

SECOND REGULAR SESSION

# SENATE BILL NO. 1156

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR FITZWATER.

4039S.04I

KRISTINA MARTIN, Secretary

## AN ACT

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

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Section A. Section 301.560, RSMo, is repealed and one new  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

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

4 (1) Every application other than **an application for a**  
5 **new motor vehicle franchise dealer where the applicant is a**  
6 **retailer that sells agricultural supplies and is under**  
7 **common ownership and control with at least five other new**  
8 **motor vehicle franchise dealers doing business under the**  
9 **same name, or** a renewal application for a **new** motor vehicle  
10 franchise dealer shall include a certification that the  
11 applicant has a bona fide established place of business.  
12 Such application shall include an annual certification that  
13 the applicant has a bona fide established place of business  
14 for the first three years and only for every other year  
15 thereafter. The certification shall be performed by a  
16 uniformed member of the Missouri state highway patrol or  
17 authorized or designated employee stationed in the troop  
18 area in which the applicant's place of business is located;

19 except that in counties of the first classification,  
20 certification may be performed by an officer of a  
21 metropolitan police department when the applicant's  
22 established place of business of distributing or selling  
23 motor vehicles or trailers is in the metropolitan area where  
24 the certifying metropolitan police officer is employed.  
25 When the application is being made for licensure as a boat  
26 manufacturer or boat dealer, certification shall be  
27 performed by a uniformed member of the Missouri state  
28 highway patrol or authorized or designated employee  
29 stationed in the troop area in which the applicant's place  
30 of business is located or, if the applicant's place of  
31 business is located within the jurisdiction of a  
32 metropolitan police department in a first class county, by  
33 an officer of such metropolitan police department. A bona  
34 fide established place of business for any new motor vehicle  
35 franchise dealer, used motor vehicle dealer, boat dealer,  
36 powersport dealer, wholesale motor vehicle dealer, trailer  
37 dealer, or wholesale or public auction shall be a permanent  
38 enclosed building or structure, either owned in fee or  
39 leased and actually occupied as a place of business by the  
40 applicant for the selling, bartering, trading, servicing, or  
41 exchanging of motor vehicles, boats, personal watercraft, or  
42 trailers and wherein the public may contact the owner or  
43 operator at any reasonable time, and wherein shall be kept  
44 and maintained the books, records, files and other matters  
45 required and necessary to conduct the business. The  
46 applicant shall maintain a working telephone number during  
47 the entire registration year which will allow the public,  
48 the department, and law enforcement to contact the applicant  
49 during regular business hours. The applicant shall also  
50 maintain an email address during the entire registration

51 year which may be used for official correspondence with the  
52 department. In order to qualify as a bona fide established  
53 place of business for all applicants licensed pursuant to  
54 this section there shall be an exterior sign displayed  
55 carrying the name of the business set forth in letters at  
56 least six inches in height and clearly visible to the public  
57 and there shall be an area or lot which shall not be a  
58 public street on which multiple vehicles, boats, personal  
59 watercraft, or trailers may be displayed. The sign shall  
60 contain the name of the dealership by which it is known to  
61 the public through advertising or otherwise, which need not  
62 be identical to the name appearing on the dealership's  
63 license so long as such name is registered as a fictitious  
64 name with the secretary of state, has been approved by its  
65 line-make manufacturer in writing in the case of a new motor  
66 vehicle franchise dealer and a copy of such fictitious name  
67 registration has been provided to the department. Dealers  
68 who sell only emergency vehicles as defined in section  
69 301.550 are exempt from maintaining a bona fide place of  
70 business, including the related law enforcement  
71 certification requirements, and from meeting the minimum  
72 yearly sales;

73 (2) The initial application for licensure shall  
74 include a photograph, not to exceed eight inches by ten  
75 inches but no less than five inches by seven inches, showing  
76 the business building, lot, and sign. A new motor vehicle  
77 franchise dealer applicant who has purchased a currently  
78 licensed new motor vehicle franchised dealership shall be  
79 allowed to submit a photograph of the existing dealership  
80 building, lot and sign but shall be required to submit a new  
81 photograph upon the installation of the new dealership sign  
82 as required by sections 301.550 to 301.580. Applicants

83 shall not be required to submit a photograph annually unless  
84 the business has moved from its previously licensed  
85 location, or unless the name of the business or address has  
86 changed, or unless the class of business has changed;

87 (3) Every applicant as a new motor vehicle franchise  
88 dealer, a used motor vehicle dealer, a powersport dealer, a  
89 wholesale motor vehicle dealer, trailer dealer, or boat  
90 dealer shall furnish with the application a corporate surety  
91 bond or an irrevocable letter of credit as defined in  
92 section 400.5-102, issued by any state or federal financial  
93 institution in the penal sum of fifty thousand dollars on a  
94 form approved by the department. The bond or irrevocable  
95 letter of credit shall be conditioned upon the dealer  
96 complying with the provisions of the statutes applicable to  
97 new motor vehicle franchise dealers, used motor vehicle  
98 dealers, powersport dealers, wholesale motor vehicle  
99 dealers, trailer dealers, and boat dealers, and the bond  
100 shall be an indemnity for any loss sustained by reason of  
101 the acts of the person bonded when such acts constitute  
102 grounds for the suspension or revocation of the dealer's  
103 license. The bond shall be executed in the name of the  
104 state of Missouri for the benefit of all aggrieved parties  
105 or the irrevocable letter of credit shall name the state of  
106 Missouri as the beneficiary; except, that the aggregate  
107 liability of the surety or financial institution to the  
108 aggrieved parties shall, in no event, exceed the amount of  
109 the bond or irrevocable letter of credit. Additionally,  
110 every applicant as a new motor vehicle franchise dealer, a  
111 used motor vehicle dealer, a powersport dealer, a wholesale  
112 motor vehicle dealer, or boat dealer shall furnish with the  
113 application a copy of a current dealer garage policy bearing  
114 the policy number and name of the insurer and the insured.

115 The proceeds of the bond or irrevocable letter of credit  
116 furnished by an applicant shall be paid upon receipt by the  
117 department of a final judgment from a Missouri court of  
118 competent jurisdiction against the principal and in favor of  
119 an aggrieved party. The proceeds of the bond or irrevocable  
120 letter of credit furnished by an applicant shall be paid at  
121 the order of the department and in the amount determined by  
122 the department to any buyer or interested lienholder up to  
123 the greater of the amount required for the release of the  
124 purchase money lien or the sales price paid by the buyer  
125 where a dealer has failed to fulfill the dealer's  
126 obligations under an agreement to assign and deliver title  
127 to the buyer within thirty days under a contract entered  
128 into pursuant to subsection 5 of section 301.210. The  
129 department shall direct release of the bond or irrevocable  
130 letter of credit proceeds upon presentation of a written  
131 agreement entered into pursuant to subsection 5 of section  
132 301.210, copies of the associated sales and finance  
133 documents, and the affidavit or affidavits of the buyer or  
134 lienholder stating that the certificate of title with  
135 assignment thereof has not been passed to the buyer within  
136 thirty days of the date of the contract entered into under  
137 subsection 5 of section 301.210, that the dealer has not  
138 fulfilled the agreement under the contract to repurchase the  
139 vehicle, that the buyer or the lienholder has notified the  
140 dealer of the claim on the bond or letter of credit, and the  
141 amount claimed by the purchaser or lienholder. In addition,  
142 prior to directing release and payment of the proceeds of a  
143 bond or irrevocable letter of credit, the department shall  
144 ensure that there is satisfactory evidence to establish that  
145 the vehicle which is subject to the written agreement has  
146 been returned by the buyer to the dealer or that the buyer

147 has represented to the department that the buyer will  
148 surrender possession of the vehicle to the dealer upon  
149 payment of the proceeds of the bond or letter of credit  
150 directed by the department. Excepting ordinary wear and  
151 tear or mechanical failures not caused by the buyer, the  
152 amount of proceeds to be paid to the buyer under the bond or  
153 irrevocable letter of credit shall be reduced by an amount  
154 equivalent to any damage, abuse, or destruction incurred by  
155 the vehicle while the vehicle was in the buyer's possession  
156 as agreed between the buyer and the dealer. The dealer may  
157 apply to a court of competent jurisdiction to contest the  
158 claim on the bond or letter of credit, including the amount  
159 of the claim and the amount of any adjustment for any  
160 damage, abuse, or destruction, by filing a petition with the  
161 court within thirty days of the notification by the buyer or  
162 lienholder. If the dealer does not fulfill the agreement or  
163 file a petition to request judicial relief from the terms of  
164 the agreement or contest the amount of the claim, the bond  
165 or letter of credit shall be released by the department and  
166 directed paid in the amount or amounts presented by the  
167 lienholder or buyer;

168 (4) Payment of all necessary license fees as  
169 established by the department. In establishing the amount  
170 of the annual license fees, the department shall, as near as  
171 possible, produce sufficient total income to offset  
172 operational expenses of the department relating to the  
173 administration of sections 301.550 to 301.580. All fees  
174 payable pursuant to the provisions of sections 301.550 to  
175 301.580, other than those fees collected for the issuance of  
176 dealer plates or certificates of number collected pursuant  
177 to subsection 6 of this section, shall be collected by the  
178 department for deposit in the state treasury to the credit

179 of the "Motor Vehicle Commission Fund", which is hereby  
180 created. The motor vehicle commission fund shall be  
181 administered by the Missouri department of revenue. The  
182 provisions of section 33.080 to the contrary  
183 notwithstanding, money in such fund shall not be transferred  
184 and placed to the credit of the general revenue fund until  
185 the amount in the motor vehicle commission fund at the end  
186 of the biennium exceeds two times the amount of the  
187 appropriation from such fund for the preceding fiscal year  
188 or, if the department requires permit renewal less  
189 frequently than yearly, then three times the appropriation  
190 from such fund for the preceding fiscal year. The amount,  
191 if any, in the fund which shall lapse is that amount in the  
192 fund which exceeds the multiple of the appropriation from  
193 such fund for the preceding fiscal year.

194 2. In the event a new vehicle manufacturer, boat  
195 manufacturer, motor vehicle dealer, wholesale motor vehicle  
196 dealer, boat dealer, powersport dealer, wholesale motor  
197 vehicle auction, trailer dealer, or a public motor vehicle  
198 auction submits an application for a license for a new  
199 business and the applicant has complied with all the  
200 provisions of this section, the department shall make a  
201 decision to grant or deny the license to the applicant  
202 within eight working hours after receipt of the dealer's  
203 application, notwithstanding any rule of the department.

204 3. Except as otherwise provided in subsection 6 of  
205 this section, upon the initial issuance of a license by the  
206 department, the department shall assign a distinctive dealer  
207 license number or certificate of number to the applicant and  
208 the department shall issue one number plate or certificate  
209 bearing the distinctive dealer license number or certificate  
210 of number and two additional number plates or certificates

211 of number within eight working hours after presentment of  
 212 the application and payment by the applicant of a fee of  
 213 fifty dollars for the first plate or certificate and ten  
 214 dollars and fifty cents for each additional plate or  
 215 certificate. Upon renewal, the department shall issue the  
 216 distinctive dealer license number or certificate of number  
 217 as quickly as possible. The issuance of such distinctive  
 218 dealer license number or certificate of number shall be in  
 219 lieu of registering each motor vehicle, trailer, vessel or  
 220 vessel trailer dealt with by a boat dealer, boat  
 221 manufacturer, manufacturer, public motor vehicle auction,  
 222 wholesale motor vehicle dealer, wholesale motor vehicle  
 223 auction or new or used motor vehicle dealer. The license  
 224 plates described in this section shall be made with fully  
 225 reflective material with a common color scheme and design,  
 226 shall be clearly visible at night, and shall be  
 227 aesthetically attractive, as prescribed by section 301.130.

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

231	New motor vehicle franchise dealers	D-0 through D-999
232	New powersport dealers	D-1000 through D-1999
233	Used motor vehicle and used	D-2000 through D-9999
234	powersport dealers	
235	Wholesale motor vehicle dealers	W-0 through W-1999
236	Wholesale motor vehicle auctions	WA-0 through WA-999
237	New and used trailer dealers	T-0 through T-9999
238	Motor vehicle, trailer, and boat	DM-0 through DM-999
239	manufacturers	



240	Public motor vehicle auctions	A-0 through A-1999
241	Boat dealers	M-0 through M-9999
242	New and used recreational motor	RV-0 through RV-999
243	vehicle dealers	

244 For purposes of this subsection, qualified transactions  
 245 shall include the purchase of salvage titled vehicles by a  
 246 licensed salvage dealer. A used motor vehicle dealer who  
 247 also holds a salvage dealer's license shall be allowed one  
 248 additional plate or certificate number per fifty-unit  
 249 qualified transactions annually. In order for salvage  
 250 dealers to obtain number plates or certificates under this  
 251 section, dealers shall submit to the department of revenue  
 252 on August first of each year a statement certifying, under  
 253 penalty of perjury, the dealer's number of purchases during  
 254 the reporting period of July first of the immediately  
 255 preceding year to June thirtieth of the present year. The  
 256 provisions of this subsection shall become effective on the  
 257 date the director of the department of revenue begins to  
 258 reissue new license plates under section 301.130, or on  
 259 December 1, 2008, whichever occurs first. If the director  
 260 of revenue begins reissuing new license plates under the  
 261 authority granted under section 301.130 prior to December 1,  
 262 2008, the director of the department of revenue shall notify  
 263 the revisor of statutes of such fact.

264 5. Upon the sale of a currently licensed motor vehicle  
 265 dealership the department shall, upon request, authorize the  
 266 new approved dealer applicant to retain the selling dealer's  
 267 license number and shall cause the new dealer's records to  
 268 indicate such transfer. If the new approved dealer

269 applicant elects not to retain the selling dealer's license  
270 number, the department shall issue the new dealer applicant  
271 a new dealer's license number and an equal number of plates  
272 or certificates as the department had issued to the selling  
273 dealer.

274         6. In the case of motor vehicle dealers, the  
275 department shall issue one number plate bearing the  
276 distinctive dealer license number and may issue one  
277 additional number plate to the applicant upon payment by the  
278 dealer of a fifty dollar fee for the number plate bearing  
279 the distinctive dealer license number and ten dollars and  
280 fifty cents for the additional number plate. The department  
281 may issue a third plate to the motor vehicle dealer upon  
282 completion of the dealer's fifteenth qualified transaction  
283 and payment of a fee of ten dollars and fifty cents. In the  
284 case of new motor vehicle manufacturers, powersport dealers,  
285 recreational motor vehicle dealers, and trailer dealers, the  
286 department shall issue one number plate bearing the  
287 distinctive dealer license number and may issue two  
288 additional number plates to the applicant upon payment by  
289 the manufacturer or dealer of a fifty dollar fee for the  
290 number plate bearing the distinctive dealer license number  
291 and ten dollars and fifty cents for each additional number  
292 plate. Boat dealers and boat manufacturers shall be  
293 entitled to one certificate of number bearing such number  
294 upon the payment of a fifty dollar fee. Additional number  
295 plates and as many additional certificates of number may be  
296 obtained upon payment of a fee of ten dollars and fifty  
297 cents for each additional plate or certificate. New motor  
298 vehicle manufacturers shall not be issued or possess more  
299 than three hundred forty-seven additional number plates or  
300 certificates of number annually. New and used motor vehicle

301 dealers, powersport dealers, wholesale motor vehicle  
302 dealers, boat dealers, and trailer dealers are limited to  
303 one additional plate or certificate of number per ten-unit  
304 qualified transactions annually. New and used recreational  
305 motor vehicle dealers are limited to two additional plates  
306 or certificate of number per ten-unit qualified transactions  
307 annually for their first fifty transactions and one  
308 additional plate or certificate of number per ten-unit  
309 qualified transactions thereafter. An applicant seeking the  
310 issuance of an initial license shall indicate on his or her  
311 initial application the applicant's proposed annual number  
312 of sales in order for the director to issue the appropriate  
313 number of additional plates or certificates of number. A  
314 motor vehicle dealer, trailer dealer, boat dealer,  
315 powersport dealer, recreational motor vehicle dealer, motor  
316 vehicle manufacturer, boat manufacturer, or wholesale motor  
317 vehicle dealer obtaining a distinctive dealer license plate  
318 or certificate of number or additional license plate or  
319 additional certificate of number, throughout the calendar  
320 year, shall be required to pay a fee for such license plates  
321 or certificates of number computed on the basis of one-  
322 twelfth of the full fee prescribed for the original and  
323 duplicate number plates or certificates of number for such  
324 dealers' licenses, multiplied by the number of months  
325 remaining in the licensing period for which the dealer or  
326 manufacturers shall be required to be licensed. In the  
327 event of a renewing dealer, the fee due at the time of  
328 renewal shall not be prorated. Wholesale and public  
329 auctions shall be issued a certificate of dealer  
330 registration in lieu of a dealer number plate. In order for  
331 dealers to obtain number plates or certificates under this  
332 section, dealers shall submit to the department of revenue

333 on August first of each year a statement certifying, under  
334 penalty of perjury, the dealer's number of sales during the  
335 reporting period of July first of the immediately preceding  
336 year to June thirtieth of the present year.

337 7. The plates issued pursuant to subsection 3 or 6 of  
338 this section may be displayed on any motor vehicle owned by  
339 a new motor vehicle manufacturer. The plates issued  
340 pursuant to subsection 3 or 6 of this section may be  
341 displayed on any motor vehicle or trailer owned and held for  
342 resale by a motor vehicle dealer for use by a customer who  
343 is test driving the motor vehicle, for use by any customer  
344 while the customer's vehicle is being serviced or repaired  
345 by the motor vehicle dealer, for use and display purposes  
346 during, but not limited to, parades, private events,  
347 charitable events, or for use by an employee or officer, but  
348 shall not be displayed on any motor vehicle or trailer hired  
349 or loaned to others or upon any regularly used service or  
350 wrecker vehicle. Motor vehicle dealers may display their  
351 dealer plates on a tractor, truck or trailer to demonstrate  
352 a vehicle under a loaded condition. Trailer dealers may  
353 display their dealer license plates in like manner, except  
354 such plates may only be displayed on trailers owned and held  
355 for resale by the trailer dealer.

356 8. The certificates of number issued pursuant to  
357 subsection 3 or 6 of this section may be displayed on any  
358 vessel or vessel trailer owned and held for resale by a boat  
359 manufacturer or a boat dealer, and used by a customer who is  
360 test driving the vessel or vessel trailer, or is used by an  
361 employee or officer on a vessel or vessel trailer only, but  
362 shall not be displayed on any motor vehicle owned by a boat  
363 manufacturer, boat dealer, or trailer dealer, or vessel or  
364 vessel trailer hired or loaned to others or upon any

365 regularly used service vessel or vessel trailer. Boat  
366 dealers and boat manufacturers may display their certificate  
367 of number on a vessel or vessel trailer when transporting a  
368 vessel or vessels to an exhibit or show.

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

375 10. (1) Every application for the issuance of a used  
376 motor vehicle dealer's license shall be accompanied by proof  
377 that the applicant, within the last twelve months, has  
378 completed an educational seminar course approved by the  
379 department as prescribed by subdivision (2) of this  
380 subsection. Wholesale and public auto auctions and  
381 applicants currently holding a new or used license for a  
382 separate dealership shall be exempt from the requirements of  
383 this subsection. The provisions of this subsection shall  
384 not apply to current new motor vehicle franchise dealers or  
385 motor vehicle leasing agencies or applicants for a new motor  
386 vehicle franchise or a motor vehicle leasing agency. The  
387 provisions of this subsection shall not apply to used motor  
388 vehicle dealers who were licensed prior to August 28, 2006.

389 (2) The educational seminar shall include, but is not  
390 limited to, the dealer requirements of sections 301.550 to  
391 301.580, the rules promulgated to implement, enforce, and  
392 administer sections 301.550 to 301.580, and any other rules  
393 and regulations promulgated by the department.

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