

FIRST REGULAR SESSION

HOUSE BILL NO. 365

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DETHROW (Sponsor),
WILSON (119) AND KINGERY (Co-sponsors).

0992L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 301.560, RSMo, and to enact in lieu thereof one new section relating to motor vehicle dealer insurance.

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

Section A. Section 301.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.560, to read as follows:

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

(1) Every application other than a renewal application for a motor vehicle franchise dealer shall include a certification that the applicant has a bona fide established place of business. Such application shall include an annual certification that the applicant has a bona fide established place of business for the first three years and only for every other year thereafter. The certification shall be performed by a uniformed member of the Missouri state highway patrol or authorized or designated employee stationed in the troop area in which the applicant's place of business is located; except that in counties of the first classification, certification may be performed by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed. When the application is being made for licensure as a boat manufacturer or boat dealer, certification shall be performed by a uniformed member of the Missouri state water patrol stationed in the district area in which the applicant's place of business is located or by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located or, if the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

49 (3) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer,
50 a powersport dealer, a wholesale motor vehicle dealer, trailer dealer, or boat dealer shall furnish
51 with the application a corporate surety bond or an irrevocable letter of credit as defined in section
52 400.5-103, RSMo, issued by any state or federal financial institution in the penal sum of

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

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

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

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

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

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

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

122 For purposes of this subsection, qualified transactions shall include the purchase of salvage titled
123 vehicles by a licensed salvage dealer. A used motor vehicle dealer who also holds a salvage
124 dealer's license shall be allowed one additional plate or certificate number per fifty-unit qualified

125 transactions annually. In order for salvage dealers to obtain number plates or certificates under
126 this section, dealers shall submit to the department of revenue on August first of each year a
127 statement certifying, under penalty of perjury, the dealer's number of purchases during the
128 reporting period of July first of the immediately preceding year to June thirtieth of the present
129 year. The provisions of this subsection shall become effective on the date the director of the
130 department of revenue begins to reissue new license plates under section 301.130, or on
131 December 1, 2008, whichever occurs first. If the director of revenue begins reissuing new
132 license plates under the authority granted under section 301.130 prior to December 1, 2008, the
133 director of the department of revenue shall notify the revisor of statutes of such fact.

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

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

161 certificate of number, throughout the calendar year, shall be required to pay a fee for such license
162 plates or certificates of number computed on the basis of one-twelfth of the full fee prescribed
163 for the original and duplicate number plates or certificates of number for such dealers' licenses,
164 multiplied by the number of months remaining in the licensing period for which the dealer or
165 manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at
166 the time of renewal shall not be prorated. Wholesale and public auctions shall be issued a
167 certificate of dealer registration in lieu of a dealer number plate. In order for dealers to obtain
168 number plates or certificates under this section, dealers shall submit to the department of revenue
169 on August first of each year a statement certifying, under penalty of perjury, the dealer's number
170 of sales during the reporting period of July first of the immediately preceding year to June
171 thirtieth of the present year.

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

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

190 9. (1) Every application for the issuance of a used motor vehicle dealer's license shall
191 be accompanied by proof that the applicant, within the last twelve months, has completed an
192 educational seminar course approved by the department as prescribed by subdivision (2) of this
193 subsection. Wholesale and public auto auctions and applicants currently holding a new or used
194 license for a separate dealership shall be exempt from the requirements of this subsection. The
195 provisions of this subsection shall not apply to current new motor vehicle franchise dealers or
196 motor vehicle leasing agencies or applicants for a new motor vehicle franchise or a motor vehicle

197 leasing agency. The provisions of this subsection shall not apply to used motor vehicle dealers
198 who were licensed prior to August 28, 2006.

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

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