

SECOND REGULAR SESSION

# HOUSE BILL NO. 1657

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE DETHROW.

4451L.01I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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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Section A. Section 301.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.560, to read as follows: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. 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 applicant's place of business is located within the jurisdiction of a metropolitan police

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 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. 3 .

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

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

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

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

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

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

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

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

195         9. (1) Every application for the issuance of a used motor vehicle dealer's license shall  
196 be accompanied by proof that the applicant, within the last twelve months, has completed an  
197 educational seminar course approved by the department as prescribed by subdivision (2) of

198 this subsection. Wholesale and public auto auctions and applicants currently holding a new  
199 or used license for a separate dealership shall be exempt from the requirements of this  
200 subsection. The provisions of this subsection shall not apply to current new motor vehicle  
201 franchise dealers or motor vehicle leasing agencies or applicants for a new motor vehicle  
202 franchise or a motor vehicle leasing agency. The provisions of this subsection shall not apply  
203 to used motor vehicle dealers who were licensed prior to August 28, 2006.

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

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