fee permitted under this subsection shall be increased**

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

19 **annually by an amount equal to the percentage change in the annual**  
20 **average of the Consumer Price Index for All Urban Consumers or its**  
21 **successor index, as reported by the federal Bureau of Labor Statistics**  
22 **or its successor agency, or by zero, whichever is greater. The director**  
23 **of the department of revenue shall annually furnish the maximum**  
24 **administrative fee determined under this section to the secretary of**  
25 **state, who shall publish such value in the Missouri register as soon as**  
26 **practicable after January fourteenth of each year.**

27 4. If an administrative fee is charged under this section, the **same**  
28 administrative fee shall be charged to all retail customers **[and] unless the fee**  
29 **is limited by the dealer's franchise agreement to certain classes of**  
30 **customers. The fee shall be** disclosed on the retail buyer's order form as a  
31 separate itemized charge.

32 5. A preliminary worksheet on which a sale price is computed and that is  
33 shown to the purchaser, a retail buyer's order form from the purchaser, or a retail  
34 installment contract shall include, in reasonable proximity to the place on the  
35 document where the administrative fee authorized by this section is disclosed, the  
36 amount of the administrative fee and the following notice in type that is  
37 boldfaced, capitalized, underlined, or otherwise conspicuously set out from the  
38 surrounding written material:

39 "AN ADMINISTRATIVE FEE IS NOT AN OFFICIAL FEE AND IS  
40 NOT REQUIRED BY LAW BUT MAY BE CHARGED BY A  
41 DEALER. THIS ADMINISTRATIVE FEE MAY RESULT IN A  
42 PROFIT TO DEALER. NO PORTION OF THIS  
43 ADMINISTRATIVE FEE IS FOR THE DRAFTING,  
44 PREPARATION, OR COMPLETION OF DOCUMENTS OR THE  
45 PROVIDING OF LEGAL ADVICE. THIS NOTICE IS REQUIRED  
46 BY LAW."

47 6. The general assembly believes that an administrative fee charged in  
48 compliance with this section is not the unauthorized practice of law or the  
49 unauthorized business of law so long as the activity or service for which the fee  
50 is charged is in compliance with the provisions of this section and does not result  
51 in the waiver of any rights or remedies. Recognizing, however, that the judiciary  
52 is the sole arbitrator of what constitutes the practice of law, in the event that a  
53 court determines that an administrative fee charged in compliance with this  
54 section, and that does not waive any rights or remedies of the buyer, is the

55 unauthorized practice of law or the unauthorized business of law, then no person  
56 who paid that administrative fee may recover said fee or treble damages, as  
57 permitted under section 484.020, and no person who charged that fee shall be  
58 guilty of a misdemeanor, as provided under section 484.020.

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Unofficial

Bill

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