

FIRST REGULAR SESSION

HOUSE BILL NO. 537

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DIEHL.

1181H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

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

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Section A. Section 301.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.560, to read as follows: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 **an application for a new motor vehicle franchise dealer where the applicant is a retailer that sells agricultural supplies and is under common ownership and control with at least five other new motor vehicle franchise dealers doing business under the same name**, or a renewal application for a new 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 highway

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

46 (2) The initial application for licensure shall include a photograph, not to exceed eight
47 inches by ten inches but no less than five inches by seven inches, showing the business
48 building, lot, and sign. A new motor vehicle franchise dealer applicant who has purchased a
49 currently licensed new motor vehicle franchised dealership shall be allowed to submit a
50 photograph of the existing dealership building, lot and sign but shall be required to submit a
51 new photograph upon the installation of the new dealership sign as required by sections
52 301.550 to 301.580. Applicants shall not be required to submit a photograph annually unless
53 the business has moved from its previously licensed location, or unless the name of the
54 business or address has changed, or unless the class of business has changed;

55 (3) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle
56 dealer, a powersport dealer, a wholesale motor vehicle dealer, trailer dealer, or boat dealer
57 shall furnish with the application a corporate surety bond or an irrevocable letter of credit as
58 defined in section 400.5-102, issued by any state or federal financial institution in the penal
59 sum of fifty thousand dollars on a form approved by the department. The bond or irrevocable
60 letter of credit shall be conditioned upon the dealer complying with the provisions of the
61 statutes applicable to new motor vehicle franchise dealers, used motor vehicle dealers,
62 powersport dealers, wholesale motor vehicle dealers, trailer dealers, and boat dealers, and the
63 bond shall be an indemnity for any loss sustained by reason of the acts of the person bonded
64 when such acts constitute grounds for the suspension or revocation of the dealer's license.
65 The bond shall be executed in the name of the state of Missouri for the benefit of all
66 aggrieved parties or the irrevocable letter of credit shall name the state of Missouri as the
67 beneficiary; except, that the aggregate liability of the surety or financial institution to the
68 aggrieved parties shall, in no event, exceed the amount of the bond or irrevocable letter of
69 credit. Additionally, every applicant as a new motor vehicle franchise dealer, a used motor
70 vehicle dealer, a powersport dealer, a wholesale motor vehicle dealer, or boat dealer shall
71 furnish with the application a copy of a current dealer garage policy bearing the policy
72 number and name of the insurer and the insured. The proceeds of the bond or irrevocable
73 letter of credit furnished by an applicant shall be paid upon receipt by the department of a
74 final judgment from a Missouri court of competent jurisdiction against the principal and in
75 favor of an aggrieved party. The proceeds of the bond or irrevocable letter of credit furnished
76 by an applicant shall be paid at the order of the department and in the amount determined by
77 the department to any buyer or interested lienholder up to the greater of the amount required
78 for the release of the purchase money lien or the sales price paid by the buyer where a dealer
79 has failed to fulfill the dealer's obligations under an agreement to assign and deliver title to
80 the buyer within thirty days under a contract entered into pursuant to subsection 5 of section
81 301.210. The department shall direct release of the bond or irrevocable letter of credit
82 proceeds upon presentation of a written agreement entered into pursuant to subsection 5 of
83 section 301.210, copies of the associated sales and finance documents, and the affidavit or
84 affidavits of the buyer or lienholder stating that the certificate of title with assignment thereof
85 has not been passed to the buyer within thirty days of the date of the contract entered into
86 under subsection 5 of section 301.210, that the dealer has not fulfilled the agreement under
87 the contract to repurchase the vehicle, that the buyer or the lienholder has notified the dealer
88 of the claim on the bond or letter of credit, and the amount claimed by the purchaser or
89 lienholder. In addition, prior to directing release and payment of the proceeds of a bond or
90 irrevocable letter of credit, the department shall ensure that there is satisfactory evidence to
91 establish that the vehicle which is subject to the written agreement has been returned by the

92 buyer to the dealer or that the buyer has represented to the department that the buyer will
93 surrender possession of the vehicle to the dealer upon payment of the proceeds of the bond or
94 letter of credit directed by the department. Excepting ordinary wear and tear or mechanical
95 failures not caused by the buyer, the amount of proceeds to be paid to the buyer under the
96 bond or irrevocable letter of credit shall be reduced by an amount equivalent to any damage,
97 abuse, or destruction incurred by the vehicle while the vehicle was in the buyer's possession
98 as agreed between the buyer and the dealer. The dealer may apply to a court of competent
99 jurisdiction to contest the claim on the bond or letter of credit, including the amount of the
100 claim and the amount of any adjustment for any damage, abuse, or destruction, by filing a
101 petition with the court within thirty days of the notification by the buyer or lienholder. If the
102 dealer does not fulfill the agreement or file a petition to request judicial relief from the terms
103 of the agreement or contest the amount of the claim, the bond or letter of credit shall be
104 released by the department and directed paid in the amount or amounts presented by the
105 lienholder or buyer;

106 (4) Payment of all necessary license fees as established by the department. In
107 establishing the amount of the annual license fees, the department shall, as near as possible,
108 produce sufficient total income to offset operational expenses of the department relating to the
109 administration of sections 301.550 to 301.580. All fees payable pursuant to the provisions of
110 sections 301.550 to 301.580, other than those fees collected for the issuance of dealer plates
111 or certificates of number collected pursuant to subsection 6 of this section, shall be collected
112 by the department for deposit in the state treasury to the credit of the "Motor Vehicle
113 Commission Fund", which is hereby created. The motor vehicle commission fund shall be
114 administered by the Missouri department of revenue. The provisions of section 33.080 to the
115 contrary notwithstanding, money in such fund shall not be transferred and placed to the credit
116 of the general revenue fund until the amount in the motor vehicle commission fund at the end
117 of the biennium exceeds two times the amount of the appropriation from such fund for the
118 preceding fiscal year or, if the department requires permit renewal less frequently than yearly,
119 then three times the appropriation from such fund for the preceding fiscal year. The amount,
120 if any, in the fund which shall lapse is that amount in the fund which exceeds the multiple of
121 the appropriation from such fund for the preceding fiscal year.

122 2. In the event a new vehicle manufacturer, boat manufacturer, motor vehicle dealer,
123 wholesale motor vehicle dealer, boat dealer, powersport dealer, wholesale motor vehicle
124 auction, trailer dealer, or a public motor vehicle auction submits an application for a license
125 for a new business and the applicant has complied with all the provisions of this section, the
126 department shall make a decision to grant or deny the license to the applicant within eight
127 working hours after receipt of the dealer's application, notwithstanding any rule of the
128 department.

129 3. Except as otherwise provided in subsection 6 of this section, upon the initial
 130 issuance of a license by the department, the department shall assign a distinctive dealer
 131 license number or certificate of number to the applicant and the department shall issue one
 132 number plate or certificate bearing the distinctive dealer license number or certificate of
 133 number and two additional number plates or certificates of number within eight working
 134 hours after presentment of the application and payment by the applicant of a fee of fifty
 135 dollars for the first plate or certificate and ten dollars and fifty cents for each additional plate
 136 or certificate. Upon renewal, the department shall issue the distinctive dealer license number
 137 or certificate of number as quickly as possible. The issuance of such distinctive dealer license
 138 number or certificate of number shall be in lieu of registering each motor vehicle, trailer,
 139 vessel or vessel trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public
 140 motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle auction or
 141 new or used motor vehicle dealer. The license plates described in this section shall be made
 142 with fully reflective material with a common color scheme and design, shall be clearly visible
 143 at night, and shall be aesthetically attractive, as prescribed by section 301.130.

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

146	New motor vehicle franchise dealers	D-0 through D-999
147	New powersport dealers	D-1000 through D-1999
148	Used motor vehicle and used powersport	
149	dealers	D-2000 through D-9999
150	Wholesale motor vehicle dealers	W-0 through W-1999
151	Wholesale motor vehicle auctions	WA-0 through WA-999
152	New and used trailer dealers	T-0 through T-9999
153	Motor vehicle, trailer, and boat	
154	manufacturers	DM-0 through DM-999
155	Public motor vehicle auctions	A-0 through A-1999
156	Boat dealers	M-0 through M-9999
157	New and used recreational motor vehicle	
158	dealers	RV-0 through RV-999

159
 160 For purposes of this subsection, qualified transactions shall include the purchase of salvage
 161 titled vehicles by a licensed salvage dealer. A used motor vehicle dealer who also holds a
 162 salvage dealer's license shall be allowed one additional plate or certificate number per fifty-
 163 unit qualified transactions annually. In order for salvage dealers to obtain number plates or
 164 certificates under this section, dealers shall submit to the department of revenue on August

165 first of each year a statement certifying, under penalty of perjury, the dealer's number of
166 purchases during the reporting period of July first of the immediately preceding year to June
167 thirtieth of the present year. The provisions of this subsection shall become effective on the
168 date the director of the department of revenue begins to reissue new license plates under
169 section 301.130, or on December 1, 2008, whichever occurs first. If the director of revenue
170 begins reissuing new license plates under the authority granted under section 301.130 prior to
171 December 1, 2008, the director of the department of revenue shall notify the revisor of
172 statutes of such fact.

173 5. Upon the sale of a currently licensed motor vehicle dealership the department shall,
174 upon request, authorize the new approved dealer applicant to retain the selling dealer's license
175 number and shall cause the new dealer's records to indicate such transfer. If the new approved
176 dealer applicant elects not to retain the selling dealer's license number, the department shall
177 issue the new dealer applicant a new dealer's license number and an equal number of plates or
178 certificates as the department had issued to the selling dealer.

179 6. In the case of motor vehicle dealers, the department shall issue one number plate
180 bearing the distinctive dealer license number and may issue one additional number plate to
181 the applicant upon payment by the dealer of a fifty dollar fee for the number plate bearing the
182 distinctive dealer license number and ten dollars and fifty cents for the additional number
183 plate. The department may issue a third plate to the motor vehicle dealer upon completion of
184 the dealer's fifteenth qualified transaction and payment of a fee of ten dollars and fifty cents.
185 In the case of new motor vehicle manufacturers, powersport dealers, recreational motor
186 vehicle dealers, and trailer dealers, the department shall issue one number plate bearing the
187 distinctive dealer license number and may issue two additional number plates to the applicant
188 upon payment by the manufacturer or dealer of a fifty dollar fee for the number plate bearing
189 the distinctive dealer license number and ten dollars and fifty cents for each additional
190 number plate. Boat dealers and boat manufacturers shall be entitled to one certificate of
191 number bearing such number upon the payment of a fifty dollar fee. Additional number
192 plates and as many additional certificates of number may be obtained upon payment of a fee
193 of ten dollars and fifty cents for each additional plate or certificate. New motor vehicle
194 manufacturers shall not be issued or possess more than three hundred forty-seven additional
195 number plates or certificates of number annually. New and used motor vehicle dealers,
196 powersport dealers, wholesale motor vehicle dealers, boat dealers, and trailer dealers are
197 limited to one additional plate or certificate of number per ten-unit qualified transactions
198 annually. New and used recreational motor vehicle dealers are limited to two additional
199 plates or certificate of number per ten-unit qualified transactions annually for their first fifty
200 transactions and one additional plate or certificate of number per ten-unit qualified
201 transactions thereafter. An applicant seeking the issuance of an initial license shall indicate

202 on his or her initial application the applicant's proposed annual number of sales in order for
203 the director to issue the appropriate number of additional plates or certificates of number. A
204 motor vehicle dealer, trailer dealer, boat dealer, powersport dealer, recreational motor vehicle
205 dealer, motor vehicle manufacturer, boat manufacturer, or wholesale motor vehicle dealer
206 obtaining a distinctive dealer license plate or certificate of number or additional license plate
207 or additional certificate of number, throughout the calendar year, shall be required to pay a fee
208 for such license plates or certificates of number computed on the basis of one-twelfth of the
209 full fee prescribed for the original and duplicate number plates or certificates of number for
210 such dealers' licenses, multiplied by the number of months remaining in the licensing period
211 for which the dealer or manufacturers shall be required to be licensed. In the event of a
212 renewing dealer, the fee due at the time of renewal shall not be prorated. Wholesale and
213 public auctions shall be issued a certificate of dealer registration in lieu of a dealer number
214 plate. In order for dealers to obtain number plates or certificates under this section, dealers
215 shall submit to the department of revenue on August first of each year a statement certifying,
216 under penalty of perjury, the dealer's number of sales during the reporting period of July first
217 of the immediately preceding year to June thirtieth of the present year.

218 7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on
219 any motor vehicle owned by a new motor vehicle manufacturer. The plates issued pursuant to
220 subsection 3 or 6 of this section may be displayed on any motor vehicle or trailer owned and
221 held for resale by a motor vehicle dealer for use by a customer who is test driving the motor
222 vehicle, for use by any customer while the customer's vehicle is being serviced or repaired by
223 the motor vehicle dealer, for use and display purposes during, but not limited to, parades,
224 private events, charitable events, or for use by an employee or officer, but shall not be
225 displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used
226 service or wrecker vehicle. Motor vehicle dealers may display their dealer plates on a tractor,
227 truck or trailer to demonstrate a vehicle under a loaded condition. Trailer dealers may display
228 their dealer license plates in like manner, except such plates may only be displayed on trailers
229 owned and held for resale by the trailer dealer.

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

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

242 10. (1) Every application for the issuance of a used motor vehicle dealer's license
243 shall be accompanied by proof that the applicant, within the last twelve months, has
244 completed an educational seminar course approved by the department as prescribed by
245 subdivision (2) of this subsection. Wholesale and public auto auctions and applicants
246 currently holding a new or used license for a separate dealership shall be exempt from the
247 requirements of this subsection. The provisions of this subsection shall not apply to current
248 new motor vehicle franchise dealers or motor vehicle leasing agencies or applicants for a new
249 motor vehicle franchise or a motor vehicle leasing agency. The provisions of this subsection
250 shall not apply to used motor vehicle dealers who were licensed prior to August 28, 2006.

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

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