

FIRST REGULAR SESSION

SENATE BILL NO. 91

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NODLER.

Pre-filed December 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0326S.011

AN ACT

To repeal sections 301.550 and 301.560, RSMo, and to enact in lieu thereof two new sections relating to the sole purpose of exempting dealers who sell emergency vehicles from certain dealer licensure requirements.

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

Section A. Sections 301.550 and 301.560, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 301.550 and 301.560, to
3 read as follows:

301.550. 1. The definitions contained in section 301.010 shall apply to
2 sections 301.550 to 301.573, and in addition as used in sections 301.550 to
3 301.573, 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, barters, 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. The boat dealer shall demonstrate eligibility
12 for renewal of his license by selling six or more vessels or vessel trailers or both
13 in the prior calendar year while licensed as a boat dealer pursuant to sections
14 301.550 to 301.573;

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

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

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

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

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

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

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

34 [(7)] (8) "Motor vehicle dealer" or "dealer", any person who, for
35 commission or with an intent to make a profit or gain of money or other thing of
36 value, sells, barter, exchanges, leases or rents with the option to purchase, or
37 who offers or attempts to sell or negotiates the sale of motor vehicles or trailers
38 whether or not the motor vehicles or trailers are owned by such person; provided,
39 however, an individual auctioneer or auction conducted by an auctioneer licensed
40 pursuant to chapter 343, RSMo, shall not be included within the definition of a
41 motor vehicle dealer. The sale of six or more motor vehicles or trailers in any
42 calendar year shall be required as evidence that such person is engaged in the
43 motor vehicle business and is eligible for licensure as a motor vehicle dealer
44 under sections 301.550 to 301.573;

45 [(8)] (9) "New motor vehicle", any motor vehicle being transferred for the
46 first time from a manufacturer, distributor or new vehicle dealer which has not
47 been registered or titled in this state or any other state and which is offered for
48 sale, barter or exchange by a dealer who is franchised to sell, barter or exchange
49 that particular make of motor vehicle. The term "new motor vehicle" shall not
50 include manufactured homes, as defined in section 700.010, RSMo;

51 [(9)] (10) "New motor vehicle franchise dealer", any motor vehicle dealer
52 who has been franchised to deal in a certain make of motor vehicle by the
53 manufacturer or distributor of that make and motor vehicle and who may, in line

54 with conducting his business as a franchise dealer, sell, barter or exchange used
55 motor vehicles;

56 [(10)] **(11)** "Person" includes an individual, a partnership, corporation,
57 an unincorporated society or association, joint venture or any other entity;

58 [(11)] **(12)** "Powersport dealer", any motor vehicle dealer who sells, either
59 pursuant to a franchise agreement or otherwise, primarily motor vehicles
60 including but not limited to motorcycles, all-terrain vehicles, and personal
61 watercraft, as those terms are defined in this chapter and chapter 306, RSMo;

62 [(12)] **(13)** "Public motor vehicle auction", any person, firm or corporation
63 who takes possession of a motor vehicle whether by consignment, bailment or any
64 other arrangement, except by title, for the purpose of selling motor vehicles at a
65 public auction by a licensed auctioneer;

66 [(13)] **(14)** "Storage lot", an area, within the same city or county where
67 a dealer may store excess vehicle inventory;

68 [(14)] **(15)** "Used motor vehicle", any motor vehicle which is not a new
69 motor vehicle, as defined in sections 301.550 to 301.573, and which has been sold,
70 bartered, exchanged or given away or which may have had a title issued in this
71 state or any other state, or a motor vehicle so used as to be what is commonly
72 known as a secondhand motor vehicle. In the event of an assignment of the
73 statement of origin from an original franchise dealer to any individual or other
74 motor vehicle dealer other than a new motor vehicle franchise dealer of the same
75 make, the vehicle so assigned shall be deemed to be a used motor vehicle and a
76 certificate of ownership shall be obtained in the assignee's name. The term "used
77 motor vehicle" shall not include manufactured homes, as defined in section
78 700.010, RSMo;

79 [(15)] **(16)** "Used motor vehicle dealer", any motor vehicle dealer who is
80 not a new motor vehicle franchise dealer;

81 [(16)] **(17)** "Vessel", every boat and watercraft defined as a vessel in
82 section 306.010, RSMo;

83 [(17)] **(18)** "Vessel trailer", any trailer, as defined by section 301.010
84 which is designed and manufactured for the purposes of transporting vessels;

85 [(18)] **(19)** "Wholesale motor vehicle auction", any person, firm or
86 corporation in the business of providing auction services solely in wholesale
87 transactions at its established place of business in which the purchasers are
88 motor vehicle dealers licensed by this or any other jurisdiction, and which neither
89 buys, sells nor owns the motor vehicles it auctions in the ordinary course of its

90 business. Except as required by law with regard to the auction sale of a
91 government owned motor vehicle, a wholesale motor vehicle auction shall not
92 provide auction services in connection with the retail sale of a motor vehicle;

93 ~~[(19)]~~ **(20)** "Wholesale motor vehicle dealer", a motor vehicle dealer who
94 sells motor vehicles only to other new motor vehicle franchise dealers or used
95 motor vehicle dealers or via auctions limited to other dealers of any class.

96 2. For purposes of sections 301.550 to 301.573, neither the term "motor
97 vehicle" nor the term "trailer" shall include manufactured homes, as defined in
98 section 700.010, RSMo.

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

- 100 (1) Boat dealers;
- 101 (2) Franchised new motor vehicle dealers;
- 102 (3) Used motor vehicle dealers;
- 103 (4) Wholesale motor vehicle dealers;
- 104 (5) Recreational motor vehicle dealers;
- 105 (6) Historic motor vehicle dealers;
- 106 (7) Classic motor vehicle dealers; and
- 107 (8) Powersport dealers.

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. When the application is being made for licensure
6 as a manufacturer, motor vehicle dealer, wholesale motor vehicle dealer,
7 wholesale motor vehicle auction or a public motor vehicle auction, certification
8 shall be performed by a uniformed member of the Missouri state highway patrol
9 stationed in the troop area in which the applicant's place of business is located;
10 except, that in counties of the first classification, certification may be performed
11 by an officer of a metropolitan police department when the applicant's established
12 place of business of distributing or selling motor vehicles or trailers is in the
13 metropolitan area where the certifying metropolitan police officer is
14 employed. When the application is being made for licensure as a boat
15 manufacturer or boat dealer, certification shall be performed by a uniformed
16 member of the Missouri state water patrol stationed in the district area in which
17 the applicant's place of business is located or by a uniformed member of the
18 Missouri state highway patrol stationed in the troop area in which the applicant's

19 place of business is located or, if the applicant's place of business is located
20 within the jurisdiction of a metropolitan police department in a first class county,
21 by an officer of such metropolitan police department. A bona fide established
22 place of business for any new motor vehicle franchise dealer or used motor vehicle
23 dealer shall include a permanent enclosed building or structure, either owned in
24 fee or leased and actually occupied as a place of business by the applicant for the
25 selling, bartering, trading or exchanging of motor vehicles or trailers and wherein
26 the public may contact the owner or operator at any reasonable time, and wherein
27 shall be kept and maintained the books, records, files and other matters required
28 and necessary to conduct the business. The applicant's place of business shall
29 contain a working telephone which shall be maintained during the entire
30 registration year. In order to qualify as a bona fide established place of business
31 for all applicants licensed pursuant to this section there shall be an exterior sign
32 displayed carrying the name of the business set forth in letters at least six inches
33 in height and clearly visible to the public and there shall be an area or lot which
34 shall not be a public street on which one or more vehicles may be displayed,
35 except when licensure is for a wholesale motor vehicle dealer, a lot and sign shall
36 not be required. The sign shall contain the name of the dealership by which it
37 is known to the public through advertising or otherwise, which need not be
38 identical to the name appearing on the dealership's license so long as such name
39 is registered as a fictitious name with the secretary of state, has been approved
40 by its line-make manufacturer in writing in the case of a new motor vehicle
41 franchise dealer and a copy of such fictitious name registration has been provided
42 to the department. When licensure is for a boat dealer, a lot shall not be
43 required. In the case of new motor vehicle franchise dealers, the bona fide
44 established place of business shall include adequate facilities, tools and personnel
45 necessary to properly service and repair motor vehicles and trailers under their
46 franchisor's warranty. **Dealers who sell only emergency vehicles as**
47 **defined in section 301.550 are exempt from maintaining a bona fide**
48 **place of business, including the related law enforcement certification**
49 **requirements, and from meeting the minimum yearly sales;**

50 (2) If the application is for licensure as a manufacturer, boat
51 manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer,
52 wholesale motor vehicle auction, boat dealer or a public motor vehicle auction, a
53 photograph, not to exceed eight inches by ten inches, showing the business
54 building and sign shall accompany the initial application. In the case of a

55 manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer,
56 the photograph shall include the lot of the business. A new motor vehicle
57 franchise dealer applicant who has purchased a currently licensed new motor
58 vehicle franchised dealership shall be allowed to submit a photograph of the
59 existing dealership building, lot and sign but shall be required to submit a new
60 photograph upon the installation of the new dealership sign as required by
61 sections 301.550 to 301.573. Applicants shall not be required to submit a
62 photograph annually unless the business has moved from its previously licensed
63 location, or unless the name of the business or address has changed, or unless the
64 class of business has changed;

65 (3) If the application is for licensure as a wholesale motor vehicle dealer
66 or as a boat dealer, the application shall contain the business address, not a post
67 office box, and telephone number of the place where the books, records, files and
68 other matters required and necessary to conduct the business are located and
69 where the same may be inspected during normal daytime business
70 hours. Wholesale motor vehicle dealers and boat dealers shall file reports as
71 required of new franchised motor vehicle dealers and used motor vehicle dealers;

72 (4) Every applicant as a new motor vehicle franchise dealer, a used motor
73 vehicle dealer, a wholesale motor vehicle dealer, or boat dealer shall furnish with
74 the application a corporate surety bond or an irrevocable letter of credit as
75 defined in section 400.5-103, RSMo, issued by any state or federal financial
76 institution in the penal sum of twenty-five thousand dollars on a form approved
77 by the department. The bond or irrevocable letter of credit shall be conditioned
78 upon the dealer complying with the provisions of the statutes applicable to new
79 motor vehicle franchise dealers, used motor vehicle dealers, wholesale motor
80 vehicle dealers and boat dealers, and the bond shall be an indemnity for any loss
81 sustained by reason of the acts of the person bonded when such acts constitute
82 grounds for the suspension or revocation of the dealer's license. The bond shall
83 be executed in the name of the state of Missouri for the benefit of all aggrieved
84 parties or the irrevocable letter of credit shall name the state of Missouri as the
85 beneficiary; except, that the aggregate liability of the surety or financial
86 institution to the aggrieved parties shall, in no event, exceed the amount of the
87 bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter
88 of credit shall be paid upon receipt by the department of a final judgment from
89 a Missouri court of competent jurisdiction against the principal and in favor of
90 an aggrieved party;

91 (5) Payment of all necessary license fees as established by the
92 department. In establishing the amount of the annual license fees, the
93 department shall, as near as possible, produce sufficient total income to offset
94 operational expenses of the department relating to the administration of sections
95 301.550 to 301.573. All fees payable pursuant to the provisions of sections
96 301.550 to 301.573, other than those fees collected for the issuance of dealer
97 plates or certificates of number collected pursuant to subsection 6 of this section,
98 shall be collected by the department for deposit in the state treasury to the credit
99 of the "Motor Vehicle Commission Fund", which is hereby created. The motor
100 vehicle commission fund shall be administered by the Missouri department of
101 revenue. The provisions of section 33.080, RSMo, to the contrary
102 notwithstanding, money in such fund shall not be transferred and placed to the
103 credit of the general revenue fund until the amount in the motor vehicle
104 commission fund at the end of the biennium exceeds two times the amount of the
105 appropriation from such fund for the preceding fiscal year or, if the department
106 requires permit renewal less frequently than yearly, then three times the
107 appropriation from such fund for the preceding fiscal year. The amount, if any,
108 in the fund which shall lapse is that amount in the fund which exceeds the
109 multiple of the appropriation from such fund for the preceding fiscal year.

110 2. In the event a new manufacturer, boat manufacturer, motor vehicle
111 dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor vehicle
112 auction or a public motor vehicle auction submits an application for a license for
113 a new business and the applicant has complied with all the provisions of this
114 section, the department shall make a decision to grant or deny the license to the
115 applicant within eight working hours after receipt of the dealer's application,
116 notwithstanding any rule of the department.

117 3. Upon the initial issuance of a license by the department, the
118 department shall assign a distinctive dealer license number or certificate of
119 number to the applicant and the department shall issue one number plate or
120 certificate bearing the distinctive dealer license number or certificate of number
121 within eight working hours after presentment of the application. Upon the
122 renewal of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer,
123 public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor
124 vehicle auction, the department shall issue the distinctive dealer license number
125 or certificate of number as quickly as possible. The issuance of such distinctive
126 dealer license number or certificate of number shall be in lieu of registering each

127 motor vehicle, trailer, vessel or vessel trailer dealt with by a boat dealer, boat
128 manufacturer, manufacturer, public motor vehicle auction, wholesale motor
129 vehicle dealer, wholesale motor vehicle auction or motor vehicle dealer.

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

132 New motor vehicle franchise dealers D-0 through D-9999

133 New motor vehicle franchise and commercial

134 motor vehicle D-1000 through D-1999

135 Used motor vehicle dealers D-2000 through D-5399

136 and D-6000 through D-9999

137 Wholesale motor vehicle dealers..... W-1000 through W-1999

138 Wholesale motor vehicle auctions W-2000 through W-2999

139 Trailer dealers T-0 through T-9999

140 Motor vehicle and trailer manufacturers M-0 through M-9999

141 Motorcycle dealers D-5400 through D-5999

142 Public motor vehicle auctions A-1000 through A-1999

143 Boat dealers and boat manufacturers B-0 through B-9999

144 5. Upon the sale of a currently licensed new motor vehicle franchise
145 dealership the department shall, upon request, authorize the new approved dealer
146 applicant to retain the selling dealer's license number and shall cause the new
147 dealer's records to indicate such transfer.

148 6. In the case of manufacturers and motor vehicle dealers, the department
149 shall also issue one number plate bearing the distinctive dealer license number
150 to the applicant upon payment by the manufacturer or dealer of a fifty dollar
151 fee. Such license plates shall be made with fully reflective material with a
152 common color scheme and design, shall be clearly visible at night, and shall be
153 aesthetically attractive, as prescribed by section 301.130. Boat dealers and boat
154 manufacturers shall be entitled to one certificate of number bearing such number
155 upon the payment of a fifty dollar fee. As many additional number plates as may
156 be desired by manufacturers and motor vehicle dealers and as many additional
157 certificates of number as may be desired by boat dealers and boat manufacturers
158 may be obtained upon payment of a fee of ten dollars and fifty cents for each
159 additional plate or certificate. A motor vehicle dealer, boat dealer, manufacturer,
160 boat manufacturer, public motor vehicle auction, wholesale motor vehicle dealer
161 or wholesale motor vehicle auction obtaining a dealer license plate or certificate
162 of number or additional license plate or additional certificate of number,

163 throughout the calendar year, shall be required to pay a fee for such license
164 plates or certificates of number computed on the basis of one-twelfth of the full
165 fee prescribed for the original and duplicate number plates or certificates of
166 number for such dealers' licenses, multiplied by the number of months remaining
167 in the licensing period for which the dealer or manufacturers shall be required
168 to be licensed. In the event of a renewing dealer, the fee due at the time of
169 renewal shall not be prorated.

170 7. The plates issued pursuant to subsection 3 or 6 of this section may be
171 displayed on any motor vehicle owned and held for resale by the motor vehicle
172 dealer or manufacturer, and used by a customer who is test driving the motor
173 vehicle, or is used by an employee or officer, but shall not be displayed on any
174 motor vehicle or trailer hired or loaned to others or upon any regularly used
175 service or wrecker vehicle. Motor vehicle dealers may display their dealer plates
176 on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition.

177 8. The certificates of number issued pursuant to subsection 3 or 6 of this
178 section may be displayed on any vessel or vessel trailer owned and held for resale
179 by a boat manufacturer or a boat dealer, and used by a customer who is test
180 driving the vessel or vessel trailer, or is used by an employee or officer, but shall
181 not be displayed on any vessel or vessel trailer hired or loaned to others or upon
182 any regularly used service vessel or vessel trailer. Boat dealers and
183 manufacturers may display their certificate of number on a vessel or vessel trailer
184 which is being transported to an exhibit or show.

185 9. (1) Beginning August 28, 2006, every application for the issuance of a
186 used motor vehicle dealer's license shall be accompanied by proof that the
187 applicant, within the last twelve months, has completed an educational seminar
188 course approved by the department as prescribed by subdivision (2) of this
189 subsection. Wholesale and retail auto auctions shall be exempt from the
190 requirements of this subsection. The provisions of this subsection shall not apply
191 to new motor vehicle franchise dealers or a motor vehicle leasing agency. The
192 provisions of this subsection shall not apply to used motor vehicle dealers who
193 were licensed prior to August 28, 2006.

194 (2) The educational seminar shall include, but is not limited to, the dealer
195 requirements of sections 301.550 to 301.573, the rules promulgated to implement,
196 enforce, and administer sections 301.550 to 301.570, and any other rules and
197 regulations promulgated by the department.