

FIRST REGULAR SESSION

SENATE BILL NO. 165

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (21).

0980S.01I

KRISTINA MARTIN, Secretary

AN ACT

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

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

Section A. Section 301.560, RSMo, is repealed and one new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

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

4 (1) Every application other than **an application for a**
5 **new motor vehicle franchise dealer where the applicant is a**
6 **retailer that sells agricultural supplies and is under**
7 **common ownership and control with at least five other new**
8 **motor vehicle franchise dealers doing business under the**
9 **same name, or** a renewal application for a **new** motor vehicle
10 franchise dealer shall include a certification that the
11 applicant has a bona fide established place of business.
12 Such application shall include an annual certification that
13 the applicant has a bona fide established place of business
14 for the first three years and only for every other year
15 thereafter. The certification shall be performed by a
16 uniformed member of the Missouri state highway patrol or
17 authorized or designated employee stationed in the troop
18 area in which the applicant's place of business is located;

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

51 year which may be used for official correspondence with the
52 department. In order to qualify as a bona fide established
53 place of business for all applicants licensed pursuant to
54 this section there shall be an exterior sign displayed
55 carrying the name of the business set forth in letters at
56 least six inches in height and clearly visible to the public
57 and there shall be an area or lot which shall not be a
58 public street on which multiple vehicles, boats, personal
59 watercraft, or trailers may be displayed. The sign shall
60 contain the name of the dealership by which it is known to
61 the public through advertising or otherwise, which need not
62 be identical to the name appearing on the dealership's
63 license so long as such name is registered as a fictitious
64 name with the secretary of state, has been approved by its
65 line-make manufacturer in writing in the case of a new motor
66 vehicle franchise dealer and a copy of such fictitious name
67 registration has been provided to the department. Dealers
68 who sell only emergency vehicles as defined in section
69 301.550 are exempt from maintaining a bona fide place of
70 business, including the related law enforcement
71 certification requirements, and from meeting the minimum
72 yearly sales;

73 (2) The initial application for licensure shall
74 include a photograph, not to exceed eight inches by ten
75 inches but no less than five inches by seven inches, showing
76 the business building, lot, and sign. A new motor vehicle
77 franchise dealer applicant who has purchased a currently
78 licensed new motor vehicle franchised dealership shall be
79 allowed to submit a photograph of the existing dealership
80 building, lot and sign but shall be required to submit a new
81 photograph upon the installation of the new dealership sign
82 as required by sections 301.550 to 301.580. Applicants

83 shall not be required to submit a photograph annually unless
84 the business has moved from its previously licensed
85 location, or unless the name of the business or address has
86 changed, or unless the class of business has changed;

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

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

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

168 (4) Payment of all necessary license fees as
169 established by the department. In establishing the amount
170 of the annual license fees, the department shall, as near as
171 possible, produce sufficient total income to offset
172 operational expenses of the department relating to the
173 administration of sections 301.550 to 301.580. All fees
174 payable pursuant to the provisions of sections 301.550 to
175 301.580, other than those fees collected for the issuance of
176 dealer plates or certificates of number collected pursuant
177 to subsection 6 of this section, shall be collected by the
178 department for deposit in the state treasury to the credit

179 of the "Motor Vehicle Commission Fund", which is hereby
180 created. The motor vehicle commission fund shall be
181 administered by the Missouri department of revenue. The
182 provisions of section 33.080 to the contrary
183 notwithstanding, money in such fund shall not be transferred
184 and placed to the credit of the general revenue fund until
185 the amount in the motor vehicle commission fund at the end
186 of the biennium exceeds two times the amount of the
187 appropriation from such fund for the preceding fiscal year
188 or, if the department requires permit renewal less
189 frequently than yearly, then three times the appropriation
190 from such fund for the preceding fiscal year. The amount,
191 if any, in the fund which shall lapse is that amount in the
192 fund which exceeds the multiple of the appropriation from
193 such fund for the preceding fiscal year.

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

204 3. Except as otherwise provided in subsection 6 of
205 this section, upon the initial issuance of a license by the
206 department, the department shall assign a distinctive dealer
207 license number or certificate of number to the applicant and
208 the department shall issue one number plate or certificate
209 bearing the distinctive dealer license number or certificate
210 of number and two additional number plates or certificates

211 of number within eight working hours after presentment of
 212 the application and payment by the applicant of a fee of
 213 fifty dollars for the first plate or certificate and ten
 214 dollars and fifty cents for each additional plate or
 215 certificate. Upon renewal, the department shall issue the
 216 distinctive dealer license number or certificate of number
 217 as quickly as possible. The issuance of such distinctive
 218 dealer license number or certificate of number shall be in
 219 lieu of registering each motor vehicle, trailer, vessel or
 220 vessel trailer dealt with by a boat dealer, boat
 221 manufacturer, manufacturer, public motor vehicle auction,
 222 wholesale motor vehicle dealer, wholesale motor vehicle
 223 auction or new or used motor vehicle dealer. The license
 224 plates described in this section shall be made with fully
 225 reflective material with a common color scheme and design,
 226 shall be clearly visible at night, and shall be
 227 aesthetically attractive, as prescribed by section 301.130.

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

231	New motor vehicle franchise dealers	D-0 through D-999
232	New powersport dealers	D-1000 through D-1999
233 234	Used motor vehicle and used powersport dealers	D-2000 through D-9999
235	Wholesale motor vehicle dealers	W-0 through W-1999
236	Wholesale motor vehicle auctions	WA-0 through WA-999
237	New and used trailer dealers	T-0 through T-9999
238 239	Motor vehicle, trailer, and boat manufacturers	DM-0 through DM-999

240	Public motor vehicle auctions	A-0 through A-1999
241	Boat dealers	M-0 through M-9999
242	New and used recreational motor	RV-0 through RV-999
243	vehicle dealers	

244 For purposes of this subsection, qualified transactions
 245 shall include the purchase of salvage titled vehicles by a
 246 licensed salvage dealer. A used motor vehicle dealer who
 247 also holds a salvage dealer's license shall be allowed one
 248 additional plate or certificate number per fifty-unit
 249 qualified transactions annually. In order for salvage
 250 dealers to obtain number plates or certificates under this
 251 section, dealers shall submit to the department of revenue
 252 on August first of each year a statement certifying, under
 253 penalty of perjury, the dealer's number of purchases during
 254 the reporting period of July first of the immediately
 255 preceding year to June thirtieth of the present year. The
 256 provisions of this subsection shall become effective on the
 257 date the director of the department of revenue begins to
 258 reissue new license plates under section 301.130, or on
 259 December 1, 2008, whichever occurs first. If the director
 260 of revenue begins reissuing new license plates under the
 261 authority granted under section 301.130 prior to December 1,
 262 2008, the director of the department of revenue shall notify
 263 the revisor of statutes of such fact.

264 5. Upon the sale of a currently licensed motor vehicle
 265 dealership the department shall, upon request, authorize the
 266 new approved dealer applicant to retain the selling dealer's
 267 license number and shall cause the new dealer's records to
 268 indicate such transfer. If the new approved dealer

269 applicant elects not to retain the selling dealer's license
270 number, the department shall issue the new dealer applicant
271 a new dealer's license number and an equal number of plates
272 or certificates as the department had issued to the selling
273 dealer.

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

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

333 on August first of each year a statement certifying, under
334 penalty of perjury, the dealer's number of sales during the
335 reporting period of July first of the immediately preceding
336 year to June thirtieth of the present year.

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

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

365 regularly used service vessel or vessel trailer. Boat
366 dealers and boat manufacturers may display their certificate
367 of number on a vessel or vessel trailer when transporting a
368 vessel or vessels to an exhibit or show.

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

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

389 (2) The educational seminar shall include, but is not
390 limited to, the dealer requirements of sections 301.550 to
391 301.580, the rules promulgated to implement, enforce, and
392 administer sections 301.550 to 301.580, and any other rules
393 and regulations promulgated by the department.

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