

FIRST REGULAR SESSION

# HOUSE BILL NO. 977

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE JOHNSON.

2075L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 301.559, 301.562, 301.565, 578.100, and 578.120, RSMo, and to enact in lieu thereof seven new sections relating to motor vehicles, with penalty provisions.

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

Section A. Sections 301.559, 301.562, 301.565, 578.100, and 578.120, RSMo, are  
2 repealed and seven new sections enacted in lieu thereof, to be known as sections 301.551,  
3 301.552, 301.554, 301.559, 301.562, 301.565, and 578.100, to read as follows:

**301.551. Any wholesale motor vehicle auction shall provide a title to a vehicle  
2 purchased at the time such vehicle is purchased.**

**301.552. A motor vehicle dealer may keep open, operate, or assist in keeping open  
2 or operating any established place of business for the purpose of buying, selling, bartering,  
3 or exchanging, or offering for sale, barter, or exchange, any motor vehicle, whether new  
4 or used, on Sunday between the hours of 12:00 p.m. to 6:00 p.m.**

**301.554. A motor vehicle dealer shall be allowed to use a cellular telephone number  
2 as its official telephone number for the motor vehicle dealership.**

301.559. 1. It shall be unlawful for any person to engage in business as or act as a motor  
2 vehicle dealer, boat dealer, manufacturer, boat manufacturer, public motor vehicle auction,  
3 wholesale motor vehicle auction or wholesale motor vehicle dealer without first obtaining a  
4 license from the department as required in sections 301.550 to 301.573. Any person who  
5 maintains or operates any business wherein a license is required pursuant to the provisions of  
6 sections 301.550 to 301.573, without such license, is guilty of a class A misdemeanor. Any  
7 person committing a second violation of sections 301.550 to 301.573 shall be guilty of a class  
8 D felony.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

9           2. All dealer licenses shall expire on December thirty-first of each year. The department  
10 shall notify each person licensed under sections 301.550 to 301.573 of the date of license  
11 expiration and the amount of the fee required for renewal. The notice shall be mailed at least  
12 ninety days before the date of license expiration to the licensee's last known business address.

13           3. Every manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle  
14 dealer, wholesale motor vehicle auction, boat dealer or public motor vehicle auction shall make  
15 application to the department for issuance of a license. The application shall be on forms  
16 prescribed by the department and shall be issued under the terms and provisions of sections  
17 301.550 to 301.573 and require all applicants, as a condition precedent to the issuance of a  
18 license, to provide such information as the department may deem necessary to determine that the  
19 applicant is bona fide and of good moral character, except that every application for a license  
20 shall contain, in addition to such information as the department may require, a statement to the  
21 following facts:

22           (1) The name and business address, not a post office box, of the applicant and the  
23 fictitious name, if any, under which he intends to conduct his business; and if the applicant be  
24 a partnership, the name and residence address of each partner, an indication of whether the  
25 partner is a limited or general partner and the name under which the partnership business is to  
26 be conducted. In the event that the applicant is a corporation, the application shall list the names  
27 of the principal officers of the corporation and the state in which it is incorporated. Each  
28 application shall be verified by the oath or affirmation of the applicant, if an individual, or in the  
29 event an applicant is a partnership or corporation, then by a partner or officer;

30           (2) Whether the application is being made for registration as a manufacturer, boat  
31 manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer, wholesale motor  
32 vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle auction;

33           (3) When the application is for a new motor vehicle franchise dealer, the application  
34 shall be accompanied by a copy of the franchise agreement in the registered name of the  
35 dealership setting out the appointment of the applicant as a franchise holder and it shall be signed  
36 by the manufacturer, or his authorized agent, or the distributor, or his authorized agent, and shall  
37 include a description of the make of all motor vehicles covered by the franchise. The department  
38 shall not require a copy of the franchise agreement to be submitted with each renewal application  
39 unless the applicant is now the holder of a franchise from a different manufacturer or distributor  
40 from that previously filed, or unless a new term of agreement has been entered into;

41           (4) When the application is for a public motor vehicle auction, that the public motor  
42 vehicle auction has met the requirements of section 301.561.

43           4. No insurance company, finance company, credit union, savings and loan association,  
44 bank or trust company shall be required to obtain a license from the department in order to sell

45 any motor vehicle, trailer or vessel repossessed or purchased by the company on the basis of total  
46 destruction or theft thereof when the sale of the motor vehicle, trailer or vessel is in conformance  
47 with applicable title and registration laws of this state.

48 5. No person shall be issued a license to conduct a public motor vehicle auction or  
49 wholesale motor vehicle auction if such person has a violation of sections 301.550 to 301.573  
50 or other violations of chapter 301[,] or sections 407.511 to 407.556[, or section 578.120] which  
51 resulted in a felony conviction or finding of guilt or a violation of any federal motor vehicle laws  
52 which resulted in a felony conviction or finding of guilt.

301.562. 1. The department may refuse to issue or renew any license required pursuant  
2 to sections 301.550 to 301.573 for any one or any combination of causes stated in subsection 2  
3 of this section. The department shall notify the applicant or licensee in writing at his or her last  
4 known address of the reasons for the refusal to issue or renew the license and shall advise the  
5 applicant or licensee of his or her right to file a complaint with the administrative hearing  
6 commission as provided by chapter 621.

7 2. The department may cause a complaint to be filed with the administrative hearing  
8 commission as provided by chapter 621 against any holder of any license issued under sections  
9 301.550 to 301.573 for any one or any combination of the following causes:

10 (1) The applicant or license holder was previously the holder of a license issued under  
11 sections 301.550 to 301.573, which license was revoked for cause and never reissued by the  
12 department, or which license was suspended for cause and the terms of suspension have not been  
13 fulfilled;

14 (2) The applicant or license holder was previously a partner, stockholder, director or  
15 officer controlling or managing a partnership or corporation whose license issued under sections  
16 301.550 to 301.573 was revoked for cause and never reissued or was suspended for cause and  
17 the terms of suspension have not been fulfilled;

18 (3) The applicant or license holder has, within ten years prior to the date of the  
19 application, been finally adjudicated and found guilty, or entered a plea of guilty or nolo  
20 contendere, in a prosecution under the laws of any state or of the United States, for any offense  
21 reasonably related to the qualifications, functions, or duties of any business licensed under  
22 sections 301.550 to 301.573; for any offense, an essential element of which is fraud, dishonesty,  
23 or an act of violence; or for any offense involving moral turpitude, whether or not sentence is  
24 imposed;

25 (4) Use of fraud, deception, misrepresentation, or bribery in securing any license issued  
26 pursuant to sections 301.550 to 301.573;

27 (5) Obtaining or attempting to obtain any money, commission, fee, barter, exchange, or  
28 other compensation by fraud, deception, or misrepresentation;

29 (6) Violation of, or assisting or enabling any person to violate any provisions of this  
30 chapter and chapters 144, 306, 307, 407, 578, and 643 or of any lawful rule or regulation adopted  
31 pursuant to this chapter and chapters **144**, 306, 307, 407, 578, and 643;

32 (7) The applicant or license holder has filed an application for a license which, as of its  
33 effective date, was incomplete in any material respect or contained any statement which was, in  
34 light of the circumstances under which it was made, false or misleading with respect to any  
35 material fact;

36 (8) The applicant or license holder has failed to pay the proper application or license fee  
37 or other fees required pursuant to this chapter or chapter 306 or fails to establish or maintain a  
38 bona fide place of business;

39 (9) Uses or permits the use of any special license or license plate assigned to the license  
40 holder for any purpose other than those permitted by law;

41 (10) The applicant or license holder is finally adjudged insane or incompetent by a court  
42 of competent jurisdiction;

43 (11) Use of any advertisement or solicitation which is false;

44 (12) Violations of sections 407.511 to 407.556[, section 578.120,] which resulted in a  
45 conviction or finding of guilt or violation of any federal motor vehicle laws which result in a  
46 conviction or finding of guilt.

47 3. Any such complaint shall be filed within one year of the date upon which the  
48 department receives notice of an alleged violation of an applicable statute or regulation. After  
49 the filing of such complaint, the proceedings shall be conducted in accordance with the  
50 provisions of chapter 621. Upon a finding by the administrative hearing commission that the  
51 grounds, provided in subsection 2 of this section, for disciplinary action are met, the department  
52 may, singly or in combination, refuse to issue the person a license, issue a private reprimand,  
53 place the person on probation on such terms and conditions as the department deems appropriate  
54 for a period of one day to five years, suspend the person's license from one day to six days, or  
55 revoke the person's license for such period as the department deems appropriate. The applicant  
56 or licensee shall have the right to appeal the decision of the administrative hearing commission  
57 and department in the manner provided in chapter 536.

58 4. Upon the suspension or revocation of any person's license issued under sections  
59 301.550 to 301.573, the department shall recall any distinctive number plates that were issued  
60 to that licensee.

301.565. 1. Upon application by the department, and the necessary burden having been  
2 met, a court of general jurisdiction may grant an injunction, restraining order or other order as  
3 may be appropriate to enjoin a person from:

4 (1) Offering to engage or engaging in the performance of any acts or practices for which  
5 a license is required under the provisions of this chapter, upon a showing that such acts or  
6 practices were performed or offered to be performed without a license; or

7 (2) Violating any provision of this chapter, any rule promulgated by the department  
8 pursuant to this chapter, subsection 1 of section 307.350[,], **or** sections 407.511 to 407.556[, or  
9 section 578.120].

10 2. Any action brought under this section shall be in addition to and not in lieu of any  
11 remedy provided by this chapter and may be brought concurrently with other actions to enforce  
12 this chapter.

578.100. 1. Whoever engages on Sunday in the business of selling or sells or offers for  
2 sale on such day, at retail, [motor vehicles;] clothing and wearing apparel; clothing accessories;  
3 furniture; housewares; home, business or office furnishings; household, business or office  
4 appliances; hardware; tools; paints; building and lumber supply materials; jewelry; silverware;  
5 watches; clocks; luggage; musical instruments and recordings or toys; excluding novelties and  
6 souvenirs; is guilty of a misdemeanor and shall upon conviction for the first offense be sentenced  
7 to pay a fine of not exceeding one hundred dollars, and for the second or any subsequent offense  
8 be sentenced to pay a fine of not exceeding two hundred dollars or undergo confinement not  
9 exceeding thirty days in the county jail in default thereof.

10 2. Each separate sale or offer to sell shall constitute a separate offense.

11 3. Information charging violations of this section shall be brought within five days after  
12 the commission of the alleged offense and not thereafter.

13 4. The operation of any place of business where any goods, wares or merchandise are  
14 sold or exposed for sale in violation of this section is hereby declared to be a public and common  
15 nuisance.

16 5. Any county of this state containing all or part of a city with a population of over four  
17 hundred thousand may exempt itself from the application of this section by submission of the  
18 proposition to the voters of the county at a general election or a special election called for that  
19 purpose, and the proposition receiving a majority of the votes cast therein. The proposal to  
20 exempt the county from the provisions of this section shall be submitted to the voters of the  
21 county upon a majority vote of the governing body of the county or when a petition requesting  
22 the submission of the proposal to the voters and signed by a number of qualified voters residing  
23 in the county equal to eight percent of the votes cast in the county in the next preceding  
24 gubernatorial election is filed with the governing body of the county. The ballot of submission  
25 shall contain, but not be limited to, the following language:

26 G FOR the exemption of ..... County from the Sunday sales law

27           G   AGAINST the exemption of ..... County from the Sunday sales law If a majority  
 28 of the votes cast on the proposal by the qualified voters voting thereon in the county are in favor  
 29 of the proposal, then the provisions of this section shall no longer apply within that county. If  
 30 a majority of the votes cast on the proposal by the qualified voters voting thereon in the county  
 31 are opposed to the proposal, then the provisions of this section shall continue to apply and be  
 32 enforced within that county. The exemption of any county from the provisions of this section  
 33 shall not become effective in that county until the results of the vote exempting the county have  
 34 been filed with the secretary of state and with the revisor of statutes and have been certified as  
 35 received by those officers. The revisor of statutes shall note which counties are exempt from the  
 36 provisions of this section in the Missouri revised statutes.

37           6. In addition to any other method of exemption provided by law, the governing body  
 38 of any county of this state may exempt itself from the application of this section by order or  
 39 ordinance of the governing body of the county after public hearing upon the matter. Such public  
 40 hearing shall be preceded by public notice which shall, at a minimum, be published at least three  
 41 different times in the newspaper with the greatest circulation in the county. Upon such order or  
 42 ordinance becoming effective, such county shall be exempt from the provisions of this section  
 43 and no election or other method of exemption shall be required. The exemption of any county  
 44 from the provisions of this section by order or ordinance shall not become effective in that  
 45 county until the order or ordinance has been filed with the secretary of state and the revisor of  
 46 statutes and has been certified as received by those officers. The revisor of statutes shall note  
 47 which counties are exempt from the provisions of this section in the Missouri revised statutes.

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2                           [578.120. 1. Notwithstanding any provision in this chapter to the  
 3 contrary, no dealer, distributor or manufacturer licensed under section 301.559  
 4 may keep open, operate, or assist in keeping open or operating any established  
 5 place of business for the purpose of buying, selling, bartering or exchanging, or  
 6 offering for sale, barter or exchange, any motor vehicle, whether new or used, on  
 7 Sunday. However, this section does not apply to the sale of manufactured  
 8 housing; the sale of recreational motor vehicles; washing, towing, wrecking or  
 9 repairing operations; the sale of petroleum products, tires, and repair parts and  
 10 accessories; or new vehicle shows or displays participated in by five or more  
 11 franchised dealers or in towns or cities with five or fewer dealers, a majority.

12                           2. No association consisting of motor vehicle dealers, distributors or  
 13 manufacturers licensed under section 301.559 shall be in violation of antitrust or  
 14 restraint of trade statutes under chapter 416 or regulation promulgated thereunder  
 15 solely because it encourages its members not to open or operate on Sunday a  
 16 place of business for the purpose of buying, selling, bartering or exchanging any  
 motor vehicle.

17                   3. Any person who violates the provisions of this section shall be guilty  
18                   of a class C misdemeanor.]

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