

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE

FOR

SENATE BILL NO. 28

AN ACT

To repeal sections 32.056, 301.010, 301.140, 301.448, 301.469, 301.558, 307.010, and 407.1034, RSMo, and to enact in lieu thereof eight new sections relating to transportation, with penalty provisions.

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

Section A. Sections 32.056, 301.010, 301.140, 301.448, 2 301.469, 301.558, 307.010, and 407.1034, RSMo, are repealed and 3 eight new sections enacted in lieu thereof, to be known as 4 sections 32.056, 301.010, 301.140, 301.448, 301.469, 301.558, 5 307.010, and 407.1034, to read as follows:

32.056. Except for uses permitted under 18 U.S.C. 2 Section 2721(b)(1), the department of revenue shall not 3 release the home address of or any information that 4 identifies any vehicle owned or leased by any person who is 5 [a] an active or retired county, state or federal parole 6 officer, [a] federal pretrial officer, [a] peace officer 7 pursuant to section 590.010, [a] person vested by Article V, 8 Section 1 of the Missouri Constitution with the judicial 9 power of the state, [a] member of the federal judiciary, or 10 a member of such person's immediate family contained in the 11 department's motor vehicle or driver registration records, 12 based on a specific request for such information from any 13 person. Any such person may notify the department of his or 14 her status and the department shall protect the 15 confidentiality of the home address and vehicle records on 16 such a person and his or her immediate family as required by

17 this section. This section shall not prohibit the
18 department from releasing information on a motor
19 registration list pursuant to section 32.055 or from
20 releasing information on any officer who holds a class A, B
21 or C commercial driver's license pursuant to the Motor
22 Carrier Safety Improvement Act of 1999, as amended, 49
23 U.S.C. 31309.

301.010. As used in this chapter and sections 304.010
2 to 304.040, 304.120 to 304.260, and sections 307.010 to
3 307.175, the following terms mean:

4 (1) "All-terrain vehicle", any motorized vehicle
5 manufactured and used exclusively for off-highway use, with
6 an unladen dry weight of one thousand five hundred pounds or
7 less, traveling on three, four or more nonhighway tires,
8 with either:

9 (a) A seat designed to be straddled by the operator,
10 and handlebars for steering control, but excluding an
11 electric bicycle; or

12 (b) A width of fifty inches or less, measured from
13 outside of tire rim to outside of tire rim, regardless of
14 seating or steering arrangement;

15 (2) "Autocycle", a three-wheeled motor vehicle which
16 the drivers and passengers ride in a partially or completely
17 enclosed nonstraddle seating area, that is designed to be
18 controlled with a steering wheel and pedals, and that has
19 met applicable Department of Transportation National Highway
20 Traffic Safety Administration requirements or federal
21 motorcycle safety standards;

22 (3) "Automobile transporter", any vehicle combination
23 capable of carrying cargo on the power unit and designed and
24 used for the transport of assembled motor vehicles,
25 including truck camper units;

(4) "Axle load", the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle;

(5) "Backhaul", the return trip of a vehicle transporting cargo or general freight, especially when carrying goods back over all or part of the same route;

(6) "Boat transporter", any vehicle combination capable of carrying cargo on the power unit and designed and used specifically to transport assembled boats and boat hulls. Boats may be partially disassembled to facilitate transporting;

(7) "Body shop", a business that repairs physical damage on motor vehicles that are not owned by the shop or its officers or employees by mending, straightening, replacing body parts, or painting;

(8) "Bus", a motor vehicle primarily for the transportation of a driver and eight or more passengers but not including shuttle buses;

(9) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight passengers but not including vanpools or shuttle buses;

(10) "Cotton trailer", a trailer designed [and used exclusively] for transporting cotton at speeds less than [forty] seventy miles per hour from field to field or from field to market and return;

(11) "Dealer", any person, firm, corporation, association, agent or subagent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers;

(12) "Director" or "director of revenue", the director of the department of revenue;

59 (13) "Driveaway operation":

60 (a) The movement of a motor vehicle or trailer by any
61 person or motor carrier other than a dealer over any public
62 highway, under its own power singly, or in a fixed
63 combination of two or more vehicles, for the purpose of
64 delivery for sale or for delivery either before or after
65 sale;

66 (b) The movement of any vehicle or vehicles, not owned
67 by the transporter, constituting the commodity being
68 transported, by a person engaged in the business of
69 furnishing drivers and operators for the purpose of
70 transporting vehicles in transit from one place to another
71 by the driveaway or towaway methods; or

72 (c) The movement of a motor vehicle by any person who
73 is lawfully engaged in the business of transporting or
74 delivering vehicles that are not the person's own and
75 vehicles of a type otherwise required to be registered, by
76 the driveaway or towaway methods, from a point of
77 manufacture, assembly or distribution or from the owner of
78 the vehicles to a dealer or sales agent of a manufacturer or
79 to any consignee designated by the shipper or consignor;

80 (14) "Dromedary", a box, deck, or plate mounted behind
81 the cab and forward of the fifth wheel on the frame of the
82 power unit of a truck tractor-semitrailer combination. A
83 truck tractor equipped with a dromedary may carry part of a
84 load when operating independently or in a combination with a
85 semitrailer;

86 (15) "Electric bicycle", a bicycle equipped with fully
87 operable pedals, a saddle or seat for the rider, and an
88 electric motor of less than 750 watts that meets the
89 requirements of one of the following three classes:

90 (a) "Class 1 electric bicycle", an electric bicycle
91 equipped with a motor that provides assistance only when the

rider is pedaling and that ceases to provide assistance when the bicycle reaches the speed of twenty miles per hour;

(b) "Class 2 electric bicycle", an electric bicycle equipped with a motor that may be used exclusively to propel the bicycle and that is not capable of providing assistance when the bicycle reaches the speed of twenty miles per hour; or

(c) "Class 3 electric bicycle", an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches the speed of twenty-eight miles per hour;

(16) "Farm tractor", a tractor used exclusively for agricultural purposes;

(17) "Fleet", any group of ten or more motor vehicles owned by the same owner;

(18) "Fleet vehicle", a motor vehicle which is included as part of a fleet;

(19) "Fullmount", a vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination;

(20) "Gross weight", the weight of vehicle and/or vehicle combination without load, plus the weight of any load thereon;

(21) "Hail-damaged vehicle", any vehicle, the body of which has become dented as the result of the impact of hail;

(22) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

(23) "Improved highway", a highway which has been paved with gravel, macadam, concrete, brick or asphalt, or surfaced in such a manner that it shall have a hard, smooth surface;

124 (24) "Intersecting highway", any highway which joins
125 another, whether or not it crosses the same;

126 (25) "Junk vehicle", a vehicle which:

127 (a) Is incapable of operation or use upon the highways
128 and has no resale value except as a source of parts or
129 scrap; or

130 (b) Has been designated as junk or a substantially
131 equivalent designation by this state or any other state;

132 (26) "Kit vehicle", a motor vehicle assembled by a
133 person other than a generally recognized manufacturer of
134 motor vehicles by the use of a glider kit or replica
135 purchased from an authorized manufacturer and accompanied by
136 a manufacturer's statement of origin;

137 (27) "Land improvement contractors' commercial motor
138 vehicle", any not-for-hire commercial motor vehicle the
139 operation of which is confined to:

140 (a) An area that extends not more than a radius of one
141 hundred fifty miles from its home base of operations when
142 transporting its owner's machinery, equipment, or auxiliary
143 supplies to or from projects involving soil and water
144 conservation, or to and from equipment dealers' maintenance
145 facilities for maintenance purposes; or

146 (b) An area that extends not more than a radius of
147 fifty miles from its home base of operations when
148 transporting its owner's machinery, equipment, or auxiliary
149 supplies to or from projects not involving soil and water
150 conservation.

151 Nothing in this subdivision shall be construed to prevent
152 any motor vehicle from being registered as a commercial
153 motor vehicle or local commercial motor vehicle;

154 (28) "Local commercial motor vehicle", a commercial
155 motor vehicle whose operations are confined to a
156 municipality and that area extending not more than fifty

157 miles therefrom, or a commercial motor vehicle whose
158 property-carrying operations are confined solely to the
159 transportation of property owned by any person who is the
160 owner or operator of such vehicle to or from a farm owned by
161 such person or under the person's control by virtue of a
162 landlord and tenant lease; provided that any such property
163 transported to any such farm is for use in the operation of
164 such farm;

165 (29) "Local log truck", a commercial motor vehicle
166 which is registered pursuant to this chapter to operate as a
167 motor vehicle on the public highways of this state; used
168 exclusively in this state; used to transport harvested
169 forest products; operated solely at a forested site and in
170 an area extending not more than a one hundred fifty mile
171 radius from such site; and when operated on the national
172 system of interstate and defense highways described in 23
173 U.S.C. Section 103, as amended, or outside the one hundred
174 fifty mile radius from such site with an extended distance
175 local log truck permit, does not have more than four axles,
176 and does not pull a trailer which has more than three
177 axles. Harvesting equipment which is used specifically for
178 cutting, felling, trimming, delimbing, debarking, chipping,
179 skidding, loading, unloading, and stacking may be
180 transported on a local log truck;

181 (30) "Local log truck tractor", a commercial motor
182 vehicle which is registered under this chapter to operate as
183 a motor vehicle on the public highways of this state; used
184 exclusively in this state; used to transport harvested
185 forest products, operated at a forested site and in an area
186 extending not more than a one hundred fifty mile radius from
187 such site; and when operated on the national system of
188 interstate and defense highways described in 23 U.S.C.
189 Section 103, as amended, or outside the one hundred fifty

mile radius from such site with an extended distance local log truck permit, does not have more than three axles and does not pull a trailer which has more than three axles;

(31) "Local transit bus", a bus whose operations are confined wholly within a municipal corporation, or wholly within a municipal corporation and a commercial zone, as defined in section 390.020, adjacent thereto, forming a part of a public transportation system within such municipal corporation and such municipal corporation and adjacent commercial zone;

(32) "Log truck", a vehicle which is not a local log truck or local log truck tractor and is used exclusively to transport harvested forest products to and from forested sites which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state for the transportation of harvested forest products;

(33) "Major component parts", the rear clip, cowl, frame, body, cab, front-end assembly, and front clip, as those terms are defined by the director of revenue pursuant to rules and regulations or by illustrations;

(34) "Manufacturer", any person, firm, corporation or association engaged in the business of manufacturing or assembling motor vehicles, trailers or vessels for sale;

(35) "Motor change vehicle", a vehicle manufactured prior to August, 1957, which receives a new, rebuilt or used engine, and which used the number stamped on the original engine as the vehicle identification number;

(36) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks, except farm tractors and electric bicycles;

(37) "Motor vehicle primarily for business use", any vehicle other than a recreational motor vehicle, motorcycle,

222 motortricycle, or any commercial motor vehicle licensed for
223 over twelve thousand pounds:

224 (a) Offered for hire or lease; or

225 (b) The owner of which also owns ten or more such
226 motor vehicles;

227 (38) "Motorcycle", a motor vehicle operated on two
228 wheels;

229 (39) "Motorized bicycle", any two-wheeled or three-
230 wheeled device having an automatic transmission and a motor
231 with a cylinder capacity of not more than fifty cubic
232 centimeters, which produces less than three gross brake
233 horsepower, and is capable of propelling the device at a
234 maximum speed of not more than thirty miles per hour on
235 level ground, but excluding an electric bicycle;

236 (40) "Motortricycle", a motor vehicle upon which the
237 operator straddles or sits astride that is designed to be
238 controlled by handle bars and is operated on three wheels,
239 including a motorcycle while operated with any conveyance,
240 temporary or otherwise, requiring the use of a third wheel,
241 but excluding an electric bicycle. A motortricycle shall
242 not be included in the definition of all-terrain vehicle;

243 (41) "Municipality", any city, town or village,
244 whether incorporated or not;

245 (42) "Nonresident", a resident of a state or country
246 other than the state of Missouri;

247 (43) "Non-USA-std motor vehicle", a motor vehicle not
248 originally manufactured in compliance with United States
249 emissions or safety standards;

250 (44) "Operator", any person who operates or drives a
251 motor vehicle;

252 (45) "Owner", any person, firm, corporation or
253 association, who holds the legal title to a vehicle or who
254 has executed a buyer's order or retail installment sales

255 contract with a motor vehicle dealer licensed under sections
256 301.550 to 301.580 for the purchase of a vehicle with an
257 immediate right of possession vested in the transferee, or
258 in the event a vehicle is the subject of an agreement for
259 the conditional sale or lease thereof with the right of
260 purchase upon performance of the conditions stated in the
261 agreement and with an immediate right of possession vested
262 in the conditional vendee or lessee, or in the event a
263 mortgagor of a vehicle is entitled to possession, then such
264 conditional vendee or lessee or mortgagor shall be deemed
265 the owner;

266 (46) "Public garage", a place of business where motor
267 vehicles are housed, stored, repaired, reconstructed or
268 repainted for persons other than the owners or operators of
269 such place of business;

270 (47) "Rebuilder", a business that repairs or rebuilds
271 motor vehicles owned by the rebuilder, but does not include
272 certificated common or contract carriers of persons or
273 property;

274 (48) "Reconstructed motor vehicle", a vehicle that is
275 altered from its original construction by the addition or
276 substitution of two or more new or used major component
277 parts, excluding motor vehicles made from all new parts, and
278 new multistage manufactured vehicles;

279 (49) "Recreational motor vehicle", any motor vehicle
280 designed, constructed or substantially modified so that it
281 may be used and is used for the purposes of temporary
282 housing quarters, including therein sleeping and eating
283 facilities which are either permanently attached to the
284 motor vehicle or attached to a unit which is securely
285 attached to the motor vehicle. Nothing herein shall prevent
286 any motor vehicle from being registered as a commercial

287 motor vehicle if the motor vehicle could otherwise be so
288 registered;

289 (50) "Recreational off-highway vehicle", any motorized
290 vehicle manufactured and used exclusively for off-highway
291 use which is more than fifty inches but no more than eighty
292 inches in width, measured from outside of tire rim to
293 outside of tire rim, with an unladen dry weight of three
294 thousand five hundred pounds or less, traveling on four or
295 more nonhighway tires and which may have access to ATV
296 trails;

297 (51) "Recreational trailer", any trailer designed,
298 constructed, or substantially modified so that it may be
299 used and is used for the purpose of temporary housing
300 quarters, including therein sleeping or eating facilities,
301 which can be temporarily attached to a motor vehicle or
302 attached to a unit which is securely attached to a motor
303 vehicle;

304 (52) "Rollback or car carrier", any vehicle
305 specifically designed to transport wrecked, disabled or
306 otherwise inoperable vehicles, when the transportation is
307 directly connected to a wrecker or towing service;

308 (53) "Saddlemount combination", a combination of
309 vehicles in which a truck or truck tractor tows one or more
310 trucks or truck tractors, each connected by a saddle to the
311 frame or fifth wheel of the vehicle in front of it. The
312 "saddle" is a mechanism that connects the front axle of the
313 towed vehicle to the frame or fifth wheel of the vehicle in
314 front and functions like a fifth wheel kingpin connection.
315 When two vehicles are towed in this manner the combination
316 is called a "double saddlemount combination". When three
317 vehicles are towed in this manner, the combination is called
318 a "triple saddlemount combination";

319 (54) "Salvage dealer and dismantler", a business that
320 dismantles used motor vehicles for the sale of the parts
321 thereof, and buys and sells used motor vehicle parts and
322 accessories;

323 (55) "Salvage vehicle", a motor vehicle, semitrailer,
324 or house trailer which:

325 (a) Was damaged during a year that is no more than six
326 years after the manufacturer's model year designation for
327 such vehicle to the extent that the total cost of repairs to
328 rebuild or reconstruct the vehicle to its condition
329 immediately before it was damaged for legal operation on the
330 roads or highways exceeds eighty percent of the fair market
331 value of the vehicle immediately preceding the time it was
332 damaged;

333 (b) By reason of condition or circumstance, has been
334 declared salvage, either by its owner, or by a person, firm,
335 corporation, or other legal entity exercising the right of
336 security interest in it;

337 (c) Has been declared salvage by an insurance company
338 as a result of settlement of a claim;

339 (d) Ownership of which is evidenced by a salvage
340 title; or

341 (e) Is abandoned property which is titled pursuant to
342 section 304.155 or section 304.157 and designated with the
343 words "salvage/abandoned property". The total cost of
344 repairs to rebuild or reconstruct the vehicle shall not
345 include the cost of repairing, replacing, or reinstalling
346 inflatable safety restraints, tires, sound systems, or
347 damage as a result of hail, or any sales tax on parts or
348 materials to rebuild or reconstruct the vehicle. For
349 purposes of this definition, "fair market value" means the
350 retail value of a motor vehicle as:

351 a. Set forth in a current edition of any nationally
352 recognized compilation of retail values, including automated
353 databases, or from publications commonly used by the
354 automotive and insurance industries to establish the values
355 of motor vehicles;

356 b. Determined pursuant to a market survey of
357 comparable vehicles with regard to condition and equipment;
358 and

359 c. Determined by an insurance company using any other
360 procedure recognized by the insurance industry, including
361 market surveys, that is applied by the company in a uniform
362 manner;

363 (56) "School bus", any motor vehicle used solely to
364 transport students to or from school or to transport
365 students to or from any place for educational purposes;

366 (57) "Scrap processor", a business that, through the
367 use of fixed or mobile equipment, flattens, crushes, or
368 otherwise accepts motor vehicles and vehicle parts for
369 processing or transportation to a shredder or scrap metal
370 operator for recycling;

371 (58) "Shuttle bus", a motor vehicle used or maintained
372 by any person, firm, or corporation as an incidental service
373 to transport patrons or customers of the regular business of
374 such person, firm, or corporation to and from the place of
375 business of the person, firm, or corporation providing the
376 service at no fee or charge. Shuttle buses shall not be
377 registered as buses or as commercial motor vehicles;

378 (59) "Special mobile equipment", every self-propelled
379 vehicle not designed or used primarily for the
380 transportation of persons or property and incidentally
381 operated or moved over the highways, including farm
382 equipment, implements of husbandry, road construction or
383 maintenance machinery, ditch-digging apparatus, stone

384 crushers, air compressors, power shovels, cranes, graders,
385 rollers, well-drillers and wood-sawing equipment used for
386 hire, asphalt spreaders, bituminous mixers, bucket loaders,
387 ditchers, leveling graders, finished machines, motor
388 graders, road rollers, scarifiers, earth-moving carryalls,
389 scrapers, drag lines, concrete pump trucks, rock-drilling
390 and earth-moving equipment. This enumeration shall be
391 deemed partial and shall not operate to exclude other such
392 vehicles which are within the general terms of this section;

393 (60) "Specially constructed motor vehicle", a motor
394 vehicle which shall not have been originally constructed
395 under a distinctive name, make, model or type by a
396 manufacturer of motor vehicles. The term specially
397 constructed motor vehicle includes kit vehicles;

398 (61) "Stinger-steered combination", a truck tractor-
399 semitrailer wherein the fifth wheel is located on a drop
400 frame located behind and below the rearmost axle of the
401 power unit;

402 (62) "Tandem axle", a group of two or more axles,
403 arranged one behind another, the distance between the
404 extremes of which is more than forty inches and not more
405 than ninety-six inches apart;

406 (63) "Towaway trailer transporter combination", a
407 combination of vehicles consisting of a trailer transporter
408 towing unit and two trailers or semitrailers, with a total
409 weight that does not exceed twenty-six thousand pounds; and
410 in which the trailers or semitrailers carry no property and
411 constitute inventory property of a manufacturer,
412 distributor, or dealer of such trailers or semitrailers;

413 (64) "Tractor", "truck tractor" or "truck-tractor", a
414 self-propelled motor vehicle designed for drawing other
415 vehicles, but not for the carriage of any load when

operating independently. When attached to a semitrailer, it supports a part of the weight thereof;

(65) "Trailer", any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle. The term trailer shall not include cotton trailers as defined in this section and shall not include manufactured homes as defined in section 700.010;

(66) "Trailer transporter towing unit", a power unit that is not used to carry property when operating in a towaway trailer transporter combination;

(67) "Truck", a motor vehicle designed, used, or maintained for the transportation of property;

(68) "Truck-tractor semitrailer-semitrailer", a combination vehicle in which the two trailing units are connected with a B-train assembly which is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth-wheel connection point for the second semitrailer and has one less articulation point than the conventional A-dolly connected truck-tractor semitrailer-trailer combination;

(69) "Truck-trailer boat transporter combination", a boat transporter combination consisting of a straight truck towing a trailer using typically a ball and socket connection with the trailer axle located substantially at the trailer center of gravity rather than the rear of the trailer but so as to maintain a downward force on the trailer tongue;

448 (70) "Used parts dealer", a business that buys and
449 sells used motor vehicle parts or accessories, but not
450 including a business that sells only new, remanufactured or
451 rebuilt parts. Business does not include isolated sales at
452 a swap meet of less than three days;

453 (71) "Utility vehicle", any motorized vehicle
454 manufactured and used exclusively for off-highway use which
455 is more than fifty inches but no more than eighty inches in
456 width, measured from outside of tire rim to outside of tire
457 rim, with an unladen dry weight of three thousand five
458 hundred pounds or less, traveling on four or six wheels, to
459 be used primarily for landscaping, lawn care, or maintenance
460 purposes;

461 (72) "Vanpool", any van or other motor vehicle used or
462 maintained by any person, group, firm, corporation,
463 association, city, county or state agency, or any member
464 thereof, for the transportation of not less than eight nor
465 more than forty-eight employees, per motor vehicle, to and
466 from their place of employment; however, a vanpool shall not
467 be included in the definition of the term bus or commercial
468 motor vehicle as defined in this section, nor shall a
469 vanpool driver be deemed a chauffeur as that term is defined
470 by section 303.020; nor shall use of a vanpool vehicle for
471 ride-sharing arrangements, recreational, personal, or
472 maintenance uses constitute an unlicensed use of the motor
473 vehicle, unless used for monetary profit other than for use
474 in a ride-sharing arrangement;

475 (73) "Vehicle", any mechanical device on wheels,
476 designed primarily for use, or used, on highways, except
477 motorized bicycles, electric bicycles, vehicles propelled or
478 drawn by horses or human power, or vehicles used exclusively
479 on fixed rails or tracks, or cotton trailers or motorized
480 wheelchairs operated by handicapped persons;

481 (74) "Wrecker" or "tow truck", any emergency
482 commercial vehicle equipped, designed and used to assist or
483 render aid and transport or tow disabled or wrecked vehicles
484 from a highway, road, street or highway rights-of-way to a
485 point of storage or repair, including towing a replacement
486 vehicle to replace a disabled or wrecked vehicle;

487 (75) "Wrecker or towing service", the act of
488 transporting, towing or recovering with a wrecker, tow
489 truck, rollback or car carrier any vehicle not owned by the
490 operator of the wrecker, tow truck, rollback or car carrier
491 for which the operator directly or indirectly receives
492 compensation or other personal gain.

 301.140. 1. Upon the transfer of ownership of any
2 motor vehicle or trailer, the certificate of registration
3 and the right to use the number plates shall expire and the
4 number plates shall be removed by the owner at the time of
5 the transfer of possession, and it shall be unlawful for any
6 person other than the person to whom such number plates were
7 originally issued to have the same in his or her possession
8 whether in use or not, unless such possession is solely for
9 charitable purposes; except that the buyer of a motor
10 vehicle or trailer who trades in a motor vehicle or trailer
11 may attach the license plates from the traded-in motor
12 vehicle or trailer to the newly purchased motor vehicle or
13 trailer. The operation of a motor vehicle with such
14 transferred plates shall be lawful for no more than thirty
15 days, or no more than ninety days if the dealer is selling
16 the motor vehicle under the provisions of section 301.213,
17 or no more than sixty days if the dealer is selling the
18 motor vehicle under the provisions of subsection 5 of
19 section 301.210. As used in this subsection, the term
20 "trade-in motor vehicle or trailer" shall include any single
21 motor vehicle or trailer sold by the buyer of the newly

22 purchased vehicle or trailer, as long as the license plates
23 for the trade-in motor vehicle or trailer are still valid.

24 2. In the case of a transfer of ownership the original
25 owner may register another motor vehicle under the same
26 number, upon the payment of a fee of two dollars, if the
27 motor vehicle is of horsepower, gross weight or (in the case
28 of a passenger-carrying commercial motor vehicle) seating
29 capacity, not in excess of that originally registered. When
30 such motor vehicle is of greater horsepower, gross weight or
31 (in the case of a passenger-carrying commercial motor
32 vehicle) seating capacity, for which a greater fee is
33 prescribed, the applicant shall pay a transfer fee of two
34 dollars and a pro rata portion for the difference in fees.
35 When such vehicle is of less horsepower, gross weight or (in
36 case of a passenger-carrying commercial motor vehicle)
37 seating capacity, for which a lesser fee is prescribed, the
38 applicant shall not be entitled to a refund.

39 3. License plates may be transferred from a motor
40 vehicle which will no longer be operated to a newly
41 purchased motor vehicle by the owner of such vehicles. The
42 owner shall pay a transfer fee of two dollars if the newly
43 purchased vehicle is of horsepower, gross weight or (in the
44 case of a passenger-carrying commercial motor vehicle)
45 seating capacity, not in excess of that of the vehicle which
46 will no longer be operated. When the newly purchased motor
47 vehicle is of greater horsepower, gross weight or (in the
48 case of a passenger-carrying commercial motor vehicle)
49 seating capacity, for which a greater fee is prescribed, the
50 applicant shall pay a transfer fee of two dollars and a pro
51 rata portion of the difference in fees. When the newly
52 purchased vehicle is of less horsepower, gross weight or (in
53 the case of a passenger-carrying commercial motor vehicle)

seating capacity, for which a lesser fee is prescribed, the applicant shall not be entitled to a refund.

4. (1) The director of the department of revenue shall have authority to produce or allow others to produce a weather resistant, nontearing temporary permit authorizing the operation of a motor vehicle or trailer by a buyer for not more than thirty days, [or no more than ninety days if issued by a dealer selling the motor vehicle under the provisions of section 301.213,] or no more than sixty days if issued by a dealer selling the motor vehicle under the provisions of subsection 5 of section 301.210, from the date of purchase. The temporary permit authorized under this section may be purchased by the purchaser of a motor vehicle or trailer from the central office of the department of revenue or from an authorized agent of the department of revenue upon satisfaction of all applicable taxes under chapter 144, upon proof of purchase of a motor vehicle or trailer for which the buyer has no registration plate available for transfer and upon proof of financial responsibility, or from a motor vehicle dealer upon purchase of a motor vehicle or trailer for which the buyer has no registration plate available for transfer, or from a motor vehicle dealer upon purchase of a motor vehicle or trailer for which the buyer has registered and is awaiting receipt of registration plates. The director of the department of revenue or a producer authorized by the director of the department of revenue may make temporary permits available to registered dealers in this state, authorized agents of the department of revenue or the department of revenue. The price paid by a motor vehicle dealer, an authorized agent of the department of revenue or the department of revenue for a temporary permit shall not exceed five dollars for each permit. The director of the department of revenue shall

87 direct motor vehicle dealers and authorized agents to obtain
88 temporary permits from an authorized producer. Amounts
89 received by the director of the department of revenue for
90 temporary permits shall constitute state revenue; however,
91 amounts received by an authorized producer other than the
92 director of the department of revenue shall not constitute
93 state revenue and any amounts received by motor vehicle
94 dealers or authorized agents for temporary permits purchased
95 from a producer other than the director of the department of
96 revenue shall not constitute state revenue. In no event
97 shall revenues from the general revenue fund or any other
98 state fund be utilized to compensate motor vehicle dealers
99 or other producers for their role in producing temporary
100 permits as authorized under this section. Amounts that do
101 not constitute state revenue under this section shall also
102 not constitute fees for registration or certificates of
103 title to be collected by the director of the department of
104 revenue under section 301.190. No motor vehicle dealer,
105 authorized agent or the department of revenue shall charge
106 more than five dollars for each permit issued. The permit
107 shall be valid for a period of thirty days, or no more than
108 ninety days if issued by a dealer selling the motor vehicle
109 under the provisions of section 301.213, or no more than
110 sixty days if issued by a dealer selling the motor vehicle
111 under the provisions of subsection 5 of section 301.210,
112 from the date of purchase of a motor vehicle or trailer, or
113 from the date of sale of the motor vehicle or trailer by a
114 motor vehicle dealer for which the purchaser obtains a
115 permit as set out above. No permit shall be issued for a
116 vehicle under this section unless the buyer shows proof of
117 financial responsibility. Each temporary permit issued
118 shall be securely fastened to the back or rear of the motor
119 vehicle in a manner and place on the motor vehicle

consistent with registration plates so that all parts and qualities of the temporary permit thereof shall be plainly and clearly visible, reasonably clean and are not impaired in any way.

(2) The provisions of subdivision (1) of this subsection requiring satisfaction of all applicable taxes under chapter 144 shall become effective only upon notification by the director of the department of revenue that implementation of such requirements are technologically feasible following the development and maintenance of a modernized, integrated system for the titling of vehicles, the issuance and renewal of vehicle registrations, the issuance and renewal of drivers' licenses and identification cards, and the perfection and release of liens and encumbrances on vehicles.

5. The permit shall be issued on a form prescribed by the director of the department of revenue and issued only for the applicant's temporary operation of the motor vehicle or trailer purchased to enable the applicant to temporarily operate the motor vehicle while proper title and registration plates are being obtained, or while awaiting receipt of registration plates, and shall be displayed on no other motor vehicle. Temporary permits issued pursuant to this section shall not be transferable or renewable, shall not be valid upon issuance of proper registration plates for the motor vehicle or trailer, and shall be returned to the department or to the department's agent upon the issuance of such proper registration plates. Any temporary permit returned to the department or to the department's agent shall be immediately destroyed. The provisions of this subsection shall not apply to temporary permits issued for commercial motor vehicles licensed in excess of twenty-four thousand pounds gross weight. The director of the

department of revenue shall determine the size, material, design, numbering configuration, construction, and color of the permit. The director of the department of revenue, at his or her discretion, shall have the authority to reissue, and thereby extend the use of, a temporary permit previously and legally issued for a motor vehicle or trailer while proper title and registration are being obtained.

6. Every motor vehicle dealer that issues temporary permits shall keep, for inspection by proper officers, an accurate record of each permit issued by recording the permit number, the motor vehicle dealer's number, buyer's name and address, the motor vehicle's year, make, and manufacturer's vehicle identification number, and the permit's date of issuance and expiration date. Upon the issuance of a temporary permit by either the central office of the department of revenue, a motor vehicle dealer or an authorized agent of the department of revenue, the director of the department of revenue shall make the information associated with the issued temporary permit immediately available to the law enforcement community of the state of Missouri.

7. Upon the transfer of ownership of any currently registered motor vehicle wherein the owner cannot transfer the license plates due to a change of motor vehicle category, the owner may surrender the license plates issued to the motor vehicle and receive credit for any unused portion of the original registration fee against the registration fee of another motor vehicle. Such credit shall be granted based upon the date the license plates are surrendered. No refunds shall be made on the unused portion of any license plates surrendered for such credit.

8. An additional temporary license plate produced in a manner and of materials determined by the director to be the

most cost-effective means of production with a configuration that matches an existing or newly issued plate may be purchased by a motor vehicle owner to be placed in the interior of the vehicle's rear window such that the driver's view out of the rear window is not obstructed and the plate configuration is clearly visible from the outside of the vehicle to serve as the visible plate when a bicycle rack or other item obstructs the view of the actual plate. Such temporary plate is only authorized for use when the matching actual plate is affixed to the vehicle in the manner prescribed in subsection 5 of section 301.130. The fee charged for the temporary plate shall be equal to the fee charged for a temporary permit issued under subsection 4 of this section. Replacement temporary plates authorized in this subsection may be issued as needed upon the payment of a fee equal to the fee charged for a temporary permit under subsection 4 of this section. The newly produced third plate may only be used on the vehicle with the matching plate, and the additional plate shall be clearly recognizable as a third plate and only used for the purpose specified in this subsection.

9. Notwithstanding the provisions of section 301.217, the director may issue a temporary permit to an individual who possesses a salvage motor vehicle which requires an inspection under subsection 9 of section 301.190. The operation of a salvage motor vehicle for which the permit has been issued shall be limited to the most direct route from the residence, maintenance, or storage facility of the individual in possession of such motor vehicle to the nearest authorized inspection facility and return to the originating location. Notwithstanding any other requirements for the issuance of a temporary permit under this section, an individual obtaining a temporary permit for

219 the purpose of operating a motor vehicle to and from an
220 examination facility as prescribed in this subsection shall
221 also purchase the required motor vehicle examination form
222 which is required to be completed for an examination under
223 subsection 9 of section 301.190 and provide satisfactory
224 evidence that such vehicle has passed a motor vehicle safety
225 inspection for such vehicle as required in section 307.350.

226 10. The director of the department of revenue may
227 promulgate all necessary rules and regulations for the
228 administration of this section. Any rule or portion of a
229 rule, as that term is defined in section 536.010, that is
230 created under the authority delegated in this section shall
231 become effective only if it complies with and is subject to
232 all of the provisions of chapter 536 and, if applicable,
233 section 536.028. This section and chapter 536 are
234 nonseverable and if any of the powers vested with the
235 general assembly pursuant to chapter 536 to review, to delay
236 the effective date, or to disapprove and annul a rule are
237 subsequently held unconstitutional, then the grant of
238 rulemaking authority and any rule proposed or adopted after
239 August 28, 2012, shall be invalid and void.

240 11. The repeal and reenactment of this section shall
241 become effective on the date the department of revenue or a
242 producer authorized by the director of the department of
243 revenue begins producing temporary permits described in
244 subsection 4 of such section, or on July 1, 2013, whichever
245 occurs first. If the director of revenue or a producer
246 authorized by the director of the department of revenue
247 begins producing temporary permits prior to July 1, 2013,
248 the director of the department of revenue shall notify the
249 revisor of statutes of such fact.

301.448. Any person who has served and was honorably
2 discharged or currently serves in [any branch of the United

3 States Armed Forces] the United States Army, Marine Corps,
4 Navy, Air Force, Space Force, Coast Guard, or National
5 Guard, or in the reserves for any such branch, [the United
6 States Coast Guard or reserve,] the United States Merchant
7 Marines or reserve, or the Missouri National Guard, or any
8 subdivision of any of such services or a member of the
9 United States Marine Corps League may apply for special
10 motor vehicle license plates, either solely or jointly, for
11 issuance either to passenger motor vehicles subject to the
12 registration fees provided in section 301.055, or to
13 nonlocal property-carrying commercial motor vehicles
14 licensed for a gross weight of six thousand pounds up
15 through and including twenty-four thousand pounds as
16 provided in section 301.057. Any such person shall make
17 application for the special license plates on a form
18 provided by the director of revenue and furnish such proof
19 that such person is a member or former member of any such
20 branch of service as the director may require. Upon
21 presentation of the proof of eligibility and annual payment
22 of the fee required for personalized license plates in
23 section 301.144, and other fees and documents which may be
24 required by law, the department shall issue personalized
25 license plates which shall bear the seal, logo or emblem,
26 along with a word or words designating the branch or
27 subdivision of such service for which the person applies.
28 All seals, logos, emblems or special symbols shall become an
29 integral part of the license plate; however, no plate shall
30 contain more than one seal, logo, emblem or special symbol
31 and the design of such plates shall be approved by the
32 advisory committee established in section 301.129 and by the
33 branch or subdivision of such service or the Marine Corps
34 League prior to issuing such plates. The plates shall have
35 a white background with a blue and red configuration at the

36 discretion of the advisory committee established in section
37 301.129. The plates shall be clearly visible at night and
38 shall be aesthetically attractive, as prescribed by section
39 301.130. The bidding process used to select a vendor for
40 the material to manufacture the license plates authorized by
41 this section shall consider the aesthetic appearance of the
42 plate. The director of revenue shall make necessary rules
43 and regulations for the enforcement of this section, and
44 shall design all necessary forms. All license plates issued
45 under this provision must be renewed in accordance with
46 law. License plates issued under the provisions of this
47 section shall not be transferable to any other person,
48 except that any registered co-owner of the motor vehicle
49 shall be entitled to operate the motor vehicle for the
50 duration of the year licensed, in the event of the death of
51 the qualified applicant.

301.469. 1. Any vehicle owner may receive license
2 plates as prescribed in this section, for any motor vehicle
3 such person owns, either solely or jointly, other than an
4 apportioned motor vehicle or a commercial motor vehicle
5 licensed in excess of twenty-four thousand pounds gross
6 weight, after an annual payment of an emblem-use
7 authorization fee to the Missouri conservation heritage
8 foundation. The foundation hereby authorizes the use of its
9 official emblems to be affixed on multiyear license plates
10 as provided in this section. Any vehicle owner may annually
11 apply for the use of the emblems.

12 2. Upon annual application and payment of a twenty-
13 five dollar emblem-use authorization fee to the Missouri
14 conservation heritage foundation, the foundation shall issue
15 to the vehicle owner, without further charge, an emblem-use
16 authorization statement, which shall be presented to the

17 director of the department of revenue at the time of
18 registration of a motor vehicle.

19 3. Upon presentation of the annual statement, payment
20 of a fifteen dollar fee in addition to the regular
21 registration fees and documents which may be required by
22 law, the director of the department of revenue shall issue a
23 license plate, which shall bear an emblem of the Missouri
24 conservation heritage foundation in a form prescribed by the
25 director, to the vehicle owner. Such license plates shall
26 be made with fully reflective material with a common color
27 scheme and design, shall be clearly visible at night, and
28 shall be aesthetically attractive, as prescribed by section
29 301.130. Notwithstanding the provisions of section 301.144,
30 no additional fee shall be charged for the personalization
31 of license plates pursuant to this section.

32 4. Application for the emblem-use authorization and
33 payment of the twenty-five-dollar contribution may also be
34 made at the time of registration to the director of the
35 department of revenue, who shall deposit the contribution to
36 the credit of the Missouri conservation heritage foundation.

37 5. A vehicle owner, who was previously issued a plate
38 with a Missouri conservation heritage foundation emblem
39 authorized by this section but who does not provide an
40 emblem-use authorization statement at a subsequent time of
41 registration, shall be issued a new plate which does not
42 bear the foundation emblem, as otherwise provided by law.

43 [5.] 6. The director of the department of revenue may
44 promulgate rules and regulations for the administration of
45 this section. Any rule or portion of a rule, as that term
46 is defined in section 536.010, that is promulgated under the
47 authority delegated in this section shall become effective
48 only if it has been promulgated pursuant to the provisions
49 of chapter 536. All rulemaking authority delegated prior to

50 August 28, 1999, is of no force and effect; however, nothing
51 in this section shall be interpreted to repeal or affect the
52 validity of any rule filed or adopted prior to August 28,
53 1999, if it fully complied with the provisions of chapter
54 536. This section and chapter 536 are nonseverable and if
55 any of the powers vested with the general assembly pursuant
56 to chapter 536 to review, to delay the effective date, or to
57 disapprove and annul a rule are subsequently held
58 unconstitutional, then the grant of rulemaking authority and
59 any rule proposed or adopted after August 28, 1999, shall be
60 invalid and void.

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

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

17 3. (1) Ten percent of any fee authorized under this
18 section and charged by motor vehicle dealers or trailer
19 dealers shall be remitted to the motor vehicle
20 administration technology fund established in this
21 subsection, for the development of the system specified in
22 this subsection. Following the development of the system

specified in this subsection, the director of the department of revenue shall notify motor vehicle dealers and trailer dealers, and implement the system, and the percentage of any fee authorized under this section required to be remitted to the fund shall be reduced to **[one]** three and one-half percent, which shall be used for maintenance of the system. This subsection shall expire on January 1, 2037.

(2) There is hereby created in the state treasury the "Motor Vehicle Administration Technology Fund", which shall consist of money collected as specified in this subsection. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and money in the fund shall be used solely by the department of revenue for the purpose of development and maintenance of a modernized, integrated system for the titling of vehicles, issuance and renewal of vehicle registrations, issuance and renewal of driver's licenses and identification cards, and perfection and release of liens and encumbrances on vehicles.

(3) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

(4) The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. No motor vehicle dealer, trailer dealer, boat dealer, or powersport dealer that sells or leases new or used motor vehicles, trailers, vessels, or vessel trailers and imposes an administrative fee of five hundred dollars or less in connection with the sale or lease of a new or used

56 motor vehicle, trailer, vessel, or vessel trailer for the
57 storage of documents or any other administrative or clerical
58 services shall be deemed to be engaging in the unauthorized
59 practice of law. The maximum administrative fee permitted
60 under this subsection shall be increased annually by an
61 amount equal to the percentage change in the annual average
62 of the Consumer Price Index for All Urban Consumers or its
63 successor index, as reported by the federal Bureau of Labor
64 Statistics or its successor agency, or by zero, whichever is
65 greater. The director of the department of revenue shall
66 annually furnish the maximum administrative fee determined
67 under this section to the secretary of state, who shall
68 publish such value in the Missouri Register as soon as
69 practicable after January fourteenth of each year.

70 5. If an administrative fee is charged under this
71 section, the same administrative fee shall be charged to all
72 retail customers unless the fee is limited by the dealer's
73 franchise agreement to certain classes of customers. The
74 fee shall be disclosed on the retail buyer's order form as a
75 separate itemized charge.

76 6. A preliminary worksheet on which a sale price is
77 computed and that is shown to the purchaser, a retail
78 buyer's order form from the purchaser, or a retail
79 installment contract shall include, in reasonable proximity
80 to the place on the document where the administrative fee
81 authorized by this section is disclosed, the amount of the
82 administrative fee and the following notice in type that is
83 boldfaced, capitalized, underlined, or otherwise
84 conspicuously set out from the surrounding written material:

85 "AN ADMINISTRATIVE FEE IS NOT AN OFFICIAL FEE
86 AND IS NOT REQUIRED BY LAW BUT MAY BE CHARGED BY
87 A DEALER. THIS ADMINISTRATIVE FEE MAY RESULT IN
88 A PROFIT TO DEALER. NO PORTION OF THIS

89 ADMINISTRATIVE FEE IS FOR THE DRAFTING,
90 PREPARATION, OR COMPLETION OF DOCUMENTS OR THE
91 PROVIDING OF LEGAL ADVICE. THIS NOTICE IS
92 REQUIRED BY LAW."

93 7. The general assembly believes that an
94 administrative fee charged in compliance with this section
95 is not the unauthorized practice of law or the unauthorized
96 business of law so long as the activity or service for which
97 the fee is charged is in compliance with the provisions of
98 this section and does not result in the waiver of any rights
99 or remedies. Recognizing, however, that the judiciary is
100 the sole arbitrator of what constitutes the practice of law,
101 in the event that a court determines that an administrative
102 fee charged in compliance with this section, and that does
103 not waive any rights or remedies of the buyer, is the
104 unauthorized practice of law or the unauthorized business of
105 law, then no person who paid that administrative fee may
106 recover said fee or treble damages, as permitted under
107 section 484.020, and no person who charged that fee shall be
108 guilty of a misdemeanor, as provided under section 484.020.

307.010. 1. All motor vehicles, and every trailer and
2 semitrailer operating upon the public highways of this state
3 and carrying goods or material or farm products which may
4 reasonably be expected to become dislodged and fall from the
5 vehicle, trailer or semitrailer as a result of wind pressure
6 or air pressure and/or by the movement of the vehicle,
7 trailer or semitrailer shall have a protective cover or be
8 sufficiently secured so that no portion of such goods or
9 material can become dislodged and fall from the vehicle,
10 trailer or semitrailer while being transported or carried.

11 2. A cotton trailer, as defined in section 301.010,
12 shall not be in violation of this section, provided it is
13 traveling at speeds less than seventy miles per hour from

14 field to field or from field to market and return, no
15 portion of such goods or material becomes dislodged and
16 falls from the cotton trailer, and the goods are or material
17 is:

18 (1) Immobilized, such so that it cannot shift or tip
19 to the extent that the vehicle's stability or
20 maneuverability is adversely affected;

21 (2) Transported in a sided vehicle that has walls of
22 adequate strength, such that each article of cargo within
23 the vehicle is in contact with, or sufficiently close to a
24 wall or other articles, so that it cannot shift or tip to
25 the extent that the vehicle's stability or maneuverability
26 is adversely affected;

27 (3) Fully contained within the structure of the
28 vehicle, and firmly immobilized or secured on or within the
29 vehicle by structures of adequate strength, dunnage or
30 dunnage bags, shoring bars, tiedowns, or a combination of
31 these; or

32 (4) Otherwise secured in accordance with federal law.

33 3. Operation of a motor vehicle, trailer or
34 semitrailer in violation of this section shall be a class C
35 misdemeanor, and any person convicted thereof shall be
36 punished as provided by law.

407.1034. Notwithstanding the terms of any franchise
2 agreement, the performance, whether by act or omission, by a
3 motorcycle or all-terrain vehicle franchisor of any or all
4 of the following acts enumerated in this section are hereby
5 defined as unlawful practices, the remedies for which are
6 set forth in section 407.1043:

7 (1) To engage in any conduct which is capricious, in
8 bad faith, or unconscionable and which causes damage to a
9 motorcycle or all-terrain vehicle franchisee or to the
10 public; provided, that good faith conduct engaged in by

11 motorcycle or all-terrain vehicle franchisors as sellers of
12 new motorcycles, all-terrain vehicles or parts or as holders
13 of security interests therein, in pursuit of rights or
14 remedies accorded to sellers of goods or to holders of
15 security interests pursuant to the provisions of chapter
16 400, uniform commercial code, shall not constitute unfair
17 practices pursuant to sections 407.1025 to 407.1049;

18 (2) To coerce any motorcycle or all-terrain vehicle
19 franchisee to accept delivery of any new motorcycle,
20 motorcycles, all-terrain vehicles, equipment, parts or
21 accessories therefor, or any other commodity or commodities
22 which such motorcycle or all-terrain vehicle franchisee has
23 not ordered after such motorcycle or all-terrain vehicle
24 franchisee has rejected such commodity or commodities. It
25 shall not be deemed a violation of sections 407.1025 to
26 407.1049 for a motorcycle or all-terrain vehicle franchisor
27 to require a motorcycle or all-terrain vehicle franchisee to
28 have an inventory of parts, tools and equipment reasonably
29 necessary to service the motorcycles or all-terrain vehicles
30 sold by a motorcycle or all-terrain vehicle franchisor; or
31 new motorcycles or all-terrain vehicles reasonably necessary
32 to meet the demands of dealers or the public;

33 (3) To unreasonably refuse to deliver in reasonable
34 quantities and within a reasonable time after receipt of
35 orders for new motorcycles or all-terrain vehicles, such
36 motorcycles or all-terrain vehicles as are so ordered and as
37 are covered by such franchise and as are specifically
38 publicly advertised by such motorcycle or all-terrain
39 vehicle franchisor to be available for immediate delivery;
40 provided, however, the failure to deliver any motorcycle or
41 all-terrain vehicle shall not be considered a violation of
42 sections 407.1025 to 407.1049 if such failure is due to an
43 act of God, work stoppage, or delay due to a strike or labor

44 difficulty, shortage of products or materials, freight
45 delays, embargo or other cause of which such motorcycle or
46 all-terrain vehicle franchisor has no control;

47 (4) To coerce any motorcycle or all-terrain vehicle
48 franchisee to enter into any agreement with such motorcycle
49 or all-terrain vehicle franchisor or to do any other act
50 prejudicial to such motorcycle or all-terrain vehicle
51 franchisee, by threatening to cancel any franchise or any
52 contractual agreement existing between such motorcycle or
53 all-terrain vehicle franchisor and motorcycle or all-terrain
54 vehicle franchisee; provided, however, that notice in good
55 faith to any motorcycle or all-terrain vehicle franchisee of
56 such motorcycle or all-terrain vehicle franchisee's
57 violation of any provisions of such franchise or contractual
58 agreement shall not constitute a violation of sections
59 407.1025 to 407.1049;

60 (5) To terminate, cancel or refuse to continue any
61 franchise, directly or indirectly through the actions of the
62 franchisor, unless such new motorcycle or all-terrain
63 vehicle franchisee substantially defaults in the performance
64 of such franchisee's reasonable and lawful obligations under
65 such franchisee's franchise, or such new motorcycle or all-
66 terrain vehicle franchisor discontinues the sale in the
67 state of Missouri of such franchisor's products which are
68 the subject of the franchise:

69 (a) Notwithstanding the terms of any franchise
70 agreement to the contrary, good cause to terminate, cancel
71 or refuse to continue any franchise agreement shall not be
72 established based upon the fact that the motorcycle or all-
73 terrain vehicle franchisee owns, has an investment in,
74 participates in the management of or holds a franchise
75 agreement for the sale or service of another make or line of
76 new motorcycles or all-terrain vehicles or the motorcycle or

all-terrain vehicle dealer has established another make or line of new motorcycles or all-terrain vehicles or service in the same dealership facilities as those of the motorcycle or all-terrain vehicle franchisor prior to February 1, 1998, or such establishment is approved in writing by the franchisee and the franchisor. However, a franchisor may require a franchisee to maintain a reasonable line of credit for each franchise and to comply with each franchisor's reasonable requirements concerning capital, management and facilities. If the franchise agreement requires the approval of the franchisor, such approval shall be requested in writing by the franchisee and the franchisor shall approve or disapprove such a request in writing within sixty days of receipt of such request. A request from a franchisee shall be deemed to have been approved if the franchisor fails to notify the franchisee, in writing, of its disapproval within sixty days after its receipt of the written request;

(b) In determining whether good cause exists, the administrative hearing commission shall take into consideration the existing circumstances, including, but not limited to, the following factors:

a. The franchisee's sales in relation to sales in the market;

b. The franchisee's investment and obligations;

c. Injury to the public welfare;

d. The adequacy of the franchisee's service facilities, equipment, parts and personnel in relation to those of other franchisees of the same line-make;

e. Whether warranties are being honored by the franchisee;

f. The parties' compliance with their franchise agreement;

g. The desire of a franchisor for market penetration or a market study, if any, prepared by the franchisor or franchisee are two factors which may be considered;

h. The harm to the franchisor;

(6) To prevent by contract or otherwise, any motorcycle or all-terrain vehicle franchisee from changing the capital structure of the franchisee's franchise of such motorcycle or all-terrain vehicle franchisee or the means by or through which the franchisee finances the operation of the franchisee's franchise, provided the motorcycle or all-terrain vehicle franchisee at all times meets any reasonable capital standards agreed to between the motorcycle or all-terrain vehicle franchisee and the motorcycle or all-terrain vehicle franchisor and grants to the motorcycle or all-terrain vehicle franchisor a purchase money security interest in the new motorcycles or all-terrain vehicles, new parts and accessories purchased from the motorcycle or all-terrain vehicle franchisor;

(7) (a) Prevent, by contract or otherwise, any sale or transfer of a franchisee's franchise or franchises or interest or management thereof; provided, if the franchise specifically permits the franchisor to approve or disapprove any such proposed sale or transfer, a franchisor shall only be allowed to disapprove a proposed sale or transfer if the interest being sold or transferred when added to any other interest owned by the transferee constitutes fifty percent or more of the ownership interest in the franchise and if the proposed transferee fails to satisfy any standards of the franchisor which are in fact normally relied upon by the franchisor prior to its entering into a franchise, and which relate to the proposed management or ownership of the franchise operations or to the qualification, capitalization, integrity or character of the proposed

transferee and which are reasonable. A franchisee may request, at any time, that the franchisor provide a copy of the standards which are normally relied upon by the franchisor to evaluate a proposed sale or transfer and a proposed transferee;

(b) The franchisee and the prospective franchisee shall cooperate fully with the franchisor in providing information relating to the prospective transferee's qualifications, capitalization, integrity and character;

(c) In the event of a proposed sale or transfer of a franchise, the franchisor shall be permitted to exercise a right of first refusal to acquire the franchisee's assets or ownership if:

a. The franchise agreement permits the franchisor to exercise a right of first refusal to acquire the franchisee's assets or ownership in the event of a proposed sale or transfer;

b. Such sale or transfer is conditioned upon the franchisor or franchisee entering a franchise agreement with the proposed transferee;

c. The exercise of the right of first refusal shall result in the franchisee and the franchisee's owners receiving the same or greater consideration and the same terms and conditions as contracted to receive in connection with the proposed sale or transfer;

d. The sale or transfer does not involve the sale or transfer to an immediate member or members of the family of one or more franchisee owners, defined as a spouse, child, grandchild, spouse of a child or grandchild, brother, sister or parent of the franchisee owner, or to the qualified manager, defined as an individual who has been employed by the franchisee for at least two years and who otherwise

qualifies as a franchisee operator, or a partnership or corporation controlled by such persons; and

e. The franchisor agrees to pay the reasonable expenses, including attorney's fees which do not exceed the usual, customary and reasonable fees charged for similar work done for other clients, incurred by the proposed transferee prior to the franchisor's exercise of its right of first refusal in negotiating and implementing the contract for the proposed sale or transfer of the franchise or the franchisee's assets. Notwithstanding the foregoing, no payment of such expenses and attorney's fees shall be required if the franchisee has not submitted or caused to be submitted an accounting of those expenses within fourteen days of the franchisee's receipt of the franchisor's written request for such an accounting. Such accounting may be requested by a franchisor before exercising its right of first refusal;

(d) For determining whether good cause exists for the purposes of this subdivision, the administrative hearing commission shall take into consideration the existing circumstances, including, but not limited to, the following factors:

a. Whether the franchise agreement specifically permits the franchisor to approve or disapprove any proposed sale or transfer;

b. Whether the interest to be sold or transferred when added to any other interest owned by the proposed transferee constitutes fifty percent or more of the ownership interest in the franchise;

c. Whether the proposed transferee fails to satisfy any standards of the franchisor which are in fact normally relied upon by the franchisor prior to its entering into a franchise, and which are related to the proposed management

208 or ownership of the franchise operations or to the
209 qualification, capitalization, integrity or character of the
210 proposed transferee which are reasonable;

211 d. Injury to the public welfare;

212 e. The harm to the franchisor;

213 (8) To prevent by contract or otherwise any motorcycle
214 or all-terrain vehicle franchisee from changing the
215 executive management of motorcycle or all-terrain vehicle
216 franchisee's business, except that any attempt by a
217 motorcycle or all-terrain vehicle franchisor to demonstrate
218 by giving reasons that such change in executive management
219 will be detrimental to the distribution of the motorcycle or
220 all-terrain vehicle franchisor's motorcycles shall not
221 constitute a violation of this subdivision;

222 (9) To impose unreasonable standards of performance
223 upon a motorcycle or all-terrain vehicle franchisee;

224 (10) To require a motorcycle or all-terrain vehicle
225 franchisee at the time of entering into a franchise
226 arrangement to assent to a release, assignment, novation,
227 waiver or estoppel which would relieve any person from
228 liability imposed by sections 407.1025 to 407.1049;

229 (11) To prohibit directly or indirectly the right of
230 free association among motorcycle or all-terrain vehicle
231 franchisees for any lawful purpose;

232 (12) To provide any term or condition in any lease or
233 other agreement ancillary or collateral to a franchise,
234 which term or condition directly or indirectly violates the
235 provisions of sections 407.1025 to 407.1049;

236 (13) [Upon any termination, cancellation or refusal to
237 continue any franchise or any discontinuation of any line-
238 make or parts or products related to such line-make by a
239 franchisor, fail to pay reasonable compensation to a
240 franchisee as follows] To fail to repurchase a franchisee's

inventory and other items as set forth in this subdivision
if a motorcycle or all-terrain franchise agreement is
terminated, cancelled, or not renewed by the manufacturer
for cause; if the dealer voluntarily terminates a motorcycle
or all-terrain dealer agreement in a manner permitted by
such agreement; if the manufacturer terminates or
discontinues a franchise by discontinuing a line-make or by
ceasing to do business in this state; or if the manufacturer
changes the distributor or method of distribution of its
products in this state or alters its sales regions or
marketing areas within this state in a manner that
eliminates or diminishes the dealer's market area. In such
circumstances the manufacturer shall, at the election of the
motorcycle or all-terrain vehicle dealer, within thirty days
of termination, repurchase:

(a) Any new, undamaged and unsold motorcycles or all-terrain vehicles in the franchisee's inventory of either the current model year or purchased from the franchisor within one hundred twenty days prior to receipt of a notice of termination or nonrenewal, provided the motorcycle or all-terrain vehicle has less than twenty miles registered on the odometer, including mileage incurred in delivery from the franchisor or in transporting the motorcycle or all-terrain vehicle between dealers for sale, at the dealer's net acquisition cost;

(b) The current parts catalog cost to the dealer of each new, unused, undamaged and unsold part or accessory if the part or accessory is in the current parts catalog, less applicable allowances. If the part or accessory was purchased by the franchisee from an outgoing authorized franchisee, the franchisor shall purchase the part for either the price in the current parts catalog or the

273 franchisee's actual purchase price of the part, whichever is
274 less;

275 (c) The depreciated value determined pursuant to
276 generally accepted accounting principles of each undamaged
277 sign owned by the franchisee which bears a trademark or
278 trade name used or claimed by the franchisor if the sign was
279 purchased from, or purchased at the request of, the
280 franchisor;

281 (d) The fair market value of all special tools, data
282 processing equipment and motorcycle or all-terrain vehicle
283 service equipment owned by the franchisee which were
284 recommended in writing and designated as special tools and
285 equipment and purchased from, or purchased at the request
286 of, the franchisor within three years of the termination of
287 the franchise, if the tools and equipment are in usable and
288 good condition, except for reasonable wear and tear; and

289 (e) The franchisor shall pay the franchisee the
290 amounts specified in this subdivision within ninety days
291 after the tender of the property subject to the franchisee
292 providing evidence of good and clear title upon return of
293 the property to the franchisor. Unless previous
294 arrangements have been made and agreed upon, the franchisee
295 is under no obligation to provide insurance for the property
296 left after one hundred eighty days;

297 (14) To prevent or refuse to honor the succession to a
298 franchise or franchises by any legal heir or devisee under
299 the will of a franchisee, under any written instrument filed
300 with the franchisor designating any person as the person's
301 successor franchisee, or pursuant to the laws of descent and
302 distribution of this state; provided:

303 (a) Any designated family member of a deceased or
304 incapacitated franchisee shall become the succeeding
305 franchisee of such deceased or incapacitated franchisee if

306 such designated family member gives the franchisor written
307 notice of such family member's intention to succeed to the
308 franchise or franchises within forty-five days after the
309 death or incapacity of the franchisee, and agrees to be
310 bound by all of the terms and conditions of the current
311 franchise agreement, and the designated family member meets
312 the current reasonable criteria generally applied by the
313 franchisor in qualifying franchisees. A franchisee may
314 request, at any time, that the franchisor provide a copy of
315 such criteria generally applied by the franchisor in
316 qualifying franchisees;

317 (b) The franchisor may request from a designated
318 family member such personal and financial data as is
319 reasonably necessary to determine whether the existing
320 franchise agreement should be honored. The designated
321 family member shall supply the personal and financial data
322 promptly upon the request;

323 (c) If the designated family member does not meet the
324 reasonable criteria generally applied by the franchisor in
325 qualifying franchisees, the discontinuance of the current
326 franchise agreement shall take effect not less than ninety
327 days after the date the franchisor serves the required
328 notice on the designated family member pursuant to
329 subsection 5 of section 407.1031;

330 (d) The provisions of this subdivision shall not
331 preclude a franchisee from designating any person as the
332 person's successor by written instrument filed with the
333 franchisor, and if such an instrument is filed, it alone
334 shall determine the succession rights to the management and
335 operation of the franchise; and

336 (e) For determining whether good cause exists, the
337 administrative hearing commission shall take into

338 consideration the existing circumstances, including, but not
339 limited to, the following factors:

340 a. Whether the franchise agreement specifically
341 permits the franchisor to approve or disapprove any
342 successor;

343 b. Whether the proposed successor fails to satisfy any
344 standards of the franchisor which are in fact normally
345 relied upon by the franchisor prior to the successor
346 entering into a franchise, and which relate to the proposed
347 management or ownership of the franchise operation or to the
348 qualification, capitalization, integrity or character of the
349 proposed successor and which are reasonable;

350 c. Injury to the public welfare;

351 d. The harm to the franchisor;

352 (15) To coerce, threaten, intimidate or require a
353 franchisee under any condition affecting or related to a
354 franchise agreement, or to waive, limit or disclaim a right
355 that the franchisee may have pursuant to the provisions of
356 sections 407.1025 to 407.1049. Any contracts or agreements
357 which contain such provisions shall be deemed against the
358 public policy of the state of Missouri and are void and
359 unenforceable. Nothing in this section shall be construed
360 to prohibit voluntary settlement agreements;

361 (16) To initiate any act enumerated in this subsection
362 on grounds that it has advised a franchisee of its intention
363 to discontinue representation at the time of a franchisee
364 change.

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Jason Bean

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