

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 1259

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE THRELKELD.

Read 1<sup>st</sup> time January 26, 2004, and copies ordered printed.

Read 2<sup>nd</sup> time January 27, 2004, and referred to the Committee on Transportation and Motor Vehicles, February 5, 2004.

Reported from the Committee on Transportation and Motor Vehicles, March 3, 2004, with recommendation that the bill Do Pass by Consent.

Perfectured by Consent March 11, 2004.

STEPHEN S. DAVIS, Chief Clerk

3869L.01P

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### AN ACT

To repeal section 301.562, RSMo, and to enact in lieu thereof one new section relating to the licensure of motor vehicle dealers and manufacturers.

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

Section A. Section 301.562, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.562, to read as follows:

301.562. 1. The department may refuse to issue or renew any license required pursuant to sections 301.550 to 301.573 for any one or any combination of causes stated in subsection 2 of this section. The department shall notify the applicant or licensee in writing at his **or her** last known address of the reasons for the refusal to issue or renew the license and shall advise the applicant or licensee of his **or her** right to [appeal the decision of the department as provided in chapter 536, RSMo] **file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.**

2. The department may [take such disciplinary action as provided in subsection 3 of this section upon a written notice and an opportunity to be heard in substantially the same manner as provided in chapter 536, RSMo] **cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo,** against any holder of any license

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

12 issued under sections 301.550 to 301.573 for any one or any combination of the following  
13 causes:

14 (1) The applicant or license holder was previously the holder of a license issued under  
15 sections 301.550 to 301.573, which license was revoked for cause and never reissued by the  
16 department, or which license was suspended for cause and the terms of suspension have not been  
17 fulfilled;

18 (2) The applicant or license holder was previously a partner, stockholder, director or  
19 officer controlling or managing a partnership or corporation whose license issued under sections  
20 301.550 to 301.573 was revoked for cause and never reissued or was suspended for cause and  
21 the terms of suspension have not been fulfilled;

22 (3) The applicant or license holder has, within ten years prior to the date of the  
23 application, been finally adjudicated and found guilty, or entered a plea of guilty or nolo  
24 contendere, in a criminal prosecution under the laws of any state or of the United States, for any  
25 offense reasonably related to the qualifications, functions, or duties of any business licensed  
26 under sections 301.550 to 301.573; for any offense, an essential element of which is fraud,  
27 dishonesty, or an act of violence; or for any offense involving moral turpitude, whether or not  
28 sentence is imposed;

29 (4) Use of fraud, deception, misrepresentation, or bribery in securing any license issued  
30 pursuant to sections 301.550 to 301.573;

31 (5) Obtaining or attempting to obtain any money, commission, fee, barter, exchange, or  
32 other compensation by fraud, deception, or misrepresentation;

33 (6) Violation of, or assisting or enabling any person to violate any provisions of sections  
34 301.550 to 301.573 or of any lawful rule or regulation adopted pursuant to sections 301.550 to  
35 301.573;

36 (7) The applicant or license holder has filed an application for a license which, as of its  
37 effective date, was incomplete in any material respect or contained any statement which was, in  
38 light of the circumstances under which it was made, false or misleading with respect to any  
39 material fact;

40 (8) The applicant or license holder has failed to pay the proper application or license fee  
41 or fails to establish or maintain a bona fide place of business;

42 (9) Uses or permits the use of any special license or license plate assigned to [him] **the**  
43 **license holder** for any purpose other than those permitted by law;

44 (10) The applicant or license holder is finally adjudged insane or incompetent by a court  
45 of competent jurisdiction;

46 (11) Use of any advertisement or solicitation which is false;

47 (12) Violations of sections 301.550 to 301.573 or violations of this chapter, sections

48 407.511 to 407.556, RSMo, section 578.120, RSMo, which resulted in a felony conviction or  
49 finding of guilt or violation of any federal motor vehicle laws which result in a felony conviction  
50 or finding of guilt.

51       3. **Any such complaint shall be filed within one year of the date upon which the**  
52 **department receives notice of an alleged violation of an applicable statute or regulation.**  
53 **After the filing of such complaint, the proceedings shall be conducted in accordance with**  
54 **the provisions of chapter 621, RSMo.** Upon a finding by the [department] **administrative**  
55 **hearing commission** that the grounds, provided in subsection 2 of this section, for disciplinary  
56 action are met, the department may, **singly or in combination**, refuse to issue the person a  
57 license, issue a private reprimand, place the person on probation on such terms and conditions  
58 as the department deems appropriate for a period of one day to five years, suspend the person's  
59 license from one day to six days, or revoke the person's license for such period as the department  
60 deems appropriate. The applicant or licensee shall have the right to appeal the decision of the  
61 **administrative hearing commission and** department in the manner provided in chapter 536,  
62 RSMo.

63       4. Upon the suspension or revocation of any person's license issued under sections  
64 301.550 to 301.573, the department shall recall any distinctive number plates that were issued  
65 to that licensee.