

## HCS HB 699 -- MOTOR VEHICLES

SPONSOR: Tilley

COMMITTEE ACTION: Voted "do pass" by the Special Committee on General Laws by a vote of 7 to 1.

This substitute changes the laws regarding the registration, licensure, and sale of motor vehicles.

### TEMPORARY PERMITS

The substitute removes references to the terms "plate" and "paper plate" from the temporary permit provision. The provision which requires the issuance of temporary permits to nonresidents is repealed.

### IN TRANSIT PLACARDS

The provision which requires dealers to use an "In Transit" placard when moving a motor vehicle from one dealer to another or from the manufacturer is repealed.

### OUT-OF-STATE CERTIFICATES OF OWNERSHIP

The absence of a prior designation on an out-of-state title that the vehicle is a reconstructed motor vehicle, motor change vehicle, specially constructed motor vehicle, or prior salvage vehicle will not relieve the transferor from exercising due diligence regarding the title prior to its transfer. If the transferor does this, he or she will not be liable even if the title was not properly designated.

### SALES BY DEALERS

Dealers are required to have a certificate of ownership, proof that the dealer has applied for a certificate of ownership, or proof that a prior lien has been satisfied by the dealer for every motor vehicle in the dealer's possession.

### UNCLAIMED VEHICLE REPORTS AND STORAGE CLAIMS

Dealers and persons operating garages in which a motor vehicle remains unclaimed for a period of 15 days may report the unclaimed vehicle to the Department of Revenue. Currently, dealers must report the unclaimed vehicles to the department. The provision which specifies that dealers who fail to report unclaimed vehicles will forfeit all claims and liens for storing the vehicle is repealed.

## MOTOR VEHICLE AND TRAILER DEALERS

The substitute revises the definition of "motor vehicle dealer" by increasing from six or more to 12 or more motor vehicles sold in a calendar year to be eligible for licensure as a motor vehicle dealer. If a dealer fails to sell 12 vehicles, he or she is prohibited from renewing his or her license for one year. Any motor vehicle dealer licensed before August 28, 2007, will be grandfathered under the prior six vehicle sales requirement. Similar requirements are established for trailer dealers.

The substitute makes it unlawful for a person to sell six or more, instead of the current seven or more motor vehicles, in a calendar year unless the person is licensed or meets other specified exceptions. The sale of six or more vehicles within a calendar year is considered as acting as a motor vehicle dealer without a license.

## BONA FIDE ESTABLISHED PLACES OF BUSINESS

Motor vehicle dealer applications are required to include an annual certification that the applicant has a bona fide established place of business for the first three years and only every other year thereafter. A bona fide established place of business for any motor vehicle dealer, boat dealer, wholesale motor vehicle dealer, trailer dealer, or wholesale or public auction, in addition to other current legal requirements, must be a permanent enclosed commercial, nonresidential building, which must display an exterior sign with the name of the business in letters that are at least six inches in height.

The photograph that accompanies a dealer application must not be any smaller than five by seven inches.

## DEALER SURETY BONDS

The amount of the corporate surety bond which dealers are required to file is increased from \$25,000 to \$30,000. Every applicant for a new motor vehicle franchise dealer, a used motor vehicle dealer, a powersport dealer, a wholesale motor vehicle dealer, a trailer dealer, or a boat dealer must furnish with the application a copy of a current dealer garage policy with the policy number and name of the insurer and the insured and a copy of a current property and casualty policy with the policy number and name of the insurer and the insured from an insurance carrier registered with the Director of the Department of Insurance, Financial Institutions, and Professional Registration.

## USED MOTOR VEHICLE DEALER EDUCATIONAL SEMINARS

Public auto auctions and applicants currently holding a new or used license for a separate dealership will be exempt from showing proof of completing an educational seminar when applying for a used motor vehicle dealer's license. Current new motor vehicle franchise dealers and motor vehicle leasing agencies will not be subject to the educational seminar requirements.

The number of additional plates a new motor vehicle manufacturer may hold will be limited to no more than 347. New and used dealers are limited to one additional plate or certificate of number per 10-unit transactions annually.

#### MOTOR VEHICLE SHOWS

Motor vehicle dealers may participate in no more than two motor vehicle shows and conduct sales away from the dealer's licensed place of business if the event is conducted for not more than five consecutive days. If any show or sale includes a class of dealers or franchised new vehicle line-make that is also represented by a same class dealer or a dealer representing the same line-make outside the city or town limits and is within 10 miles of where the show or sale is to take place, the dealer outside the city or town limits must be invited to participate in the show or sale. The substitute shortens the duration of off-site sales to five days instead of 10 days and increases the permit fee for off-site sales from \$200 to \$550.

#### ADVERTISING STANDARDS

The terms "invoice price" and "\$...below/over invoice" cannot be used in advertisements as is currently allowed, and the prohibition on advertisements that offer to match or better a competitor's price is removed.

#### FINANCE CHARGES

Motor vehicle dealers are prohibited from assessing a finance charge on a motor vehicle that results in the difference of more than 3% between the buy rate and the contract rate.

The provisions regarding the number of additional plates a new motor vehicle manufacturer may hold become effective January 1, 2008.

FISCAL NOTE: Estimated Income on General Revenue Fund \$3,944 in FY 2008, FY 2009, and FY 2010. Estimated Income on Other State Funds of \$24,263 to \$34,263 in FY 2008, \$26,002 to \$36,002 in FY 2009, and \$26,002 to \$36,002 in FY 2010.

PROPONENTS: Supporters say that the bill creates a car owner's

bill of rights. The increase in the surety bond requirements updates the legislation passed in 1988 that established the original surety requirements. The additional amount of surety better protects car buyers since \$25,000 doesn't cover as much damage as it did 20 years ago. Currently, some dealers who sell and finance auto purchases obtain third party financing and inflate the interest rates for at-risk loans. By capping at 3% the interest rate spread dealers are able to charge, car buyers will not be gouged. The increased amount that dealers are able to charge for temporary permits will help dealers cover the administrative cost associated with the issuance of the permits.

Testifying for the bill were Representative Tilley; Missouri Automobile Dealers Association; William Kent Scism; and Mike Kehoe.

OPPONENTS: Those who oppose the bill say that the buy back provisions will hurt used car dealers since customers are likely to cause damage that is in excess of the \$500 restocking fee the dealers are able to charge upon return. Verification of the downpayment check by used car dealers takes a minimum of seven days. The bill invites car buyers to pay with bad checks and then exercise their buy-back rights. Any restrictions on dealer tags prevent large car dealers from opening new stores since a start-up requires the transport of 300-500 vehicles to the car lot. The \$100,000 surety requirement is so oppressive that it will eliminate automobile dealers because many are not able to meet the asset limits necessary to purchase such a high surety bond.

Testifying against the bill were Carey Sommers; Richard Price; Henry D. W. Burt; Jim Deardorff; Bryan Lowe; Missouri Professional Automobile Dealers Association; Carmax Auto Superstores, Incorporated; Missouri Power Sports Dealers Association; James Barrow; and Phil Gilmore.

OTHERS: Others testifying say that the bill contains no mechanisms for the enforcement of the dealer plate provisions. If a dealer currently has excess dealer plates or accumulates extra dealer plates, the Department of Revenue will have no way to enforce the provisions of the bill.

Testifying on the bill was Department of Revenue.