

Title 12 – DEPARTMENT OF REVENUE
Division 10 – Director of Revenue
Chapter 26 – Dealer Licensure

EMERGENCY RULE

12 CSR 10-26.230 Dealer Administrative Fees and System Modernization

PURPOSE: Section 301.558, RSMo, requires motor vehicle dealers collecting administrative fees to remit ten-percent (10%) of those fees to the Motor Vehicle Administration Technology Fund for the development of a modernized, integrated system for the Department of Revenue. This rule clarifies the process for declaring whether an administrative fee is charged and if so the amount, the process for remitting payment and reporting sales, disciplinary action that may occur for failure to timely remit payment, and provides other guidelines for modernization efforts.

EMERGENCY STATEMENT: Beginning August 28, 2021 the Department of Revenue will be mandated to implement the provisions of SB 176 which require collection of information from motor vehicle dealers, boat dealers, and powersport dealers licensed pursuant to sections 301.550 to 301.580, RSMo, who collect an administrative fee pursuant to section 301.558, RSMo, and for immediate development and implementation of a process for remittance of ten-percent (10%) of administrative fees charged to the Motor Vehicle Administration Technology Fund for the development of a modernized, integrated system for the Department of Revenue. This emergency rule is necessary to ensure public awareness of the requirements and to preserve a compelling governmental interest requiring an early effective date in that the rule informs the affected businesses of the procedural requirements for remittance of ten-percent (10%) of administrative fees charged to the Motor Vehicle Administration Technology Fund and ensures the Department will be able to remit the fees as required by law. A proposed rule, that covers the same material, is published in this issue of the Missouri Register. The director has limited the scope of the emergency rule to the circumstances creating the emergency. The director has followed procedures calculated to assure fairness to all interested persons and parties and has complied with protections extended by the Missouri and United States Constitutions. Emergency rule filed August 19, 2021, becomes effective September 2, 2021, and expires February 28, 2022.

(1) Beginning December 1, 2021, all motor vehicle dealers, boat dealers, and powersport dealers licensed pursuant to sections 301.550 to 301.580, RSMo, (“Licensees”) who charge an administrative fee as allowed under Section 301.558, RSMo, must remit funds equaling ten-percent (10%) of all administrative fees collected to the Motor Vehicle Administration Technology Fund (the “Fund”) for the implementation of the modernized, integrated system described in section 301.558, RSMo. If an administrative fee is charged but is later refunded or credited back to the purchaser of a vehicle or vessel, no credit or refund will be permitted on any fees remitted to the Fund.

(A) Beginning on January 20, 2022 for motor vehicle, boat, and powersport sales in December 2021, and on or about the 20th of each month thereafter for sales occurring the month prior, an electronic notification will be generated and issued to each Licensee which charges an administrative fee in compliance with 301.558 RSMo. The electronic notification will indicate the amount due and payable to the Fund and the Licensee must authorize the Department of Revenue to initiate an automated clearing house (ACH) transaction with the Licensee's financial institution to credit/debit the amount due and payable to the Fund. The amount due and payable will be ten-percent (10%) of each administrative fee charged by the Licensee based upon the total number of sales reported in the previous month, as well as any additional or amended sales in prior monthly sales reports, less any sales exempted pursuant to subsection 5 of section 301.558.

1. Any Licensee charging administrative fees must provide the following information to the Department of Revenue:

- A. Name of the bank or other financial institution;
- B. Banking or other financial institution account number;
- C. Banking or other financial institution routing number;
- D. Whether or not the account is a checking or savings account;
- E. Signature of an authorized person on the bank or other financial institution account; and
- F. Any other information necessary to complete the monthly ACH transaction.

(2) Effective January 1, 2022, all Licensees will be required to apply for licensure or license renewal through the Department of Revenue's electronic online business licensing portal.

(3) All current Licensees in existence when this rule becomes effective must, prior to December 1, 2021, in a manner prescribed by the Department of Revenue, declare whether they are charging an administrative fee in their current licensure period, and if so the amount of the administrative fee being charged in accordance with Section 301.558, RSMo. In addition, all current Licensees must provide the information required by Paragraph (1)(A)1. above.

(4) Effective January 1, 2022, as part of an initial application for licensure or a Licensee's renewal application for licensure, any applicant or Licensee must declare whether it intends to collect an administrative fee under Section 301.558, RSMo, and if so, at what dollar amount that fee will be established. The applicant or Licensee must charge the declared administrative fee to all retail customers for the entire licensure period on all sales not exempted pursuant to subsection 5 of section 301.558. In addition, all applicants desiring to collect an administrative fee and renewal Licensees must provide the information required by Paragraph (1)(A)1. above.

(A) Licensees shall be authorized to charge an administrative fee of up to five hundred dollars (\$500), and the maximum fee permitted to be charged shall be increased annually as described in subsection 4 of section 301.558, RSMo. The Director of the Department of Revenue shall base any maximum fee increase identified on an annual review of the prior calendar year, and shall furnish the maximum annual fee determined to the Secretary of State on January 15th of each year, or as soon as is practicable thereafter.

(B) The table outlined in 12 CSR 10-26.231 provides calendar year adjustments to the administrative fee in accordance with section 301.558, RSMo.

(C) Franchised new motor vehicle dealers limited by a franchise agreement, or documents incorporated by the franchise agreement, may exempt certain classes of customers clearly identified in the franchise agreement or incorporated documents from being required to charge the declared administrative fee. New motor vehicle dealers seeking licensure or renewal shall indicate whether any classes of customers are exempted under the terms of its franchise agreement or incorporated documents and must report any exempted sales in its monthly electronic sales reporting required by section 301.280, RSMo, and this rule.

1. The Licensee must maintain monthly documentation in a table or worksheet of all sales which are exempted and include in the table or worksheet the purchaser's name, date of sale, class of customer, as well as the year, make, and VIN of the purchased vehicle.

2. The required documentation must be provided to the Department of Revenue upon a request to inspect such documentation, and the documentation must be maintained for a minimum of three years after the year in which the sale occurred.

3. Upon implementation of updates to the electronic dealer sales reporting system incorporating a means to report exempted sales, the Department may notify Licensees that they no longer need to meet the requirements of Paragraphs (4)(C)1.-2. above.

(5) Any Licensee who fails to meet its obligation relating to section 301.558, RSMo, or this rule shall be subject to disciplinary action for violation of Section 301.562.2(8), including but not limited to suspension; revocation; non-renewal of the Licensee's license to operate a motor vehicle dealership; and revocation of the ability to issue temporary registrations upon the sale of vehicles. If appropriate, the Department of Revenue may enter into a settlement with the Licensee consistent with subsection 7 of section 501.562, RSMo, to resolve a disciplinary action arising under this provision. Any such settlement will only be entered into upon full payment of monies owed and payable to the Fund, and any other amounts assessed as a result of disciplinary action shall be separate and distinct from monies owed to the Fund. An employee with the Department of Revenue, as well as any other duly authorized law enforcement agency, may audit any Licensee in similar manner and scope as is allowed under section 301.564, RSMo, to ensure compliance with the requirements of section 301.558, RSMo, and this rule.

(6) To ensure the timely remittance of all dealer fees required to be paid pursuant to sections 301.550 to 301.580, RSMo, all sales required to be reported pursuant to section 301.280, RSMo, must be filed electronically with the Department of Revenue for the 2022 licensure year and every year thereafter. However, any dealer which has been previously licensed prior to January 1, 2022, and who is not charging an administrative fee may choose to file sales reports electronically or by paper process until the next license renewal.

*AUTHORITY: sections 301.553 and 301.558, RSMo 2021. Emergency rule filed Aug. 19, 2021, effective Sept. 2, 2021, expires Feb. 28, 2022. An emergency rule and a proposed rule covering this same material will be published in the Oct. 1, 2021, issue of the **Missouri Register**.*

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate, as any costs associated with the proposed rule are not a product of the rule itself but incident to the statutory changes included in SB 176 (2021).

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate, as any costs associated with the proposed rule are not a product of the rule itself but incident to the statutory changes included in SB 176 (2021).

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Administration Division, 301 W High Street, Room 218, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*