

Sixty-second
Legislative Assembly
of North Dakota

ENGROSSED 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; to provide a penalty; to provide an effective date; and to declare an
6 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.

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

3 **39-22.1-01. Trailer dealer's license - Fees - Plates - Definition.**

4 ~~No~~

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

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

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

5 **39-22.1-01.1. Primary established place of business - Penalty.**

- 6 1. A dealer license may not be issued until the applicant furnishes proof satisfactory to
7 the director that the applicant has, does, and will continue to maintain in this state a
8 primary established place of business adjacent to the primary display lot maintained
9 by the dealer. A primary established place of business means a permanent enclosed
10 building of at least two hundred fifty square feet [23.22 square meters] either owned,
11 rented, or leased at which a permanent business of bartering, trading, and selling of
12 trailers will be conducted. The primary established place of business must be located
13 on property zoned or otherwise approved for this purpose by the appropriate zoning
14 authority. The primary established place of business must be adequately heated and
15 lighted so as to be comfortable for customers and employees. All records or copies
16 related to the business, including titles or other documents showing ownership of the
17 trailers, must be kept and maintained at the primary established place of business.
- 18 2. A primary established place of business must have a telephone publicly listed in the
19 name of the dealership, and have a sign identifying the business to the public as a
20 trailer dealership with business hours posted. The sign must be at least thirty-two
21 square feet [2.97 square meters] in size, contain the name of the dealership in letters
22 at least ten inches [25.4 centimeters] high, and be clearly visible from the street.
- 23 3. If the licensee desires to move from the primary established place of business
24 occupied when the license was granted to a new location, the licensee shall notify the
25 director. The licensee must furnish proof satisfactory to the director that the premises
26 to which the licensee proposes to move conform with the requirements of this section.
- 27 4. A licensed dealer may establish secondary trailer display lots in the conduct of the
28 dealer's business if there is a primary established place of business in this state.
29 Secondary lots must be identified as a part of the licensed dealer's operation with a
30 sign displaying the name and telephone number of the licensed dealer. The sign must
31 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. A licensed dealer may not display trailers except on the dealer's primary and secondary lots or equipment shows.

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

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

39-22.1-02. Bond required.

Before the issuance of or the renewal of a trailer dealer's license, as provided by law, the applicant for ~~such~~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 must be in the amount of ten thousand dollars, and be conditioned upon the faithful compliance by ~~said~~the applicant as a dealer, if ~~such~~the license be issued to the applicant, that ~~such~~the dealer will comply with all the laws of ~~the~~this state of North Dakota pertaining to ~~such~~the business, and regulating or being applicable to the business of ~~said~~the dealer as a dealer in trailers, and indemnifying any person dealing or transacting business with ~~such~~the dealer in connection with any trailer from any loss or damage occasioned by the failure of ~~such~~the dealer to comply with the provisions of the laws of ~~the~~this state of North Dakota, including, ~~but not limited to,~~ the furnishing of a proper and valid certificate of title to the vendee of a trailer within fifteen days of the sale of ~~such~~the trailer, and that ~~such~~the bond shall be filed with the director ~~prior to~~before the issuance of the license herein provided for. ~~Provided,~~ ~~however~~However, that the aggregate liability of the surety to all such persons for all such losses or damages may, ~~in no event,~~ not exceed the amount of ~~such~~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 any such proceedings. Any applicant bonded ~~pursuant to the provisions of~~under chapter 39-18 or 39-22 may not be required to furnish the surety bond provided for in this section ~~whenever~~if the bond issued ~~pursuant to~~under chapter 39-18 or 39-22 is written to include the requirements of this section. 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 after that thirty days. The surety remains liable, subject to the terms, conditions, and provisions of the bond, until the effective date of the cancellation.

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

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

~~The director may suspend or revoke any dealer's license for failure of the licensee to comply with any of the laws of the state of North Dakota governing trailer dealers; deny an application for a dealer's license or suspend, revoke, or cancel a dealer's license after it has been granted for making any material misstatement by an applicant in the application for a license; willfully failing to comply with this chapter; willfully violating a law relating to the sale, distribution, or financing of trailers; ceasing to have a primary established place of business; or for the failure~~ failing to comply with the reasonable rules and regulations of 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

1 addition, any duly authorized representative of the department may inspect the records of any
2 licensed dealer to verify that fees collected for the department have been properly remitted.

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

5 **39-22.1-05. Powers of the director.**

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

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

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

16 **39-22.1-06. Penalty.**

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

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

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