

FIRST REGULAR SESSION

HOUSE BILL NO. 601

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KOLKMEYER.

1437H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 301.559, RSMo, and to enact in lieu thereof one new section relating to motor vehicle franchise practices, with penalty provisions.

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

Section A. Section 301.559, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.559, to read as follows:

301.559. 1. It shall be unlawful for any person to engage in business as or act as a motor vehicle dealer, boat dealer, manufacturer, boat manufacturer, public motor vehicle auction, wholesale motor vehicle auction or wholesale motor vehicle dealer without first obtaining a license from the department as required in sections 301.550 to 301.580. Any person who maintains or operates any business wherein a license is required pursuant to the provisions of sections 301.550 to 301.580, without such license, is guilty of a class A misdemeanor. Any person committing a second violation of sections 301.550 to 301.580 shall be guilty of a class E felony.

2. All dealer licenses shall expire on December thirty-first of the designated license period. The department shall notify each person licensed under sections 301.550 to 301.580 of the date of license expiration and the amount of the fee required for renewal. The notice shall be mailed at least ninety days before the date of license expiration to the licensee's last known business address. The director shall have the authority to issue licenses valid for a period of up to two years and to stagger the license periods for administrative efficiency and equalization of workload, at the sole discretion of the director.

3. Every manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, wholesale motor vehicle auction, boat dealer or public motor vehicle auction shall make

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 application to the department for issuance of a license. The application shall be on forms
19 prescribed by the department and shall be issued under the terms and provisions of sections
20 301.550 to 301.580 and require all applicants, as a condition precedent to the issuance of a
21 license, to provide such information as the department may deem necessary to determine that the
22 applicant is bona fide and of good moral character, except that every application for a license
23 shall contain, in addition to such information as the department may require, a statement to the
24 following facts:

25 (1) The name and business address, not a post office box, of the applicant and the
26 fictitious name, if any, under which the applicant intends to conduct business, the applicant's
27 regular business hours, and a phone number and email address where the applicant may be
28 contacted during regular business hours. If the applicant is a partnership, the application shall
29 list the name and residence address of each partner, an indication of whether the partner is a
30 limited or general partner and the name under which the partnership business is to be conducted.
31 In the event that the applicant is a corporation, the application shall list the names of the principal
32 officers of the corporation and the state in which it is incorporated. Each application shall be
33 verified by the oath or affirmation of the applicant, if an individual, or in the event an applicant
34 is a partnership or corporation, then by a partner or officer;

35 (2) Whether the application is being made for registration as a manufacturer, boat
36 manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer, wholesale motor
37 vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle auction;

38 (3) When the application is for a new motor vehicle franchise dealer, the application
39 shall be accompanied by a copy of the franchise agreement in the registered name of the
40 dealership setting out the appointment of the applicant as a franchise holder and it shall be signed
41 by the manufacturer, or his authorized agent, or the distributor, or his authorized agent, and shall
42 include a description of the make of all motor vehicles covered by the franchise. The department
43 shall not require a copy of the franchise agreement to be submitted with each renewal application
44 unless the applicant is now the holder of a franchise from a different manufacturer or distributor
45 from that previously filed, or unless a new term of agreement has been entered into;

46 (4) When the application is for a public motor vehicle auction, that the public motor
47 vehicle auction has met the requirements of section 301.561.

48 4. No insurance company, finance company, credit union, savings and loan association,
49 bank or trust company shall be required to obtain a license from the department in order to sell
50 any motor vehicle, trailer or vessel repossessed or purchased by the company on the basis of total
51 destruction or theft thereof when the sale of the motor vehicle, trailer or vessel is in conformance
52 with applicable title and registration laws of this state.

53 5. No person shall be issued a license to conduct a public motor vehicle auction or
54 wholesale motor vehicle auction if such person has a violation of sections 301.550 to 301.580
55 or other violations of chapter 301, sections 407.511 to 407.556, or section 578.120 which
56 resulted in a felony conviction or finding of guilt or a violation of any federal motor vehicle laws
57 which resulted in a felony conviction or finding of guilt.

58 **6. Any new motor vehicle franchise dealer or manufacturer, as such terms are**
59 **defined in section 301.550, may bring an action against any manufacturer licensed as a new**
60 **motor vehicle dealer which violates the provisions of this section to obtain an injunction**
61 **against the manufacturer, and upon prevailing in such action shall also be entitled to any**
62 **remedy available under section 407.835. In addition, any new motor vehicle franchise**
63 **dealer or manufacturer may file an action against the director to compel the director to**
64 **comply with the provisions of this section. Venue for actions against a manufacturer under**
65 **this subsection shall be in the circuit court of the county in which the petitioning dealer or**
66 **manufacturer resides or in the circuit court of Cole County. Venue for any action filed**
67 **against the director under this subsection shall be in the circuit court of Cole County.**

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