

# SENATE BILL NO. 1016

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BERNSKOETTER.

4332S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 301.560, RSMo, and to enact in lieu thereof one new section relating to motor vehicle dealers.

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

Section A. Section 301.560, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 301.560,  
3 to read as follows:

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

4 (1) Every application other than a renewal application  
5 for a motor vehicle franchise dealer shall include a  
6 certification that the applicant has a bona fide established  
7 place of business. Such application shall include an annual  
8 certification that the applicant has a bona fide established  
9 place of business for the first three years and only for  
10 every other year thereafter. The certification shall be  
11 performed by a uniformed member of the Missouri state  
12 highway patrol or authorized or designated employee  
13 stationed in the troop area in which the applicant's place  
14 of business is located; except that in counties of the first  
15 classification, certification may be performed by an officer  
16 of a metropolitan police department when the applicant's  
17 established place of business of distributing or selling  
18 motor vehicles or trailers is in the metropolitan area where

19 the certifying metropolitan police officer is employed.  
20 When the application is being made for licensure as a boat  
21 manufacturer or boat dealer, certification shall be  
22 performed by a uniformed member of the Missouri state  
23 highway patrol or authorized or designated employee  
24 stationed in the troop area in which the applicant's place  
25 of business is located or, if the applicant's place of  
26 business is located within the jurisdiction of a  
27 metropolitan police department in a first class county, by  
28 an officer of such metropolitan police department. A bona  
29 fide established place of business for any new motor vehicle  
30 franchise dealer, used motor vehicle dealer, boat dealer,  
31 powersport dealer, wholesale motor vehicle dealer, trailer  
32 dealer, or wholesale or public auction shall be a permanent  
33 enclosed building or structure, either owned in fee or  
34 leased and actually occupied as a place of business by the  
35 applicant for the selling, bartering, trading, servicing, or  
36 exchanging of motor vehicles, boats, personal watercraft, or  
37 trailers and wherein the public may contact the owner or  
38 operator at any reasonable time, and wherein shall be kept  
39 and maintained the books, records, files and other matters  
40 required and necessary to conduct the business. The  
41 applicant shall maintain a working telephone number during  
42 the entire registration year which will allow the public,  
43 the department, and law enforcement to contact the applicant  
44 during regular business hours. The applicant shall also  
45 maintain an email address during the entire registration  
46 year which may be used for official correspondence with the  
47 department. In order to qualify as a bona fide established  
48 place of business for all applicants licensed pursuant to  
49 this section there shall be an exterior sign displayed  
50 carrying the name of the business set forth in letters at

51 least six inches in height and clearly visible to the public  
52 and there shall be an area or lot which shall not be a  
53 public street on which multiple vehicles, boats, personal  
54 watercraft, or trailers may be displayed. The sign shall  
55 contain the name of the dealership by which it is known to  
56 the public through advertising or otherwise, which need not  
57 be identical to the name appearing on the dealership's  
58 license so long as such name is registered as a fictitious  
59 name with the secretary of state, has been approved by its  
60 line-make manufacturer in writing in the case of a new motor  
61 vehicle franchise dealer and a copy of such fictitious name  
62 registration has been provided to the department. Dealers  
63 who sell only emergency vehicles as defined in section  
64 301.550 are exempt from maintaining a bona fide place of  
65 business, including the related law enforcement  
66 certification requirements, and from meeting the minimum  
67 yearly sales;

68 (2) The initial application for licensure shall  
69 include a photograph, not to exceed eight inches by ten  
70 inches but no less than five inches by seven inches, showing  
71 the business building, lot, and sign. A new motor vehicle  
72 franchise dealer applicant who has purchased a currently  
73 licensed new motor vehicle franchised dealership shall be  
74 allowed to submit a photograph of the existing dealership  
75 building, lot and sign but shall be required to submit a new  
76 photograph upon the installation of the new dealership sign  
77 as required by sections 301.550 to 301.580. Applicants  
78 shall not be required to submit a photograph annually unless  
79 the business has moved from its previously licensed  
80 location, or unless the name of the business or address has  
81 changed, or unless the class of business has changed;

82           (3) Every applicant as a new motor vehicle franchise  
83 dealer, a used motor vehicle dealer, a powersport dealer, a  
84 wholesale motor vehicle dealer, trailer dealer, or boat  
85 dealer shall furnish with the application a corporate surety  
86 bond or an irrevocable letter of credit as defined in  
87 section 400.5-102, issued by any state or federal financial  
88 institution in the penal sum of fifty thousand dollars on a  
89 form approved by the department. The bond or irrevocable  
90 letter of credit shall be conditioned upon the dealer  
91 complying with the provisions of the statutes applicable to  
92 new motor vehicle franchise dealers, used motor vehicle  
93 dealers, powersport dealers, wholesale motor vehicle  
94 dealers, trailer dealers, and boat dealers, and the bond  
95 shall be an indemnity for any loss sustained by reason of  
96 the acts of the person bonded when such acts constitute  
97 grounds for the suspension or revocation of the dealer's  
98 license. The bond shall be executed in the name of the  
99 state of Missouri for the benefit of all aggrieved parties  
100 or the irrevocable letter of credit shall name the state of  
101 Missouri as the beneficiary; except, that the aggregate  
102 liability of the surety or financial institution to the  
103 aggrieved parties shall, in no event, exceed the amount of  
104 the bond or irrevocable letter of credit. Additionally,  
105 every applicant as a new motor vehicle franchise dealer, a  
106 used motor vehicle dealer, a powersport dealer, a wholesale  
107 motor vehicle dealer, or boat dealer shall furnish with the  
108 application a copy of a current dealer garage policy bearing  
109 the policy number and name of the insurer and the insured.  
110 The proceeds of the bond or irrevocable letter of credit  
111 furnished by an applicant shall be paid upon receipt by the  
112 department of a final judgment from a Missouri court of  
113 competent jurisdiction against the principal and in favor of

114 an aggrieved party. The proceeds of the bond or irrevocable  
115 letter of credit furnished by an applicant shall be paid at  
116 the order of the department and in the amount determined by  
117 the department to any buyer or interested lienholder up to  
118 the greater of the amount required for the release of the  
119 purchase money lien or the sales price paid by the buyer  
120 where a dealer has failed to fulfill the dealer's  
121 obligations under an agreement to assign and deliver title  
122 to the buyer within thirty days under a contract entered  
123 into pursuant to subsection 5 of section 301.210. The  
124 department shall direct release of the bond or irrevocable  
125 letter of credit proceeds upon presentation of a written  
126 agreement entered into pursuant to subsection 5 of section  
127 301.210, copies of the associated sales and finance  
128 documents, and the affidavit or affidavits of the buyer or  
129 lienholder stating that the certificate of title with  
130 assignment thereof has not been passed to the buyer within  
131 thirty days of the date of the contract entered into under  
132 subsection 5 of section 301.210, that the dealer has not  
133 fulfilled the agreement under the contract to repurchase the  
134 vehicle, that the buyer or the lienholder has notified the  
135 dealer of the claim on the bond or letter of credit, and the  
136 amount claimed by the purchaser or lienholder. In addition,  
137 prior to directing release and payment of the proceeds of a  
138 bond or irrevocable letter of credit, the department shall  
139 ensure that there is satisfactory evidence to establish that  
140 the vehicle which is subject to the written agreement has  
141 been returned by the buyer to the dealer or that the buyer  
142 has represented to the department that the buyer will  
143 surrender possession of the vehicle to the dealer upon  
144 payment of the proceeds of the bond or letter of credit  
145 directed by the department. Excepting ordinary wear and

146 tear or mechanical failures not caused by the buyer, the  
147 amount of proceeds to be paid to the buyer under the bond or  
148 irrevocable letter of credit shall be reduced by an amount  
149 equivalent to any damage, abuse, or destruction incurred by  
150 the vehicle while the vehicle was in the buyer's possession  
151 as agreed between the buyer and the dealer. The dealer may  
152 apply to a court of competent jurisdiction to contest the  
153 claim on the bond or letter of credit, including the amount  
154 of the claim and the amount of any adjustment for any  
155 damage, abuse, or destruction, by filing a petition with the  
156 court within thirty days of the notification by the buyer or  
157 lienholder. If the dealer does not fulfill the agreement or  
158 file a petition to request judicial relief from the terms of  
159 the agreement or contest the amount of the claim, the bond  
160 or letter of credit shall be released by the department and  
161 directed paid in the amount or amounts presented by the  
162 lienholder or buyer;

163 (4) Payment of all necessary license fees as  
164 established by the department. In establishing the amount  
165 of the annual license fees, the department shall, as near as  
166 possible, produce sufficient total income to offset  
167 operational expenses of the department relating to the  
168 administration of sections 301.550 to 301.580. All fees  
169 payable pursuant to the provisions of sections 301.550 to  
170 301.580, other than those fees collected for the issuance of  
171 dealer plates or certificates of number collected pursuant  
172 to subsection 6 of this section, shall be collected by the  
173 department for deposit in the state treasury to the credit  
174 of the "Motor Vehicle Commission Fund", which is hereby  
175 created. The motor vehicle commission fund shall be  
176 administered by the Missouri department of revenue. The  
177 provisions of section 33.080 to the contrary

178 notwithstanding, money in such fund shall not be transferred  
179 and placed to the credit of the general revenue fund until  
180 the amount in the motor vehicle commission fund at the end  
181 of the biennium exceeds two times the amount of the  
182 appropriation from such fund for the preceding fiscal year  
183 or, if the department requires permit renewal less  
184 frequently than yearly, then three times the appropriation  
185 from such fund for the preceding fiscal year. The amount,  
186 if any, in the fund which shall lapse is that amount in the  
187 fund which exceeds the multiple of the appropriation from  
188 such fund for the preceding fiscal year.

189         2. In the event a new vehicle manufacturer, boat  
190 manufacturer, motor vehicle dealer, wholesale motor vehicle  
191 dealer, boat dealer, powersport dealer, wholesale motor  
192 vehicle auction, trailer dealer, or a public motor vehicle  
193 auction submits an application for a license for a new  
194 business and the applicant has complied with all the  
195 provisions of this section, the department shall make a  
196 decision to grant or deny the license to the applicant  
197 within eight working hours after receipt of the dealer's  
198 application, notwithstanding any rule of the department.

199         3. Except as otherwise provided in subsection 6 of  
200 this section, upon the initial issuance of a license by the  
201 department, the department shall assign a distinctive dealer  
202 license number or certificate of number to the applicant and  
203 the department shall issue one number plate or certificate  
204 bearing the distinctive dealer license number or certificate  
205 of number and two additional number plates or certificates  
206 of number within eight working hours after presentment of  
207 the application and payment by the applicant of a fee of  
208 fifty dollars for the first plate or certificate and ten  
209 dollars and fifty cents for each additional plate or

210 certificate. Upon renewal, the department shall issue the  
 211 distinctive dealer license number or certificate of number  
 212 as quickly as possible. The issuance of such distinctive  
 213 dealer license number or certificate of number shall be in  
 214 lieu of registering each motor vehicle, trailer, vessel or  
 215 vessel trailer dealt with by a boat dealer, boat  
 216 manufacturer, manufacturer, public motor vehicle auction,  
 217 wholesale motor vehicle dealer, wholesale motor vehicle  
 218 auction or new or used motor vehicle dealer. The license  
 219 plates described in this section shall be made with fully  
 220 reflective material with a common color scheme and design,  
 221 shall be clearly visible at night, and shall be  
 222 aesthetically attractive, as prescribed by section 301.130.

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

226	New motor vehicle franchise	D-0 through D-999
227	dealers	
228	New powersport dealers	D-1000 through D-1999
229	Used motor vehicle and used	D-2000 through D-9999
230	powersport dealers	
231	Wholesale motor vehicle dealers	W-0 through W-1999
232	Wholesale motor vehicle auctions	WA-0 through WA-999
233	New and used trailer dealers	T-0 through T-9999
234	Motor vehicle, trailer, and boat	DM-0 through DM-999
235	manufacturers	
236	Public motor vehicle auctions	A-0 through A-1999
237	Boat dealers	M-0 through M-9999



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

240 For purposes of this subsection, qualified transactions  
241 shall include the purchase of salvage titled vehicles by a  
242 licensed salvage dealer. A used motor vehicle dealer who  
243 also holds a salvage dealer's license shall be allowed one  
244 additional plate or certificate number per fifty-unit  
245 qualified transactions annually. In order for salvage  
246 dealers to obtain number plates or certificates under this  
247 section, dealers shall submit to the department of revenue  
248 on August first of each year a statement certifying, under  
249 penalty of perjury, the dealer's number of purchases during  
250 the reporting period of July first of the immediately  
251 preceding year to June thirtieth of the present year. The  
252 provisions of this subsection shall become effective on the  
253 date the director of the department of revenue begins to  
254 reissue new license plates under section 301.130, or on  
255 December 1, 2008, whichever occurs first. If the director  
256 of revenue begins reissuing new license plates under the  
257 authority granted under section 301.130 prior to December 1,  
258 2008, the director of the department of revenue shall notify  
259 the revisor of statutes of such fact.

260 5. Upon the sale of a currently licensed motor vehicle  
261 dealership the department shall, upon request, authorize the  
262 new approved dealer applicant to retain the selling dealer's  
263 license number and shall cause the new dealer's records to  
264 indicate such transfer. If the new approved dealer  
265 applicant elects not to retain the selling dealer's license  
266 number, the department shall issue the new dealer applicant  
267 a new dealer's license number and an equal number of plates

268 or certificates as the department had issued to the selling  
269 dealer.

270           6. In the case of motor vehicle dealers, the  
271 department shall issue one number plate bearing the  
272 distinctive dealer license number and may issue one  
273 additional number plate to the applicant upon payment by the  
274 dealer of a fifty dollar fee for the number plate bearing  
275 the distinctive dealer license number and ten dollars and  
276 fifty cents for the additional number plate. The department  
277 may issue a third plate to the motor vehicle dealer upon  
278 completion of the dealer's fifteenth qualified transaction  
279 and payment of a fee of ten dollars and fifty cents. In the  
280 case of new motor vehicle manufacturers, powersport dealers,  
281 recreational motor vehicle dealers, and trailer dealers, the  
282 department shall issue one number plate bearing the  
283 distinctive dealer license number and may issue two  
284 additional number plates to the applicant upon payment by  
285 the manufacturer or dealer of a fifty dollar fee for the  
286 number plate bearing the distinctive dealer license number  
287 and ten dollars and fifty cents for each additional number  
288 plate. Boat dealers and boat manufacturers shall be  
289 entitled to one certificate of number bearing such number  
290 upon the payment of a fifty dollar fee. Additional number  
291 plates and as many additional certificates of number may be  
292 obtained upon payment of a fee of ten dollars and fifty  
293 cents for each additional plate or certificate. New motor  
294 vehicle manufacturers shall not be issued or possess more  
295 than three hundred forty-seven additional number plates or  
296 certificates of number annually. New and used motor vehicle  
297 dealers, powersport dealers, wholesale motor vehicle  
298 dealers, boat dealers, and trailer dealers are limited to  
299 one additional plate or certificate of number per ten-unit

300 qualified transactions annually. New and used recreational  
301 motor vehicle dealers are limited to two additional plates  
302 or certificate of number per ten-unit qualified transactions  
303 annually for their first fifty transactions and one  
304 additional plate or certificate of number per ten-unit  
305 qualified transactions thereafter. An applicant seeking the  
306 issuance of an initial license shall indicate on his or her  
307 initial application the applicant's proposed annual number  
308 of sales in order for the director to issue the appropriate  
309 number of additional plates or certificates of number. A  
310 motor vehicle dealer, trailer dealer, boat dealer,  
311 powersport dealer, recreational motor vehicle dealer, motor  
312 vehicle manufacturer, boat manufacturer, or wholesale motor  
313 vehicle dealer obtaining a distinctive dealer license plate  
314 or certificate of number or additional license plate or  
315 additional certificate of number, throughout the calendar  
316 year, shall be required to pay a fee for such license plates  
317 or certificates of number computed on the basis of one-  
318 twelfth of the full fee prescribed for the original and  
319 duplicate number plates or certificates of number for such  
320 dealers' licenses, multiplied by the number of months  
321 remaining in the licensing period for which the dealer or  
322 manufacturers shall be required to be licensed. In the  
323 event of a renewing dealer, the fee due at the time of  
324 renewal shall not be prorated. Wholesale and public  
325 auctions shall be issued a certificate of dealer  
326 registration in lieu of a dealer number plate. In order for  
327 dealers to obtain number plates or certificates under this  
328 section, dealers shall submit to the department of revenue  
329 on August first of each year a statement certifying, under  
330 penalty of perjury, the dealer's number of sales during the

331 reporting period of July first of the immediately preceding  
332 year to June thirtieth of the present year.

333         7. The plates issued pursuant to subsection 3 or 6 of  
334 this section may be displayed on any motor vehicle owned by  
335 a new motor vehicle manufacturer. The plates issued  
336 pursuant to subsection 3 or 6 of this section may be  
337 displayed on any motor vehicle or trailer owned and held for  
338 resale by a motor vehicle dealer for use by a customer who  
339 is test driving the motor vehicle, for use by any customer  
340 while the customer's vehicle is being serviced or repaired  
341 by the motor vehicle dealer, for use and display purposes  
342 during, but not limited to, parades, private events,  
343 charitable events, or for use by an employee or officer, but  
344 shall not be displayed on any motor vehicle or trailer hired  
345 or loaned to others or upon any regularly used service or  
346 wrecker vehicle. Motor vehicle dealers may display their  
347 dealer plates on a tractor, truck or trailer to demonstrate  
348 a vehicle under a loaded condition. Trailer dealers may  
349 display their dealer license plates in like manner, except  
350 such plates may only be displayed on trailers owned and held  
351 for resale by the trailer dealer.

352         8. The certificates of number issued pursuant to  
353 subsection 3 or 6 of this section may be displayed on any  
354 vessel or vessel trailer owned and held for resale by a boat  
355 manufacturer or a boat dealer, and used by a customer who is  
356 test driving the vessel or vessel trailer, or is used by an  
357 employee or officer on a vessel or vessel trailer only, but  
358 shall not be displayed on any motor vehicle owned by a boat  
359 manufacturer, boat dealer, or trailer dealer, or vessel or  
360 vessel trailer hired or loaned to others or upon any  
361 regularly used service vessel or vessel trailer. Boat  
362 dealers and boat manufacturers may display their certificate

363 of number on a vessel or vessel trailer when transporting a  
364 vessel or vessels to an exhibit or show.

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

371 10. (1) Every application for the issuance of a used  
372 motor vehicle dealer's license shall be accompanied by proof  
373 that the applicant, within the last twelve months, has  
374 completed an educational seminar course approved by the  
375 department as prescribed by subdivision (2) of this  
376 subsection. Wholesale and public auto auctions and  
377 applicants currently holding a new or used license for a  
378 separate dealership shall be exempt from the requirements of  
379 this subsection. The provisions of this subsection shall  
380 not apply to current new motor vehicle franchise dealers or  
381 motor vehicle leasing agencies or applicants for a new motor  
382 vehicle franchise or a motor vehicle leasing agency. The  
383 provisions of this subsection shall not apply to used motor  
384 vehicle dealers who were licensed prior to August 28, 2006.

385 (2) The educational seminar shall **be available online**  
386 **or in person, and shall** include, but is not limited to, the  
387 dealer requirements of sections 301.550 to 301.580, the  
388 rules promulgated to implement, enforce, and administer  
389 sections 301.550 to 301.580, and any other rules and  
390 regulations promulgated by the department.

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