

FIRST REGULAR SESSION

SENATE BILL NO. 231

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOUGH.

Pre-filed January 8, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1290S.01I

AN ACT

To repeal section 301.559, RSMo, and to enact in lieu thereof one new section relating to motor vehicle franchise practices, with existing 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Section A. Section 301.559, RSMo, is repealed and one new section
2 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
2 or act as a motor vehicle dealer, boat dealer, manufacturer, boat manufacturer,
3 public motor vehicle auction, wholesale motor vehicle auction or wholesale motor
4 vehicle dealer without first obtaining a license from the department as required
5 in sections 301.550 to 301.580. Any person who maintains or operates any
6 business wherein a license is required pursuant to the provisions of sections
7 301.550 to 301.580, without such license, is guilty of a class A misdemeanor. Any
8 person committing a second violation of sections 301.550 to 301.580 shall be
9 guilty of a class E felony.

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

18 3. Every manufacturer, boat manufacturer, motor vehicle dealer,
19 wholesale motor vehicle dealer, wholesale motor vehicle auction, boat dealer or
20 public motor vehicle auction shall make application to the department for

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

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

41 (2) Whether the application is being made for registration as a
42 manufacturer, boat manufacturer, new motor vehicle franchise dealer, used motor
43 vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor
44 vehicle auction or a public motor vehicle auction;

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

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

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

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

69 **6. Any new motor vehicle franchise dealer or manufacturer, as**
70 **such terms are defined in section 301.550, may bring an action against**
71 **any manufacturer licensed as a new motor vehicle dealer which**
72 **violates the provisions of this section to obtain an injunction against**
73 **the manufacturer, and upon prevailing in such action shall also be**
74 **entitled to any remedy available under section 407.835. In addition,**
75 **any new motor vehicle franchise dealer or manufacturer may file an**
76 **action against the director to compel the director to comply with the**
77 **provisions of this section. Venue for actions against a manufacturer**
78 **under this subsection shall be in the circuit court of the county in**
79 **which the petitioning dealer or manufacturer resides or in the circuit**
80 **court of Cole County. Venue for any action filed against the director**
81 **under this subsection shall be in the circuit court of Cole County.**

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