

SECOND REGULAR SESSION

HOUSE BILL NO. 1598

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE O'CONNOR.

Read 1st time January 23, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3601L.011

AN ACT

To repeal sections 301.550 and 301.560, RSMo, and to enact in lieu thereof two new sections relating to licensure of motor vehicle dealers, manufacturers, and auctions.

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

Section A. Sections 301.550 and 301.560, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 301.550 and 301.560, to read as follows:

301.550. 1. The definitions contained in section 301.010 shall apply to sections 301.550
2 to 301.573, and in addition as used in sections 301.550 to 301.573, the following terms mean:

3 (1) "Boat dealer", any natural person, partnership, or corporation who, for a commission
4 or with an intent to make a profit or gain of money or other thing of value, sells, barter,
5 exchanges, leases or rents with the option to purchase, offers, attempts to sell, or negotiates the
6 sale of any vessel or vessel trailer, whether or not the vessel or vessel trailer is owned by such
7 person. The sale of six or more vessels or vessel trailers or both in any calendar year shall be
8 required as evidence that such person is eligible for licensure as a boat dealer under sections
9 301.550 to 301.573. The boat dealer shall demonstrate eligibility for renewal of his license by
10 selling six or more vessels or vessel trailers or both in the prior calendar year while licensed as
11 a boat dealer pursuant to sections 301.550 to 301.573;

12 (2) "Boat manufacturer", any person engaged in the manufacturing, assembling or
13 modification of new vessels or vessel trailers as a regular business, including a person,
14 partnership or corporation which acts for and is under the control of a manufacturer or assembly
15 in connection with the distribution of vessels or vessel trailers;

16 (3) "Department", the Missouri department of revenue;

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

- 17 (4) "Director", the director of the Missouri department of revenue;
- 18 (5) "Manufacturer", any person engaged in the manufacturing, assembling or
19 modification of new motor vehicles or trailers as a regular business, including a person,
20 partnership or corporation which acts for and is under the control of a manufacturer or assembly
21 in connection with the distribution of motor vehicles or accessories for motor vehicles;
- 22 (6) "Motor vehicle broker", a person who holds himself out through solicitation,
23 advertisement, or otherwise as one who offers to arrange a transaction involving the retail sale
24 of a motor vehicle, and who is not:
- 25 (a) A dealer, or any agent, or any employee of a dealer when acting on behalf of a dealer;
- 26 (b) A manufacturer, or any agent, or employee of a manufacturer when acting on behalf
27 of a manufacturer;
- 28 (c) The owner of the vehicle involved in the transaction; or
- 29 (d) A public motor vehicle auction or wholesale motor vehicle auction where buyers are
30 licensed dealers in this or any other jurisdiction;
- 31 (7) "Motor vehicle dealer" or "dealer", any person who, for commission or with an intent
32 to make a profit or gain of money or other thing of value, sells, barter, exchanges, leases or rents
33 with the option to purchase, or who offers or attempts to sell or negotiates the sale of motor
34 vehicles or trailers whether or not the motor vehicles or trailers are owned by such person;
35 provided, however, an individual auctioneer or auction conducted by an auctioneer licensed
36 pursuant to chapter 343, RSMo, shall not be included within the definition of a motor vehicle
37 dealer. The sale of six or more motor vehicles or trailers in any calendar year shall be required
38 as evidence that such person is engaged in the motor vehicle business and is eligible for licensure
39 as a motor vehicle dealer under sections 301.550 to 301.573;
- 40 (8) "New motor vehicle", any motor vehicle being transferred for the first time from a
41 manufacturer, distributor or new vehicle dealer which has not been registered or titled in this
42 state or any other state and which is offered for sale, barter or exchange by a dealer who is
43 franchised to sell, barter or exchange that particular make of motor vehicle. The term "new
44 motor vehicle" shall not include manufactured homes, as defined in section 700.010, RSMo;
- 45 (9) "New motor vehicle franchise dealer", any motor vehicle dealer who has been
46 franchised to deal in a certain make of motor vehicle by the manufacturer or distributor of that
47 make and motor vehicle and who may, in line with conducting his business as a franchise dealer,
48 sell, barter or exchange used motor vehicles;
- 49 (10) "Person" includes an individual, a partnership, corporation, an unincorporated
50 society or association, joint venture or any other entity;
- 51 (11) **"Powersport dealer", any motor vehicle dealer who sells, either pursuant to**
52 **a franchise agreement or otherwise, primarily motor vehicles including but not limited to**

53 **motorcycles, all-terrain vehicles, and personal watercraft, as those terms are defined in this**
54 **chapter and chapter 306, RSMo;**

55 (12) "Public motor vehicle auction", any person, firm or corporation who takes
56 possession of a motor vehicle whether by consignment, bailment or any other arrangement,
57 except by title, for the purpose of selling motor vehicles at a public auction by a licensed
58 auctioneer;

59 [(12)] (13) "Storage lot", an area, within the same city or county where a dealer may
60 store excess vehicle inventory;

61 [(13)] (14) "Used motor vehicle", any motor vehicle which is not a new motor vehicle,
62 as defined in sections 301.550 to 301.573, and which has been sold, bartered, exchanged or given
63 away or which may have had a title issued in this state or any other state, or a motor vehicle so
64 used as to be what is commonly known as a secondhand motor vehicle. In the event of an
65 assignment of the statement of origin from an original franchise dealer to any individual or other
66 motor vehicle dealer other than a new motor vehicle franchise dealer of the same make, the
67 vehicle so assigned shall be deemed to be a used motor vehicle and a certificate of ownership
68 shall be obtained in the assignee's name. The term "used motor vehicle" shall not include
69 manufactured homes, as defined in section 700.010, RSMo;

70 [(14)] (15) "Used motor vehicle dealer", any motor vehicle dealer who is not a new
71 motor vehicle franchise dealer;

72 [(15)] (16) "Vessel", every boat and watercraft defined as a vessel in section 306.010,
73 RSMo;

74 [(16)] (17) "Vessel trailer", any trailer, as defined by section 301.010 which is designed
75 and manufactured for the purposes of transporting vessels;

76 [(17)] (18) "Wholesale motor vehicle auction", any person, firm or corporation in the
77 business of providing auction services solely in wholesale transactions at its established place
78 of business in which the purchasers are motor vehicle dealers licensed by this or any other
79 jurisdiction, and which neither buys, sells nor owns the motor vehicles it auctions in the ordinary
80 course of its business. Except as required by law with regard to the auction sale of a government
81 owned motor vehicle, a wholesale motor vehicle auction shall not provide auction services in
82 connection with the retail sale of a motor vehicle;

83 [(18)] (19) "Wholesale motor vehicle dealer", a motor vehicle dealer who sells motor
84 vehicles only to other new motor vehicle franchise dealers or used motor vehicle dealers or via
85 auctions limited to other dealers of any class.

86 2. For purposes of sections 301.550 to 301.573, neither the term "motor vehicle" nor the
87 term "trailer" shall include manufactured homes, as defined in section 700.010, RSMo.

88 3. Dealers shall be divided into classes as follows:

- 89 (1) Boat dealers;
90 (2) Franchised new motor vehicle dealers;
91 (3) Used motor vehicle dealers;
92 (4) Wholesale motor vehicle dealers;
93 (5) Recreational motor vehicle dealers;
94 (6) Historic motor vehicle dealers;
95 (7) Classic motor vehicle dealers; and
96 (8) [Motorcycle] **Powersport** dealers.

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) When the application is being made for licensure as a manufacturer, boat
4 manufacturer, motor vehicle dealer, boat dealer, wholesale motor vehicle dealer, wholesale
5 motor vehicle auction or a public motor vehicle auction, a certification by a uniformed member
6 of the Missouri state highway patrol stationed in the troop area in which the applicant's place of
7 business is located; except, that in counties of the first classification, certification may be
8 authorized by an officer of a metropolitan police department when the applicant's established
9 place of business of distributing or selling motor vehicles or trailers is in the metropolitan area
10 where the certifying metropolitan police officer is employed, that the applicant has a bona fide
11 established place of business. A bona fide established place of business for any new motor
12 vehicle franchise dealer or used motor vehicle dealer shall include a permanent enclosed building
13 or structure, either owned in fee or leased and actually occupied as a place of business by the
14 applicant for the selling, bartering, trading or exchanging of motor vehicles or trailers and
15 wherein the public may contact the owner or operator at any reasonable time, and wherein shall
16 be kept and maintained the books, records, files and other matters required and necessary to
17 conduct the business. The applicant's place of business shall contain a working telephone which
18 shall be maintained during the entire registration year. In order to qualify as a bona fide
19 established place of business for all applicants licensed pursuant to this section there shall be an
20 exterior sign displayed carrying the name [and class] of **the** business [conducted] **set forth** in
21 letters at least six inches in height and clearly visible to the public and there shall be an area or
22 lot which shall not be a public street on which one or more vehicles may be displayed, except
23 when licensure is for a wholesale motor vehicle dealer, a lot and sign shall not be required. **The**
24 **sign shall contain the name of the dealership by which it is known to the public through**
25 **advertising or otherwise, which need not be identical to the name appearing on the**
26 **dealership's license so long as such name is registered as a fictitious name with the**
27 **secretary of state, and a copy of such fictitious name registration has been provided to the**
28 **department.** When licensure is for a boat dealer, a lot shall not be required. In the case of new

29 motor vehicle franchise dealers, the bona fide established place of business shall include
30 adequate facilities, tools and personnel necessary to properly service and repair motor vehicles
31 and trailers under their franchisor's warranty;

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

44 (3) If the application is for licensure as a wholesale motor vehicle dealer or as a boat
45 dealer, the application shall contain the business address, not a post office box, and telephone
46 number of the place where the books, records, files and other matters required and necessary to
47 conduct the business are located and where the same may be inspected during normal daytime
48 business hours. Wholesale motor vehicle dealers and boat dealers shall file reports as required
49 of new franchised motor vehicle dealers and used motor vehicle dealers;

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

65 an aggrieved party;

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

82 2. In the event a new manufacturer, boat manufacturer, motor vehicle dealer, wholesale
83 motor vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle
84 auction submits an application for a license for a new business and the applicant has complied
85 with all the provisions of this section, the department shall make a decision to grant or deny the
86 license to the applicant within eight working hours after receipt of the dealer's application,
87 notwithstanding any rule of the department.

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

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

101	New motor vehicle franchise dealers	D-0 through D-999
102	New motor vehicle franchise and commercial motor	
103	vehicle dealers	D-1000 through D-1999
104	Used motor vehicle dealers	D-2000 through D-5399
105		and D-6000 through D-9999
106	Wholesale motor vehicle dealers	W-1000 through W-1999
107	Wholesale motor vehicle auctions	W-2000 through W-2999
108	Trailer dealers	T-0 through T-9999
109	Motor vehicle and trailer manufacturers	M-0 through M-9999
110	[Motorcycle] Powersport dealers	D-5400 through D-5999
111	Public motor vehicle auctions	A-1000 through A-1999
112	Boat dealers and boat manufacturers	B-0 through B-9999

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

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

134 7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any
135 motor vehicle owned and held for resale by the motor vehicle dealer or manufacturer, and used
136 by a customer who is test driving the motor vehicle, or is used by an employee or officer, but

137 shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any
138 regularly used service or wrecker vehicle. Motor vehicle dealers may display their dealer plates
139 on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition.

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