

FIRST REGULAR SESSION

HOUSE BILL NO. 1034

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ENGLER.

2064H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 301.213, 301.559, 301.560, 301.562, and 301.566, RSMo, and to enact in lieu thereof five new sections relating to motor vehicle dealers, with penalty provisions.

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

Section A. Sections 301.213, 301.559, 301.560, 301.562, and 301.566, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 301.213, 301.559,
3 301.560, 301.562, and 301.566, to read as follows:

301.213. 1. Notwithstanding the provisions of sections 301.200 and 301.210, any person
2 licensed as a motor vehicle dealer under sections 301.550 to 301.580 that has provided to the
3 director of revenue a surety bond or irrevocable letter of credit in an amount not less than one
4 hundred thousand dollars in a form which complies with the requirements of section 301.560 and
5 in lieu of the ~~twenty-five~~ **fifty** thousand dollar bond otherwise required for licensure as a motor
6 vehicle dealer shall be authorized to purchase or accept in trade any motor vehicle for which
7 there has been issued a certificate of ownership, and to receive such vehicle subject to any
8 existing liens thereon created and perfected under sections 301.600 to 301.660 provided the
9 licensed dealer receives the following:

10 (1) A signed written contract between the licensed dealer and the owner of the vehicle
11 outlining the terms of the sale or acceptance in trade of such motor vehicle without transfer of
12 the certificate of ownership; and

13 (2) Physical delivery of the vehicle to the licensed dealer; and

14 (3) A power of attorney from the owner to the licensed dealer, in accordance with
15 subsection 4 of section 301.300, authorizing the licensed dealer to obtain a duplicate or
16 replacement title in the owner's name and sign any title assignments on the owner's behalf.

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.

17 2. If the dealer complies with the requirements of subsection 1 of this section, the sale
18 or trade of the vehicle to the dealer shall be considered final, subject to any existing liens created
19 and perfected under sections 301.600 to 301.660. Once the prior owner of the motor vehicle has
20 physically delivered the motor vehicle to the licensed dealer, the prior owners' insurable interest
21 in such vehicle shall cease to exist.

22 3. If a licensed dealer complies with the requirements of subsection 1 of this section, and
23 such dealer has provided to the director of revenue a surety bond or irrevocable letter of credit
24 in amount not less than one hundred thousand dollars in a form which complies with the
25 requirements of section 301.560 and in lieu of the ~~[twenty-five]~~ **fifty** thousand dollar bond
26 otherwise required for licensure as a motor vehicle dealer, such dealer may sell such vehicle prior
27 to receiving and assigning to the purchaser the certificate of ownership, provided such dealer
28 complies with the following:

29 (1) All outstanding liens created on the vehicle pursuant to sections 301.600 to 301.660
30 have been paid in full, and the dealer provides a copy of proof or other evidence to the purchaser;
31 and

32 (2) The dealer has obtained proof or other evidence from the department of revenue
33 confirming that no outstanding child support liens exist upon the vehicle at the time of sale and
34 provides a copy of said proof or other evidence to the purchaser; and

35 (3) The dealer has obtained proof or other evidence from the department of revenue
36 confirming that all applicable state sales tax has been satisfied on the sale of the vehicle to the
37 previous owner and provides a copy of said proof or other evidence to the purchaser; and

38 (4) The dealer has signed an application for duplicate or replacement title for the vehicle
39 under subsection 4 of section 301.300 and provides a copy of the application to the purchaser,
40 along with a copy of the power of attorney required by subsection 1 of this section, and the dealer
41 has prepared and delivered to the purchaser an application for title for the vehicle in the
42 purchaser's name; and

43 (5) The dealer and the purchaser have entered into a written agreement for the
44 subsequent assignment and delivery of such certificate of ownership, on a form prescribed by the
45 director of revenue, to take place at a time, not to exceed sixty calendar days, after the time of
46 delivery of the motor vehicle to the purchaser. Such agreement shall require the purchaser to
47 provide to the dealer proof of financial responsibility in accordance with chapter 303 and proof
48 of comprehensive and collision coverage on the motor vehicle. Such dealer shall maintain the
49 original or an electronic copy of the signed agreement and deliver a copy of the signed agreement
50 to the purchaser. Such dealer shall also complete and deliver to the director of revenue such
51 form as the director shall prescribe demonstrating that the purchaser has purchased the vehicle
52 without contemporaneous delivery of the title.

53

54 Notwithstanding any provision of law to the contrary, completion of the requirements of this
55 subsection shall constitute prima facie evidence of an ownership interest vested in the purchaser
56 of the vehicle for all purposes other than for a subsequent transfer of ownership of the vehicle
57 by the purchaser, subject to the rights of any secured lienholder of record; however, the purchaser
58 may use the dealer-supplied copy of the agreement to transfer his or her ownership of the vehicle
59 to an insurance company in situations where the vehicle has been declared salvage or a total loss
60 by the insurance company as a result of a settlement of a claim. Such insurance company may
61 apply for a salvage certificate of title or junking certificate pursuant to the provisions of
62 subsection 3 of section 301.193 in order to transfer its interest in such vehicle. The purchaser
63 may also use the dealer-supplied copy of the agreement on the form prescribed by the director
64 of revenue as proof of ownership interest. Any lender or insurance company may rely upon a
65 copy of the signed written agreement on the form prescribed by the director of revenue as proof
66 of ownership interest. Any lien placed upon a vehicle based upon such signed written agreement
67 shall be valid and enforceable, notwithstanding the absence of a certificate of ownership.

68 4. Following a sale or other transaction in which a certificate of ownership has not been
69 assigned from the owner to the licensed dealer, the dealer shall, within ten business days, apply
70 for a duplicate or replacement certificate of ownership. Upon receipt of a duplicate or
71 replacement certificate of ownership applied for under subsection 4 of section 301.300, the
72 dealer shall assign and deliver said certificate of ownership to the purchaser of the vehicle within
73 five business days. The dealer shall maintain proof of the assignment and delivery of the
74 certificate of ownership to the purchaser. For purposes of this subsection, a dealer shall be
75 deemed to have delivered the certificate of ownership to the purchaser upon either:

76 (1) Physical delivery of the certificate of ownership to any of the purchasers identified
77 in the contract with such dealer; or

78 (2) Mailing of the certificate, postage prepaid, return receipt requested, to any of the
79 purchasers at any of their addresses identified in the contract with such dealer.

80 5. If a licensed dealer fails to comply with subsection 3 of this section, and the purchaser
81 of the vehicle is thereby damaged, then the dealer shall be liable to the purchaser of the vehicle
82 for actual damages, plus court costs and reasonable attorney fees.

83 6. If a licensed dealer fails or is unable to comply with subsection 4 of this section, and
84 the purchaser of the vehicle is thereby damaged, then the dealer shall be liable to the purchaser
85 of the vehicle for actual damages, plus court costs and reasonable attorney fees. If the dealer
86 cannot be found by the purchaser after making reasonable attempts, or if the dealer fails to assign
87 and deliver the duplicate or replacement certificate of ownership to the purchaser by the date
88 agreed upon by the dealer and the purchaser, as required by subsection 4 of this section, then the

89 purchaser may deliver to the director a copy of the contract for sale of the vehicle, a copy of the
90 application for duplicate title provided by the dealer to the purchaser, a copy of the secure power
91 of attorney allowing the dealer to assign the duplicate title, and the proof or other evidence
92 obtained by the purchaser from the dealer under subsection 3 of this section. Thereafter, the
93 director shall mail by certified mail, return receipt requested, a notice to the dealer at the last
94 address given to the department by that dealer. That notice shall inform the dealer that the
95 director intends to cancel any prior certificate of title which may have been issued to the dealer
96 on the vehicle and issue to the purchaser a certificate of title in the name of the purchaser, subject
97 to any liens incurred by the purchaser in connection with the purchase of the vehicle, unless the
98 dealer, within ten business days from the date of the director's notice, files with the director a
99 written objection to the director taking such action. If the dealer does file a timely, written
100 objection with the director, then the director shall not take any further action without an order
101 from a court of competent jurisdiction. However, if the dealer does not file a timely, written
102 objection with the director, then the director shall cancel the prior certificate of title issued to the
103 dealer on the vehicle and issue a certificate of title to the purchaser of the vehicle, subject to any
104 liens incurred by the purchaser in connection with the purchase of the vehicle and subject to the
105 purchaser satisfying all applicable taxes and fees associated with registering the vehicle.

106 7. If a seller misrepresents to a dealer that the seller is the owner of a vehicle and the
107 dealer, the owner, any subsequent purchaser, or any prior or subsequent lienholder is thereby
108 damaged, then the seller shall be liable to each such party for actual and punitive damages, plus
109 court costs and reasonable attorney fees.

110 8. When a lienholder is damaged as a result of a licensed dealer's acts, errors, omissions,
111 or violations of this section, then the dealer shall be liable to the lienholder for actual damages,
112 plus court costs and reasonable attorney fees.

113 9. No court costs or attorney fees shall be awarded under this section unless, prior to
114 filing any such action, the following conditions have been met:

115 (1) The aggrieved party seeking damages has delivered an itemized written demand of
116 the party's actual damages to the party from whom damages are sought; and

117 (2) The party from whom damages are sought has not satisfied the written demand
118 within thirty days after receipt of the written demand.

119 10. The department of revenue may use a dealer's repeated or intentional violation of this
120 section as a cause to suspend, revoke, or refuse to issue or renew any license required pursuant
121 to sections 301.550 to 301.580, in addition to the causes set forth in section 301.562. The
122 hearing process shall be the same as that established in subsection 6 of section 301.562.

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]~~ **301.580**. Any person
5 who maintains or operates any business wherein a license is required pursuant to the provisions
6 of sections 301.550 to ~~[301.573]~~ **301.580**, without such license, is guilty of a class A
7 misdemeanor. Any person committing a second violation of sections 301.550 to ~~[301.573]~~
8 **301.580** shall be guilty of a class E felony.

9 2. All dealer licenses shall expire on December thirty-first of the designated license
10 period. **The director may stagger the expiration dates to equalize the workload.** The
11 department shall notify each person licensed under sections 301.550 to ~~[301.573]~~ **301.580** of the
12 date of license expiration and the amount of the fee required for renewal. The notice shall be
13 mailed at least ninety days before the date of license expiration to the licensee's last known
14 business address. The director shall have the authority to issue licenses valid for a period of up
15 to two years and to stagger the license periods for administrative efficiency and equalization of
16 workload, at the sole discretion of the director.

17 3. Every manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle
18 dealer, wholesale motor vehicle auction, boat dealer or public motor vehicle auction shall make
19 application to the department for issuance of a license. The application shall be on forms
20 prescribed by the department and shall be issued under the terms and provisions of sections
21 301.550 to ~~[301.573]~~ **301.580** and require all applicants, as a condition precedent to the issuance
22 of a license, to provide such information as the department may deem necessary to determine that
23 the applicant is bona fide and of good moral character, except that every application for a license
24 shall contain, in addition to such information as the department may require, a statement to the
25 following facts:

26 (1) The name and business address, not a post office box, of the applicant and the
27 fictitious name, if any, under which ~~[he]~~ **the applicant** intends to conduct ~~[his]~~ business,~~[-and]~~
28 **the applicant's regular business hours, and a phone number and email address where the**
29 **applicant can be contacted during regular business hours.** If the applicant ~~[be]~~ is a
30 partnership, the **application shall list the** name and residence address of each partner, ~~[an~~
31 ~~indication of]~~ **indicate** whether the partner is a limited or general partner, and **indicate** the name
32 under which the partnership business is to be conducted. In the event that the applicant is a
33 corporation, the application shall list the names of the principal officers of the corporation and
34 the state in which it is incorporated. **In the event that the applicant is a limited liability**
35 **company established under the Missouri Limited Liability Company Act, or other similar**
36 **act of another state, the application shall list the name and residence address of all**
37 **members and managers of the limited liability company and the state in which the limited**
38 **liability company is headquartered.** Each application shall be verified by the oath or

39 affirmation of the applicant, if an individual, or in the event an applicant is a partnership, ~~[or]~~
40 corporation, **or limited liability company**, then by a partner, ~~[or]~~ officer, **or member**;

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

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

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

54 4. No insurance company, finance company, credit union, savings and loan association,
55 bank or trust company shall be required to obtain a license from the department in order to sell
56 any motor vehicle, trailer or vessel repossessed or purchased by the company on the basis of total
57 destruction or theft thereof when the sale of the motor vehicle, trailer or vessel is in conformance
58 with applicable title and registration laws of this state.

59 5. No person shall be issued a license to conduct a public motor vehicle auction or
60 wholesale motor vehicle auction if such person has a violation of sections 301.550 to ~~[301.573]~~
61 **301.580** or other violations of chapter 301, sections 407.511 to 407.556, or section 578.120
62 which resulted in a felony conviction or finding of guilt or a violation of any federal motor
63 vehicle laws which resulted in a felony conviction or finding of guilt.

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

3 (1) Every application other than a renewal application for a **new** motor vehicle franchise
4 dealer shall include a certification that the applicant has a bona fide established place of business.
5 Such application shall include ~~[an annual]~~ a certification that the applicant has a bona fide
6 established place of business for the first three years and only for every other year thereafter. The
7 certification shall be performed by a uniformed member of the Missouri state highway patrol or
8 authorized or designated employee stationed in the troop area in which the applicant's place of
9 business is located **or, in the discretion of the director, may be performed by an employee**
10 **of the department**; except that in counties of the first classification, certification may be
11 performed by an officer of a metropolitan police department when the applicant's established

12 place of business of distributing or selling motor vehicles or trailers is in the metropolitan area
13 where the certifying metropolitan police officer is employed. When the application is being
14 made for licensure as a boat manufacturer or boat dealer, certification shall be performed by a
15 uniformed member of the Missouri state water patrol stationed in the district area in which the
16 applicant's place of business is located or by a uniformed member of the Missouri state highway
17 patrol stationed in the troop area in which the applicant's place of business is located or, if the
18 applicant's place of business is located within the jurisdiction of a metropolitan police
19 department in a first class county, by an officer of such metropolitan police department. A bona
20 fide established place of business for any new motor vehicle franchise dealer, used motor vehicle
21 dealer, boat dealer, powersport dealer, wholesale motor vehicle dealer, trailer dealer, or
22 wholesale or public auction shall be a permanent enclosed building or structure, either owned
23 in fee or leased and actually occupied as a place of business by the applicant for the selling,
24 bartering, trading, servicing, or exchanging of motor vehicles, boats, personal watercraft, or
25 trailers and wherein the public may contact the owner or operator at any reasonable time, and
26 wherein shall be kept and maintained the books, records, files and other matters required and
27 necessary to conduct the business. The applicant's place of business shall ~~[contain]~~ **have** a
28 working telephone **number** which shall be maintained during the entire registration year **and**
29 **which shall allow the public, the department, and law enforcement to contact the applicant**
30 **during regular business hours. The applicant's place of business shall also maintain an**
31 **email address which may be used for official correspondence with the department.** In order
32 to qualify as a bona fide established place of business for all applicants licensed pursuant to this
33 section there shall be an exterior sign displayed carrying the name of the business set forth in
34 letters at least six inches in height and clearly visible to the public and there shall be an area or
35 lot which shall not be a public street on which multiple vehicles, boats, personal watercraft, or
36 trailers may be displayed. The sign shall contain the name of the dealership by which it is known
37 to the public through advertising or otherwise, which need not be identical to the name appearing
38 on the dealership's license so long as such name is registered as a fictitious name with the
39 secretary of state, has been approved by its line-make manufacturer in writing in the case of a
40 new motor vehicle franchise dealer and a copy of such fictitious name registration has been
41 provided to the department. Dealers who sell only emergency vehicles as defined in section
42 301.550 are exempt from maintaining a bona fide place of business, including the related law
43 enforcement certification requirements, and from meeting the minimum yearly sales;

44 (2) The initial application for licensure shall include a photograph **or photographs**, not
45 to exceed eight inches by ten inches but no less than five inches by seven inches, showing the
46 business building, lot, and sign. A new motor vehicle franchise dealer applicant who has
47 purchased a currently licensed new motor vehicle franchised dealership shall be allowed to

48 submit a photograph of the existing dealership building, lot and sign but shall be required to
49 submit a new photograph upon the installation of the new dealership sign as required by sections
50 301.550 to ~~[301.573]~~ **301.580**. Applicants shall not be required to submit a photograph annually
51 unless the business has moved from its previously licensed location, or unless the name of the
52 business or address has changed, or unless the class of business has changed;

53 (3) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer,
54 a powersport dealer, a wholesale motor vehicle dealer, trailer dealer, or boat dealer shall furnish
55 with the application a corporate surety bond or an irrevocable letter of credit as defined in section
56 400.5-102, issued by any state or federal financial institution in the penal sum of ~~[twenty-five]~~
57 **fifty** thousand dollars on a form approved by the department. The bond or irrevocable letter of
58 credit shall be conditioned upon the dealer complying with the provisions of the statutes
59 applicable to new motor vehicle franchise dealers, used motor vehicle dealers, powersport
60 dealers, wholesale motor vehicle dealers, trailer dealers, and boat dealers, and the bond shall be
61 an indemnity for any loss sustained by reason of the acts of the person bonded when such acts
62 constitute grounds for the suspension or revocation of the dealer's license. The bond shall be
63 executed in the name of the state of Missouri for the benefit of all aggrieved parties or the
64 irrevocable letter of credit shall name the state of Missouri as the beneficiary; except, that the
65 aggregate liability of the surety or financial institution to the aggrieved parties shall, in no event,
66 exceed the amount of the bond or irrevocable letter of credit. The proceeds of the bond or
67 irrevocable letter of credit shall be paid upon receipt by the department of a final judgment from
68 a Missouri court of competent jurisdiction against the principal and in favor of an aggrieved
69 party. Additionally, every applicant as a new motor vehicle franchise dealer, a used motor
70 vehicle dealer, a powersport dealer, a wholesale motor vehicle dealer, or boat dealer shall furnish
71 with the application a copy of a current dealer garage policy bearing the policy number and name
72 of the insurer and the insured;

73 (4) Payment of all necessary license fees as established by the department. In
74 establishing the amount of the annual license fees, the department shall, as near as possible,
75 produce sufficient total income to offset operational expenses of the department relating to the
76 administration of sections 301.550 to 301.580. All fees payable pursuant to the provisions of
77 sections 301.550 to 301.580, other than those fees collected for the issuance of dealer plates or
78 certificates of number collected pursuant to subsection 6 of this section, shall be collected by the
79 department for deposit in the state treasury to the credit of the "Motor Vehicle Commission
80 Fund", which is hereby created. The motor vehicle commission fund shall be administered by
81 the Missouri department of revenue. The provisions of section 33.080 to the contrary
82 notwithstanding, money in such fund shall not be transferred and placed to the credit of the
83 general revenue fund until the amount in the motor vehicle commission fund at the end of the

84 biennium exceeds two times the amount of the appropriation from such fund for the preceding
85 fiscal year or, if the department requires permit renewal less frequently than yearly, then three
86 times the appropriation from such fund for the preceding fiscal year. The amount, if any, in the
87 fund which shall lapse is that amount in the fund which exceeds the multiple of the appropriation
88 from such fund for the preceding fiscal year.

89 2. In the event a new vehicle manufacturer, boat manufacturer, motor vehicle dealer,
90 wholesale motor vehicle dealer, boat dealer, powersport dealer, wholesale motor vehicle auction,
91 trailer dealer, or a public motor vehicle auction submits an application for a license for a new
92 business and the applicant has complied with all the provisions of this section, the department
93 shall make a decision to grant or deny the license to the applicant within eight working hours
94 after receipt of the dealer's application, notwithstanding any rule of the department.

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

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

107

- 108 New motor vehicle franchise dealers..... D-0 through D-999
- 109 New powersport dealers and motorcycle franchise dealers..... D-1000 through D-1999
- 110 Used motor vehicle, used powersport, and used motorcycle dealers.. D-2000 through D-9999
- 111 Wholesale motor vehicle dealers..... W-0 through W-1999
- 112 Wholesale motor vehicle auctions..... WA-0 through WA-999
- 113 New and used trailer dealers. T-0 through T-9999
- 114 Motor vehicle, trailer, and boat manufacturers. DM-0 through DM-999
- 115 Public motor vehicle auctions. A-0 through A-1999
- 116 Boat dealers. M-0 through M-9999
- 117 New and used recreational motor vehicle dealers. RV-0 through RV-999

118

119 For purposes of this subsection, qualified transactions shall include the purchase of salvage titled
120 vehicles by a licensed salvage dealer. A used motor vehicle dealer who also holds a salvage
121 dealer's license shall be allowed one additional plate or certificate number per fifty-unit qualified
122 transactions annually. In order for salvage dealers to obtain number plates or certificates under
123 this section, dealers shall submit to the department of revenue on August first of each year a
124 statement certifying, under penalty of perjury, the dealer's number of purchases during the
125 reporting period of July first of the immediately preceding year to June thirtieth of the present
126 year.

127

128 ~~[The provisions of this subsection shall become effective on the date the director of the~~
129 ~~department of revenue begins to reissue new license plates under section 301.130, or on~~
130 ~~December 1, 2008, whichever occurs first. If the director of revenue begins reissuing new~~
131 ~~license plates under the authority granted under section 301.130 prior to December 1, 2008, the~~
132 ~~director of the department of revenue shall notify the revisor of statutes of such fact.]~~

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

136 6. In the case of new motor vehicle manufacturers, motor vehicle dealers, powersport
137 dealers, recreational motor vehicle dealers, and trailer dealers, the department shall issue one
138 number plate bearing the distinctive dealer license number and may issue two additional number
139 plates to the applicant upon payment by the manufacturer or dealer of a fifty dollar fee for the
140 number plate bearing the distinctive dealer license number and ten dollars and fifty cents for each
141 additional number plate. Such license plates shall be made with fully reflective material with
142 a common color scheme and design, shall be clearly visible at night, and shall be aesthetically
143 attractive, as prescribed by section 301.130. Boat dealers and boat manufacturers shall be
144 entitled to one certificate of number bearing such number upon the payment of a fifty dollar fee.
145 Additional number plates and as many additional certificates of number may be obtained upon
146 payment of a fee of ten dollars and fifty cents for each additional plate or certificate. New motor
147 vehicle manufacturers shall not be issued or possess more than three hundred forty-seven
148 additional number plates or certificates of number annually. New and used motor vehicle
149 dealers, powersport dealers, wholesale motor vehicle dealers, boat dealers, and trailer dealers are
150 limited to one additional plate or certificate of number per ten-unit qualified transactions
151 annually. New and used recreational motor vehicle dealers are limited to two additional plates
152 or certificate of number per ten-unit qualified transactions annually for their first fifty
153 transactions and one additional plate or certificate of number per ten-unit qualified transactions
154 thereafter. An applicant seeking the issuance of an initial license shall indicate on his or her

155 initial application the applicant's proposed annual number of sales in order for the director to
156 issue the appropriate number of additional plates or certificates of number. A motor vehicle
157 dealer, trailer dealer, boat dealer, powersport dealer, recreational motor vehicle dealer, motor
158 vehicle manufacturer, boat manufacturer, or wholesale motor vehicle dealer obtaining a
159 distinctive dealer license plate or certificate of number or additional license plate or additional
160 certificate of number, throughout the calendar year, shall be required to pay a fee for such license
161 plates or certificates of number computed on the basis of one-twelfth of the full fee prescribed
162 for the original and duplicate number plates or certificates of number for such dealers' licenses,
163 multiplied by the number of months remaining in the licensing period for which the dealer or
164 manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at
165 the time of renewal shall not be prorated. Wholesale and public auctions shall be issued a
166 certificate of dealer registration in lieu of a dealer number plate. In order for dealers to obtain
167 number plates or certificates under this section, dealers shall submit to the department of revenue
168 on August first of each year a statement certifying, under penalty of perjury, the dealer's number
169 of sales during the reporting period of July first of the immediately preceding year to June
170 thirtieth of the present year.

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

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

189 9. If any law enforcement officer has probable cause to believe that any license plate or
190 certificate of number issued under subsection 3 or 6 of this section is being misused in violation

191 of subsection 7 or 8 of this section, the license plate or certificate of number may be seized and
192 surrendered to the department.

193 10. (1) Every application for the issuance of a used motor vehicle dealer's license shall
194 be accompanied by proof that the applicant, within the last twelve months, has completed an
195 educational seminar course approved by the department as prescribed by subdivision (2) of this
196 subsection. Wholesale and public auto auctions and applicants currently holding a new or used
197 license for a separate dealership shall be exempt from the requirements of this subsection. The
198 provisions of this subsection shall not apply to ~~[current new motor vehicle franchise dealers or~~
199 ~~motor vehicle leasing agencies or]~~ applicants for a new motor vehicle franchise or a motor
200 vehicle leasing agency. ~~[The provisions of this subsection shall not apply to used motor vehicle~~
201 ~~dealers who were licensed prior to August 28, 2006.]~~

202 (2) The educational seminar shall include, but is not limited to, the dealer requirements
203 of sections 301.550 to ~~[301.573]~~ **301.580**, the rules promulgated to implement, enforce, and
204 administer sections 301.550 to ~~[301.570]~~ **301.580**, and any other rules and regulations
205 promulgated by the department.

301.562. 1. The department may refuse to issue or renew any license required pursuant
2 to sections 301.550 to 301.580 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 301.580 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 301.580, 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; **or was placed on a probationary period pursuant to a settlement agreement**
14 **entered into by the parties under subsection 7 of this section and the terms of the probation**
15 **have not been fulfilled;**

16 (2) The applicant or license holder was previously a partner, stockholder, director, or
17 officer controlling or managing a partnership or corporation, **or a member of a limited liability**
18 **company**, whose license issued under sections 301.550 to 301.580 was revoked for cause and
19 never reissued or was suspended for cause and the terms of suspension have not been fulfilled;
20 **or was placed on a probationary period pursuant to a settlement agreement entered into**

21 **by the parties under subsection 7 of this section and the terms of the probation have not**
22 **been fulfilled;**

23 (3) The applicant or license holder has, within ten years prior to the date of the
24 application, been finally adjudicated and found guilty, or entered a plea of guilty or nolo
25 contendere, in a prosecution under the laws of any state or of the United States, for any offense
26 reasonably related to the qualifications, functions, or duties of any business licensed under
27 sections 301.550 to 301.580; for any offense, an essential element of which is fraud, dishonesty,
28 or an act of violence; or for any offense involving moral turpitude, whether or not sentence is
29 imposed;

30 (4) Use of fraud, deception, misrepresentation, or bribery in securing any license issued
31 pursuant to sections 301.550 to 301.580;

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

34 (6) Violation of, or assisting or enabling any person to violate any provisions of this
35 chapter and chapters 143, 144, 306, 307, 407, 578, and 643 or of any lawful rule or regulation
36 adopted pursuant to this chapter and chapters 143, 144, 306, 307, 407, 578, and 643;

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

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

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

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

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

49 (12) Violations of sections 407.511 to 407.556, section 578.120, which resulted in a
50 conviction or finding of guilt or violation of any federal motor vehicle laws which result in a
51 conviction or finding of guilt.

52 3. Any such complaint shall be filed within one year of the date upon which the
53 department receives notice of an alleged violation of an applicable statute or regulation. After
54 the filing of such complaint, the proceedings shall, except for the matters set forth in subsection
55 5 of this section, be conducted in accordance with the provisions of chapter 621. Upon a finding
56 by the administrative hearing commission that the grounds, provided in subsection 2 of this

57 section, for disciplinary action are met, the department may, singly or in combination, refuse to
58 issue the person a license, issue a license for a period of less than two years, issue a private
59 reprimand, place the person on probation on such terms and conditions as the department deems
60 appropriate for a period of one day to five years, suspend the person's license from one day to
61 six days, ~~or~~ revoke the person's license for such period as the department deems appropriate,
62 **or enter into a settlement agreement in accordance with subsection 7 of this section.** The
63 applicant or licensee shall have the right to appeal the decision of the administrative hearing
64 commission and department in the manner provided in chapter 536.

65 4. Upon the suspension or revocation of any person's license issued under sections
66 301.550 to 301.580, the department shall recall any distinctive number plates that were issued
67 to that licensee. If any licensee who has been suspended or revoked shall neglect or refuse to
68 surrender his or her license or distinctive number license plates issued under sections 301.550
69 to 301.580, the director shall direct any agent or employee of the department or any law
70 enforcement officer, to secure possession thereof and return such items to the director. For
71 purposes of this subsection, a "law enforcement officer" means any member of the highway
72 patrol, any sheriff or deputy sheriff, or any peace officer certified under chapter 590 acting in his
73 or her official capacity. Failure of the licensee to surrender his or her license or distinctive
74 number license plates upon demand by the director, any agent or employee of the department,
75 or any law enforcement officer shall be a class A misdemeanor.

76 5. Notwithstanding the foregoing provisions of this section, the following events or acts
77 by the holder of any license issued under sections 301.550 to 301.580 are deemed to present a
78 clear and present danger to the public welfare and shall be considered cause for suspension or
79 revocation of such license under the procedure set forth in subsection 6 of this section, at the
80 discretion of the director:

81 (1) The expiration or revocation of any corporate surety bond or irrevocable letter of
82 credit, as required by section 301.560, without submission of a replacement bond or letter of
83 credit which provides coverage for the entire period of licensure;

84 (2) The failure to maintain a bona fide established place of business as required by
85 section 301.560;

86 (3) Criminal convictions as set forth in subdivision (3) of subsection 2 of this section;
87 ~~or~~

88 (4) Three or more occurrences of violations which have been established following
89 proceedings before the administrative hearing commission under subsection 3 of this section, or
90 which have been established following proceedings before the director under subsection 6 of this
91 section, of this chapter and chapters 143, 144, 306, 307, 578, and 643 or of any lawful rule or

92 regulation adopted under this chapter and chapters 143, 144, 306, 307, 578, and 643, not
93 previously set forth herein; or

94 **(5) The license holder was previously an owner, partner, stockholder, director,**
95 **officer, member, or manager controlling or managing a partnership, corporation, or**
96 **limited liability company whose license issued under sections 301.217 to 301.229 or sections**
97 **301.550 to 301.580 was revoked for cause and never reissued or was suspended for cause**
98 **and the terms of the suspension have not been fulfilled, or who was placed upon a**
99 **probationary period pursuant to a settlement agreement entered into by the parties under**
100 **subsection 7 of this section and the terms of the probation have not been fulfilled.**

101 6. (1) Any license issued under sections 301.550 to 301.580 [~~shall~~] **may** be suspended
102 or revoked, following an evidentiary hearing before the director or his or her designated hearing
103 officer, if affidavits or sworn testimony by an authorized agent of the department alleges the
104 occurrence of any of the events or acts described in subsection 5 of this section.

105 (2) For any license which the department believes may be subject to suspension or
106 revocation under this subsection, the director shall immediately issue a notice of hearing to the
107 licensee of record. The director's notice of hearing:

108 (a) Shall be served upon the licensee personally or by first class mail to the dealer's last
109 known address, as registered with the director;

110 (b) Shall be based on affidavits or sworn testimony presented to the director, and shall
111 notify the licensee that such information presented therein constitutes cause to suspend or revoke
112 the licensee's license;

113 (c) Shall provide the licensee with a minimum of ten days' notice prior to hearing;

114 (d) Shall specify the events or acts which may provide cause for suspension or revocation
115 of the license, and shall include with the notice a copy of all affidavits, sworn testimony or other
116 information presented to the director which support discipline of the license; and

117 (e) Shall inform the licensee that he or she has the right to attend the hearing and present
118 any evidence in his or her defense, including evidence to show that the event or act which may
119 result in suspension or revocation has been corrected to the director's satisfaction, and that he or
120 she may be represented by counsel at the hearing.

121 (3) At any hearing before the director conducted under this subsection, the director or
122 his or her designated hearing officer shall consider all evidence relevant to the issue of whether
123 the license should be suspended or revoked due to the occurrence of any of the acts set forth in
124 subsection 5 herein. Within twenty business days after such hearing, the director or his or her
125 designated hearing officer shall issue a written order, with findings of fact and conclusions of
126 law, which either grants or denies the issuance of an order of suspension or revocation. [~~The~~]
127 **If an order of suspension or revocation is entered it shall be effective ten days after the date of**

128 the order. The written order of the director or his or her hearing officer shall be the final decision
129 of the director and shall be subject to judicial review under the provisions of ~~[chapter 536]~~
130 **sections 536.100 to 536.140. The order may also give the licensee five days to accept the**
131 **terms of probation proposed by the director in lieu of an order of suspension or revocation.**

132 (4) Notwithstanding the provisions of this chapter or chapter 610 or 621 to the contrary,
133 the proceedings under this section shall be closed and no order shall be made public until it is
134 final, for purposes of appeal.

135 7. In lieu of acting under subsection 2 or 6 of this section, the department of revenue may
136 enter into an agreement with the holder of the license to ensure future compliance with sections
137 301.210, 301.213, 307.380, sections 301.217 to 301.229, and sections 301.550 to 301.580. Such
138 agreement may include an assessment fee not to exceed five hundred dollars per violation or five
139 thousand dollars in the aggregate unless otherwise permitted by law, probation terms and
140 conditions, **issuance of a license for a period of less than one year**, and other requirements as
141 may be deemed appropriate by the department of revenue and the holder of the license. Any fees
142 collected by the department of revenue under this subsection shall be deposited into the motor
143 vehicle commission fund created in section 301.560.

301.566. 1. A motor vehicle dealer may participate in no more than two motor vehicle
2 shows or sales annually and ~~[conduct]~~ sales of motor vehicles away from the dealer's usual,
3 licensed place of business ~~[if either the requirements of subsection 2 or 3 of this section are met~~
4 ~~or the event is conducted for not more than five consecutive days, the event does not require any~~
5 ~~motor vehicle dealer participant to pay an unreasonably prohibitive participation fee, and if a~~
6 ~~majority of the motor vehicle dealers within a class of dealers described pursuant to subsection~~
7 ~~3 of section 301.550 in a city or town participate or are invited and have the opportunity to~~
8 ~~participate in the event, except that a recreational motor vehicle dealer classified in subdivision~~
9 ~~(5) of subsection 3 of section 301.550 may participate in such a show or sale even if a majority~~
10 ~~of recreational motor vehicle dealers in a city or town do not participate in the event. If any show~~
11 ~~or sale includes a class of dealer or franchised new vehicle line-make, that is also represented by~~
12 ~~a same class dealer or dealer representing the same line-make outside of the boundary lines of~~
13 ~~the city or town and is within ten miles of where the show or sale is to take place, the dealer~~
14 ~~outside of the boundary lines of the city or town shall be invited to participate in the show or~~
15 ~~sale.] at events or sales shall only be conducted upon approval by the director under this~~
16 **section. For purposes of this section, such events shall be deemed "off-premise events".**
17 **If approved under the requirements of subsection 2 of this section**, the department shall
18 consider such **off-premise** events to be proper in all respects and as if each dealer participant was
19 conducting business at the dealer's usual business location. Nothing contained in this section

20 shall be construed as applying to the sale of motor vehicles or trailers through either a wholesale
21 motor vehicle auction or public motor vehicle auction.

22 2. ~~[Any person, partnership, corporation or association disposing of vehicles used and~~
23 ~~titled solely in its ordinary course of business as provided in section 301.570 may sell at retail~~
24 ~~such vehicles away from that person's bona fide established place of business, thus constituting~~
25 ~~an off-site sale, by adhering to each of the following conditions with regard to each and every~~
26 ~~off-site sale conducted:~~

27 ~~—— (1) Have in effect a valid license, pursuant to sections 301.550 to 301.575, from the~~
28 ~~department for the sale of used motor vehicles;~~

29 ~~—— (2) No off-site sale may exceed five days in duration, and only one sale may be held per~~
30 ~~year, per county;~~

31 ~~—— (3) Pay to the motor vehicle commission fund, pursuant to section 301.560, a permit fee~~
32 ~~of five hundred fifty dollars for each off-site sale event;~~

33 ~~—— (4) Advise the department, at least ten days prior to the sale, of the date, location and~~
34 ~~duration of each off-site sale;~~

35 ~~—— (5) The sale of vehicles at off-site sales shall be limited to sales by a seller of vehicles~~
36 ~~used and titled solely in its ordinary course of business, and such sales shall be held in~~
37 ~~conjunction with a credit union and limited to members of the credit union, thus constituting a~~
38 ~~private sale to be advertised to members only;~~

39 ~~—— (6) Off-site sales by a seller of vehicles used and titled solely in its ordinary course of~~
40 ~~business may also be held in conjunction with other financial institutions provided that any such~~
41 ~~sale event shall be held on the premises of the financial institution, and sales shall be limited to~~
42 ~~persons who were customers of the financial institution prior to the date of the sale event.~~
43 ~~Off-site sales held with such other financial institutions shall be limited to one sale per year per~~
44 ~~institution;~~

45 ~~—— (7) The sale of motor vehicles which have the designation of the current model year,~~
46 ~~except discontinued models, is prohibited at off-site sales until subsequent model year designated~~
47 ~~vehicles of the same manufacture and model are offered for sale to the public] **The director**~~
48 **shall approve only those applications for off-premise events which meet the following**
49 **requirements:**

50 **(1) The host of the off-premise event shall have in effect a current motor vehicle**
51 **dealer license, issued under sections 301.550 to 301.575;**

52 **(2) The proposed off-premise event shall be conducted on consecutive days,**
53 **excluding Sundays, and may not be conducted for more than five consecutive days in**
54 **duration;**

55 **(3) The host shall only host one off-premise event during any twelve-month period;**

56 (4) No more than one off-premise event shall be permitted during any twelve month
57 period per county;

58 (5) An approved off-premise event may be conducted within fifteen miles of the
59 host's licensed business location if such licensed business location is within a county with
60 a population of less than one hundred thousand persons, or within five miles of a host's
61 licensed business location if the licensed business location is within a county with a
62 population of one hundred thousand persons or more;

63 (6) The host of the off-premise event shall not require any participant to pay a
64 participation fee in an amount that is unreasonable and all participants shall be charged
65 the same participation fee. Unless all dealers invited to participate in the event agree on
66 the amount of the participation fee, the host shall submit the proposed fee to the director
67 for the director's approval. In determining whether a participation fee is reasonable, the
68 director may consider those costs reasonably necessary for the event, such as rental of real
69 property and insurance coverage;

70 (7) All motor vehicle dealers within a class of dealers described under subsection
71 3 of section 301.550 in the city or town in which the sale or event is located shall be notified
72 of the off-premise event and allowed to participate if such dealer desires. If the off-premise
73 event is to be conducted in a county with a population of less than one hundred thousand
74 persons, then the host shall notify all licensed dealers within the class of participating
75 dealers which are located within fifteen miles of the location for the off-premise event, and
76 such dealers shall be allowed to participate if they desire. If the off-premise event is to be
77 conducted in a county with a population of one-hundred thousand or more persons, then
78 the host shall notify licensed dealers within the class of participating dealers which are
79 located within five miles of the location of the off-premise event and be allowed to
80 participate if they desire;

81 (8) A majority of the dealers in the class of dealers participating in the off-premise
82 event who are located within the distance of the event as set forth in subdivision (7) of this
83 subsection shall participate in the off-premise event;

84 (9) If a motor vehicle dealer licensed as a used motor vehicle dealer applies to host
85 an off-premise event, then such dealer shall also provide notice to each new motor vehicle
86 franchise dealer within the areas described in subdivision (7) of this subsection and invite
87 those dealers to participate in the show or sale with their used vehicles;

88 (10) The host applies to the director for permission to host the off-premise event on
89 a form provided by the director at least sixty days prior to the event if a participation fee
90 is requested, or at least forty days prior to the event if no participation fee is requested;

91 **(11) The host provides to the director such information as the director may request**
92 **to determine if the host has complied with the requirements of this section;**

93 **(12) Notices provided to dealers under this section shall be provided at least thirty**
94 **days before the start of the off-premise event and dealers shall be allowed no less than five**
95 **business days within which to respond to the notice. If a participation fee is required, then**
96 **no notice shall be sent to a dealer until the participation fee is approved by the director;**

97 **(13) No participating dealer may sell a vehicle at an off-premise event unless the**
98 **vehicle is titled to that participating dealer or the participating dealer holds a**
99 **manufacturer's certificate of origin for that vehicle.**

100 3. A recreational vehicle dealer, as that term is defined in section 700.010, who is
101 licensed in another state may participate in recreational vehicle shows or exhibits with
102 recreational vehicles within this state in which less than fifty dealers participate as exhibitors
103 with permission of the dealer's licensed manufacturer if all of the following conditions exist:

104 (1) The show or exhibition has a minimum of ten recreational vehicle dealers licensed
105 as motor vehicle dealers in this state;

106 (2) More than fifty percent of the participating recreational vehicle dealers are licensed
107 motor vehicle dealers in this state; and

108 (3) The state in which the recreational vehicle is licensed is a state contiguous to
109 Missouri and the state permits recreational vehicle dealers licensed in Missouri to participate in
110 recreational vehicle shows in such state pursuant to conditions substantially equivalent to the
111 conditions which are imposed on dealers from such state who participate in recreational vehicle
112 shows in Missouri.

113 4. A recreational vehicle dealer licensed in another state may participate in a vehicle
114 show or exhibition in Missouri which has, when it opens to the public, at least fifty dealers
115 displaying recreational vehicles if the show or exhibition is trade-oriented and is predominantly
116 funded by recreational vehicle manufacturers. All of the participating dealers who are not
117 licensed in Missouri shall be licensed as recreational vehicle dealers by the state of their
118 residence.

119 5. A recreational vehicle dealer licensed in another state who intends to participate in a
120 vehicle show or exhibition in this state shall send written notification of such intended
121 participation to the department of revenue at least thirty days prior to the vehicle show or
122 exhibition. Upon receipt of such written notification, the department of revenue shall make a
123 determination regarding compliance with the provisions of this section. If such recreational
124 vehicle dealer would be unable to participate in the vehicle show or exhibition in this state
125 pursuant to this section, the department of revenue shall notify the recreational vehicle dealer at

126 least fifteen days prior to the vehicle show or exhibition of the inability to participate in the
127 vehicle show or exhibition in this state.

128 6. The department of revenue may assess a fine of up to one thousand dollars for any
129 violation of this section.

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