

SECOND REGULAR SESSION

# HOUSE BILL NO. 1561

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BEARDEN.

Read 1st time January 26, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4599L.01I

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### AN ACT

To repeal section 301.560, RSMo, and to enact in lieu thereof one new section relating to used car dealer courses.

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*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Section A. Section 301.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.560, to read as follows: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. When the application is being made for licensure as a manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, wholesale motor vehicle auction or a public motor vehicle auction, certification shall be performed 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; 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

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.

16 area in which the applicant's place of business is located or, if the applicant's place of business  
17 is located within the jurisdiction of a metropolitan police department in a first class county, by  
18 an officer of such metropolitan police department. A bona fide established place of business for  
19 any new motor vehicle franchise dealer or used motor vehicle dealer shall include a permanent  
20 enclosed building or structure, either owned in fee or leased and actually occupied as a place of  
21 business by the applicant for the selling, bartering, trading or exchanging of motor vehicles or  
22 trailers and wherein the public may contact the owner or operator at any reasonable time, and  
23 wherein shall be kept and maintained the books, records, files and other matters required and  
24 necessary to conduct the business. The applicant's place of business shall contain a working  
25 telephone which shall be maintained during the entire registration year. In order to qualify as a  
26 bona fide established place of business for all applicants licensed pursuant to this section there  
27 shall be an exterior sign displayed carrying the name of the business set forth in letters at least  
28 six inches in height and clearly visible to the public and there shall be an area or lot which shall  
29 not be a public street on which one or more vehicles may be displayed, except when licensure  
30 is for a wholesale motor vehicle dealer, a lot and sign shall not be required. The sign shall  
31 contain the name of the dealership by which it is known to the public through advertising or  
32 otherwise, which need not be identical to the name appearing on the dealership's license so long  
33 as such name is registered as a fictitious name with the secretary of state, has been approved by  
34 its line-make manufacturer in writing in the case of a new motor vehicle franchise dealer and a  
35 copy of such fictitious name registration has been provided to the department. When licensure  
36 is for a boat dealer, a lot shall not be required. In the case of new motor vehicle franchise  
37 dealers, the bona fide established place of business shall include adequate facilities, tools and  
38 personnel necessary to properly service and repair motor vehicles and trailers under their  
39 franchisor's warranty;

40 (2) If the application is for licensure as a manufacturer, boat manufacturer, new motor  
41 vehicle franchise dealer, used motor vehicle dealer, wholesale motor vehicle auction, boat dealer  
42 or a public motor vehicle auction, a photograph, not to exceed eight inches by ten inches,  
43 showing the business building and sign shall accompany the initial application. In the case of  
44 a manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer, the photograph  
45 shall include the lot of the business. A new motor vehicle franchise dealer applicant who has  
46 purchased a currently licensed new motor vehicle franchised dealership shall be allowed to  
47 submit a photograph of the existing dealership building, lot and sign but shall be required to  
48 submit a new photograph upon the installation of the new dealership sign as required by sections  
49 301.550 to 301.573. Applicants shall not be required to submit a photograph annually unless the  
50 business has moved from its previously licensed location, or unless the name of the business or  
51 address has changed, or unless the class of business has changed;

52           (3) If the application is for licensure as a wholesale motor vehicle dealer or as a boat  
53 dealer, the application shall contain the business address, not a post office box, and telephone  
54 number of the place where the books, records, files and other matters required and necessary to  
55 conduct the business are located and where the same may be inspected during normal daytime  
56 business hours. Wholesale motor vehicle dealers and boat dealers shall file reports as required  
57 of new franchised motor vehicle dealers and used motor vehicle dealers;

58           (4) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer,  
59 a wholesale motor vehicle dealer, or boat dealer shall furnish with the application a corporate  
60 surety bond or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by  
61 any state or federal financial institution in the penal sum of twenty-five thousand dollars on a  
62 form approved by the department. The bond or irrevocable letter of credit shall be conditioned  
63 upon the dealer complying with the provisions of the statutes applicable to new motor vehicle  
64 franchise dealers, used motor vehicle dealers, wholesale motor vehicle dealers and boat dealers,  
65 and the bond shall be an indemnity for any loss sustained by reason of the acts of the person  
66 bonded when such acts constitute grounds for the suspension or revocation of the dealer's license.  
67 The bond shall be executed in the name of the state of Missouri for the benefit of all aggrieved  
68 parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary;  
69 except, that the aggregate liability of the surety or financial institution to the aggrieved parties  
70 shall, in no event, exceed the amount of the bond or irrevocable letter of credit. The proceeds  
71 of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final  
72 judgment from a Missouri court of competent jurisdiction against the principal and in favor of  
73 an aggrieved party;

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

88 fund which shall lapse is that amount in the fund which exceeds the multiple of the appropriation  
89 from such fund for the preceding fiscal year.

90         2. In the event a new manufacturer, boat manufacturer, motor vehicle dealer, wholesale  
91 motor vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle  
92 auction submits an application for a license for a new business and the applicant has complied  
93 with all the provisions of this section, the department shall make a decision to grant or deny the  
94 license to the applicant within eight working hours after receipt of the dealer's application,  
95 notwithstanding any rule of the department.

96         3. Upon the initial issuance of a license by the department, the department shall assign  
97 a distinctive dealer license number or certificate of number to the applicant and the department  
98 shall issue one number plate or certificate bearing the distinctive dealer license number or  
99 certificate of number within eight working hours after presentment of the application. Upon the  
100 renewal of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer, public motor  
101 vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction, the  
102 department shall issue the distinctive dealer license number or certificate of number as quickly  
103 as possible. The issuance of such distinctive dealer license number or certificate of number shall  
104 be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt with by a boat  
105 dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale motor vehicle  
106 dealer, wholesale motor vehicle auction or motor vehicle dealer.

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

109 New motor vehicle franchise dealers .....	D-0 through D-999
110 New motor vehicle franchise and	
111         commercial motor vehicle .....	D-1000 through D-1999
112 Used motor vehicle dealers .....	D-2000 through D-5399
113	and D-6000 through D-9999
114 Wholesale motor vehicle dealers .....	W-1000 through W-1999
115 Wholesale motor vehicle auctions .....	W-2000 through W-2999
116 Trailer dealers .....	T-0 through T-9999
117 Motor vehicle and trailer manufacturers .....	M-0 through M-9999
118 Motorcycle dealers .....	D-5400 through D-5999
119 Public motor vehicle auctions .....	A-1000 through A-1999
120 Boat dealers and boat manufacturers .....	B-0 through B-9999

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

6. In the case of manufacturers and motor vehicle dealers, the department shall also issue one number plate bearing the distinctive dealer license number to the applicant upon payment by the manufacturer or dealer of a fifty dollar fee. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Boat dealers and boat manufacturers shall be entitled to one certificate of number bearing such number upon the payment of a fifty dollar fee. As many additional number plates as may be desired by manufacturers and motor vehicle dealers and as many additional certificates of number as may be desired by boat dealers and boat manufacturers may be obtained upon payment of a fee of ten dollars and fifty cents for each additional plate or certificate. A motor vehicle dealer, boat dealer, manufacturer, boat manufacturer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction obtaining a dealer license plate or certificate of number or additional license plate or additional certificate of number, throughout the calendar year, shall be required to pay a fee for such license plates or certificates of number computed on the basis of one-twelfth of the full fee prescribed for the original and duplicate number plates or certificates of number for such dealers' licenses, multiplied by the number of months remaining in the licensing period for which the dealer or manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at the time of renewal shall not be prorated.

7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle owned and held for resale by the motor vehicle dealer or manufacturer, and used by a customer who is test driving the motor vehicle, or is used by an employee or officer, but shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used service or wrecker vehicle. Motor vehicle dealers may display their dealer plates on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition.

8. The certificates of number issued pursuant to subsection 3 or 6 of this section may be displayed on any vessel or vessel trailer owned and held for resale by a boat manufacturer or a boat dealer, and used by a customer who is test driving the vessel or vessel trailer, or is used by an employee or officer, but shall not be displayed on any vessel or vessel trailer hired or loaned to others or upon any regularly used service vessel or vessel trailer. Boat dealers and manufacturers may display their certificate of number on a vessel or vessel trailer which is being transported to an exhibit or show.

**9. (1) Beginning August 28, 2006, every application for the issuance of a used motor vehicle dealer's license shall be accompanied by proof that the applicant, within the last twelve months, has completed an educational seminar course approved by the department as prescribed by subdivision (2) of this subsection. The provisions of this subsection shall not apply to:**

- 160           **(a) Wholesale and retail automobile auctions;**  
161           **(b) New motor vehicle franchise dealers;**  
162           **(c) Motor vehicle licensing agencies; and**  
163           **(d) Used motor vehicle dealers licensed prior to August 28, 2006.**  
164           **(2) The educational seminar shall include but not be limited to the dealer**  
165 **requirements in sections 301.550 to 301.573, the rules promulgated to implement, enforce,**  
166 **and administer sections 301.550 to 301.570, and any other rules promulgated by the**  
167 **department.**

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