

FIRST REGULAR SESSION

HOUSE BILL NO. 552

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ERVIN (Sponsor) AND NIEVES (Co-sponsor).

Read 1st time February 15, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1588L.011

AN ACT

To repeal section 301.300, RSMo, and to enact in lieu thereof two new sections relating to sales to and by licensed vehicle dealers without contemporaneous assignment of certificate of title.

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

Section A. Section 301.300, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 301.300 and 301.894, to read as follows:

301.300. 1. In event of the loss, theft, mutilation or destruction of any certificate of ownership, number plate, tab or set of tabs issued by the director of revenue, the lawful holder thereof shall, within five days, file with the director of revenue, an affidavit showing such fact, and shall, on the payment of a fee of eight dollars and fifty cents, obtain a duplicate or replacement of such plate, certificate, tab or set of tabs. Any duplicate certificate issued for any "motor vehicle primarily for business use", as defined in section 301.010, shall be issued only to the owner of record.

2. Upon filing affidavit of lost, stolen, mutilated or destroyed certificate of registration, the director of revenue shall issue to the lawful owner a duplicate or replacement thereof upon payment of a fee of eight dollars and fifty cents.

3. Vehicle owners who elect not to transfer or renew multiyear plates shall be charged a fee equal to that charged for a lost plate in addition to the registration fee prescribed by law at the time the new plate or plates are issued.

4. Notwithstanding subsection 1 of this section, a new or used motor vehicle dealer may obtain a duplicate or replacement title in the owner's name if the owner's title has

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.

16 been lost, stolen, mutilated, or destroyed and is not available for assignment. In order to
17 obtain the duplicate or replacement title from the department of revenue, the licensed
18 dealer shall procure a power of attorney from the owner authorizing the dealer to obtain
19 a duplicate or replacement title in the owner's name and sign any title assignments on the
20 owner's behalf. The application to the department of revenue for the duplicate or
21 replacement title shall be accompanied by the executed power of attorney, or a copy
22 thereof, and the application shall contain the appropriate mailing address of the dealer.
23 The director of the department of revenue is authorized to make all necessary rules and
24 regulations for the administration of this subsection, and shall design all necessary forms
25 required by this subsection. No rule or portion of a rule promulgated pursuant to the
26 authority of this section shall become effective unless it has been promulgated pursuant to
27 the provisions of chapter 536, RSMo. Any rule or portion of a rule, as that term is defined
28 in section 536.010, RSMo, that is created under the authority delegated in this section shall
29 become effective only if it complies with and is subject to all of the provisions of chapter
30 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,
31 RSMo, are nonseverable and if any of the powers vested with the general assembly
32 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and
33 annul a rule are subsequently held unconstitutional, then the grant of rulemaking
34 authority and any rule proposed or adopted after August 28, 2005, shall be invalid and
35 void.

301.894. 1. Notwithstanding the provisions of sections 301.200 and 301.210, any
2 person licensed as a motor vehicle dealer under sections 301.550 to 301.573 shall be
3 authorized to purchase or accept in trade any motor vehicle for which there has been
4 issued a certificate of title, and to receive such vehicle subject to any existing liens thereon
5 created and perfected under sections 301.600 to 301.660 provided the licensed dealer
6 receives the following:

7 (1) A signed written contract between the licensed dealer and the owner of the
8 vehicle;

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

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

13 2. If the dealer complies with the requirements of subsection 1 of this section, the
14 sale or trade of the vehicle to the dealer shall be considered final.

15 3. Notwithstanding any provisions of law, if a licensed dealer complies with the
16 requirements of subsection 1 of this section, the licensed dealer may sell such vehicle prior

17 to receiving and assigning to the purchaser the certificate of title. The sale of the vehicle
18 to the purchaser shall be considered final if:

19 (1) All outstanding liens created on the vehicle pursuant to section 301.600 to
20 301.660 have been paid in full;

21 (2) The dealer has obtained proof or other evidence from the department of
22 revenue confirming that no outstanding child support liens exist upon the vehicle at the
23 time of sale;

24 (3) The dealer has obtained proof or other evidence from the department of
25 revenue confirming that all applicable state sales tax has been satisfied on the sale of the
26 vehicle to the owner; and

27 (4) The dealer has signed and submitted an application for duplicate or
28 replacement title for the vehicle pursuant to subsection 4 of section 301.300.

29 4. Following a sale or other transaction in which a certificate of title has not been
30 assigned from the owner to the dealer, a licensed dealer shall, within five business days,
31 apply for a duplicate or replacement title. Upon receipt of a duplicate or replacement title
32 applied for under subsection 4 of section 301.300, the dealer shall assign and deliver said
33 certificate of title to the purchaser of the vehicle within five business days. The dealer shall
34 maintain proof of the assignment and delivery of the certificate of title to the purchaser.
35 For purposes of this subsection, a dealer shall be deemed to have delivered the certificate
36 of title to the purchaser upon either:

37 (1) Physical delivery of the certificate of title to any of the purchasers identified in
38 the contract with the dealer; or

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

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

44 6. If a dealer fails to comply with subsection 4 of this section, and the purchaser of
45 the vehicle is thereby damaged, the dealer shall be liable to the purchaser of the vehicle for
46 actual damages, plus court costs and reasonable attorney fees.

47 7. If a seller fraudulently misrepresents to a dealer that the seller is the owner of
48 a vehicle and the dealer or any subsequent purchaser is thereby damaged, the seller shall
49 be liable to the dealer and any subsequent purchaser for actual damages, plus court costs
50 and reasonable attorney fees.

51 8. When a lienholder is damaged as a result of acts or omissions by the dealer to the
52 lienholder or any party covered by subsection 5, 6, or 7, or any combination of claims

53 **under this subsection, the dealer shall be liable to the lienholder for actual damages, plus**
54 **court costs and reasonable attorney fees.**

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

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

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