

SECOND REGULAR SESSION

# HOUSE BILL NO. 1838

91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HOSMER.

Read 1<sup>st</sup> time February 7, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4514L.011

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## AN ACT

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

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Section A. Section 301.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.560, to read as follows:

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

(1) **Every application other than a renewal application for a motor vehicle franchise dealer shall include a certification that the applicant has a bona fide established place of business.** When the application is being made for licensure as a manufacturer, [boat manufacturer,] motor vehicle dealer, [boat dealer,] wholesale motor vehicle dealer, wholesale motor vehicle auction or a public motor vehicle auction, [a] certification **shall be performed** by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located; except, that in counties of the first classification, certification may be [authorized] **performed** by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed[, that the applicant has a bona fide established place of business]. **When the application is being made for licensure as a boat manufacturer or boat dealer, certification shall be performed by a uniformed member of the Missouri state water patrol stationed in the district area in which the applicant's place of business is located or by a uniformed member of the**

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

17 **Missouri state highway patrol stationed in the troop area in which the applicant's place of**  
18 **business is located or, if the applicant's place of business is located within the jurisdiction**  
19 **of a metropolitan police department in a first class county, by an officer of such**  
20 **metropolitan police department.** A bona fide established place of business for any new motor  
21 vehicle franchise dealer or used motor vehicle dealer shall include a permanent enclosed building  
22 or structure, either owned in fee or leased and actually occupied as a place of business by the  
23 applicant for the selling, bartering, trading or exchanging of motor vehicles or trailers and  
24 wherein the public may contact the owner or operator at any reasonable time, and wherein shall  
25 be kept and maintained the books, records, files and other matters required and necessary to  
26 conduct the business. The applicant's place of business shall contain a working telephone which  
27 shall be maintained during the entire registration year. In order to qualify as a bona fide  
28 established place of business for all applicants licensed pursuant to this section there shall be an  
29 exterior sign displayed carrying the name and class of business conducted in letters at least six  
30 inches in height and clearly visible to the public and there shall be an area or lot which shall not  
31 be a public street on which one or more vehicles may be displayed, except when licensure is for  
32 a wholesale motor vehicle dealer, a lot and sign shall not be required. When licensure is for a  
33 boat dealer, a lot shall not be required. In the case of new motor vehicle franchise dealers, the  
34 bona fide established place of business shall include adequate facilities, tools and personnel  
35 necessary to properly service and repair motor vehicles and trailers under their franchisor's  
36 warranty;

37 (2) If the application is for licensure as a manufacturer, boat manufacturer, new motor  
38 vehicle franchise dealer, used motor vehicle dealer, wholesale motor vehicle auction, boat dealer  
39 or a public motor vehicle auction, a photograph, not to exceed eight inches by ten inches,  
40 showing the business building and sign shall accompany the initial application. In the case of  
41 a manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer, the photograph  
42 shall include the lot of the business. A new motor vehicle franchise dealer applicant who has  
43 purchased a currently licensed new motor vehicle franchised dealership shall be allowed to  
44 submit a photograph of the existing dealership building, lot and sign but shall be required to  
45 submit a new photograph upon the installation of the new dealership sign as required by sections  
46 301.550 to 301.573. Applicants shall not be required to submit a photograph annually unless the  
47 business has moved from its previously licensed location, or unless the name of the business or  
48 address has changed, or unless the class of business has changed;

49 (3) If the application is for licensure as a wholesale motor vehicle dealer or as a boat  
50 dealer, the application shall contain the business address, not a post office box, and telephone  
51 number of the place where the books, records, files and other matters required and necessary to  
52 conduct the business are located and where the same may be inspected during normal daytime

53 business hours. Wholesale motor vehicle dealers and boat dealers shall file reports as required  
54 of new franchised motor vehicle dealers and used motor vehicle dealers;

55 (4) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer,  
56 a wholesale motor vehicle dealer, or boat dealer shall furnish with the application a corporate  
57 surety bond or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by  
58 any state or federal financial institution in the penal sum of twenty-five thousand dollars on a  
59 form approved by the department. The bond or irrevocable letter of credit shall be conditioned  
60 upon the dealer complying with the provisions of the statutes applicable to new motor vehicle  
61 franchise dealers, used motor vehicle dealers, wholesale motor vehicle dealers and boat dealers,  
62 and the bond shall be an indemnity for any loss sustained by reason of the acts of the person  
63 bonded when such acts constitute grounds for the suspension or revocation of the dealer's license.  
64 The bond shall be executed in the name of the state of Missouri for the benefit of all aggrieved  
65 parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary;  
66 except, that the aggregate liability of the surety or financial institution to the aggrieved parties  
67 shall, in no event, exceed the amount of the bond or irrevocable letter of credit. The proceeds  
68 of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final  
69 judgment from a Missouri court of competent jurisdiction against the principal and in favor of  
70 an aggrieved party;

71 (5) Payment of all necessary license fees as established by the department. In  
72 establishing the amount of the annual license fees, the department shall, as near as possible,  
73 produce sufficient total income to offset operational expenses of the department relating to the  
74 administration of sections 301.550 to 301.573. All fees payable pursuant to the provisions of  
75 sections 301.550 to 301.573, other than those fees collected for the issuance of dealer plates or  
76 certificates of number collected pursuant to subsection 6 of this section, shall be collected by the  
77 department for deposit in the state treasury to the credit of the "Motor Vehicle Commission  
78 Fund", which is hereby created. The motor vehicle commission fund shall be administered by  
79 the Missouri department of revenue. The provisions of section 33.080, RSMo, to the contrary  
80 notwithstanding, money in such fund shall not be transferred and placed to the credit of the  
81 general revenue fund until the amount in the motor vehicle commission fund at the end of the  
82 biennium exceeds two times the amount of the appropriation from such fund for the preceding  
83 fiscal year or, if the department requires permit renewal less frequently than yearly, then three  
84 times the appropriation from such fund for the preceding fiscal year. The amount, if any, in the  
85 fund which shall lapse is that amount in the fund which exceeds the multiple of the appropriation  
86 from such fund for the preceding fiscal year.

87 2. In the event a new manufacturer, boat manufacturer, motor vehicle dealer, wholesale  
88 motor vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle

89 auction submits an application for a license for a new business and the applicant has complied  
90 with all the provisions of this section, the department shall make a decision to grant or deny the  
91 license to the applicant within eight working hours after receipt of the dealer's application,  
92 notwithstanding any rule of the department.

93 3. Upon the initial issuance of a license by the department, the department shall assign  
94 a distinctive dealer license number or certificate of number to the applicant and the department  
95 shall issue one number plate or certificate bearing the distinctive dealer license number or  
96 certificate of number within eight working hours after presentment of the application. Upon the  
97 renewal of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer, public motor  
98 vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction, the  
99 department shall issue the distinctive dealer license number or certificate of number as quickly  
100 as possible. The issuance of such distinctive dealer license number or certificate of number shall  
101 be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt with by a boat  
102 dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale motor vehicle  
103 dealer, wholesale motor vehicle auction or motor vehicle dealer.

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

- 106
- 107 New motor vehicle franchise dealers . . . . . D-0 through D-999
- 108 New motor vehicle franchise and commercial
- 109 motor vehicle dealers . . . . . D-1000 through D-1999
- 110 Used motor vehicle dealers . . . . . D-2000 through D-5399
- 111 and D-6000 through D-9999
- 112 Wholesale motor vehicle dealers . . . . . W-1000 through W-1999
- 113 Wholesale motor vehicle auctions . . . . . W-2000 through W-2999
- 114 Trailer dealers . . . . . T-0 through T-9999
- 115 Motor vehicle and trailer manufacturers . . . . . M-0 through M-9999
- 116 Motorcycle dealers . . . . . D-5400 through D-5999
- 117 Public motor vehicle auctions . . . . . A-1000 through A-1999
- 118 Boat dealers and boat manufacturers . . . . . B-0 through B-9999

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

122 6. In the case of manufacturers and motor vehicle dealers, the department shall also issue  
123 one number plate bearing the distinctive dealer license number to the applicant upon payment  
124 by the manufacturer or dealer of a fifty-dollar fee. Such license plates shall be made with fully

125 reflective material with a common color scheme and design, shall be clearly visible at night, and  
126 shall be aesthetically attractive, as prescribed by section 301.130. Boat dealers and boat  
127 manufacturers shall be entitled to one certificate of number bearing such number upon the  
128 payment of a fifty-dollar fee. As many additional number plates as may be desired by  
129 manufacturers and motor vehicle dealers and as many additional certificates of number as may  
130 be desired by boat dealers and boat manufacturers may be obtained upon payment of a fee of ten  
131 dollars and fifty cents for each additional plate or certificate. A motor vehicle dealer, boat dealer,  
132 manufacturer, boat manufacturer, public motor vehicle auction, wholesale motor vehicle dealer  
133 or wholesale motor vehicle auction obtaining a dealer license plate or certificate of number or  
134 additional license plate or additional certificate of number, throughout the calendar year, shall  
135 be required to pay a fee for such license plates or certificates of number computed on the basis  
136 of one-twelfth of the full fee prescribed for the original and duplicate number plates or  
137 certificates of number for such dealers' licenses, multiplied by the number of months remaining  
138 in the licensing period for which the dealer or manufacturers shall be required to be licensed.  
139 In the event of a renewing dealer, the fee due at the time of renewal shall not be prorated.

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

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