

FIRST REGULAR SESSION

HOUSE BILL NO. 757

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MAYHEW.

1846H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 301.218, 407.300, 415.415, 570.030, and 578.100, RSMo, and to enact in lieu thereof seven new sections relating to commercial activity, with penalty provisions.

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

Section A. Sections 301.218, 407.300, 415.415, 570.030, and 578.100, RSMo, are
2 repealed and seven new sections enacted in lieu thereof, to be known as sections 301.218,
3 407.300, 407.313, 415.415, 570.030, 570.031, and 578.100, to read as follows:

301.218. 1. No person shall, except as an incident to the sale, repair, rebuilding or
2 servicing of vehicles by a licensed franchised motor vehicle dealer, carry on or conduct the
3 following business unless licensed to do so by the department of revenue under sections
4 301.217 to 301.229:

5 (1) Selling used parts of or used accessories for vehicles as a used parts dealer, as
6 defined in section 301.010;

7 (2) Salvaging, wrecking, or dismantling vehicles for resale of the parts thereof as a
8 salvage dealer ~~[or]~~ **and** dismantler, as defined in section 301.010, **or otherwise engaging in**
9 **the buying or selling of catalytic converters or the component parts of catalytic**
10 **converters;**

11 (3) Rebuilding and repairing four or more wrecked or dismantled vehicles in a
12 calendar year as a rebuilder or body shop, as defined in section 301.010;

13 (4) Processing scrapped vehicles or vehicle parts as a scrap processor, as defined in
14 section 301.010.

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.

15 2. Sales at a salvage pool or a salvage disposal sale shall be open only to and made to
16 persons actually engaged in and holding a current license under sections 301.217 to 301.221
17 and 301.550 to 301.573 or any person from another state or jurisdiction who is legally
18 allowed in his or her state of domicile to purchase for resale, rebuild, dismantle, crush, or
19 scrap either motor vehicles or salvage vehicles, and to persons who reside in a foreign country
20 that are purchasing salvage vehicles for export outside of the United States. Operators of
21 salvage pools or salvage disposal sales shall keep a record, for three years, of sales of salvage
22 vehicles with the purchasers' name and address, and the year, make, and vehicle identification
23 number for each vehicle. These records shall be open for inspection as provided in section
24 301.225. Such records shall be submitted to the department on a quarterly basis.

25 3. The operator of a salvage pool or salvage disposal sale, or subsequent purchaser,
26 who sells a nonrepairable motor vehicle or a salvage motor vehicle to a person who is not a
27 resident of the United States at a salvage pool or a salvage disposal sale shall:

28 (1) Stamp on the face of the title so as not to obscure any name, date, or mileage
29 statement on the title the words "FOR EXPORT ONLY" in capital letters that are black; and

30 (2) Stamp in each unused reassignment space on the back of the title the words "FOR
31 EXPORT ONLY" and print the number of the dealer's salvage vehicle license, name of the
32 salvage pool, or the name of the governmental entity, as applicable.

33

34 The words "FOR EXPORT ONLY" required under subdivisions (1) and (2) of this subsection
35 shall be at least two inches wide and clearly legible. Copies of the stamped titles shall be
36 forwarded to the department.

37 4. The director of revenue shall issue a separate license for each kind of business
38 described in subsection 1 of this section, to be entitled and designated as either "used parts
39 dealer"; "salvage dealer or dismantler"; "rebuilder or body shop"; or "scrap processor"
40 license.

 407.300. 1. Every purchaser or collector of, or dealer in, junk, scrap metal, or any
2 secondhand property who obtains items for resale or profit shall keep a register containing a
3 written or electronic record for each purchase or ~~trade-in which~~ **trade-in of** each type of
4 material subject to the provisions of this section ~~is~~ obtained for value. There shall be a
5 separate record for each transaction involving any:

6 (1) Copper, brass, or bronze;

7 (2) Aluminum wire, cable, pipe, tubing, bar, ingot, rod, fitting, or fastener;

8 (3) Material containing copper or aluminum that is knowingly used for farming
9 purposes as farming is defined in section 350.010; whatever may be the condition or length of
10 such metal;

11 (4) Detached catalytic converter; or

12 (5) Motor vehicle, heavy equipment, or tractor battery.

13 2. The record required by this section shall contain the following data:

14 (1) A copy of the driver's license, or **other** photo identification issued by the state or
15 by the United States government or agency thereof, of the person from whom the material is
16 obtained;

17 (2) The current address, gender, birth date, and a color photograph of the person from
18 whom the material is obtained if not included or are different from the identification required
19 in subdivision (1) of this subsection;

20 (3) The date, time, and place of the transaction;

21 (4) The license plate number of the vehicle used by the seller during the transaction;

22 [~~and~~]

23 (5) A full description of the material, including the weight and purchase price; **and**

24 **(6) If the purchase or trade-in includes a detached catalytic converter:**

25 **(a) Either proof the seller is a bona fide automobile repair shop or an affidavit**
26 **that attests the detached catalytic converter was acquired lawfully; and**

27 **(b) The make, model, year, and vehicle identification number of the vehicle from**
28 **which the detached catalytic converter originated.**

29 3. **(1)** The records required under this section shall be maintained **in order of**
30 **transaction date** for a minimum of [~~thirty-six months~~] **four years** from when such material
31 is obtained and shall be available for inspection by any law enforcement officer.

32 **(2) The department of revenue shall create and make available on the**
33 **department website a standardized form for recording the records required under this**
34 **section.**

35 **(3) At least monthly, a purchaser or collector of, or dealer in, junk, scrap metal,**
36 **or any secondhand property shall submit to the department of revenue the records**
37 **required under this section on the department's form, with copies of the purchaser's,**
38 **collector's, or dealer's other records, if any, attached. The submission may be in either a**
39 **paper or electronic format. The department of revenue may prescribe the format of**
40 **forms submitted electronically.**

41 4. No transaction that includes a detached catalytic converter shall occur at any
42 location other than the fixed place of business of the purchaser or collector of, or dealer in,
43 junk, scrap metal, or any secondhand property. No detached catalytic converter shall be
44 altered, modified, disassembled, or destroyed until it has been in the purchaser's, collector's,
45 or dealer's possession for five business days.

46 5. Anyone [~~licensed under section 301.218 who knowingly purchases a stolen~~
47 ~~detached catalytic converter shall be subject to the following penalties:~~

48 ~~(1) For a first violation, a fine in the amount of five thousand dollars;~~

49 ~~(2) For a second violation, a fine in the amount of ten thousand dollars; and~~
50 ~~(3) For a third violation, revocation of the]~~ **convicted of violating this section shall**
51 **be guilty of a class E felony and shall be subject to having any license for a business**
52 **described under section 301.218 revoked.**

53 6. This section shall not apply to ~~[either of]~~ the following transactions:

54 (1) Any transaction for which the seller has an existing business relationship with the
55 scrap metal dealer and is known to the scrap metal dealer making the purchase to be an
56 established business or political subdivision that operates a business with a fixed location that
57 can be reasonably expected to generate regulated scrap metal and can be reasonably identified
58 as such a business, and for which the seller is paid by check or by electronic funds transfer, or
59 the seller produces an acceptable identification, which shall be a copy of the driver's license
60 or photo identification issued by the state or by the United States government or agency
61 thereof, and a copy is retained by the purchaser; or

62 (2) Any transaction for which the type of metal subject to subsection 1 of this section
63 is a minor part of a larger item, except ~~[for]~~ **that minor parts of** heating and cooling
64 equipment or **of** equipment used in the generation and transmission of electrical power or
65 telecommunications, **including any catalytic converter of such equipment, shall remain**
66 **subject to this section.**

67 7. As used in this section, "catalytic converter" means any device designed to be
68 used as an emissions control device when connected to an internal combustion engine,
69 including the constituent parts of such a device, whether assembled into a complete unit
70 or disassembled into separate constituent parts or components.

407.313. 1. It is unlawful for a person to solicit payment of moneys by any
2 writing that reasonably could be considered a bill, invoice, or statement of account due
3 but is in fact a solicitation for an order, unless the solicitation meets the requirements of
4 subsections 2 to 6 of this section.

5 2. A solicitation described in subsection 1 of this section shall bear on its face
6 either the disclaimer prescribed by subparagraph (A) of paragraph (2) of subsection (d)
7 of Section 3001 of Title 39 of the United States Code or the following notice:

8

9 **THIS IS NOT A BILL. THIS IS A SOLICITATION. YOU ARE UNDER NO**
10 **OBLIGATION TO PAY THE AMOUNT STATED ABOVE UNLESS YOU ACCEPT**
11 **THIS OFFER.**

12

13 **The statutory disclaimer or the alternative notice required under this subsection shall be**
14 **displayed in conspicuous, boldface capital letters of a color prominently contrasting**
15 **with the background against which they appear, including all other print on the face of**

16 **the solicitation, and shall be at least as large, bold, and conspicuous as any other print**
17 **on the face of the solicitation but no smaller than thirty-point font.**

18 **3. The disclaimer or notice required under subsection 2 of this section shall be**
19 **displayed conspicuously apart from other print on the page and immediately below each**
20 **portion of the solicitation that reasonably could be construed to specify a monetary**
21 **amount due and payable by the recipient. The disclaimer or notice shall not be**
22 **preceded, followed, or surrounded by words, symbols, or other matter that reduces its**
23 **conspicuousness or that introduces, modifies, qualifies, or explains the required text,**
24 **such as legal notice required by law.**

25 **4. The disclaimer or notice shall not, by folding or any other device, be rendered**
26 **unintelligible or less prominent than any other information on the face of the**
27 **solicitation.**

28 **5. If a solicitation consists of more than one page or if any page is designed to be**
29 **separated into portions, such as by tearing along a perforated line, the disclaimer or**
30 **notice shall be displayed in its entirety on the face of each page or portion of a page that**
31 **reasonably might be considered a bill, invoice, or statement of account due.**

32 **6. For the purposes of this section, the term "color" includes black and the term**
33 **"color prominently contrasting" excludes any color, or any intensity of an otherwise**
34 **included color, that does not permit legible reproduction by ordinary office**
35 **photocopying equipment used under normal operating conditions and that is not at**
36 **least as vivid as any other color on the face of the solicitation.**

37 **7. Any person damaged by noncompliance with this section is entitled to**
38 **damages in an amount equal to three times the sum solicited.**

415.415. 1. The operator of a self-service storage facility has a lien on all personal
2 property stored within each leased space for rent, labor, or other charges, and for expenses
3 reasonably incurred in sale of such personal property, as provided in sections 415.400 to
4 415.425. The lien established by this subsection shall have priority over all other liens except
5 those liens that have been perfected and recorded on personal property. The rental agreement
6 shall contain a statement, in bold type, advising the occupant of the existence of such lien and
7 that property stored in the leased space may be sold to satisfy such lien if the occupant is in
8 default, and that any proceeds from the sale of the property which remain after satisfaction of
9 the lien will be paid to the state treasurer if unclaimed by the occupant within one year after
10 the sale of the property.

11 2. If the occupant is in default for a period of more than forty-five days, the operator
12 may enforce the lien granted in subsection 1 of this section and sell the property stored in the
13 leased space for cash. Sale of the property stored on the premises may be done at a public or
14 private sale, may be done as a unit or in parcels, or may be by way of one or more contracts,

15 and may be at any time or place and on any terms as long as the sale is done in a
16 commercially reasonable manner in accordance with the provisions of section 400.9-627.
17 The operator may otherwise dispose of any property which has no commercial value.

18 3. The proceeds of any sale made under this subsection shall be applied to satisfy the
19 lien, with any surplus being held for delivery on demand to the occupant or any other
20 lienholders which the operator knows of or which are contained in the statement filed by the
21 occupant pursuant to subsection 3 of section 415.410 for a period of one year after receipt of
22 proceeds of the sale and satisfaction of the lien. No proceeds shall be paid to an occupant
23 until such occupant files a sworn affidavit with the operator stating that there are no other
24 valid liens outstanding against the property sold and that he or she, the occupant, shall
25 indemnify the operator for any damages incurred or moneys paid by the operator due to
26 claims arising from other lienholders of the property sold. After the one-year period set in
27 this subsection, any proceeds remaining after satisfaction of the lien shall be considered
28 abandoned property to be reported and paid to the state treasurer in accordance with laws
29 pertaining to the disposition of unclaimed property.

30 4. Before conducting a sale under subsection 2 of this section, the operator shall:

31 (1) At least forty-five days before any disposition of property under this section,
32 which shall run concurrently with subsection 2 of this section, notify the occupant and each
33 lienholder which is contained in any statement filed by the occupant pursuant to subsection 3
34 of section 415.410 of the default by first-class mail or electronic mail at the occupant's or
35 lienholder's last known address, and shall notify any third-party owner identified by the
36 occupant pursuant to subsection 3 of section 415.410;

37 (2) No sooner than ten days after mailing the notice required in subdivision (1) of this
38 subsection, mail a second notice of default, by verified mail or electronic mail, to the
39 occupant at the occupant's or lienholder's last known address, which notice shall include:

40 (a) A statement that the contents of the occupant's leased space are subject to the
41 operator's lien;

42 (b) A statement of the operator's claim, indicating the charges due on the date of the
43 notice, the amount of any additional charges which shall become due before the date of
44 release for sale and the date those additional charges shall become due;

45 (c) A demand for payment of the charges due within a specified time, not less than ten
46 days after the date on which the second notice was mailed;

47 (d) A statement that unless the claim is paid within the time stated, the contents of the
48 occupant's space will be sold after a specified time; and

49 (e) The name, street address and telephone number of the operator, or a designated
50 agent whom the occupant may contact, to respond to the notice;

51 (3) At least seven days before the sale, advertise the time, place, and terms of the sale
52 in **the classified section of** a newspaper of general circulation in the jurisdiction where the
53 sale is to be held **or in any other commercially reasonable manner.** ~~[Such]~~ **The manner of**
54 advertisement shall be ~~[in the classified section of the newspaper and shall state that the items~~
55 ~~will be released for sale]~~ **deemed commercially reasonable if at least three independent**
56 **bidders attend or view the sale at the time and place advertised.**

57 5. If the property is a vehicle, watercraft, or trailer and rent and other charges remain
58 unpaid for sixty days, the owner may treat the vehicle, watercraft, or trailer as an abandoned
59 vehicle and have the vehicle, watercraft, or trailer towed from the self-service storage facility.
60 When the vehicle, watercraft, or trailer is towed from the self-service storage facility, the
61 owner shall not be liable for the vehicle, watercraft, or trailer for any damages to the motor
62 vehicle, watercraft, or trailer once the tower takes possession of the property.

63 6. At any time before a sale under this section, the occupant may pay the amount
64 necessary to satisfy the lien and redeem the occupant's personal property.

570.030. 1. A person commits the offense of stealing if he or she:

2 (1) Appropriates property or services of another with the purpose to deprive him or
3 her thereof, either without his or her consent or by means of deceit or coercion;

4 (2) Attempts to appropriate anhydrous ammonia or liquid nitrogen of another with the
5 purpose to deprive him or her thereof, either without his or her consent or by means of deceit
6 or coercion; ~~[or]~~

7 (3) For the purpose of depriving the owner of a lawful interest therein, receives,
8 retains or disposes of property of another knowing that it has been stolen, or believing that it
9 has been stolen; **or**

10 **(4) For the purpose of depriving the owner of a lawful interest therein, receives,**
11 **retains, or disposes of a catalytic converter, as defined in subsection 7 of section 407.300,**
12 **and knows that it has been stolen, believes that it has been stolen, or reasonably should**
13 **suspect that it has been stolen.**

14 2. The offense of stealing is a class A felony if the property appropriated consists of
15 any of the following containing any amount of anhydrous ammonia: a tank truck, tank trailer,
16 rail tank car, bulk storage tank, field nurse, field tank or field applicator.

17 3. The offense of stealing is a class B felony if:

18 (1) The property appropriated or attempted to be appropriated consists of any amount
19 of anhydrous ammonia or liquid nitrogen;

20 (2) The property consists of any animal considered livestock as the term livestock is
21 defined in section 144.010, or any captive wildlife held under permit issued by the
22 conservation commission, and the value of the animal or animals appropriated exceeds three
23 thousand dollars and that person has previously been found guilty of appropriating any animal

24 considered livestock or captive wildlife held under permit issued by the conservation
25 commission. Notwithstanding any provision of law to the contrary, such person shall serve a
26 minimum prison term of not less than eighty percent of his or her sentence before he or she is
27 eligible for probation, parole, conditional release, or other early release by the department of
28 corrections;

29 (3) A person appropriates property consisting of a motor vehicle, watercraft, or
30 aircraft, and that person has previously been found guilty of two stealing-related offenses
31 committed on two separate occasions where such offenses occurred within ten years of the
32 date of occurrence of the present offense;

33 (4) The property appropriated or attempted to be appropriated consists of any animal
34 considered livestock as the term is defined in section 144.010 if the value of the livestock
35 exceeds ten thousand dollars; or

36 (5) The property appropriated or attempted to be appropriated is owned by or in the
37 custody of a financial institution and the property is taken or attempted to be taken physically
38 from an individual person to deprive the owner or custodian of the property.

39 4. The offense of stealing is a class C felony if the value of the property or services
40 appropriated is twenty-five thousand dollars or more or the property is a teller machine or the
41 contents of a teller machine, including cash, regardless of the value or amount.

42 5. The offense of stealing is a class D felony if:

43 (1) The value of the property or services appropriated is seven hundred fifty dollars or
44 more;

45 (2) The offender physically takes the property appropriated from the person of the
46 victim; or

47 (3) The property appropriated consists of:

48 (a) Any motor vehicle, watercraft or aircraft;

49 (b) Any will or unrecorded deed affecting real property;

50 (c) Any credit device, debit device or letter of credit;

51 (d) Any firearms;

52 (e) Any explosive weapon as defined in section 571.010;

53 (f) Any United States national flag designed, intended and used for display on
54 buildings or stationary flagstaffs in the open;

55 (g) Any original copy of an act, bill or resolution, introduced or acted upon by the
56 legislature of the state of Missouri;

57 (h) Any pleading, notice, judgment or any other record or entry of any court of this
58 state, any other state or of the United States;

59 (i) Any book of registration or list of voters required by chapter 115;

60 (j) Any animal considered livestock as that term is defined in section 144.010;

61 (k) Any live fish raised for commercial sale with a value of seventy-five dollars or
62 more;

63 (l) Any captive wildlife held under permit issued by the conservation commission;

64 (m) Any controlled substance as defined by section 195.010;

65 (n) Ammonium nitrate;

66 (o) Any wire, electrical transformer, or metallic wire associated with transmitting
67 telecommunications, video, internet, or voice over internet protocol service, or any other
68 device or pipe that is associated with conducting electricity or transporting natural gas or
69 other combustible fuels; or

70 (p) Any material appropriated with the intent to use such material to manufacture,
71 compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of
72 their analogues.

73 6. The offense of stealing is a class E felony if:

74 (1) The property appropriated is an animal;

75 (2) The property is a catalytic converter, **as defined in subsection 7 of section**
76 **407.300;**

77 (3) A person has previously been found guilty of three stealing-related offenses
78 committed on three separate occasions where such offenses occurred within ten years of the
79 date of occurrence of the present offense; or

80 (4) The property appropriated is a letter, postal card, package, bag, or other sealed
81 article that was delivered by a common carrier or delivery service and not yet received by the
82 addressee or that had been left to be collected for shipment by a common carrier or delivery
83 service.

84 7. The offense of stealing is a class D misdemeanor if the property is not of a type
85 listed in subsection 2, 3, 5, or 6 of this section, the property appropriated has a value of less
86 than one hundred fifty dollars, and the person has no previous findings of guilt for a stealing-
87 related offense.

88 8. The offense of stealing is a class A misdemeanor if no other penalty is specified in
89 this section.

90 9. If a violation of this section is subject to enhanced punishment based on prior
91 findings of guilt, such findings of guilt shall be pleaded and proven in the same manner as
92 required by section 558.021.

93 10. The appropriation of any property or services of a type listed in subsection 2, 3, 5,
94 or 6 of this section or of a value of seven hundred fifty dollars or more may be considered a
95 separate felony and may be charged in separate counts.

96 11. The value of property or services appropriated pursuant to one scheme or course
97 of conduct, whether from the same or several owners and whether at the same or different

98 times, constitutes a single criminal episode and may be aggregated in determining the grade
99 of the offense, except as set forth in subsection 10 of this section.

**570.031. 1. A person commits the offense of unlawful possession of a detached
2 catalytic converter if the person possesses a catalytic converter that is detached from a
3 motor vehicle with the intent to sell the catalytic converter unless:**

4 **(1) The detached catalytic converter is possessed in the course of a legitimate
5 business purpose;**

6 **(2) The detached catalytic converter is a component or constituent part of an
7 item or equipment owned by the person; or**

8 **(3) The possession of the detached catalytic converter is for some other lawful
9 purpose.**

10 **2. The offense of unlawful possession of a detached catalytic converter is a class
11 E felony.**

578.100. 1. Whoever engages on Sunday in the business of selling or sells or offers
2 for sale on such day, at retail, motor vehicles; clothing and wearing apparel; clothing
3 accessories; furniture; housewares; **or** home, business, or office furnishings[; ~~household,~~
4 ~~business or office appliances; hardware; tools; paints; building and lumber supply materials;~~
5 ~~jewelry; silverware; watches; clocks; luggage; musical instruments and recordings or toys;~~
6 ~~excluding novelties and souvenirs;] is guilty of a misdemeanor and shall upon conviction for
7 the first offense be sentenced to pay a fine of not exceeding one hundred dollars, and for the
8 second or any subsequent offense be sentenced to pay a fine of not exceeding two hundred
9 dollars or undergo confinement not exceeding thirty days in the county jail in default thereof.~~

10 2. Each separate sale or offer to sell shall constitute a separate offense.

11 3. Information charging violations of this section shall be brought within five days
12 after the commission of the alleged offense and not thereafter.

13 4. The operation of any place of business where any [~~goods, wares or merchandise~~]
14 **motor vehicles** are sold or exposed for sale in violation of this section is hereby declared to
15 be a public and common nuisance.

16 5. Any county of this state containing all or part of a city with a population of over
17 four hundred thousand may exempt itself from the application of this section by submission
18 of the proposition to the voters of the county at a general election or a special election called
19 for that purpose, and the proposition receiving a majority of the votes cast therein. The
20 proposal to exempt the county from the provisions of this section shall be submitted to the
21 voters of the county upon a majority vote of the governing body of the county or when a
22 petition requesting the submission of the proposal to the voters and signed by a number of
23 qualified voters residing in the county equal to eight percent of the votes cast in the county in

24 the next preceding gubernatorial election is filed with the governing body of the county. The
25 ballot of submission shall contain, but not be limited to, the following language:

26 FOR the exemption of _____ County from the Sunday sales law

27 AGAINST the exemption of _____ County from the Sunday sales
28 law

29

30 If a majority of the votes cast on the proposal by the qualified voters voting thereon in the
31 county are in favor of the proposal, then the provisions of this section shall no longer apply
32 within that county. If a majority of the votes cast on the proposal by the qualified voters
33 voting thereon in the county are opposed to the proposal, then the provisions of this section
34 shall continue to apply and be enforced within that county. The exemption of any county
35 from the provisions of this section shall not become effective in that county until the results of
36 the vote exempting the county have been filed with the secretary of state and with the revisor
37 of statutes and have been certified as received by those officers. The revisor of statutes shall
38 note which counties are exempt from the provisions of this section in the Missouri revised
39 statutes.

40 6. In addition to any other method of exemption provided by law, the governing body
41 of any county of this state may exempt itself from the application of this section by order or
42 ordinance of the governing body of the county after public hearing upon the matter. Such
43 public hearing shall be preceded by public notice which shall, at a minimum, be published at
44 least three different times in the newspaper with the greatest circulation in the county. Upon
45 such order or ordinance becoming effective, such county shall be exempt from the provisions
46 of this section and no election or other method of exemption shall be required. The
47 exemption of any county from the provisions of this section by order or ordinance shall not
48 become effective in that county until the order or ordinance has been filed with the secretary
49 of state and the revisor of statutes and has been certified as received by those officers. The
50 revisor of statutes shall note which counties are exempt from the provisions of this section in
51 the Missouri revised statutes.

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