

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 39-22.1-01, 39-22.1-02, 39-22.1-03, and 39-22.1-04 of the North Dakota
4 Century Code, relating to requirements for the licensing of trailer dealers; and to provide a
5 penalty.

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

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

9 **39-22.1-01. Trailer dealer's license - Fees - Plates - Definition.**

10 ~~No~~

- 11 1. A person, ~~partnership, corporation, or limited liability company~~ may not engage in the
12 business of buying, selling, or exchanging of trailers, or advertise or hold oneself or
13 ~~itself~~ out to the public as being in the business of buying, selling, or exchanging of
14 trailers without first being licensed ~~to do so as hereinafter provided.~~
- 15 2. Application for dealer's license and renewal license must be made to the director on
16 such forms as the director prescribes and furnishes, and the application must be
17 accompanied by an annual fee of thirty dollars for which must be issued one dealer
18 plate. The applicant for an initial trailer dealer license shall submit a nonrefundable fee
19 of one hundred dollars for the initial inspection with the application. A dealer's license
20 expires on December thirty-first of each year, and application for renewal of a dealer's
21 license must be made on or before the expiration of the current dealer's license. Any
22 dealer who fails to submit a renewal application before the expiration of the dealer's
23 current license, in addition to all other fees due, shall pay a one hundred dollar fee at
24 the time the dealer's license is renewed.

- 1 3. A trailer dealer's license may be issued only to those who will maintain a permanent
2 ~~office and an established~~ place of business and will abide by all the provisions of law
3 pertaining to trailer dealers. ~~In addition, the dealer shall maintain that person's~~
4 ~~business records in one central location.~~ All records related to the business, including
5 titles or other documents showing ownership of the trailers, must be kept and
6 maintained at the established place of business.
- 7 4. Upon the payment of a fee of ten dollars for each additional plate, the director shall
8 register and issue dealer's license plates for use on any trailers owned by the licensed
9 dealer, and the trailers bearing the dealer's license plates may be lawfully operated
10 upon the public highways of ~~the state of North Dakota~~ this state by the dealer or the
11 ~~dealer's agents or representatives~~ during the year of the registration, in the direct
12 functions of demonstrating, buying, or selling trailers. A dealer's license plates expire
13 on December thirty-first of each year.
- 14 5. The term "trailer" as used in this chapter ~~does not include~~ includes those trailers
15 exempt from registration in chapter 39-04.

16 **SECTION 2.** Section 39-22.1-01.1 of the North Dakota Century Code is created and
17 enacted as follows:

18 **39-22.1-01.1. Established place of business - Penalty.**

- 19 1. A dealer license may not be issued until the applicant furnishes proof satisfactory to
20 the director that the applicant has, does, and will continue to maintain in this state an
21 established place of business adjacent to the primary display lot maintained by the
22 dealer. An established place of business means a permanent enclosed building of at
23 least two hundred fifty square feet [23.22 square meters] either owned, rented, or
24 leased at which a permanent business of bartering, trading, and selling of trailers will
25 be conducted and does not include a residence, tents, temporary stands, or other
26 temporary quarters. The established place of business and primary display lot must
27 cover at least two thousand five hundred square feet [232.26 square meters] and be
28 located on property zoned or otherwise approved for this purpose by the appropriate
29 zoning authority. The established place of business must be adequately heated and
30 lighted so as to be comfortable for customers and employees, must include restroom
31 facilities that are connected to the local sewer or an approved septic system, and must

- 1 be equipped with standard office equipment necessary for the conduct of the
2 business. All records related to the business, including titles or other documents
3 showing ownership of the trailers, must be kept and maintained at the established
4 place of business.
- 5 2. An established place of business must have a telephone publicly listed in the name of
6 the dealership, be open to the public during normal business hours, with those hours
7 posted, and have a sign identifying the business to the public as a trailer dealership.
8 The sign must be at least thirty-two square feet [2.97 square meters] in size, contain
9 the name of the dealership in letters at least ten inches [25.4 centimeters] high, and be
10 clearly visible from the street.
- 11 3. If the licensee desires to move from the established place of business occupied when
12 the license was granted to a new location, the licensee first shall secure permission
13 from the director. The licensee must furnish proof satisfactory to the director that the
14 premises to which the licensee proposes to move conform with the requirements of
15 this section.
- 16 4. A licensed dealer may establish secondary trailer display lots in the conduct of the
17 dealer's business within five miles [8.05 kilometers] of the dealer's established place of
18 business. Secondary lots must be identified as a part of the licensed dealer's
19 operation with a sign displaying the name and telephone number of the licensed
20 dealer. The sign must be at least thirty-two square feet [2.97 square meters] in size,
21 contain the name of the dealership in letters at least ten inches [25.4 centimeters]
22 high, and be clearly visible from the street. A licensed dealer may not display trailers
23 except on the dealer's primary and secondary lots.
- 24 5. The department may assess a person violating this section a one hundred dollar fee
25 for a first violation or a two hundred dollar fee for a second violation within two years of
26 the first violation. The department may suspend the license of a trailer dealer licensed
27 under this chapter if a third or subsequent violation of this section occurs within five
28 years of the first violation.

29 **SECTION 3. AMENDMENT.** Section 39-22.1-02 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **39-22.1-02. Bond required.**

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

27 **SECTION 4. AMENDMENT.** Section 39-22.1-03 of the North Dakota Century Code is
28 amended and reenacted as follows:

1 **39-22.1-03. Suspension ~~or, denial, revocation, or cancellation~~ of dealer's license -**
2 **Penalty.**

3 The director may suspend ~~or revoke any dealer's license for failure of the licensee to~~
4 ~~comply with any of the laws of the state of North Dakota governing trailer dealers~~deny an
5 application for a dealer's license or suspend, revoke, or cancel a dealer's license after it has
6 been granted for making any material misstatement by an applicant in the application for
7 license; willfully failing to comply with this chapter or with any rule adopted by the director;
8 knowingly permitting any person to sell or exchange, or offer or attempt to sell or exchange, any
9 trailer except for the licensed trailer dealer by whom the person is employed; willfully violating a
10 law relating to the sale, distribution, or financing of trailers; or ceasing to have an established
11 place of business, or for the failure~~failing~~ to comply with the reasonable rules and regulations of
12 the director as established under chapter 28-32, but no order suspending or revoking a dealer's
13 license may be made without a hearing at which the licensee must be given an opportunity to
14 be heard. Any dealer violating the provisions~~any provision~~ of this chapter must be assessed a
15 one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the
16 department for a second violation within two years of the first violation. The department shall
17 suspend the license of a trailer dealer licensed under this chapter if a third or subsequent
18 violation of the chapter occurs within five years of the first violation.

19 **SECTION 5. AMENDMENT.** Section 39-22.1-04 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **39-22.1-04. Penalty**~~Examination of books and records.~~

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

28 **SECTION 6.** Section 39-22.1-05 of the North Dakota Century Code is created and enacted
29 as follows:

30 **39-22.1-05. Powers of the director.**

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

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

8 **SECTION 7.** Section 39-22.1-06 of the North Dakota Century Code is created and enacted
9 as follows:

10 **39-22.1-06. Penalty.**

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