

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 415, Page 10, Section 301.145, Line 10,
2 by inserting after all of said section and line the following:

3
4 "301.216. Department investigators licensed as peace officers by the director of the
5 department of public safety under chapter 590 shall be deemed to be peace officers within the
6 state of Missouri while acting in an investigation to enforce the provisions of this chapter and
7 any provisions regarding fees, licenses, or taxes administered by the director. The power of
8 arrest of a department investigator acting as a peace officer shall be limited to offenses
9 involving fees, licenses, taxes, other than taxes under chapters 143 or 147, or in situations of
10 imminent danger to the investigator or another person."; and

11
12 Further amend said bill, Page 29, Section 301.481, Line 15, by inserting after all of said section and
13 line the following:

14
15 "301.562. 1. The department may refuse to issue or renew any license required pursuant to
16 sections 301.550 to 301.573 for any one or any combination of causes stated in subsection 2 of this
17 section. The department shall notify the applicant or licensee in writing at his or her last known
18 address of the reasons for the refusal to issue or renew the license and shall advise the applicant or
19 licensee of his or her right to file a complaint with the administrative hearing commission as
20 provided by chapter 621.

21 2. The department may cause a complaint to be filed with the administrative hearing
22 commission as provided by chapter 621 against any holder of any license issued under sections
23 301.550 to 301.573 for any one or any combination of the following causes:

24 (1) The applicant or license holder was previously the holder of a license issued under
25 sections 301.550 to 301.573, which license was revoked for cause and never reissued by the
26 department, or which license was suspended for cause and the terms of suspension have not been
27 fulfilled;

28 (2) The applicant or license holder was previously a partner, stockholder, director or officer
29 controlling or managing a partnership or corporation whose license issued under sections 301.550 to
30 301.573 was revoked for cause and never reissued or was suspended for cause and the terms of
31 suspension have not been fulfilled;

32 (3) The applicant or license holder has, within ten years prior to the date of the application,
33 been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a
34 prosecution under the laws of any state or of the United States, for any offense reasonably related to
35 the qualifications, functions, or duties of any business licensed under sections 301.550 to 301.573;
36 for any offense, an essential element of which is fraud, dishonesty, or an act of violence; or for any
37 offense involving moral turpitude, whether or not sentence is imposed;

Action Taken _____ Date _____

1 (4) Use of fraud, deception, misrepresentation, or bribery in securing any license issued
2 pursuant to sections 301.550 to 301.573;

3 (5) Obtaining or attempting to obtain any money, commission, fee, barter, exchange, or other
4 compensation by fraud, deception, or misrepresentation;

5 (6) Violation of, or assisting or enabling any person to violate any provisions of this chapter
6 and chapters 143, 144, 306, 307, 407, 578, and 643 or of any lawful rule or regulation adopted
7 pursuant to this chapter and chapters 143, 144, 306, 307, 407, 578, and 643;

8 (7) The applicant or license holder has filed an application for a license which, as of its
9 effective date, was incomplete in any material respect or contained any statement which was, in light
10 of the circumstances under which it was made, false or misleading with respect to any material fact;

11 (8) The applicant or license holder has failed to pay the proper application or license fee or
12 other fees required pursuant to this chapter or chapter 306 or fails to establish or maintain a bona fide
13 place of business;

14 (9) Uses or permits the use of any special license or license plate assigned to the license
15 holder for any purpose other than those permitted by law;

16 (10) The applicant or license holder is finally adjudged insane or incompetent by a court of
17 competent jurisdiction;

18 (11) Use of any advertisement or solicitation which is false;

19 (12) Violations of sections 407.511 to 407.556, section 578.120, which resulted in a
20 conviction or finding of guilt or violation of any federal motor vehicle laws which result in a
21 conviction or finding of guilt.

22 3. Any such complaint shall be filed within one year of the date upon which the department
23 receives notice of an alleged violation of an applicable statute or regulation. After the filing of such
24 complaint, the proceedings shall, except for the matters set forth in subsection 5 of this section, be
25 conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative
26 hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action
27 are met, the department may, singly or in combination, refuse to issue the person a license, issue a
28 license for a period of less than two years, issue a private reprimand, place the person on probation
29 on such terms and conditions as the department deems appropriate for a period of one day to five
30 years, suspend the person's license from one day to six days, or revoke the person's license for such
31 period as the department deems appropriate. The applicant or licensee shall have the right to appeal
32 the decision of the administrative hearing commission and department in the manner provided in
33 chapter 536.

34 4. Upon the suspension or revocation of any person's license issued under sections 301.550
35 to 301.573, the department shall recall any distinctive number plates that were issued to that licensee.
36 If any licensee who has been suspended or revoked shall neglect or refuse to surrender his or her
37 license or distinctive number license plates issued under sections 301.550 to 301.580, the director
38 shall direct any [agent or employee of the department or any] law enforcement officer, to secure
39 possession thereof and return such items to the director. For purposes of this subsection, a "law
40 enforcement officer" means any member of the highway patrol, any sheriff or deputy sheriff, or any
41 peace officer certified under chapter 590 acting in his or her official capacity. Failure of the licensee
42 to surrender his or her license or distinctive number license plates upon demand by the director[, any
43 agent or employee of the department,] or any law enforcement officer shall be a class A
44 misdemeanor.

45 5. Notwithstanding the foregoing provisions of this section, the following events or acts by
46 the holder of any license issued under sections 301.550 to 301.580 are deemed to present a clear and
47 present danger to the public welfare and shall be considered cause for suspension or revocation of
48 such license under the procedure set forth in subsection 6 of this section, at the discretion of the

1 director:

2 (1) The expiration or revocation of any corporate surety bond or irrevocable letter of credit,
3 as required by section 301.560, without submission of a replacement bond or letter of credit which
4 provides coverage for the entire period of licensure;

5 (2) The failure to maintain a bona fide established place of business as required by section
6 301.560;

7 (3) Criminal convictions as set forth in subdivision (3) of subsection 2 of this section; or

8 (4) Three or more occurrences of violations which have been established following
9 proceedings before the administrative hearing commission under subsection 3 of this section, or
10 which have been established following proceedings before the director under subsection 6 of this
11 section, of this chapter and chapters 143, 144, 306, 307, 578, and 643 or of any lawful rule or
12 regulation adopted under this chapter and chapters 143, 144, 306, 307, 578, and 643, not previously
13 set forth herein.

14 6. (1) Any license issued under sections 301.550 to 301.580 shall be suspended or revoked,
15 following an evidentiary hearing before the director or his or her designated hearing officer, if
16 affidavits or sworn testimony by an authorized agent of the department alleges the occurrence of any
17 of the events or acts described in subsection 5 of this section.

18 (2) For any license which the department believes may be subject to suspension or
19 revocation under this subsection, the director shall immediately issue a notice of hearing to the
20 licensee of record. The director's notice of hearing:

21 (a) Shall be served upon the licensee personally or by first class mail to the dealer's last
22 known address, as registered with the director;

23 (b) Shall be based on affidavits or sworn testimony presented to the director, and shall notify
24 the licensee that such information presented therein constitutes cause to suspend or revoke the
25 licensee's license;

26 (c) Shall provide the licensee with a minimum of ten days' notice prior to hearing;

27 (d) Shall specify the events or acts which may provide cause for suspension or revocation of
28 the license, and shall include with the notice a copy of all affidavits, sworn testimony or other
29 information presented to the director which support discipline of the license; and

30 (e) Shall inform the licensee that he or she has the right to attend the hearing and present any
31 evidence in his or her defense, including evidence to show that the event or act which may result in
32 suspension or revocation has been corrected to the director's satisfaction, and that he or she may be
33 represented by counsel at the hearing.

34 (3) At any hearing before the director conducted under this subsection, the director or his or
35 her designated hearing officer shall consider all evidence relevant to the issue of whether the license
36 should be suspended or revoked due to the occurrence of any of the acts set forth in subsection 5
37 herein. Within twenty business days after such hearing, the director or his or her designated hearing
38 officer shall issue a written order, with findings of fact and conclusions of law, which either grants or
39 denies the issuance of an order of suspension or revocation. The suspension or revocation shall be
40 effective ten days after the date of the order. The written order of the director or his or her hearing
41 officer shall be the final decision of the director and shall be subject to judicial review under the
42 provisions of chapter 536.

43 (4) Notwithstanding the provisions of this chapter or chapter 610 or 621 to the contrary, the
44 proceedings under this section shall be closed and no order shall be made public until it is final, for
45 purposes of appeal."; and

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47 Further amend said bill by amending the title, enacting clause, and intersectional references
48 accordingly.