

SECOND REGULAR SESSION

HOUSE BILL NO. 1914

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FALKNER.

4499H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

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

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Section A. Section 301.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.560, to read as follows: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 highway patrol or authorized or designated employee stationed in the troop area in which the applicant's place of business is located or, if the applicant's place of business is located within the jurisdiction of a metropolitan police department in a first class county, by an officer of such metropolitan

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.

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

43 (2) The initial application for licensure shall include a photograph, not to exceed eight
44 inches by ten inches but no less than five inches by seven inches, showing the business
45 building, lot, and sign. A new motor vehicle franchise dealer applicant who has purchased a
46 currently licensed new motor vehicle franchised dealership shall be allowed to submit a
47 photograph of the existing dealership building, lot and sign but shall be required to submit a
48 new photograph upon the installation of the new dealership sign as required by sections
49 301.550 to 301.580. Applicants shall not be required to submit a photograph annually unless
50 the business has moved from its previously licensed location, or unless the name of the
51 business or address has changed, or unless the class of business has changed;

52 (3) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle
53 dealer, a powersport dealer, a wholesale motor vehicle dealer, trailer dealer, or boat dealer
54 shall furnish with the application a corporate surety bond or an irrevocable letter of credit as

55 defined in section 400.5-102, issued by any state or federal financial institution in the penal
56 sum of fifty thousand dollars on a form approved by the department. The bond or irrevocable
57 letter of credit shall be conditioned upon the dealer complying with the provisions of the
58 statutes applicable to new motor vehicle franchise dealers, used motor vehicle dealers,
59 powersport dealers, wholesale motor vehicle dealers, trailer dealers, and boat dealers, and the
60 bond shall be an indemnity for any loss sustained by reason of the acts of the person bonded
61 when such acts constitute grounds for the suspension or revocation of the dealer's license.
62 The bond shall be executed in the name of the state of Missouri for the benefit of all
63 aggrieved parties or the irrevocable letter of credit shall name the state of Missouri as the
64 beneficiary; except, that the aggregate liability of the surety or financial institution to the
65 aggrieved parties shall, in no event, exceed the amount of the bond or irrevocable letter of
66 credit. Additionally, every applicant as a new motor vehicle franchise dealer, a used motor
67 vehicle dealer, a powersport dealer, a wholesale motor vehicle dealer, or boat dealer shall
68 furnish with the application a copy of a current dealer garage policy bearing the policy
69 number and name of the insurer and the insured. The proceeds of the bond or irrevocable
70 letter of credit furnished by an applicant shall be paid upon receipt by the department of a
71 final judgment from a Missouri court of competent jurisdiction against the principal and in
72 favor of an aggrieved party. The proceeds of the bond or irrevocable letter of credit furnished
73 by an applicant shall be paid at the order of the department and in the amount determined by
74 the department to any buyer or interested lienholder up to the greater of the amount required
75 for the release of the purchase money lien or the sales price paid by the buyer where a dealer
76 has failed to fulfill the dealer's obligations under an agreement to assign and deliver title to
77 the buyer within thirty days under a contract entered into pursuant to subsection 5 of section
78 301.210. The department shall direct release of the bond or irrevocable letter of credit
79 proceeds upon presentation of a written agreement entered into pursuant to subsection 5 of
80 section 301.210, copies of the associated sales and finance documents, and the affidavit or
81 affidavits of the buyer or lienholder stating that the certificate of title with assignment thereof
82 has not been passed to the buyer within thirty days of the date of the contract entered into
83 under subsection 5 of section 301.210, that the dealer has not fulfilled the agreement under
84 the contract to repurchase the vehicle, that the buyer or the lienholder has notified the dealer
85 of the claim on the bond or letter of credit, and the amount claimed by the purchaser or
86 lienholder. In addition, prior to directing release and payment of the proceeds of a bond or
87 irrevocable letter of credit, the department shall ensure that there is satisfactory evidence to
88 establish that the vehicle which is subject to the written agreement has been returned by the
89 buyer to the dealer or that the buyer has represented to the department that the buyer will
90 surrender possession of the vehicle to the dealer upon payment of the proceeds of the bond or
91 letter of credit directed by the department. Excepting ordinary wear and tear or mechanical

92 failures not caused by the buyer, the amount of proceeds to be paid to the buyer under the
93 bond or irrevocable letter of credit shall be reduced by an amount equivalent to any damage,
94 abuse, or destruction incurred by the vehicle while the vehicle was in the buyer's possession
95 as agreed between the buyer and the dealer. The dealer may apply to a court of competent
96 jurisdiction to contest the claim on the bond or letter of credit, including the amount of the
97 claim and the amount of any adjustment for any damage, abuse, or destruction, by filing a
98 petition with the court within thirty days of the notification by the buyer or lienholder. If the
99 dealer does not fulfill the agreement or file a petition to request judicial relief from the terms
100 of the agreement or contest the amount of the claim, the bond or letter of credit shall be
101 released by the department and directed paid in the amount or amounts presented by the
102 lienholder or buyer;

103 (4) Payment of all necessary license fees as established by the department. In
104 establishing the amount of the annual license fees, the department shall, as near as possible,
105 produce sufficient total income to offset operational expenses of the department relating to the
106 administration of sections 301.550 to 301.580. All fees payable pursuant to the provisions of
107 sections 301.550 to 301.580, other than those fees collected for the issuance of dealer plates
108 or certificates of number collected pursuant to subsection 6 of this section, shall be collected
109 by the department for deposit in the state treasury to the credit of the "Motor Vehicle
110 Commission Fund", which is hereby created. The motor vehicle commission fund shall be
111 administered by the Missouri department of revenue. The provisions of section 33.080 to the
112 contrary notwithstanding, money in such fund shall not be transferred and placed to the credit
113 of the general revenue fund until the amount in the motor vehicle commission fund at the end
114 of the biennium exceeds two times the amount of the appropriation from such fund for the
115 preceding fiscal year or, if the department requires permit renewal less frequently than yearly,
116 then three times the appropriation from such fund for the preceding fiscal year. The amount,
117 if any, in the fund which shall lapse is that amount in the fund which exceeds the multiple of
118 the appropriation from such fund for the preceding fiscal year.

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

126 3. Except as otherwise provided in subsection 6 of this section, upon the initial
127 issuance of a license by the department, the department shall assign a distinctive dealer
128 license number or certificate of number to the applicant and the department shall issue one

129 number plate or certificate bearing the distinctive dealer license number or certificate of
 130 number and two additional number plates or certificates of number within eight working
 131 hours after presentment of the application and payment by the applicant of a fee of fifty
 132 dollars for the first plate or certificate and ten dollars and fifty cents for each additional plate
 133 or certificate. Upon renewal, the department shall issue the distinctive dealer license number
 134 or certificate of number as quickly as possible. The issuance of such distinctive dealer license
 135 number or certificate of number shall be in lieu of registering each motor vehicle, trailer,
 136 vessel or vessel trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public
 137 motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle auction or
 138 new or used motor vehicle dealer. The license plates described in this section shall be made
 139 with fully reflective material with a common color scheme and design, shall be clearly visible
 140 at night, and shall be aesthetically attractive, as prescribed by section 301.130.

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

143	New motor vehicle franchise dealers	D-0 through D-999
144	New powersport dealers	D-1000 through D-1999
145	Used motor vehicle and used powersport	
146	dealers	D-2000 through D-9999
147	Wholesale motor vehicle dealers	W-0 through W-1999
148	Wholesale motor vehicle auctions	WA-0 through WA-999
149	New and used trailer dealers	T-0 through T-9999
150	Motor vehicle, trailer, and boat	
151	manufacturers	DM-0 through DM-999
152	Public motor vehicle auctions	A-0 through A-1999
153	Boat dealers	M-0 through M-9999
154	New and used recreational motor vehicle	
155	dealers	RV-0 through RV-999

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 157 For purposes of this subsection, qualified transactions shall include the purchase of salvage
 158 titled vehicles by a licensed salvage dealer. A used motor vehicle dealer who also holds a
 159 salvage dealer's license shall be allowed one additional plate or certificate number per fifty-
 160 unit qualified transactions annually. In order for salvage dealers to obtain number plates or
 161 certificates under this section, dealers shall submit to the department of revenue on August
 162 first of each year a statement certifying, under penalty of perjury, the dealer's number of
 163 purchases during the reporting period of July first of the immediately preceding year to June
 164 thirtieth of the present year. The provisions of this subsection shall become effective on the

165 date the director of the department of revenue begins to reissue new license plates under
166 section 301.130, or on December 1, 2008, whichever occurs first. If the director of revenue
167 begins reissuing new license plates under the authority granted under section 301.130 prior to
168 December 1, 2008, the director of the department of revenue shall notify the revisor of
169 statutes of such fact.

170 5. Upon the sale of a currently licensed motor vehicle dealership the department shall,
171 upon request, authorize the new approved dealer applicant to retain the selling dealer's license
172 number and shall cause the new dealer's records to indicate such transfer. If the new approved
173 dealer applicant elects not to retain the selling dealer's license number, the department shall
174 issue the new dealer applicant a new dealer's license number and an equal number of plates or
175 certificates as the department had issued to the selling dealer.

176 6. In the case of motor vehicle dealers, the department shall issue one number plate
177 bearing the distinctive dealer license number and may issue one additional number plate to
178 the applicant upon payment by the dealer of a fifty dollar fee for the number plate bearing the
179 distinctive dealer license number and ten dollars and fifty cents for the additional number
180 plate. The department may issue a third plate to the motor vehicle dealer upon completion of
181 the dealer's fifteenth qualified transaction and payment of a fee of ten dollars and fifty cents.
182 In the case of new motor vehicle manufacturers, powersport dealers, recreational motor
183 vehicle dealers, and trailer dealers, the department shall issue one number plate bearing the
184 distinctive dealer license number and may issue two additional number plates to the applicant
185 upon payment by the manufacturer or dealer of a fifty dollar fee for the number plate bearing
186 the distinctive dealer license number and ten dollars and fifty cents for each additional
187 number plate. Boat dealers and boat manufacturers shall be entitled to one certificate of
188 number bearing such number upon the payment of a fifty dollar fee. Additional number
189 plates and as many additional certificates of number may be obtained upon payment of a fee
190 of ten dollars and fifty cents for each additional plate or certificate. New motor vehicle
191 manufacturers shall not be issued or possess more than three hundred forty-seven additional
192 number plates or certificates of number annually. New and used motor vehicle dealers,
193 powersport dealers, wholesale motor vehicle dealers, boat dealers, and trailer dealers are
194 limited to one additional plate or certificate of number per ten-unit qualified transactions
195 annually. New and used recreational motor vehicle dealers are limited to two additional
196 plates or certificate of number per ten-unit qualified transactions annually for their first fifty
197 transactions and one additional plate or certificate of number per ten-unit qualified
198 transactions thereafter. An applicant seeking the issuance of an initial license shall indicate
199 on his or her initial application the applicant's proposed annual number of sales in order for
200 the director to issue the appropriate number of additional plates or certificates of number. A
201 motor vehicle dealer, trailer dealer, boat dealer, powersport dealer, recreational motor vehicle

202 dealer, motor vehicle manufacturer, boat manufacturer, or wholesale motor vehicle dealer
203 obtaining a distinctive dealer license plate or certificate of number or additional license plate
204 or additional certificate of number, throughout the calendar year, shall be required to pay a fee
205 for such license plates or certificates of number computed on the basis of one-twelfth of the
206 full fee prescribed for the original and duplicate number plates or certificates of number for
207 such dealers' licenses, multiplied by the number of months remaining in the licensing period
208 for which the dealer or manufacturers shall be required to be licensed. In the event of a
209 renewing dealer, the fee due at the time of renewal shall not be prorated. Wholesale and
210 public auctions shall be issued a certificate of dealer registration in lieu of a dealer number
211 plate. In order for dealers to obtain number plates or certificates under this section, dealers
212 shall submit to the department of revenue on August first of each year a statement certifying,
213 under penalty of perjury, the dealer's number of sales during the reporting period of July first
214 of the immediately preceding year to June thirtieth of the present year.

215 7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on
216 any motor vehicle owned by a new motor vehicle manufacturer. The plates issued pursuant to
217 subsection 3 or 6 of this section may be displayed on any motor vehicle or trailer owned and
218 held for resale by a motor vehicle dealer for use by a customer who is test driving the motor
219 vehicle, for use by any customer while the customer's vehicle is being serviced or repaired by
220 the motor vehicle dealer, for use and display purposes during, but not limited to, parades,
221 private events, charitable events, or for use by an employee or officer, but shall not be
222 displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used
223 service or wrecker vehicle. Motor vehicle dealers may display their dealer plates on a tractor,
224 truck or trailer to demonstrate a vehicle under a loaded condition. Trailer dealers may display
225 their dealer license plates in like manner, except such plates may only be displayed on trailers
226 owned and held for resale by the trailer dealer.

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

235 9. If any law enforcement officer has probable cause to believe that any license plate
236 or certificate of number issued under subsection 3 or 6 of this section is being misused in
237 violation of subsection 7 or 8 of this section, the license plate or certificate of number may be
238 seized and surrendered to the department.

239 10. (1) Every application for the issuance of a used motor vehicle dealer's license
240 shall be accompanied by proof that the applicant, within the last twelve months, has
241 completed an educational seminar course approved by the department as prescribed by
242 subdivision (2) of this subsection. Wholesale and public auto auctions and applicants
243 currently holding a new or used license for a separate dealership shall be exempt from the
244 requirements of this subsection. The provisions of this subsection shall not apply to current
245 new motor vehicle franchise dealers or motor vehicle leasing agencies or applicants for a new
246 motor vehicle franchise or a motor vehicle leasing agency. The provisions of this subsection
247 shall not apply to used motor vehicle dealers who were licensed prior to August 28, 2006.

248 (2) The educational seminar, **which shall be offered in-person and online**, shall
249 include, but is not limited to, the dealer requirements of sections 301.550 to 301.580, the rules
250 promulgated to implement, enforce, and administer sections 301.550 to 301.580, and any
251 other rules and regulations promulgated by the department.

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