

FIRST REGULAR SESSION

[P E R F E C T E D]

# SENATE BILL NO. 359

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS MUELLER, ROHRBACH AND WESTFALL.

Read 1st time January 27, 1999, and 1,000 copies ordered printed.

Read 2nd time February 2, 1999, and referred to the Committee on Transportation.

Reported from the Committee March 25, 1999, with recommendation that the bill do pass.

Taken up for Perfection April 7, 1999. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

S1284.02P

## AN ACT

To repeal sections 700.010, 700.015, 700.021, 700.025, 700.030, 700.035, 700.045, 700.050, 700.060, 700.090 and 700.100, RSMo 1994, and section 700.040, RSMo Supp. 1998, relating to manufactured housing, and to enact in lieu thereof twelve new sections relating to the same subject.

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

Section A. Sections 700.010, 700.015, 700.021, 700.025, 700.030, 700.035, 700.045, 700.050, 700.060, 700.090 and 700.100, RSMo 1994, and section 700.040, RSMo Supp. 1998, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 700.010, 700.015, 700.021, 700.025, 700.030, 700.035, 700.040, 700.045, 700.050, 700.060, 700.090 and 700.100, to read as follows:

700.010. As used in sections 700.010 to 700.500, for the purpose of sections 700.010 to 700.500, the following terms mean:

(1) "Authorized representative", any person, firm or corporation, or employee thereof, approved or hired by the commission to perform inspection services;

(2) "Code", the standards relating to manufactured homes, [recreational vehicles,] or modular units as adopted by the commission. The commission, in its discretion, may incorporate, in whole or in part, the standards codes promulgated by the American National Standards Institute, the United States Department of Housing and Urban Development or other recognized

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

agencies or organizations;

(3) "Commission", the public service commission;

(4) "Dealer", any person, other than a manufacturer, who sells or offers for sale four or more manufactured homes, [recreational vehicles,] or modular units in any consecutive twelve-month period;

(5) "Manufactured home", a factory-built structure or structures which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, contains three hundred twenty or more square feet, equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the manufactured home placed thereon may be moved from time to time at the convenience of the owner;

(6) "Manufacturer", any person who manufactures manufactured homes, [recreational vehicles,] or modular units, including persons who engage in importing manufactured homes, [recreational vehicles,] or modular units for resale;

(7) "Modular unit", a transportable building unit designed to be used by itself or to be incorporated with similar units at a point-of-use into a modular structure to be used for residential, commercial, educational or industrial purposes. This definition shall not apply to structures under six hundred fifty square feet used temporarily and exclusively for construction site office purposes;

(8) "New", being sold or offered for sale to the first purchaser for purposes other than resale;

(9) ["Park trailer", a modular type unit built on a single chassis mounted on wheels, designed primarily as temporary living quarters for seasonal or destination camping, and having a gross trailer area not exceeding four hundred square feet and not less than two hundred forty square feet in the setup mode;

(10)] "Person", an individual, partnership, corporation or other legal entity;

[(11)] **(10)** "Premises", a lot, plot, or parcel of land including the buildings, structures, and manufactured homes thereon;

**(11) "Recreational park trailer", a recreational park trailer as defined in the American National Standards Institute (ANSI) A119.5 Standard on Recreational Park Trailers. A recreational park trailer is not a recreational vehicle;**

(12) "Recreational vehicle", [a vehicular-type unit primarily designed to provide temporary living quarters for recreational, camping or travel, use that either has its own motive power, or is mounted on or towed by another vehicle] **a recreational vehicle as defined in the American National Standards Institute (ANSI) A119.2 Standard on Recreational**

**Vehicles;**

(13) "Seal", a device, label or insignia issued by the public service commission, U.S. Department of Housing and Urban Development, or its agent, to be displayed on the exterior of the manufactured home, [recreational vehicle,] or modular unit to evidence compliance with the code;

(14) "Setup", the operations performed at the occupancy site which renders a manufactured home or modular unit fit for habitation, which operations include, but are not limited to, moving, blocking, leveling, supporting, and assembling multiple or expandable units.

700.015. 1. No person shall rent, lease, sell or offer for sale any manufactured home manufactured after January 1, 1974, [or any new recreational vehicle within this state,] unless such manufactured home [or new recreational vehicle] complies with the code and bears the proper seal.

2. No person shall manufacture in this state any manufactured home, [recreational vehicle,] or modular unit for rent, lease or sale within the state which does not bear a seal evidencing compliance with the code.

3. Unless otherwise required by federal law or regulations, nothing in sections 700.010 to 700.115 shall apply to a manufactured home, [recreational vehicle,] or modular unit being built expressly for export and sold for use solely outside this state.

4. No person shall offer for rent, lease or sale a modular unit manufactured after January 1, 1974, unless such modular unit complies with the code and bears a seal issued by the commission evidencing compliance with the code.

**5. No manufacturer shall sell or offer for sale within this state:**

**(1) Any new recreational vehicle that is not manufactured in compliance with the American National Standards Institute (ANSI) A119.2 Standard on Recreational Vehicles; or**

**(2) Any new recreational park trailer that is not manufactured in compliance with the American National Standards Institute (ANSI) A119.5 Standard on Recreational Park Trailers.**

700.021. Seals may be issued by the commission when applied for with an affidavit certifying that the person applying will not attach a seal to any manufactured home, [recreational vehicle,] or modular unit that does not meet or exceed the code. Any registered dealer who has acquired a preowned manufactured home or modular unit without a seal may apply for a seal with an affidavit certifying that the preowned manufactured home or modular unit was brought up to or otherwise meets the requirements of the code. No person may manufacture in this state any manufactured home or modular unit unless it bears a seal and certification certifying that the manufactured home or modular unit meets or exceeds the code. The certificate as to each manufactured home or modular unit shall be displayed in a manner to be prescribed by the

commission.

700.025. No person shall alter or cause to be altered any manufactured home, [recreational vehicle,] or modular unit to which a seal has been affixed, if such alteration or conversion causes the manufactured home, [recreational vehicle,] or modular unit to be in violation of the code.

700.030. Upon showing by a registered manufacturer or dealer that another state provides for the sealing of manufactured homes, [recreational vehicles,] or modular units in compliance with standards which are at least equal to those provided in the code and upon determination by the commission that such standards are being adequately enforced, the commission shall provide that a seal affixed under the authority of such state shall have the same effect as a seal affixed under authority of this state. The commission may make any such approval contingent upon such other state granting reciprocal effect to seals affixed under authority of this state and shall maintain a list of such states which shall be available on request.

700.035. **1.** If a manufactured home, [recreational vehicle] or modular unit carries a seal as provided in sections 700.010 to 700.115, no agency of this state, nor any municipality or other local governmental body shall require such manufactured home, [recreational vehicle,] or modular unit to comply with any other building, plumbing, heating or electrical code other than the code established by sections 700.010 to 700.115.

**2. No agency of this state, nor any municipality or other local governmental body shall:**

**(1) Require a recreational vehicle or recreational park trailer to comply with any building, plumbing, heating or electrical code other than those established by the respective American National Standard Institute (ANSI) A119.2 standard or A119.5 standard; or**

**(2) Institute any recreational vehicle or recreational park trailer inspection program to determine such vehicles' compliance with the applicable ANSI A119.2 or A119.5 standard.**

700.040. **1.** The commission shall, through its own inspection service or through a public or private inspection service acting as its authorized representative, perform sufficient inspections of manufacturing and dealer premises and manufactured homes, [recreational vehicles,] and modular units to ensure that the provisions of the code are being observed. The commission shall approve any designation of a public or private inspection service as an authorized representative. The commission shall establish a comprehensive inspection system, including a determination of the extent to which its own inspectors or authorized representatives are used. The inspections may include examination of all books, records, performance and technical data of a manufacturer related to the subject matter of sections 700.010 to 700.115.

**2.** The commission shall establish reasonable fees for seals or inspection, or both, which are sufficient to cover all costs incurred in the administration of sections 700.010 to 700.115. Fees

for inspections made by private inspection services may be paid directly to the inspection service. The commission, upon issuing seals, registration certificates, and plan approvals, and conducting inspections provided for in sections 700.010 to 700.115, shall notify the director of revenue, who shall receive the fees and immediately deposit the same in the state treasury to the credit of a fund to be known as the "Manufactured Housing Fund". All salaries and expenses for the implementation of sections 700.010 to 700.115 shall be appropriated and paid from such fund.

3. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the fund for the preceding year.

4. The commission may appoint such employees within its department as it may deem necessary for the administration of the provisions of sections 700.010 to 700.115.

5. The commission may issue and promulgate such rules and regulations as necessary to make effective the code and the provisions of sections 700.010 to 700.115. [No rule or portion of a rule promulgated under the authority of sections 700.010 to 700.115 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in sections 700.010 to 700.115 shall become effective only if they have been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to the effective date of this section is of no force and effect; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to the effective date of this section if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.**

6. The commission may remove seals from any manufactured home, [recreational vehicle] or modular unit made by any manufacturer in violation of the provisions of section 700.045.

7. Notwithstanding any other provisions of sections 700.010 to 700.115, the commission shall have the authority to enter into any contract or agreement necessary to comply with the statutes and regulations enforced by and under the authority of the United States Department of Housing and Urban Development relating to manufactured homes, [recreational vehicles] and modular housing.

8. The commission may require manufacturers and dealers to file reports with the Secretary of the United States Department of Housing and Urban Development as may be required under the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401, et seq.).

700.045. It shall be a misdemeanor:

(1) For a manufacturer or dealer to manufacture, rent, lease, sell or offer to sell any manufactured home, [recreational vehicle] or modular unit after January 1, 1977, unless there is in effect a registration with the commission;

(2) To rent, lease, sell or offer to sell any manufactured home or modular unit manufactured after January 1, 1974, [or any new recreational vehicle] which does not bear a seal as required by sections 700.010 to 700.115;

(3) To affix a seal or cause a seal to be affixed to any manufactured home, [recreational vehicle,] or modular unit which does not comply with the code;

(4) To alter a manufactured home, [recreational vehicle,] or modular unit in a manner prohibited by the provisions of sections 700.010 to 700.115;

(5) To fail to correct a code violation in a manufactured home, [recreational vehicle,] or modular unit owned, manufactured or sold within a reasonable time not to exceed ninety days after being ordered to do so in writing by an authorized representative of the commission, if the same is manufactured after January 1, 1974; or

(6) To interfere with, obstruct, or hinder any authorized representative of the commission in the performance of his duties.

700.050. The issuance of seals to any manufacturer in violation of the provisions of sections 700.010 to 700.115 may be suspended by the commission and no further seals shall be issued to any such manufacturer except upon proof satisfactory to the commission that the conditions which brought about the violation have been remedied. Seals remain the property of the state and may be removed by the commission from any manufactured home, [recreational vehicle,] or modular unit which is in violation of the code.

700.060. As used in sections 700.060 to 700.115, the term "manufactured home" shall also include units defined in section 700.010 if such units are in two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing and includes two manufactured home units joined into a single residential or business unit which are kept on separate chassis for repeated towing. For the purposes of sections 700.060 to 700.115, a "manufactured home" shall not include a recreational vehicle **or a recreational park trailer.**

700.090. 1. Every manufacturer or dealer of manufactured homes who sells or offers for sale, on consignment or otherwise, a manufactured home, [recreational vehicle,] or modular unit from or in the state of Missouri shall register with the commission.

2. The commission shall issue a certificate of registration to a manufacturer who:

(1) Completes and files with the commission an application for registration which contains the following information:

(a) The name of the manufacturer;

(b) The address of the manufacturer and addresses of each factory owned or operated by the manufacturer, if different from the address of the manufacturer;

(c) If a corporation, the state of original incorporation, a list of the names and addresses of all officers and directors of the corporation, and proof of the filing of all franchise and sales tax forms required by Missouri law;

(d) If not a corporation, the name and address of the managing person or persons responsible for overall operation of the manufacturer;

(2) Files with the commission an initial registration fee of two hundred fifty dollars in the form of a cashier's check or money order made payable to the state of Missouri.

3. The commission shall issue a certificate of registration to a dealer who:

(1) Completes and files with the commission an application for registration which contains the following information:

(a) The name of the dealer;

(b) The business address of the dealer and addresses of each separate facility owned and operated by the dealer from which manufactured homes, [recreational vehicles,] or modular units are offered for sale if different from the business address of the dealer;

(c) If a corporation, the state of original incorporation, a list of the names and addresses of all officers and directors of the corporation, proof of the filing of all franchise and sales tax forms required by Missouri law;

(d) If not a corporation, the name and address of the managing person or persons responsible for the overall operations of the manufacturer;

(2) Files with the commission an initial registration fee of fifty dollars in the form of a cashier's check or money order made payable to the state of Missouri;

(3) Files with the commission proof of compliance with the provisions of section 301.250, RSMo, and section 301.280, RSMo.

4. The registration of any manufacturer or dealer shall be effective for a period of one year and shall be renewed by the commission upon receipt by it from the registered dealer of a renewal fee of two hundred fifty dollars for manufacturers and fifty dollars for dealers and a form provided by the commission upon which shall be placed any changes from the information requested on the initial registration form.

5. The commission may stagger the renewal of certificates of registration to provide for more equal distribution over the twelve months **of** the number of registration renewals.

700.100. 1. The commission may refuse to register or refuse to renew the registration of

any person who fails to comply with the provisions of section 700.090 or this section. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be delivered to the applicant within thirty days from date it is received by the commission. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be accompanied by a notice informing the recipient that the decision of the commission may be appealed as provided in chapter 386, RSMo.

2. The commission may consider a complaint filed with it charging a registered manufacturer or dealer with a violation of the provisions of this section, which charges, if proven, shall constitute grounds for revocation or suspension of his registration, or the placing of the registered manufacturer or dealer on probation.

3. The following specifications shall constitute grounds for the suspension, revocation or placing on probation of a manufacturer's or dealer's registration:

(1) If required, failure to comply with the provisions of section 301.250, RSMo, or section 301.280, RSMo;

(2) Failing to be in compliance with the provisions of section 700.090;

(3) If a corporation, failing to file all franchise or sales tax forms required by Missouri law;

(4) Engaging in any conduct which constitutes a violation of the provisions of section 407.020, RSMo;

(5) Failing to comply with the provisions of sections 2301-2312 of Title 15 of the United States Code (Magnuson-Moss Warranty Act);

(6) As a dealer, failing to arrange for the proper initial setup of any new or used manufactured home or modular unit sold from or in the state of Missouri, unless the dealer receives a written waiver of that service from the purchaser or his authorized agent and an amount equal to the actual cost of the setup is deducted from the total cost of the manufactured home or modular unit;

(7) Requiring any person to purchase any type of insurance from that manufacturer or dealer as a condition to his being sold any manufactured home, [recreational vehicle,] or modular unit;

(8) Requiring any person to arrange financing or utilize the services of any particular financing service as a condition to his being sold any manufactured home, [recreational vehicle,] or modular unit; provided, however, the registered manufacturer or dealer may reserve the right to establish reasonable conditions for the approval of any financing source;

(9) Engaging in conduct in violation of section 700.045;

(10) Failing to comply with the provisions of section 301.210, RSMo.