

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1099

Introduced by

Transportation Committee

(At the request of the Department of Transportation)

1 A BILL for an Act to amend and reenact sections 39-18-01, 39-18-02, 39-22-05, 39-22-14,
2 39-22-18, 39-22.1-02, 39-22.1-03, 39-22.3-03, and 39-22.3-05 of the North Dakota Century
3 Code, relating to penalties assessed against vehicle dealers, bond requirements for vehicle
4 dealers, renewal of a dealer license, and unlicensed vehicle dealers; to provide a penalty; and
5 to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Section 39-18-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **39-18-01. Mobile home dealer's license - Fees - Dealer's plates - Penalty.** No
10 person, partnership, corporation, or limited liability company may engage in the business of
11 buying, selling, or exchanging of mobile homes or travel trailers, or advertise or hold oneself or
12 itself out to the public as being in the business of buying, selling, or exchanging of mobile
13 homes or travel trailers without first being licensed to do so as hereinafter provided.

14 Application for dealer's license and renewal license must be made to the department on
15 such forms as the department prescribes and furnishes, and the application must be
16 accompanied by an annual fee of thirty-five dollars for which must be issued one dealer plate.
17 A dealer's license expires on December thirty-first of each year, and application for renewal of a
18 dealer's license must be made on or before the expiration of the current dealer's license.

19 A mobile home dealer's license must be issued only to those who will maintain a
20 permanent office and place of business, and an adequate service department, during the
21 licensing year, and will abide by all the provisions of law pertaining to mobile home dealers.

22 In addition, the dealer shall maintain that person's business records in one central
23 location.

1 Upon the payment of the fee of ten dollars for each additional plate, the department
2 shall register and issue dealer's license plates for use on any mobile homes owned by the
3 licensed dealer, and the mobile homes bearing the dealer's license plates may be lawfully
4 operated upon the public highways of the state of North Dakota by the dealer, and the dealer's
5 agents and servants, during the year of the registration. A dealer's license plates expire on
6 December thirty-first of each year.

7 The term "mobile home" as used in this chapter includes and has the same meaning as
8 "housetrailer", and both terms have the meaning prescribed in section 39-01-01. The term
9 "travel trailer" as used in this chapter has the meaning as prescribed in section 39-01-01.

10 Any mobile home dealer licensed under the provisions of this chapter may sell house
11 cars without being licensed under the provisions of chapter 39-22. A mobile home dealer plate
12 displayed on a house car must be displayed on the rear of the vehicle.

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

18 **SECTION 2. AMENDMENT.** Section 39-18-02 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **39-18-02. Bond required.** Before the issuance of a mobile home dealer's license, as
21 provided by law, the applicant for such license shall furnish a continuous surety bond executed
22 by the applicant as principal and executed by a surety company licensed and qualified to do
23 business within the state of North Dakota, which must be in the amount of ten thousand dollars,
24 and be conditioned upon the faithful compliance by said applicant as a dealer, if such license
25 be issued to the dealer, that such dealer will comply with all the laws of the state of North
26 Dakota pertaining to such business, and regulating or being applicable to the business of said
27 dealer as a dealer in mobile homes, and indemnifying any person dealing or transacting
28 business with such dealer in connection with any mobile home from any loss or damage
29 occasioned by the failure of such dealer to comply with the provisions of the laws of the state of
30 North Dakota, including the furnishing of a proper and valid certificate of title to the vendee of a
31 mobile home within fifteen days of the sale of such mobile home, and to the vendee of a travel

trailer as defined by section 57-55-01 within fifteen days of the sale of such travel trailer, and that such bond must be filed with the director prior to the issuance of the license herein provided for. Provided, however, that the aggregate liability of the surety to all such persons for all such losses or damages may, in no event, exceed the amount of such bond. Any third party sustaining injury within the terms of the bond may proceed against the principal and surety without making the state a party to any such proceedings. The bond may be canceled by the surety, as to future liability, by giving written notice by certified mail, addressed to the principal at the address stated in the bond, and to the department. Thirty days after the mailing of the notice, the bond is null and void as to any liability thereafter arising. The surety remains liable, subject to the terms, conditions, and provisions of the bond, until the effective date of the cancellation.

SECTION 3. AMENDMENT. Section 39-22-05 of the North Dakota Century Code is amended and reenacted as follows:

39-22-05. Bond required. Before the issuance of a motor vehicle dealer's license, as provided by law, the applicant for the license shall furnish a continuous surety bond executed by the applicant as principal and executed by a surety company, licensed and qualified to do business within the state of North Dakota, which bond must run to the state of North Dakota, be in the amount of twenty-five thousand dollars and be conditioned upon the faithful compliance by the applicant as a dealer, if the license is issued to the dealer, that such dealer will comply with all of the statutes of the state of North Dakota regulating or being applicable to the business of the dealer as a dealer in motor vehicles, and indemnifying any person dealing or transacting business with the dealer in connection with any motor vehicle from any loss or damage occasioned by the failure of the dealer to comply with any of the provisions of this title, including the furnishing of a proper and valid certificate of title to the motor vehicle involved in any such transaction, and that the bond shall be filed with the director prior to the issuance of license provided by law. The aggregate liability of the surety of all persons, however, may in no event exceed the amount of the bond. Any third party sustaining injury within the terms of the bond may proceed against the principal and surety without making the state a party to the proceedings. The bond may be canceled by the surety, as to future liability, by giving written notice by certified mail, addressed to the principal at the address stated in the bond, and to the department. Thirty days after the mailing of the notice, the bond is null and void as to any

1 liability thereafter arising. The surety remains liable, subject to the terms, conditions, and
2 provisions of the bond, until the effective date of the cancellation.

3 **SECTION 4. AMENDMENT.** Section 39-22-14 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **39-22-14. Motor vehicle dealer license - Fees - Penalty.** It is unlawful for any person
6 to engage in the business of buying, selling, or exchanging of motor vehicles without
7 possessing a current motor vehicle dealer license. A person may not advertise or otherwise
8 hold out to the public as engaging in the buying, selling, or exchanging of motor vehicles for
9 resale without possession of a current new motor vehicle dealer license or used motor vehicle
10 dealer license. The motor vehicle dealer license fee is one hundred dollars per year and with
11 which must be issued one dealer plate. A nonrefundable fee of one hundred dollars must be
12 charged for the initial inspection of an application for a dealer license and must accompany the
13 initial application for a new or used motor vehicle dealer license. The applicant shall provide
14 the business's federal employer identification number or, in the case of an application from an
15 individual, social security number. Any person violating a provision of this section must be
16 assessed a one hundred dollar fee by the department for a first violation and a two hundred
17 dollar fee by the department for a second violation within two years of the first violation. The
18 department must suspend the license of a motor vehicle dealer licensed under this chapter if a
19 third or subsequent violation of this section occurs within five years of the first violation. Any
20 person not licensed as a dealer under this section who has been previously found to be in
21 violation of this section, and assessed the fees specified, is guilty of a class B misdemeanor if a
22 third or subsequent violation occurs.

23 **SECTION 5. AMENDMENT.** Section 39-22-18 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **39-22-18. Renewal of dealer license - Fees - Minimum sales requirement -**
26 **Penalty.** A dealer license issued under this chapter expires on December thirty-first of each
27 year. A licensed dealer may apply for renewal of the dealer's license on forms prescribed by
28 the department and payment of the dealer license and dealer plate fees required by this
29 chapter. The department shall not renew the dealer license of any applicant who has made
30 less than four retail motor vehicle sales during the previous year. The department may adopt
31 administrative rules to limit the number of dealer plates available to an applicant based on the

1 applicant's motor vehicle sales history. Any dealer who fails to submit a renewal application
2 before the expiration of the dealer's current license, in addition to all other fees due, shall pay a
3 one hundred dollar fee at the time the dealer's license is renewed.

4 **SECTION 6. AMENDMENT.** Section 39-22.1-02 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **39-22.1-02. Bond required.** Before the issuance of a trailer dealer's license, as
7 provided by law, the applicant for such license shall furnish a continuous surety bond executed
8 by the applicant as principal and executed by a surety company licensed and qualified to do
9 business within the state of North Dakota, which must be in the amount of ten thousand dollars,
10 and be conditioned upon the faithful compliance by said applicant as a dealer, if such license
11 be issued to the applicant, that such dealer will comply with all the laws of the state of North
12 Dakota pertaining to such business, and regulating or being applicable to the business of said
13 dealer as a dealer in trailers, and indemnifying any person dealing or transacting business with
14 such dealer in connection with any trailer from any loss or damage occasioned by the failure of
15 such dealer to comply with the provisions of the laws of the state of North Dakota, including, but
16 not limited to, the furnishing of a proper and valid certificate of title to the vendee of a trailer
17 within fifteen days of the sale of such trailer, and that such bond shall be filed with the director
18 prior to the issuance of the license herein provided for. Provided, however, that the aggregate
19 liability of the surety to all such persons for all such losses or damages may, in no event,
20 exceed the amount of such bond. Any third party sustaining injury within the terms of the bond
21 may proceed against the principal and surety without making the state a party to any such
22 proceedings. Any applicant bonded pursuant to the provisions of chapter 39-18 or 39-22 may
23 not be required to furnish the surety bond provided for in this section whenever the bond issued
24 pursuant to chapter 39-18 or 39-22 is written to include the requirements of this section. The
25 bond may be canceled by the surety, as to future liability, by giving written notice by certified
26 mail, addressed to the principal at the address stated in the bond, and to the department.
27 Thirty days after the mailing of the notice, the bond is null and void as to any liability thereafter
28 arising. The surety remains liable, subject to the terms, conditions, and provisions of the bond,
29 until the effective date of the cancellation.

30 **SECTION 7. AMENDMENT.** Section 39-22.1-03 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **39-22.1-03. Suspension or revocation of dealer's license - Penalty.** The director
2 may suspend or revoke any dealer's license for failure of the licensee to comply with any of the
3 laws of the state of North Dakota governing trailer dealers, or for the failure to comply with the
4 reasonable rules and regulations of the director as established under chapter 28-32, but no
5 order suspending or revoking a dealer's license may be made without a hearing at which the
6 licensee must be given an opportunity to be heard. Any dealer violating the provisions of this
7 chapter must be assessed a one hundred dollar fee by the department for a first violation and a
8 two hundred dollar fee by the department for a second violation within two years of the first
9 violation. The department shall suspend the license of a trailer dealer licensed under this
10 chapter if a third or subsequent violation of the chapter occurs within five years of the first
11 violation.

12 **SECTION 8. AMENDMENT.** Section 39-22.3-03 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **39-22.3-03. Issuance of license - Conditions - Penalty.** No license may be issued
15 until the applicant furnishes proof satisfactory to the director that the applicant has and will
16 continue to maintain an established place of business. An established central place of
17 business means a permanent enclosed building or structure either owned or leased with a
18 stated periodic rental, at which a permanent business of bartering, trading, and selling of
19 motorcycles, the repair, maintenance, and servicing of motorcycles and the storage of parts
20 and accessories therefor, will be carried out in good faith and not for the purpose of evading
21 this section, and where the business books, records, and files shall be maintained, and does
22 not mean a residence, tents, temporary stands, or other temporary quarters, nor permanent
23 quarters occupied pursuant to any temporary arrangement. Said central place of business may
24 consist of several buildings, or structures, but no building or structure may be located beyond
25 one thousand feet [304.8 meters] from any other buildings or structures of said central place of
26 business. Such central place of business must be located within the state of North Dakota.
27 The licensee must be permitted to use unimproved lots and premises for sales, storage, or
28 display of motorcycles. A nonrefundable fee of fifty dollars will be charged for each inspection
29 and must accompany each initial application for a motorcycle dealer's license. Any dealer
30 violating this chapter must be assessed a one hundred dollar fee by the department for a first
31 violation and a two hundred dollar fee by the department for a second violation within two years

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

4 **SECTION 9. AMENDMENT.** Section 39-22.3-05 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **39-22.3-05. Bond required.** The license applicant shall furnish a continuous surety
7 bond executed by a surety company, licensed and qualified to do business within the state of
8 North Dakota, which bond must run to the state of North Dakota in the amount of ten thousand
9 dollars and be conditioned upon the faithful compliance by said applicant with all the statutes of
10 the state of North Dakota, regulating or being applicable to a dealer in motorcycles, and
11 indemnifying any person having a motorcycle transaction with said dealer from any loss of
12 damage occasioned by the failure of such dealer to comply with any statutory requirement of
13 such transaction. The bond must be filed with the director prior to the issuance of a license.
14 The aggregate liability of the surety of all persons may in no event exceed the amount of the
15 bond. Any third party sustaining injury within the terms of the bond may proceed against the
16 principal and surety without making the state a party of any such proceedings. The bond may
17 be canceled by the surety, as to future liability, by giving written notice by certified mail,
18 addressed to the principal at the address stated in the bond, and to the department. Thirty
19 days after the mailing of the notice, the bond is null and void as to any liability thereafter arising.
20 The surety remains liable, subject to the terms, conditions, and provisions of the bond, until the
21 effective date of the cancellation.

22 **SECTION 10. EFFECTIVE DATE.** This Act becomes effective on January 1, 2006.