

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, 39-22-04, 39-22-05,
2 39-22-14, 39-22-18, 39-22.1-02, 39-22.1-03, 39-22.3-03, and 39-22.3-05 of the North Dakota
3 Century Code, relating to penalties assessed against vehicle dealers, bond requirements for
4 vehicle dealers, renewal of a dealer license, and unlicensed vehicle dealers; and to provide a
5 penalty.

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~~ twenty-five
24 thousand dollars, and be conditioned upon the faithful compliance by said applicant as a dealer,
25 if such license be issued to the dealer, that such dealer will comply with all the laws of the state
26 of North Dakota pertaining to such business, and regulating or being applicable to the business
27 of said 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

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

12 **SECTION 3. AMENDMENT.** Section 39-22-04 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **39-22-04. Grounds for denial, suspension, cancellation, or revocation of dealer's**
15 **license.** The director may deny an application for a dealer's license or suspend, revoke, or
16 cancel such a license after it has been granted for the following reasons:

- 17 1. For any material misstatement by an applicant in the application for the license.
- 18 2. For any willful failure to comply with the provisions of this chapter or with any rule
19 or regulation promulgated by the director.
- 20 3. For knowingly permitting any person to sell or exchange, or offer or attempt to sell
21 or exchange any motor vehicle except for the licensed motor vehicle dealer by
22 whom the person is employed.
- 23 4. For having violated any law relating to the sale, distribution, or financing of motor
24 vehicles.
- 25 5. For having ceased to have an established place of business as herein defined.
- 26 6. For having violated any state or federal law relating to alteration of odometers or
27 vehicle identification number.
- 28 7. For having violated the provisions of section 39-04-17.

29 This section applies to all dealers licensed under the provisions of this title.

30 **SECTION 4. AMENDMENT.** Section 39-22-05 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **39-22-05. Bond required.** Before the issuance of a motor vehicle dealer's license, as
2 provided by law, the applicant for the license shall furnish a continuous surety bond executed
3 by the applicant as principal and executed by a surety company, licensed and qualified to do
4 business within the state of North Dakota, which bond must run to the state of North Dakota, be
5 in the amount of ~~twenty-five~~ fifty thousand dollars and be conditioned upon the faithful
6 compliance by the applicant as a dealer, if the license is issued to the dealer, that such dealer
7 will comply with all of the statutes of the state of North Dakota regulating or being applicable to
8 the business of the dealer as a dealer in motor vehicles, and indemnifying any person dealing
9 or transacting business with the dealer in connection with any motor vehicle from any loss or
10 damage occasioned by the failure of the dealer to comply with any of the provisions of this title,
11 including the furnishing of a proper and valid certificate of title to the motor vehicle involved in
12 any such transaction, and that the bond shall be filed with the director prior to the issuance of
13 license provided by law. The aggregate liability of the surety of all persons, however, may in no
14 event exceed the amount of the bond. Any third party sustaining injury within the terms of the
15 bond may proceed against the principal and surety without making the state a party to the
16 proceedings. The bond may be canceled by the surety, as to future liability, by giving written
17 notice by certified mail, addressed to the principal at the address stated in the bond, and to the
18 department. Thirty days after the mailing of the notice, the bond is null and void as to any
19 liability thereafter arising. The surety remains liable, subject to the terms, conditions, and
20 provisions of the bond, until the effective date of the cancellation.

21 **SECTION 5. AMENDMENT.** Section 39-22-14 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **39-22-14. Motor vehicle dealer license - Fees - Penalty.** It is unlawful for any person
24 to engage in the business of buying, selling, or exchanging of motor vehicles without
25 possessing a current motor vehicle dealer license. A person may not advertise or otherwise
26 hold out to the public as engaging in the buying, selling, or exchanging of motor vehicles for
27 resale without possession of a current new motor vehicle dealer license or used motor vehicle
28 dealer license. The motor vehicle dealer license fee is one hundred dollars per year and with
29 which must be issued one dealer plate. A nonrefundable fee of one hundred dollars must be
30 charged for the initial inspection of an application for a dealer license and must accompany the
31 initial application for a new or used motor vehicle dealer license. The applicant shall provide

1 the business's federal employer identification number or, in the case of an application from an
2 individual, social security number. Any person violating a provision of this section must be
3 assessed a one hundred dollar fee by the department for a first violation and a two hundred
4 dollar fee by the department for a second violation within two years of the first violation. The
5 department must suspend the license of a motor vehicle dealer licensed under this chapter if a
6 third or subsequent violation of this section occurs within five years of the first violation. Any
7 person not licensed as a dealer under this section who has been previously found to be in
8 violation of this section, and assessed the fees specified, is guilty of a class B misdemeanor if a
9 third or subsequent violation occurs.

10 **SECTION 6. AMENDMENT.** Section 39-22-18 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **39-22-18. Renewal of dealer license - Fees - Minimum sales requirement -**

13 **Penalty.** A dealer license issued under this chapter expires on December thirty-first of each
14 year. A licensed dealer may apply for renewal of the dealer's license on forms prescribed by
15 the department and payment of the dealer license and dealer plate fees required by this
16 chapter. The department shall not renew the dealer license of any applicant who has made
17 less than four retail motor vehicle sales during the previous year. The department may adopt
18 administrative rules to limit the number of dealer plates available to an applicant based on the
19 applicant's motor vehicle sales history. Any dealer who fails to submit a renewal application
20 before the expiration of the dealer's current license, in addition to all other fees due, shall pay a
21 one hundred dollar fee at the time the dealer's license is renewed.

22 **SECTION 7. AMENDMENT.** Section 39-22.1-02 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **39-22.1-02. Bond required.** Before the issuance of a trailer dealer's license, as
25 provided by law, the applicant for such license shall furnish a continuous surety bond executed
26 by the applicant as principal and executed by a surety company licensed and qualified to do
27 business within the state of North Dakota, which must be in the amount of ~~ten~~ twenty-five
28 thousand dollars, and be conditioned upon the faithful compliance by said applicant as a dealer,
29 if such license be issued to the applicant, that such dealer will comply with all the laws of the
30 state of North Dakota pertaining to such business, and regulating or being applicable to the
31 business of said dealer as a dealer in trailers, and indemnifying any person dealing or

1 transacting business with such dealer in connection with any trailer from any loss or damage
2 occasioned by the failure of such dealer to comply with the provisions of the laws of the state of
3 North Dakota, including, but not limited to, the furnishing of a proper and valid certificate of title
4 to the vendee of a trailer within fifteen days of the sale of such trailer, and that such bond shall
5 be filed with the director prior to the issuance of the license herein provided for. Provided,
6 however, that the aggregate liability of the surety to all such persons for all such losses or
7 damages may, in no event, exceed the amount of such bond. Any third party sustaining injury
8 within the terms of the bond may proceed against the principal and surety without making the
9 state a party to any such proceedings. Any applicant bonded pursuant to the provisions of
10 chapter 39-18 or 39-22 may not be required to furnish the surety bond provided for in this
11 section whenever the bond issued pursuant to chapter 39-18 or 39-22 is written to include the
12 requirements of this section. The bond may be canceled by the surety, as to future liability, by
13 giving written notice by certified mail, addressed to the principal at the address stated in the
14 bond, and to the department. Thirty days after the mailing of the notice, the bond is null and
15 void as to any liability thereafter arising. The surety remains liable, subject to the terms,
16 conditions, and provisions of the bond, until the effective date of the cancellation.

17 **SECTION 8. AMENDMENT.** Section 39-22.1-03 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **39-22.1-03. Suspension or revocation of dealer's license - Penalty.** The director
20 may suspend or revoke any dealer's license for failure of the licensee to comply with any of the
21 laws of the state of North Dakota governing trailer dealers, or for the failure to comply with the
22 reasonable rules and regulations of the director as established under chapter 28-32, but no
23 order suspending or revoking a dealer's license may be made without a hearing at which the
24 licensee must be given an opportunity to be heard. Any dealer violating the provisions of this
25 chapter must be assessed a one hundred dollar fee by the department for a first violation and a
26 two hundred dollar fee by the department for a second violation within two years of the first
27 violation. The department shall suspend the license of a trailer dealer licensed under this
28 chapter if a third or subsequent violation of the chapter occurs within five years of the first
29 violation.

30 **SECTION 9. AMENDMENT.** Section 39-22.3-03 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **39-22.3-03. Issuance of license - Conditions - Penalty.** No license may be issued
2 until the applicant furnishes proof satisfactory to the director that the applicant has and will
3 continue to maintain an established place of business. An established central place of business
4 means a permanent enclosed building or structure either owned or leased with a stated periodic
5 rental, at which a permanent business of bartering, trading, and selling of motorcycles, the
6 repair, maintenance, and servicing of motorcycles and the storage of parts and accessories
7 therefor, will be carried out in good faith and not for the purpose of evading this section, and
8 where the business books, records, and files shall be maintained, and does not mean a
9 residence, tents, temporary stands, or other temporary quarters, nor permanent quarters
10 occupied pursuant to any temporary arrangement. Said central place of business may consist
11 of several buildings, or structures, but no building or structure may be located beyond one
12 thousand feet [304.8 meters] from any other buildings or structures of said central place of
13 business. Such central place of business must be located within the state of North Dakota.
14 The licensee must be permitted to use unimproved lots and premises for sales, storage, or
15 display of motorcycles. A nonrefundable fee of fifty dollars will be charged for each inspection
16 and must accompany each initial application for a motorcycle dealer's license. Any dealer
17 violating this chapter must be assessed a one hundred dollar fee by the department for a first
18 violation and a two hundred dollar fee by the department for a second violation within two years
19 of the first violation. The department shall suspend the license of a motorcycle dealer licensed
20 under this chapter if a third or subsequent violation of this chapter occurs within five years of the
21 first violation.

22 **SECTION 10. AMENDMENT.** Section 39-22.3-05 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **39-22.3-05. Bond required.** The license applicant shall furnish a continuous surety
25 bond executed by a surety company, licensed and qualified to do business within the state of
26 North Dakota, which bond must run to the state of North Dakota in the amount of ~~ten~~
27 twenty-five thousand dollars and be conditioned upon the faithful compliance by said applicant
28 with all the statutes of the state of North Dakota, regulating or being applicable to a dealer in
29 motorcycles, and indemnifying any person having a motorcycle transaction with said dealer
30 from any loss of damage occasioned by the failure of such dealer to comply with any statutory
31 requirement of such transaction. The bond must be filed with the director prior to the issuance

1 of a license. The aggregate liability of the surety of all persons may in no event exceed the
2 amount of the bond. Any third party sustaining injury within the terms of the bond may proceed
3 against the principal and surety without making the state a party of any such proceedings. The
4 bond may be canceled by the surety, as to future liability, by giving written notice by certified
5 mail, addressed to the principal at the address stated in the bond, and to the department. Thirty
6 days after the mailing of the notice, the bond is null and void as to any liability thereafter arising.
7 The surety remains liable, subject to the terms, conditions, and provisions of the bond, until the
8 effective date of the cancellation.