

Introduced by

1 A BILL for an Act to create and enact section 39-22.3-03.1 of the North Dakota Century Code,
2 relating to a new motorcycle dealer franchise; to amend and reenact sections 39-22.3-01,
3 39-22.3-02, 39-22.3-03, 39-22.3-04, 39-22.3-05, 39-22.3-06, 39-22.3-07, 39-22.3-08,
4 39-22.3-09, and 39-22.3-10 of the North Dakota Century Code, relating to motorcycle dealer
5 licensing; to repeal sections 39-22.3-11 and 39-22.3-12 of the North Dakota Century Code,
6 relating to penalties and administration; and to provide a penalty.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 39-22.3-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **39-22.3-01. Motorcycle dealer's license - Fees—Additional number plates Penalty.**

11 ~~It is unlawful for any~~ A person, partnership, corporation, or limited liability company to may not
12 engage, advertise as being, or hold out to the public as engaging in the business of buying,
13 selling, or exchanging of motorcycles without ~~possessing~~ a current motorcycle dealer's license.
14 ~~No person, partnership, corporation, or limited liability company may advertise or hold out to the~~
15 ~~public as engaging in the buying, selling, or exchanging of motorcycles for resale without~~
16 ~~possession of a current motorcycle dealer's license. The motorcycle dealer's license fee is~~
17 ~~twenty five dollars per year and with which must be issued one dealer's plate. Additional~~
18 ~~dealer's plates are ten dollars each. A dealer plate may be displayed on any motorcycle owned~~
19 ~~by the dealer. A person violating this section is guilty of a class B misdemeanor.~~

20 **SECTION 2. AMENDMENT.** Section 39-22.3-02 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **39-22.3-02. Application required - Fees - Plates - Renewal. ~~No~~**

23 1. The director may not grant a license ~~may be granted~~ unless a completed
24 application has been made in the form prescribed by the director.

1 2. The motorcycle dealer's license fee is twenty-five dollars per year and must be
2 issued one dealer plate. Additional dealer plates are ten dollars each per year.
3 Dealer plates may be used on any motorcycle owned by the dealership and used
4 in the direct functions of demonstrating, buying, or selling a motorcycle. Dealer
5 plates may not be used on service vehicles or vehicles used in other functions of
6 the business, sold units in possession of the purchaser, by family members not
7 residing at the dealer's residence, or by any other person not directly involved in
8 the operation of the dealership. A dealer plate displayed on a motorcycle must be
9 displayed on the rear of the motorcycle.

10 3. A dealer license issued under this chapter expires on December thirty-first of each
11 year. For a renewal, a dealer shall apply on a form prescribed by the department
12 and with the payment for the dealer license and dealer plate fees required by this
13 chapter. The department may not renew the dealer license of any applicant who
14 has made less than four retail motorcycle sales during the previous year.

15 4. Any person violating this section must be assessed a one hundred dollar fee by the
16 department for a first violation and a two hundred dollar fee by the department for a
17 second violation within two years of the first violation. The department shall
18 suspend the license of a motorcycle dealer licensed under this chapter if a third or
19 subsequent violation of this section occurs within five years of the first violation.

20 **SECTION 3. AMENDMENT.** Section 39-22.3-03 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **39-22.3-03. ~~Issuance of license—Conditions~~ Established central place of**
23 **business. ~~No~~**

24 1. The director may not issue a license ~~may be issued~~ until the applicant furnishes
25 proof satisfactory to the director that the applicant has and will continue to maintain
26 an established central place of business in this state. An established central place
27 of business ~~means~~ is a permanent enclosed building or structure of at least two
28 hundred fifty square feet [23.22 square meters] either owned or leased with a
29 stated periodic rental, at which a permanent business of bartering, trading, and
30 selling of motorcycles, the repair, maintenance, and servicing of motorcycles and
31 the storage of parts and accessories ~~therefor~~ for motorcycles, will be carried out in

1 good faith and ~~not for the purpose of evading this section, and where the business~~
2 ~~books, records, and files shall be maintained, and does.~~ A central place of
3 business is not mean a residence, tents, temporary stands, or other temporary
4 quarters, nor permanent quarters occupied pursuant to any temporary
5 arrangement. ~~Said~~

6 2. The central place of business may consist of several buildings, or structures, but
7 ~~no~~ any building or structure may not be located beyond one thousand feet [304.8
8 meters] from any other ~~buildings~~ building or structures structure of said the central
9 place of business. ~~Such central place of business must be located within the state~~
10 ~~of North Dakota. The licensee must be permitted to use unimproved lots and~~
11 ~~premises for sales, storage, or display of motorcycles. The central place of~~
12 business must be located on property zoned or otherwise approved for this
13 purpose by the appropriate zoning authority. The central place of business must
14 be adequately heated and lighted so as to be comfortable for customers and
15 employees and be equipped with standard office equipment necessary for
16 conducting the business. The central place of business must have a telephone
17 publicly listed in the name of the dealership, be open to the public during normal
18 business hours, and have a sign identifying the business to the public as a
19 motorcycle dealership. The sign must be at least thirty-two square feet [2.97
20 square meters] in size, contain the name of the dealership in letters at least ten
21 inches [25.4 centimeters] high, and be clearly visible from the street. A business
22 sign approved by a motorcycle manufacturer may be used in lieu of the sign
23 requirements of this section.

24 3. All records related to the business, including titles or other documents showing
25 ownership of the motorcycles, must be kept and maintained at the central place of
26 business.

27 4. If the licensee desires to move from the central place of business occupied when
28 the license was granted to a new location, the licensee must obtain permission
29 from the director. The licensee shall furnish proof satisfactory to the director that
30 the premises to which the licensee proposes to move conforms with the
31 requirements of this section.

1 5. A nonrefundable fee of ~~fifty~~ one hundred dollars ~~will~~ must be charged for each
2 inspection and must accompany each initial application for a motorcycle dealer's
3 license.

4 6. Any person violating this section must be assessed a one hundred dollar fee by the
5 department for a first violation and a two hundred dollar fee by the department for a
6 second violation within two years of the first violation. The department shall
7 suspend the license of a motorcycle dealer licensed under this chapter if a third or
8 subsequent violation of this section occurs within five years of the first violation.

9 **SECTION 4.** Section 39-22.3-03.1 of the North Dakota Century Code is created and
10 enacted as follows:

11 **39-22.3-03.1. Application for new motorcycle dealer license - Franchise required -**
12 **Penalty.**

13 1. In the case of an application for a new motorcycle dealer license, the applicant
14 shall furnish proof satisfactory to the director that the applicant has a bona fide
15 contract or franchise in effect with a manufacturer or distributor of the new
16 motorcycle in which the dealer proposes to deal. A new motorcycle dealer license
17 entitles the holder to deal in both used motorcycles and in those new motorcycles
18 only for which the dealer has a bona fide contract or franchise in effect with a
19 manufacturer or distributor. A used motorcycle dealer license entitles the holder to
20 deal solely in used motorcycles.

21 2. New motorcycle dealers who have been issued surrounding communities as a part
22 of their dealer area of responsibility may be issued additional new motorcycle
23 dealer licenses if the manufacturer provides the department written approval of
24 additional sites for display and sale of motorcycles. Applicants for additional new
25 motorcycle dealer licenses must meet all of the requirements of this chapter.

26 3. If a motorcycle dealer purchases or holds for sale a new motorcycle for which the
27 dealer does not have a bona fide contract or franchise in effect with a manufacturer
28 or distributor, the new motorcycle becomes, at the time of purchase or possession,
29 subject to the registration provisions of chapter 39-04, the title registration
30 provisions of chapter 39-05, and the motor vehicle excise tax provisions of
31 chapter 57-40.3.

- 1 4. Any person violating this section must be assessed a two hundred fifty dollar fee by
2 the department for a first violation and a five hundred dollar fee by the department
3 for a second violation within two years of the first violation. The department must
4 suspend the license of a motorcycle dealer licensed under this chapter if a third or
5 subsequent violation of this section occurs within five years of the first violation.

6 **SECTION 5. AMENDMENT.** Section 39-22.3-04 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **39-22.3-04. Grounds for denial, suspension, cancellation, or revocation of**
9 **dealer's license.** The director may deny an application for a dealer's license or suspend,
10 revoke, or cancel ~~such~~ a license after it has been granted for any of the following reasons:

- 11 1. For any material misstatement by an applicant in the application for the license.
12 2. For any willful failure to comply with the provisions of this chapter or with any rule
13 adopted by the director.
14 3. For knowingly permitting any salesperson to sell or exchange, or offer or attempt to
15 sell or exchange any motorcycle except for the licensed motorcycle dealer by
16 whom the salesperson is employed, or to offer, transfer, or assign any sale or
17 exchange that they may have negotiated to any other dealer.
18 4. For having violated any law relating to the sale, distribution, or financing of
19 motorcycles.
20 5. For having ceased to have an established place of business ~~as herein defined~~.

21 **SECTION 6. AMENDMENT.** Section 39-22.3-05 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **39-22.3-05. Bond and insurance required.**

- 24 1. The license applicant shall furnish a surety bond executed by a surety company,
25 licensed and qualified to do business ~~within the state of North Dakota, which in this~~
26 state. The bond must run to the state of North Dakota in the amount of ten
27 thousand dollars and be conditioned upon the faithful compliance by ~~said the~~
28 applicant with all the statutes of ~~the this state of North Dakota~~, regulating or being
29 applicable to a dealer in motorcycles, and indemnifying any person having a
30 motorcycle transaction with ~~said the~~ dealer from any loss of damage occasioned
31 by the failure of ~~such the~~ dealer to comply with any statutory requirement of ~~such~~

1 the transaction. The bond must be filed with the director ~~prior to~~ before the
2 issuance of a license and must stay in effect as a condition of licensure. The
3 aggregate liability of the surety of all persons may ~~in no event~~ not exceed the
4 amount of the bond. Any third party sustaining injury within the terms of the bond
5 may proceed against the principal and surety without making the state a party of
6 ~~any such~~ to the proceedings.

7 2. A motorcycle dealer shall provide proof to the director of a continuous policy of
8 general liability insurance in the minimum of one hundred thousand dollars per
9 person and three hundred thousand dollars per occurrence.

10 **SECTION 7. AMENDMENT.** Section 39-22.3-06 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **39-22.3-06. Disposition of fees.** Fees from registration of dealers and fees collected
13 from dealers found in violation of this chapter must be deposited with the state treasurer and
14 credited to the state highway tax distribution fund.

15 **SECTION 8. AMENDMENT.** Section 39-22.3-07 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **39-22.3-07. Dealer permitting license to be used by another dealer - License**
18 **revoked - Penalty.** A dealer who permits any other dealer to use that first dealer's license, or
19 permits the use of ~~such~~ the license for the benefit of any other dealer, is guilty of an infraction.
20 The director shall revoke the license of any dealer who violates this section.

21 **SECTION 9. AMENDMENT.** Section 39-22.3-08 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **39-22.3-08. Dealers to furnish fees, taxes, and information to director.** ~~All dealers~~
24 ~~engaged in the sale of motorcycles in this state~~

25 1. A motorcycle dealer shall furnish the director with ~~such~~ information as to models,
26 specifications, selling prices, and ~~such~~ any other data requested by the director as
27 may be necessary in carrying out the provisions of this chapter.

28 2. A motorcycle dealer shall submit any state fees, taxes, and applications collected
29 on behalf of a customer to the department within fifteen days of the date of sale.

30 3. Any person violating this section must be assessed a one hundred dollar fee by the
31 department for a first violation and a two hundred dollar fee by the department for a

1 second violation within two years of the first violation. The department shall
2 suspend the license of a motorcycle dealer licensed under this chapter if a third or
3 subsequent violation of this section occurs within five years of the first violation.

4 **SECTION 10. AMENDMENT.** Section 39-22.3-09 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **39-22.3-09. Powers of the director.** The director is responsible for the administration
7 of this chapter. In addition to other powers provided by law, the director has the following
8 powers and duties which must be exercised in conformity with this chapter:

- 9 1. To cancel, revoke, or suspend a dealer's license as provided for in this chapter.
- 10 2. To ~~prescribe~~ adopt rules not inconsistent with this chapter governing the
11 application for ~~a dealer's licenses~~ license and the cancellation or suspension or
12 revocation of a dealer's license. The department may adopt rules that limit the
13 number of dealer plates available to an applicant based on the applicant's
14 motorcycle sales history.
- 15 3. To employ and pay such persons as the director may deem necessary to inspect
16 dealers in this state, investigate dealers for the information of the director, to
17 procure evidence in connection with any prosecution or other action to suspend,
18 revoke, or cancel a dealer's license in relation to any matter in which the director
19 has any duty to perform.

20 **SECTION 11. AMENDMENT.** Section 39-22.3-10 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **39-22.3-10. Examination of books and records.** ~~The director or the director's duly~~
23 ~~authorized representative~~ may inspect the ~~books, letters, records, and contracts~~ of any licensed
24 motorcycle dealer relating to any specific complaint made against ~~such~~ the dealer and held to
25 be in violation of ~~any of the provisions of~~ this title. In addition, the director may inspect the
26 records of a dealer to verify that fees and applications collected from customers for the
27 department have been properly remitted to the department.

28 **SECTION 12. REPEAL.** Sections 39-22.3-11 and 39-22.3-12 of the North Dakota
29 Century Code are repealed.