

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 148, Page 7, Section 301.193, Line 68, by
2 inserting after all of said section and line the following:

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4 "301.216. Department investigators licensed as peace officers by the director of the
5 department of public safety under chapter 590 shall be deemed to be peace officers within the
6 state of Missouri while acting in an investigation to enforce the provisions of this chapter and
7 any provisions regarding fees, licenses, or taxes administered by the director. The power of
8 arrest of a department investigator acting as a peace officer shall be limited to offenses
9 involving fees, licenses, taxes, other than taxes under chapters 143 or 147, or in situations of
10 imminent danger to the investigator or another person.

11 301.562. 1. The department may refuse to issue or renew any license required
12 pursuant to sections 301.550 to 301.573 for any one or any combination of causes stated in
13 subsection 2 of this section. The department shall notify the applicant or licensee in writing
14 at his or her last known address of the reasons for the refusal to issue or renew the license and
15 shall advise the applicant or licensee of his or her right to file a complaint with the
16 administrative hearing commission as provided by chapter 621.

17 2. The department may cause a complaint to be filed with the administrative hearing
18 commission as provided by chapter 621 against any holder of any license issued under sections
19 301.550 to 301.573 for any one or any combination of the following causes:

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21 sections 301.550 to 301.573, which license was revoked for cause and never reissued by the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

24 (2) The applicant or license holder was previously a partner, stockholder, director or officer
25 controlling or managing a partnership or corporation whose license issued under sections 301.550 to
26 301.573 was revoked for cause and never reissued or was suspended for cause and the terms of
27 suspension have not been fulfilled;

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

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

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

Action Taken _____ Date _____

1 (6) Violation of, or assisting or enabling any person to violate any provisions of this chapter
2 and chapters 143, 144, 306, 307, 407, 578, and 643 or of any lawful rule or regulation adopted
3 pursuant to this chapter and chapters 143, 144, 306, 307, 407, 578, and 643;

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

7 (8) The applicant or license holder has failed to pay the proper application or license fee or
8 other fees required pursuant to this chapter or chapter 306 or fails to establish or maintain a bona fide
9 place of business;

10 (9) Uses or permits the use of any special license or license plate assigned to the license
11 holder for any purpose other than those permitted by law;

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

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

15 (12) Violations of sections 407.511 to 407.556, section 578.120, which resulted in a
16 conviction or finding of guilt or violation of any federal motor vehicle laws which result in a
17 conviction or finding of guilt.

18 3. Any such complaint shall be filed within one year of the date upon which the department
19 receives notice of an alleged violation of an applicable statute or regulation. After the filing of such
20 complaint, the proceedings shall, except for the matters set forth in subsection 5 of this section, be
21 conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative
22 hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action
23 are met, the department may, singly or in combination, refuse to issue the person a license, issue a
24 license for a period of less than two years, issue a private reprimand, place the person on probation
25 on such terms and conditions as the department deems appropriate for a period of one day to five
26 years, suspend the person's license from one day to six days, or revoke the person's license for such
27 period as the department deems appropriate. The applicant or licensee shall have the right to appeal
28 the decision of the administrative hearing commission and department in the manner provided in
29 chapter 536.

30 4. Upon the suspension or revocation of any person's license issued under sections 301.550
31 to 301.573, the department shall recall any distinctive number plates that were issued to that licensee.
32 If any licensee who has been suspended or revoked shall neglect or refuse to surrender his or her
33 license or distinctive number license plates issued under sections 301.550 to 301.580, the director
34 shall direct any [agent or employee of the department or any] law enforcement officer, to secure
35 possession thereof and return such items to the director. For purposes of this subsection, a "law
36 enforcement officer" means any member of the highway patrol, any sheriff or deputy sheriff, or any
37 peace officer certified under chapter 590 acting in his or her official capacity. Failure of the licensee
38 to surrender his or her license or distinctive number license plates upon demand by the director[, any
39 agent or employee of the department,] or any law enforcement officer shall be a class A
40 misdemeanor.

41 5. Notwithstanding the foregoing provisions of this section, the following events or acts by
42 the holder of any license issued under sections 301.550 to 301.580 are deemed to present a clear and
43 present danger to the public welfare and shall be considered cause for suspension or revocation of
44 such license under the procedure set forth in subsection 6 of this section, at the discretion of the
45 director:

46 (1) The expiration or revocation of any corporate surety bond or irrevocable letter of credit,
47 as required by section 301.560, without submission of a replacement bond or letter of credit which
48 provides coverage for the entire period of licensure;

(2) The failure to maintain a bona fide established place of business as required by section 301.560;

(3) Criminal convictions as set forth in subdivision (3) of subsection 2 of this section; or

(4) Three or more occurrences of violations which have been established following proceedings before the administrative hearing commission under subsection 3 of this section, or which have been established following proceedings before the director under subsection 6 of this section, of this chapter and chapters 143, 144, 306, 307, 578, and 643 or of any lawful rule or regulation adopted under this chapter and chapters 143, 144, 306, 307, 578, and 643, not previously set forth herein.

6. (1) Any license issued under sections 301.550 to 301.580 shall be suspended or revoked, following an evidentiary hearing before the director or his or her designated hearing officer, if affidavits or sworn testimony by an authorized agent of the department alleges the occurrence of any of the events or acts described in subsection 5 of this section.

(2) For any license which the department believes may be subject to suspension or revocation under this subsection, the director shall immediately issue a notice of hearing to the licensee of record. The director's notice of hearing:

(a) Shall be served upon the licensee personally or by first class mail to the dealer's last known address, as registered with the director;

(b) Shall be based on affidavits or sworn testimony presented to the director, and shall notify the licensee that such information presented therein constitutes cause to suspend or revoke the licensee's license;

(c) Shall provide the licensee with a minimum of ten days' notice prior to hearing;

(d) Shall specify the events or acts which may provide cause for suspension or revocation of the license, and shall include with the notice a copy of all affidavits, sworn testimony or other information presented to the director which support discipline of the license; and

(e) Shall inform the licensee that he or she has the right to attend the hearing and present any evidence in his or her defense, including evidence to show that the event or act which may result in suspension or revocation has been corrected to the director's satisfaction, and that he or she may be represented by counsel at the hearing.

(3) At any hearing before the director conducted under this subsection, the director or his or her designated hearing officer shall consider all evidence relevant to the issue of whether the license should be suspended or revoked due to the occurrence of any of the acts set forth in subsection 5 herein. Within twenty business days after such hearing, the director or his or her designated hearing officer shall issue a written order, with findings of fact and conclusions of law, which either grants or denies the issuance of an order of suspension or revocation. The suspension or revocation shall be effective ten days after the date of the order. The written order of the director or his or her hearing officer shall be the final decision of the director and shall be subject to judicial review under the provisions of chapter 536.

(4) Notwithstanding the provisions of this chapter or chapter 610 or 621 to the contrary, the proceedings under this section shall be closed and no order shall be made public until it is final, for purposes of appeal."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.