

SECOND REGULAR SESSION

# HOUSE BILL NO. 1489

## 100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WOOD.

4090H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal sections 301.560 and 301.564, RSMo, and to enact in lieu thereof two new sections relating to licensed boat dealers.

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

Section A. Sections 301.560 and 301.564, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 301.560 and 301.564, to read as follows: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~~ **highway** patrol or **authorized or designated employee** 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

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 the jurisdiction of a metropolitan police department in a first class county, by an officer of such  
19 metropolitan police department. A bona fide established place of business for any new motor  
20 vehicle franchise dealer, used motor vehicle dealer, boat dealer, powersport dealer, wholesale  
21 motor vehicle dealer, trailer dealer, or wholesale or public auction shall be a permanent enclosed  
22 building or structure, either owned in fee or leased and actually occupied as a place of business  
23 by the applicant for the selling, bartering, trading, servicing, or exchanging of motor vehicles,  
24 boats, personal watercraft, or trailers and wherein the public may contact the owner or operator  
25 at any reasonable time, and wherein shall be kept and maintained the books, records, files and  
26 other matters required and necessary to conduct the business. The applicant shall maintain a  
27 working telephone number during the entire registration year which will allow the public, the  
28 department, and law enforcement to contact the applicant during regular business hours. The  
29 applicant shall also maintain an email address during the entire registration year which may be  
30 used for official correspondence with the department. In order to qualify as a bona fide  
31 established place of business for all applicants licensed pursuant to this section there shall be an  
32 exterior sign displayed carrying the name of the business set forth in letters at least six inches in  
33 height and clearly visible to the public and there shall be an area or lot which shall not be a  
34 public street on which multiple vehicles, boats, personal watercraft, or trailers may be displayed.  
35 The sign shall contain the name of the dealership by which it is known to the public through  
36 advertising or otherwise, which need not be identical to the name appearing on the dealership's  
37 license so long as such name is registered as a fictitious name with the secretary of state, has  
38 been approved by its line-make manufacturer in writing in the case of a new motor vehicle  
39 franchise dealer and a copy of such fictitious name registration has been provided to the  
40 department. Dealers who sell only emergency vehicles as defined in section 301.550 are exempt  
41 from maintaining a bona fide place of business, including the related law enforcement  
42 certification requirements, and from meeting the minimum yearly sales;

43 (2) The initial application for licensure shall include a photograph, not to exceed eight  
44 inches by ten inches but no less than five inches by seven inches, showing the business building,  
45 lot, and sign. A new motor vehicle franchise dealer applicant who has purchased a currently  
46 licensed new motor vehicle franchised dealership shall be allowed to submit a photograph of the  
47 existing dealership building, lot and sign but shall be required to submit a new photograph upon  
48 the installation of the new dealership sign as required by sections 301.550 to 301.580.  
49 Applicants shall not be required to submit a photograph annually unless the business has moved  
50 from its previously licensed location, or unless the name of the business or address has changed,  
51 or unless the class of business has changed;

52 (3) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer,  
53 a powersport dealer, a wholesale motor vehicle dealer, trailer dealer, or boat dealer shall furnish

54 with the application a corporate surety bond or an irrevocable letter of credit as defined in section  
55 400.5-102, issued by any state or federal financial institution in the penal sum of fifty thousand  
56 dollars on a form approved by the department. The bond or irrevocable letter of credit shall be  
57 conditioned upon the dealer complying with the provisions of the statutes applicable to new  
58 motor vehicle franchise dealers, used motor vehicle dealers, powersport dealers, wholesale motor  
59 vehicle dealers, trailer dealers, and boat dealers, and the bond shall be an indemnity for any loss  
60 sustained by reason of the acts of the person bonded when such acts constitute grounds for the  
61 suspension or revocation of the dealer's license. The bond shall be executed in the name of the  
62 state of Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall  
63 name the state of Missouri as the beneficiary; except, that the aggregate liability of the surety or  
64 financial institution to the aggrieved parties shall, in no event, exceed the amount of the bond or  
65 irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid  
66 upon receipt by the department of a final judgment from a Missouri court of competent  
67 jurisdiction against the principal and in favor of an aggrieved party. Additionally, every  
68 applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, a powersport  
69 dealer, a wholesale motor vehicle dealer, or boat dealer shall furnish with the application a copy  
70 of a current dealer garage policy bearing the policy number and name of the insurer and the  
71 insured;

72 (4) Payment of all necessary license fees as established by the department. In  
73 establishing the amount of the annual license fees, the department shall, as near as possible,  
74 produce sufficient total income to offset operational expenses of the department relating to the  
75 administration of sections 301.550 to 301.580. All fees payable pursuant to the provisions of  
76 sections 301.550 to 301.580, other than those fees collected for the issuance of dealer plates or  
77 certificates of number collected pursuant to subsection 6 of this section, shall be collected by the  
78 department for deposit in the state treasury to the credit of the "Motor Vehicle Commission  
79 Fund", which is hereby created. The motor vehicle commission fund shall be administered by  
80 the Missouri department of revenue. The provisions of section 33.080 to the contrary  
81 notwithstanding, money in such fund shall not be transferred and placed to the credit of the  
82 general revenue fund until the amount in the motor vehicle commission fund at the end of the  
83 biennium exceeds two times the amount of the appropriation from such fund for the preceding  
84 fiscal year or, if the department requires permit renewal less frequently than yearly, then three  
85 times the appropriation from such fund for the preceding fiscal year. The amount, if any, in the  
86 fund which shall lapse is that amount in the fund which exceeds the multiple of the appropriation  
87 from such fund for the preceding fiscal year.

88 2. In the event a new vehicle manufacturer, boat manufacturer, motor vehicle dealer,  
89 wholesale motor vehicle dealer, boat dealer, powersport dealer, wholesale motor vehicle auction,

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

94         3. Except as otherwise provided in subsection 6 of this section, upon the initial issuance  
95 of a license by the department, the department shall assign a distinctive dealer license number  
96 or certificate of number to the applicant and the department shall issue one number plate or  
97 certificate bearing the distinctive dealer license number or certificate of number and two  
98 additional number plates or certificates of number within eight working hours after presentment  
99 of the application and payment by the applicant of a fee of fifty dollars for the first plate or  
100 certificate and ten dollars and fifty cents for each additional plate or certificate. Upon renewal,  
101 the department shall issue the distinctive dealer license number or certificate of number as  
102 quickly as possible. The issuance of such distinctive dealer license number or certificate of  
103 number shall be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt  
104 with by a boat dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale  
105 motor vehicle dealer, wholesale motor vehicle auction or new or used motor vehicle dealer. The  
106 license plates described in this section shall be made with fully reflective material with a  
107 common color scheme and design, shall be clearly visible at night, and shall be aesthetically  
108 attractive, as prescribed by section 301.130.

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

111

112 New motor vehicle franchise dealers     D-0 through D-999  
113 New powersport dealers                 D-1000 through D-1999  
114 Used motor vehicle and used powersport dealers     D-2000 through D-9999  
115 Wholesale motor vehicle dealers         W-0 through W-1999  
116 Wholesale motor vehicle auctions        WA-0 through WA-999  
117 New and used trailer dealers     T-0 through T-9999  
118 Motor vehicle, trailer, and boat manufacturers         DM-0 through DM-999  
119 Public motor vehicle auctions         A-0 through A-1999  
120 Boat dealers     M-0 through M-9999  
121 New and used recreational motor vehicle dealers         RV-0 through RV-999

122

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

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

135         5. Upon the sale of a currently licensed motor vehicle dealership the department shall,  
136 upon request, authorize the new approved dealer applicant to retain the selling dealer's license  
137 number and shall cause the new dealer's records to indicate such transfer. If the new approved  
138 dealer applicant elects not to retain the selling dealer's license number, the department shall issue  
139 the new dealer applicant a new dealer's license number and an equal number of plates or  
140 certificates as the department had issued to the selling dealer.

141         6. In the case of motor vehicle dealers, the department shall issue one number plate  
142 bearing the distinctive dealer license number and may issue one additional number plate to the  
143 applicant upon payment by the dealer of a fifty dollar fee for the number plate bearing the  
144 distinctive dealer license number and ten dollars and fifty cents for the additional number plate.  
145 The department may issue a third plate to the motor vehicle dealer upon completion of the  
146 dealer's fifteenth qualified transaction and payment of a fee of ten dollars and fifty cents. In the  
147 case of new motor vehicle manufacturers, powersport dealers, recreational motor vehicle dealers,  
148 and trailer dealers, the department shall issue one number plate bearing the distinctive dealer  
149 license number and may issue two additional number plates to the applicant upon payment by  
150 the manufacturer or dealer of a fifty dollar fee for the number plate bearing the distinctive dealer  
151 license number and ten dollars and fifty cents for each additional number plate. Boat dealers and  
152 boat manufacturers shall be entitled to one certificate of number bearing such number upon the  
153 payment of a fifty dollar fee. Additional number plates and as many additional certificates of  
154 number may be obtained upon payment of a fee of ten dollars and fifty cents for each additional  
155 plate or certificate. New motor vehicle manufacturers shall not be issued or possess more than  
156 three hundred forty-seven additional number plates or certificates of number annually. New and  
157 used motor vehicle dealers, powersport dealers, wholesale motor vehicle dealers, boat dealers,  
158 and trailer dealers are limited to one additional plate or certificate of number per ten-unit  
159 qualified transactions annually. New and used recreational motor vehicle dealers are limited to  
160 two additional plates or certificate of number per ten-unit qualified transactions annually for their  
161 first fifty transactions and one additional plate or certificate of number per ten-unit qualified

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

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

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

197 and boat manufacturers may display their certificate of number on a vessel or vessel trailer when  
198 transporting a vessel or vessels to an exhibit or show.

199 9. If any law enforcement officer has probable cause to believe that any license plate or  
200 certificate of number issued under subsection 3 or 6 of this section is being misused in violation  
201 of subsection 7 or 8 of this section, the license plate or certificate of number may be seized and  
202 surrendered to the department.

203 10. (1) Every application for the issuance of a used motor vehicle dealer's license shall  
204 be accompanied by proof that the applicant, within the last twelve months, has completed an  
205 educational seminar course approved by the department as prescribed by subdivision (2) of this  
206 subsection. Wholesale and public auto auctions and applicants currently holding a new or used  
207 license for a separate dealership shall be exempt from the requirements of this subsection. The  
208 provisions of this subsection shall not apply to current new motor vehicle franchise dealers or  
209 motor vehicle leasing agencies or applicants for a new motor vehicle franchise or a motor vehicle  
210 leasing agency. The provisions of this subsection shall not apply to used motor vehicle dealers  
211 who were licensed prior to August 28, 2006.

212 (2) The educational seminar shall include, but is not limited to, the dealer requirements  
213 of sections 301.550 to 301.580, the rules promulgated to implement, enforce, and administer  
214 sections 301.550 to 301.580, and any other rules and regulations promulgated by the department.

301.564. 1. Any person or his agent licensed or registered as a manufacturer, motor  
2 vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor vehicle auction or  
3 a public motor vehicle auction pursuant to the provisions of sections 301.550 to 301.580 shall  
4 permit an employee of the department of revenue or any law enforcement official to inspect,  
5 during normal business hours, any of the following documents which are in his possession or  
6 under his custody or control:

7 (1) Any title to any motor vehicle or vessel;

8 (2) Any application for title to any motor vehicle or vessel;

9 (3) Any affidavit provided pursuant to sections 301.550 to 301.580 or chapter 407;

10 (4) Any assignment of title to any motor vehicle or vessel;

11 (5) Any disclosure statement or other document relating to mileage or odometer readings  
12 required by the laws of the United States or any other state;

13 (6) Any inventory and related documentation.

14 2. For purposes of this section, the term "law enforcement official" shall mean any of the  
15 following:

16 (1) Attorney general, or any person designated by him to make such an inspection;

17 (2) Any prosecuting attorney or any person designated by a prosecuting attorney to make  
18 such an inspection;

- 19           (3) Any member **or authorized or designated employee** of the **Missouri state** highway
- 20 patrol [~~or water patrol~~];
- 21           (4) Any sheriff or deputy sheriff;
- 22           (5) Any peace officer certified pursuant to chapter 590 acting in his official capacity.

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