

SECOND REGULAR SESSION

SENATE BILL NO. 970

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN.

Read 1st time January 25, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6178S.011

AN ACT

To repeal section 301.560, RSMo, and to enact in lieu thereof one new section relating to licensure of boat manufacturers and 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Section A. Section 301.560, RSMo, is repealed and one new section
2 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
2 department, each applicant shall submit the following to the department:

3 (1) Every application other than a renewal application for a motor vehicle
4 franchise dealer shall include a certification that the applicant has a bona fide
5 established place of business. Such application shall include an annual
6 certification that the applicant has a bona fide established place of business for
7 the first three years and only for every other year thereafter. The certification
8 shall be performed by a uniformed member of the Missouri state highway patrol
9 or authorized or designated employee stationed in the troop area in which the
10 applicant's place of business is located; except that in counties of the first
11 classification, certification may be performed by an officer of a metropolitan police
12 department when the applicant's established place of business of distributing or
13 selling motor vehicles or trailers is in the metropolitan area where the certifying
14 metropolitan police officer is employed. When the application is being made for
15 licensure as a boat manufacturer or boat dealer, certification shall be performed
16 by [a uniformed member of the Missouri state water patrol stationed in the
17 district area in which the applicant's place of business is located or by] a
18 uniformed member of the Missouri state highway patrol **or authorized or**
19 **designated employee** stationed in the troop area in which the applicant's place

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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

48 (2) The initial application for licensure shall include a photograph, not to
49 exceed eight inches by ten inches but no less than five inches by seven inches,
50 showing the business building, lot, and sign. A new motor vehicle franchise
51 dealer applicant who has purchased a currently licensed new motor vehicle
52 franchised dealership shall be allowed to submit a photograph of the existing
53 dealership building, lot and sign but shall be required to submit a new
54 photograph upon the installation of the new dealership sign as required by
55 sections 301.550 to 301.573. Applicants shall not be required to submit a

56 photograph annually unless the business has moved from its previously licensed
57 location, or unless the name of the business or address has changed, or unless the
58 class of business has changed;

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

82 (4) Payment of all necessary license fees as established by the
83 department. In establishing the amount of the annual license fees, the
84 department shall, as near as possible, produce sufficient total income to offset
85 operational expenses of the department relating to the administration of sections
86 301.550 to 301.580. All fees payable pursuant to the provisions of sections
87 301.550 to 301.580, other than those fees collected for the issuance of dealer
88 plates or certificates of number collected pursuant to subsection 6 of this section,
89 shall be collected by the department for deposit in the state treasury to the credit
90 of the "Motor Vehicle Commission Fund", which is hereby created. The motor
91 vehicle commission fund shall be administered by the Missouri department of

92 revenue. The provisions of section 33.080 to the contrary notwithstanding, money
 93 in such fund shall not be transferred and placed to the credit of the general
 94 revenue fund until the amount in the motor vehicle commission fund at the end
 95 of the biennium exceeds two times the amount of the appropriation from such
 96 fund for the preceding fiscal year or, if the department requires permit renewal
 97 less frequently than yearly, then three times the appropriation from such fund
 98 for the preceding fiscal year. The amount, if any, in the fund which shall lapse
 99 is that amount in the fund which exceeds the multiple of the appropriation from
 100 such fund for the preceding fiscal year.

101 2. In the event a new vehicle manufacturer, boat manufacturer, motor
 102 vehicle dealer, wholesale motor vehicle dealer, boat dealer, powersport dealer,
 103 wholesale motor vehicle auction, trailer dealer, or a public motor vehicle auction
 104 submits an application for a license for a new business and the applicant has
 105 complied with all the provisions of this section, the department shall make a
 106 decision to grant or deny the license to the applicant within eight working hours
 107 after receipt of the dealer's application, notwithstanding any rule of the
 108 department.

109 3. Upon the initial issuance of a license by the department, the
 110 department shall assign a distinctive dealer license number or certificate of
 111 number to the applicant and the department shall issue one number plate or
 112 certificate bearing the distinctive dealer license number or certificate of number
 113 and two additional number plates or certificates of number within eight working
 114 hours after presentment of the application. Upon renewal, the department shall
 115 issue the distinctive dealer license number or certificate of number as quickly as
 116 possible. The issuance of such distinctive dealer license number or certificate of
 117 number shall be in lieu of registering each motor vehicle, trailer, vessel or vessel
 118 trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public
 119 motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle
 120 auction or new or used motor vehicle dealer.

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

- 123 New motor vehicle franchise dealers D-0 through D-999
- 124 New powersport dealers and motorcycle
 125 franchise dealers D-1000 through D-1999
- 126 Used motor vehicle, used powersport, and
 127 used motorcycle dealers D-2000 through D-9999

128 Wholesale motor vehicle dealers W-0 through W-1999
129 Wholesale motor vehicle auctions WA-0 through WA-999
130 New and used trailer dealers T-0 through T-9999
131 Motor vehicle, trailer, and boat manufacturers DM-0 through DM-999
132 Public motor vehicle auctions. A-0 through A-1999
133 Boat dealers M-0 through M-9999
134 New and used recreational motor vehicle dealers RV-0 through RV-999
135 For purposes of this subsection, qualified transactions shall include the purchase
136 of salvage titled vehicles by a licensed salvage dealer. A used motor vehicle
137 dealer who also holds a salvage dealer's license shall be allowed one additional
138 plate or certificate number per fifty-unit qualified transactions annually. In order
139 for salvage dealers to obtain number plates or certificates under this section,
140 dealers shall submit to the department of revenue on August first of each year a
141 statement certifying, under penalty of perjury, the dealer's number of purchases
142 during the reporting period of July first of the immediately preceding year to
143 June thirtieth of the present year. The provisions of this subsection shall become
144 effective on the date the director of the department of revenue begins to reissue
145 new license plates under section 301.130, or on December 1, 2008, whichever
146 occurs first. If the director of revenue begins reissuing new license plates under
147 the authority granted under section 301.130 prior to December 1, 2008, the
148 director of the department of revenue shall notify the revisor of statutes of such
149 fact.

150 5. Upon the sale of a currently licensed new motor vehicle franchise
151 dealership the department shall, upon request, authorize the new approved dealer
152 applicant to retain the selling dealer's license number and shall cause the new
153 dealer's records to indicate such transfer.

154 6. In the case of new motor vehicle manufacturers, motor vehicle dealers,
155 powersport dealers, recreational motor vehicle dealers, and trailer dealers, the
156 department shall issue one number plate bearing the distinctive dealer license
157 number and may issue two additional number plates to the applicant upon
158 payment by the manufacturer or dealer of a fifty dollar fee for the number plate
159 bearing the distinctive dealer license number and ten dollars and fifty cents for
160 each additional number plate. Such license plates shall be made with fully
161 reflective material with a common color scheme and design, shall be clearly
162 visible at night, and shall be aesthetically attractive, as prescribed by section
163 301.130. Boat dealers and boat manufacturers shall be entitled to one certificate

164 of number bearing such number upon the payment of a fifty dollar fee. Additional
165 number plates and as many additional certificates of number may be obtained
166 upon payment of a fee of ten dollars and fifty cents for each additional plate or
167 certificate. New motor vehicle manufacturers shall not be issued or possess more
168 than three hundred forty-seven additional number plates or certificates of number
169 annually. New and used motor vehicle dealers, powersport dealers, wholesale
170 motor vehicle dealers, boat dealers, and trailer dealers are limited to one
171 additional plate or certificate of number per ten-unit qualified transactions
172 annually. New and used recreational motor vehicle dealers are limited to two
173 additional plates or certificate of number per ten-unit qualified transactions
174 annually for their first fifty transactions and one additional plate or certificate
175 of number per ten-unit qualified transactions thereafter. An applicant seeking
176 the issuance of an initial license shall indicate on his or her initial application
177 the applicant's proposed annual number of sales in order for the director to issue
178 the appropriate number of additional plates or certificates of number. A motor
179 vehicle dealer, trailer dealer, boat dealer, powersport dealer, recreational motor
180 vehicle dealer, motor vehicle manufacturer, boat manufacturer, or wholesale
181 motor vehicle dealer obtaining a distinctive dealer license plate or certificate of
182 number or additional license plate or additional certificate of number, throughout
183 the calendar year, shall be required to pay a fee for such license plates or
184 certificates of number computed on the basis of one-twelfth of the full fee
185 prescribed for the original and duplicate number plates or certificates of number
186 for such dealers' licenses, multiplied by the number of months remaining in the
187 licensing period for which the dealer or manufacturers shall be required to be
188 licensed. In the event of a renewing dealer, the fee due at the time of renewal
189 shall not be prorated. Wholesale and public auctions shall be issued a certificate
190 of dealer registration in lieu of a dealer number plate. In order for dealers to
191 obtain number plates or certificates under this section, dealers shall submit to
192 the department of revenue on August first of each year a statement certifying,
193 under penalty of perjury, the dealer's number of sales during the reporting period
194 of July first of the immediately preceding year to June thirtieth of the present
195 year.

196 7. The plates issued pursuant to subsection 3 or 6 of this section may be
197 displayed on any motor vehicle owned by a new motor vehicle manufacturer. The
198 plates issued pursuant to subsection 3 or 6 of this section may be displayed on
199 any motor vehicle or trailer owned and held for resale by a motor vehicle dealer

200 for use by a customer who is test driving the motor vehicle, for use and display
201 purposes during, but not limited to, parades, private events, charitable events,
202 or for use by an employee or officer, but shall not be displayed on any motor
203 vehicle or trailer hired or loaned to others or upon any regularly used service or
204 wrecker vehicle. Motor vehicle dealers may display their dealer plates on a
205 tractor, truck or trailer to demonstrate a vehicle under a loaded
206 condition. Trailer dealers may display their dealer license plates in like manner,
207 except such plates may only be displayed on trailers owned and held for resale
208 by the trailer dealer.

209 8. The certificates of number issued pursuant to subsection 3 or 6 of this
210 section may be displayed on any vessel or vessel trailer owned and held for resale
211 by a boat manufacturer or a boat dealer, and used by a customer who is test
212 driving the vessel or vessel trailer, or is used by an employee or officer on a vessel
213 or vessel trailer only, but shall not be displayed on any motor vehicle owned by
214 a boat manufacturer, boat dealer, or trailer dealer, or vessel or vessel trailer
215 hired or loaned to others or upon any regularly used service vessel or vessel
216 trailer. Boat dealers and boat manufacturers may display their certificate of
217 number on a vessel or vessel trailer when transporting a vessel or vessels to an
218 exhibit or show.

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

223 10. (1) Every application for the issuance of a used motor vehicle dealer's
224 license shall be accompanied by proof that the applicant, within the last twelve
225 months, has completed an educational seminar course approved by the
226 department as prescribed by subdivision (2) of this subsection. Wholesale and
227 public auto auctions and applicants currently holding a new or used license for
228 a separate dealership shall be exempt from the requirements of this
229 subsection. The provisions of this subsection shall not apply to current new
230 motor vehicle franchise dealers or motor vehicle leasing agencies or applicants for
231 a new motor vehicle franchise or a motor vehicle leasing agency. The provisions
232 of this subsection shall not apply to used motor vehicle dealers who were licensed
233 prior to August 28, 2006.

234 (2) The educational seminar shall include, but is not limited to, the dealer
235 requirements of sections 301.550 to 301.573, the rules promulgated to implement,

236 enforce, and administer sections 301.550 to 301.570, and any other rules and
237 regulations promulgated by the department.

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Bill

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