

SECOND REGULAR SESSION

HOUSE BILL NO. 1761

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MILLER.

5255H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 301.560 and 301.564, RSMo, and to enact in lieu thereof two new sections relating to boat dealers.

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

Section A. Sections 301.560 and 301.564, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 301.560 and 301.564, to read as follows: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. Such application shall include an annual certification that the applicant has a bona fide established place of business for the first three years and only for every other year thereafter. The certification shall be performed by a uniformed member of the Missouri state highway patrol or authorized or designated employee 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 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. 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 Missouri state] highway patrol **or authorized or designated employee** stationed in the troop area in which the applicant's place of business is located or, if the applicant's place of business is located within the

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.

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

40 (2) The initial application for licensure shall include a photograph, not to exceed eight
41 inches by ten inches but no less than five inches by seven inches, showing the business building,
42 lot, and sign. A new motor vehicle franchise dealer applicant who has purchased a currently
43 licensed new motor vehicle franchised dealership shall be allowed to submit a photograph of the
44 existing dealership building, lot and sign but shall be required to submit a new photograph upon
45 the installation of the new dealership sign as required by sections 301.550 to 301.573.
46 Applicants shall not be required to submit a photograph annually unless the business has moved
47 from its previously licensed location, or unless the name of the business or address has changed,
48 or unless the class of business has changed;

49 (3) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer,
50 a powersport dealer, a wholesale motor vehicle dealer, trailer dealer, or boat dealer shall furnish
51 with the application a corporate surety bond or an irrevocable letter of credit as defined in section
52 400.5-102, issued by any state or federal financial institution in the penal sum of twenty-five
53 thousand dollars on a form approved by the department. The bond or irrevocable letter of credit

54 shall be conditioned upon the dealer complying with the provisions of the statutes applicable to
55 new motor vehicle franchise dealers, used motor vehicle dealers, powersport dealers, wholesale
56 motor vehicle dealers, trailer dealers, and boat dealers, and the bond shall be an indemnity for
57 any loss sustained by reason of the acts of the person bonded when such acts constitute grounds
58 for the suspension or revocation of the dealer's license. The bond shall be executed in the name
59 of the state of Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit
60 shall name the state of Missouri as the beneficiary; except, that the aggregate liability of the
61 surety or financial institution to the aggrieved parties shall, in no event, exceed the amount of
62 the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit
63 shall be paid upon receipt by the department of a final judgment from a Missouri court of
64 competent jurisdiction against the principal and in favor of an aggrieved party. Additionally,
65 every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, a
66 powersport dealer, a wholesale motor vehicle dealer, or boat dealer shall furnish with the
67 application a copy of a current dealer garage policy bearing the policy number and name of the
68 insurer and the insured;

69 (4) Payment of all necessary license fees as established by the department. In
70 establishing the amount of the annual license fees, the department shall, as near as possible,
71 produce sufficient total income to offset operational expenses of the department relating to the
72 administration of sections 301.550 to 301.580. All fees payable pursuant to the provisions of
73 sections 301.550 to 301.580, other than those fees collected for the issuance of dealer plates or
74 certificates of number collected pursuant to subsection 6 of this section, shall be collected by the
75 department for deposit in the state treasury to the credit of the "Motor Vehicle Commission
76 Fund", which is hereby created. The motor vehicle commission fund shall be administered by
77 the Missouri department of revenue. The provisions of section 33.080 to the contrary
78 notwithstanding, money in such fund shall not be transferred and placed to the credit of the
79 general revenue fund until the amount in the motor vehicle commission fund at the end of the
80 biennium exceeds two times the amount of the appropriation from such fund for the preceding
81 fiscal year or, if the department requires permit renewal less frequently than yearly, then three
82 times the appropriation from such fund for the preceding fiscal year. The amount, if any, in the
83 fund which shall lapse is that amount in the fund which exceeds the multiple of the appropriation
84 from such fund for the preceding fiscal year.

85 2. In the event a new vehicle manufacturer, boat manufacturer, motor vehicle dealer,
86 wholesale motor vehicle dealer, boat dealer, powersport dealer, wholesale motor vehicle auction,
87 trailer dealer, or a public motor vehicle auction submits an application for a license for a new
88 business and the applicant has complied with all the provisions of this section, the department

89 shall make a decision to grant or deny the license to the applicant within eight working hours
90 after receipt of the dealer's application, notwithstanding any rule of the department.

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

101 4. Notwithstanding any other provision of the law to the contrary, the department shall
102 assign the following distinctive dealer license numbers to: New motor vehicle franchise dealers.
103D-0 through D-999 New powersport dealers and motorcycle franchise dealers. .D-1000
104 through D-1999 Used motor vehicle, used powersport, and used motorcycle dealers.
105 D-2000 through D-9999 Wholesale motor vehicle dealers. W-0 through
106 W-1999 Wholesale motor vehicle auctions. WA-0 through WA-999 New and used trailer
107 dealers. T-0 through T-9999 Motor vehicle, trailer, and boat manufacturers DM-0
108 through DM-999 Public motor vehicle auctions. A-0 through A-1999 Boat dealers. .
109 M-0 through M-9999 New and used recreational motor vehicle dealers. . .
110 RV-0 through RV-999 For purposes of this subsection, qualified transactions shall include the
111 purchase of salvage titled vehicles by a licensed salvage dealer. A used motor vehicle dealer
112 who also holds a salvage dealer's license shall be allowed one additional plate or certificate
113 number per fifty-unit qualified transactions annually. In order for salvage dealers to obtain
114 number plates or certificates under this section, dealers shall submit to the department of revenue
115 on August first of each year a statement certifying, under penalty of perjury, the dealer's number
116 of purchases during the reporting period of July first of the immediately preceding year to June
117 thirtieth of the present year. The provisions of this subsection shall become effective on the date
118 the director of the department of revenue begins to reissue new license plates under section
119 301.130, or on December 1, 2008, whichever occurs first. If the director of revenue begins
120 reissuing new license plates under the authority granted under section 301.130 prior to December
121 1, 2008, the director of the department of revenue shall notify the revisor of statutes of such fact.

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

125 6. In the case of new motor vehicle manufacturers, motor vehicle dealers, powersport
126 dealers, recreational motor vehicle dealers, and trailer dealers, the department shall issue one
127 number plate bearing the distinctive dealer license number and may issue two additional number
128 plates to the applicant upon payment by the manufacturer or dealer of a fifty dollar fee for the
129 number plate bearing the distinctive dealer license number and ten dollars and fifty cents for each
130 additional number plate. Such license plates shall be made with fully reflective material with
131 a common color scheme and design, shall be clearly visible at night, and shall be aesthetically
132 attractive, as prescribed by section 301.130. Boat dealers and boat manufacturers shall be
133 entitled to one certificate of number bearing such number upon the payment of a fifty dollar fee.
134 Additional number plates and as many additional certificates of number may be obtained upon
135 payment of a fee of ten dollars and fifty cents for each additional plate or certificate. New motor
136 vehicle manufacturers shall not be issued or possess more than three hundred forty-seven
137 additional number plates or certificates of number annually. New and used motor vehicle
138 dealers, powersport dealers, wholesale motor vehicle dealers, boat dealers, and trailer dealers are
139 limited to one additional plate or certificate of number per ten-unit qualified transactions
140 annually. New and used recreational motor vehicle dealers are limited to two additional plates
141 or certificate of number per ten-unit qualified transactions annually for their first fifty
142 transactions and one additional plate or certificate of number per ten-unit qualified transactions
143 thereafter. An applicant seeking the issuance of an initial license shall indicate on his or her
144 initial application the applicant's proposed annual number of sales in order for the director to
145 issue the appropriate number of additional plates or certificates of number. A motor vehicle
146 dealer, trailer dealer, boat dealer, powersport dealer, recreational motor vehicle dealer, motor
147 vehicle manufacturer, boat manufacturer, or wholesale motor vehicle dealer obtaining a
148 distinctive dealer license plate or certificate of number or additional license plate or additional
149 certificate of number, throughout the calendar year, shall be required to pay a fee for such license
150 plates or certificates of number computed on the basis of one-twelfth of the full fee prescribed
151 for the original and duplicate number plates or certificates of number for such dealers' licenses,
152 multiplied by the number of months remaining in the licensing period for which the dealer or
153 manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at
154 the time of renewal shall not be prorated. Wholesale and public auctions shall be issued a
155 certificate of dealer registration in lieu of a dealer number plate. In order for dealers to obtain
156 number plates or certificates under this section, dealers shall submit to the department of revenue
157 on August first of each year a statement certifying, under penalty of perjury, the dealer's number
158 of sales during the reporting period of July first of the immediately preceding year to June
159 thirtieth of the present year.

160 7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any
161 motor vehicle owned by a new motor vehicle manufacturer. The plates issued pursuant to
162 subsection 3 or 6 of this section may be displayed on any motor vehicle or trailer owned and held
163 for resale by a motor vehicle dealer for use by a customer who is test driving the motor vehicle,
164 for use and display purposes during, but not limited to, parades, private events, charitable events,
165 or for use by an employee or officer, but shall not be displayed on any motor vehicle or trailer
166 hired or loaned to others or upon any regularly used service or wrecker vehicle. Motor vehicle
167 dealers may display their dealer plates on a tractor, truck or trailer to demonstrate a vehicle under
168 a loaded condition. Trailer dealers may display their dealer license plates in like manner, except
169 such plates may only be displayed on trailers owned and held for resale by the trailer dealer.

170 8. The certificates of number issued pursuant to subsection 3 or 6 of this section may be
171 displayed on any vessel or vessel trailer owned and held for resale by a boat manufacturer or a
172 boat dealer, and used by a customer who is test driving the vessel or vessel trailer, or is used by
173 an employee or officer on a vessel or vessel trailer only, but shall not be displayed on any motor
174 vehicle owned by a boat manufacturer, boat dealer, or trailer dealer, or vessel or vessel trailer
175 hired or loaned to others or upon any regularly used service vessel or vessel trailer. Boat dealers
176 and boat manufacturers may display their certificate of number on a vessel or vessel trailer when
177 transporting a vessel or vessels to an exhibit or show.

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

182 10. (1) Every application for the issuance of a used motor vehicle dealer's license shall
183 be accompanied by proof that the applicant, within the last twelve months, has completed an
184 educational seminar course approved by the department as prescribed by subdivision (2) of this
185 subsection. Wholesale and public auto auctions and applicants currently holding a new or used
186 license for a separate dealership shall be exempt from the requirements of this subsection. The
187 provisions of this subsection shall not apply to current new motor vehicle franchise dealers or
188 motor vehicle leasing agencies or applicants for a new motor vehicle franchise or a motor vehicle
189 leasing agency. The provisions of this subsection shall not apply to used motor vehicle dealers
190 who were licensed prior to August 28, 2006.

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

301.564. 1. Any person or his agent licensed or registered as a manufacturer, motor
2 vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor vehicle auction or

3 a public motor vehicle auction pursuant to the provisions of sections 301.550 to 301.573, shall
4 permit an employee of the department of revenue or any law enforcement official to inspect,
5 during normal business hours, any of the following documents which are in his possession or
6 under his custody or control:

- 7 (1) Any title to any motor vehicle or vessel;
- 8 (2) Any application for title to any motor vehicle or vessel;
- 9 (3) Any affidavit provided pursuant to sections 301.550 to 301.573 or chapter 407;
- 10 (4) Any assignment of title to any motor vehicle or vessel;
- 11 (5) Any disclosure statement or other document relating to mileage or odometer readings
12 required by the laws of the United States or any other state;
- 13 (6) Any inventory and related documentation.

14 2. For purposes of this section, the term "law enforcement official" shall mean any of the
15 following:

- 16 (1) Attorney general, or any person designated by him to make such an inspection;
- 17 (2) Any prosecuting attorney or any person designated by a prosecuting attorney to make
18 such an inspection;
- 19 (3) Any member **or authorized or designated employee** of the **Missouri state** highway
20 patrol [or water patrol];
- 21 (4) Any sheriff or deputy sheriff;
- 22 (5) Any peace officer certified pursuant to chapter 590 acting in his official capacity.

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