

Sixty-second
Legislative Assembly
of North Dakota

SENATE BILL NO. 2255

Introduced by

Senator Wardner

1 A BILL for an Act to create and enact sections 39-22.1-01.1, 39-22.1-05, and 39-22.1-06 of the
2 North Dakota Century Code, relating to the licensure of trailer dealers; and to amend and
3 reenact sections 39-22-19, 39-22.1-01, 39-22.1-02, 39-22.1-03, and 39-22.1-04 of the North
4 Dakota Century Code, relating to insurance for motor vehicle dealers and requirements for the
5 licensing of trailer dealers; ~~and to provide a penalty;~~ to provide an effective date; and to declare
6 an emergency.

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

8 **SECTION 1. AMENDMENT.** Section 39-22-19 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **39-22-19. Garage liability insurance requirement.**

11 Before the issuance of a motor vehicle dealer license, the applicant must provide proof to
12 the department of a continuous policy of ~~garage~~-liability insurance for the business operation of
13 the applicant which includes general, business automobile, and sales, repair, or service
14 operations liability as is appropriate to the business operation. The insurance company that
15 issued the policy must notify the department of any cancellation, suspension, or revocation of
16 the coverage. Any motor vehicle dealer who fails to maintain the insurance coverage required
17 by this section shall return the dealer license and dealer number plates to the department on or
18 before the effective date of the cancellation, suspension, or revocation. Failure to return the
19 dealer license or dealer number plates results in automatic revocation by operation of law. The
20 department may order the superintendent to take possession of any dealer license or dealer
21 number plates not returned to the department as required in this section. The department shall
22 reinstate the dealer license and dealer number plates only when proof of insurance coverage is
23 received.

SECTION 2. AMENDMENT. Section 39-22.1-01 of the North Dakota Century Code is amended and reenacted as follows:

39-22.1-01. Trailer dealer's license - Fees - Plates - Definition.

~~No~~

- ~~1. A person, partnership, corporation, or limited liability company may not engage in the business of buying, selling, or exchanging of trailers, or advertise or hold oneself or itself out to the public as being in the business of buying, selling, or exchanging of trailers without first being licensed to do so as hereinafter provided.~~
- ~~2. Application for dealer's license and renewal license must be made to the director on such forms as the director prescribes and furnishes, and the application must be accompanied by an annual fee of thirty dollars for which must be issued one dealer plate. The applicant for an initial trailer dealer license shall submit a nonrefundable fee of one hundred dollars for the initial inspection with the application. A dealer's license expires on December thirty-first of each year, and application for renewal of a dealer's license must be made on or before the expiration of the current dealer's license. Any dealer who fails to submit a renewal application before the expiration of the dealer's current license, in addition to all other fees due, shall pay a one hundred dollar fee at the time the dealer's license is renewed.~~
- ~~3. A trailer dealer's license may be issued only to those who will maintain a permanent office and~~ ana primary established place of business and will abide by all the provisions of law pertaining to trailer dealers. ~~In addition, the dealer shall maintain that person's business records in one central location. All records~~ or copies of records related to the business, including titles or other documents showing ownership of the trailers, must be kept and maintained at the primary established place of business.
- ~~4. Upon the payment of a fee of ten dollars for each additional plate, the director shall register and issue dealer's license plates for use on any trailers owned by the licensed dealer, and the trailers bearing the dealer's license plates may be lawfully operated upon the public highways of the state of North Dakota~~ this state by the dealer or the dealer's agents or representatives during the year of the registration, in the direct functions of demonstrating, buying, or selling, or transporting trailers. A dealer's license plates expire on December thirty-first of each year.

5. The term "trailer" as used in this chapter ~~does not include~~ ~~includes~~ those trailers exempt from registration in chapter 39-04.

SECTION 3. Section 39-22.1-01.1 of the North Dakota Century Code is created and enacted as follows:

39-22.1-01.1. ~~Established~~Primary established place of business - Penalty.

1. A dealer license may not be issued until the applicant furnishes proof satisfactory to the director that the applicant has, does, and will continue to maintain in this state ~~an~~ ~~a~~ ~~primary~~ established place of business adjacent to the primary display lot maintained by the dealer. ~~An~~ ~~A~~ ~~primary~~ established place of business means a permanent enclosed building of at least two hundred fifty square feet [23.22 square meters] either owned, rented, or leased at which a permanent business of bartering, trading, and selling of trailers will be conducted ~~and does not include a residence, tents, temporary stands, or other temporary quarters.~~ The ~~primary~~ established place of business ~~and primary display lot~~ must ~~cover at least two thousand five hundred square feet [232.26 square meters]~~ and be located on property zoned or otherwise approved for this purpose by the appropriate zoning authority. The ~~primary~~ established place of business must be adequately heated and lighted so as to be comfortable for customers and employees, ~~must include restroom facilities that are connected to the local sewer or an approved septic system, and must be equipped with standard office equipment necessary for the conduct of the business.~~ All records ~~or~~ ~~copies~~ related to the business, including titles or other documents showing ownership of the trailers, must be kept and maintained at the ~~primary~~ established place of business.
2. ~~An~~ ~~A~~ ~~primary~~ established place of business must have a telephone publicly listed in the name of the dealership, ~~be open to the public during normal business hours, with those hours posted,~~ and have a sign identifying the business to the public as a trailer dealership ~~with business hours posted.~~ The sign must be at least thirty-two square feet [2.97 square meters] in size, contain the name of the dealership in letters at least ten inches [25.4 centimeters] high, and be clearly visible from the street.
3. If the licensee desires to move from the ~~primary~~ established place of business occupied when the license was granted to a new location, the licensee ~~first~~ shall ~~secure permission from~~ ~~notify~~ the director. The licensee must furnish proof satisfactory

1 to the director that the premises to which the licensee proposes to move conform with
2 the requirements of this section.

3 4. A licensed dealer may establish secondary trailer display lots in the conduct of the
4 dealer's business ~~within five miles [8.05 kilometers] of the dealer's established place of~~
5 ~~business~~if there is a primary established place of business in this state. Secondary lots
6 must be identified as a part of the licensed dealer's operation with a sign displaying
7 the name and telephone number of the licensed dealer. The sign must be at least
8 thirty-two square feet [2.97 square meters] in size, contain the name of the dealership
9 in letters at least ten inches [25.4 centimeters] high, and be clearly visible from the
10 street. A licensed dealer may not display trailers except on the dealer's primary and
11 secondary lots or equipment shows.

12 5. The department may assess a person violating this section a one hundred dollar fee
13 for a first violation or a two hundred dollar fee for a second violation within two years of
14 the first violation. The department may suspend the license of a trailer dealer licensed
15 under this chapter if a third or subsequent violation of this section occurs within five
16 years of the first violation.

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

19 **39-22.1-02. Bond required.**

20 Before the issuance of or the renewal of a trailer dealer's license, as provided by law, the
21 applicant for ~~such~~the license shall furnish a continuous surety bond executed by the applicant
22 as principal and executed by a surety company licensed and qualified to do business within the
23 state of North Dakota, which must be in the amount of ten thousand dollars, and be conditioned
24 upon the faithful compliance by ~~said~~the applicant as a dealer, if ~~such~~the license be issued to the
25 applicant, that ~~such~~the dealer will comply with all the laws of ~~the~~this state of North Dakota
26 pertaining to ~~such~~the business, and regulating or being applicable to the business of ~~said~~the
27 dealer as a dealer in trailers, and indemnifying any person dealing or transacting business with
28 ~~such~~the dealer in connection with any trailer from any loss or damage occasioned by the failure
29 of ~~such~~the dealer to comply with the provisions of the laws of ~~the~~this state of North Dakota,
30 including, ~~but not limited to,~~ the furnishing of a proper and valid certificate of title to the vendee
31 of a trailer within fifteen days of the sale of ~~such~~the trailer, and that ~~such~~the bond shall be filed

1 with the director prior to ~~before~~ the issuance of the license herein provided for. ~~Provided,~~
2 ~~however~~ However, that the aggregate liability of the surety to all such persons for all such losses
3 or damages may, ~~in no event,~~ not exceed the amount of such ~~the~~ bond. Any third party
4 sustaining injury within the terms of the bond may proceed against the principal and surety
5 without making the state a party to any such proceedings. Any applicant bonded pursuant to the
6 ~~provisions of~~ under chapter 39-18 or 39-22 may not be required to furnish the surety bond
7 provided for in this section ~~whenever~~ if the bond issued pursuant to ~~under~~ chapter 39-18 or 39-22
8 is written to include the requirements of this section. The bond may be canceled by the surety,
9 as to future liability, by giving written notice by certified mail, addressed to the principal at the
10 address stated in the bond, and to the department. Thirty days after the mailing of the notice,
11 the bond is null and void as to any liability thereafter arising after that thirty days. The surety
12 remains liable, subject to the terms, conditions, and provisions of the bond, until the effective
13 date of the cancellation.

14 **SECTION 5. AMENDMENT.** Section 39-22.1-03 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **39-22.1-03. Suspension ~~or~~, denial, revocation, or cancellation of dealer's license -**
17 **Penalty.**

18 The director may suspend or revoke any dealer's license for failure of the licensee to
19 comply with any of the laws of the state of North Dakota governing trailer dealers ~~deny an~~
20 ~~application for a dealer's license or suspend, revoke, or cancel a dealer's license after it has~~
21 ~~been granted for making any material misstatement by an applicant in the application for~~
22 ~~license; willfully failing to comply with this chapter or with any rule adopted by the director;~~
23 ~~knowingly permitting any person to sell or exchange, or offer or attempt to sell or exchange, any~~
24 ~~trailer except for the licensed trailer dealer by whom the person is employed; willfully violating a~~
25 ~~law relating to the sale, distribution, or financing of trailers; or ceasing to have an established~~
26 ~~place of business; deny an application for a dealer's license or suspend, revoke, or cancel a~~
27 ~~dealer's license after it has been granted for making any material misstatement by an applicant~~
28 ~~in the application for a license; willfully failing to comply with this chapter; willfully violating a law~~
29 ~~relating to the sale, distribution, or financing of trailers; ceasing to have a primary established~~
30 ~~place of business; or for the failure~~ failing to comply with the reasonable rules and regulations of
31 the director as established under chapter 28-32, but no order suspending or revoking a dealer's

license may be made without a hearing at which the licensee must be given an opportunity to be heard. Any dealer violating ~~the provisions~~any provision of this chapter must be assessed a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall suspend the license of a trailer dealer licensed under this chapter if a third or subsequent violation of the chapter occurs within five years of the first violation.

SECTION 6. AMENDMENT. Section 39-22.1-04 of the North Dakota Century Code is amended and reenacted as follows:

39-22.1-04. Penalty~~Examination of books and records.~~

~~Any person who violates the provisions of this chapter is guilty of a class B-
misdemeanor.~~The director or any duly authorized representative may inspect the pertinent
books, letters, records, and contracts of any licensed trailer dealer or any other person relating
to any complaint made against the dealer or person and held to be in violation of this chapter. In
addition, any duly authorized representative of the department may inspect the records of any
licensed dealer to verify that fees collected for the department have been properly remitted.

SECTION 7. Section 39-22.1-05 of the North Dakota Century Code is created and enacted as follows:

39-22.1-05. Powers of the director.

In addition to other powers provided by law, the director may:

1. Cancel, revoke, or suspend a dealer's license as provided for in section 39-22.1-03.
2. Adopt rules not inconsistent with this chapter governing the application for dealer's
licenses and the cancellation or suspension or revocation of dealer's licenses.
3. Employ and pay any person as the director determines necessary to inspect dealers in
this state or investigate dealers for information for the director to procure evidence in
connection with any prosecution or other action to suspend, revoke, or cancel a
dealer's license in relation to any matter in which the director has any duty to perform.

SECTION 8. Section 39-22.1-06 of the North Dakota Century Code is created and enacted as follows:

39-22.1-06. Penalty.

Any person who violates this chapter is guilty of a class B misdemeanor.

1 **SECTION 9. EFFECTIVE DATE.** Except as otherwise provided in this Act, this Act becomes
2 effective on January 1, 2012.

3 **SECTION 10. EMERGENCY.** Section 1 of this Act is declared to be an emergency
4 measure.