

**2015 SENATE TRANSPORTATION**

**SB 2280**

# 2015 SENATE STANDING COMMITTEE MINUTES

**Transportation Committee**  
Lewis and Clark Room, State Capitol

**SB 2280**

2/5/2015

Recording job number 23303

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature

*Devin E. Perez*

## **Explanation or reason for introduction of bill/resolution:**

To amend and reenact section 39-22-26 of the North Dakota Century Code, relating to motor vehicle brokers; and to provide a penalty.

## **Minutes:**

Attachments: 2

**Senator Carolyn Nelson**, District 21 Cass County, sponsor of this bill, the intent is to allow an ordinary person (not a dealer, dealership or auto manufacturer employee, or owner of the vehicle) to become a motor vehicle broker. In Minnesota it is legal, so it should be in North Dakota.

**Adam Torbert** requested Senator Nelson file this bill. Says it would be advantageous for people like him who like cars but do not work in the cars business. Being an auto broker would allow him to share his knowledge and expertise about cars with people who are less knowledgeable. He would save them time and money by looking for the vehicle that matches their specifications, would advise them if it would be a good deal or not, would negotiate the sale, set up the transfer and delivery of the vehicle, all for a fee, which he would pay taxes on. He would not need to invest in the space required by law for dealership and all the other business expenses.

**Matthew C. Larsgaard**, Automobile Dealers Association of North Dakota, opposes this bill, see attachment #1. This bill would repeal section 39-22-26 which provides key consumer protection provisions such as: broker licensing, bonding requirements, record retention requirements, nonresidential office requirements. Under this bill if the deal is cancelled the broker may keep the down payment for "expenses incurred". This bill creates a threat to consumer protection.

**Linda Sitz**, Director of the Motor Vehicle Division of the North Dakota Department of Transportation (DOT), opposing this bill, see attachment #2, there is concern with consumer protection. DOT compared SB 2280 with Minnesota Century Code as it relates to brokers. The language is consistent but several items were left out, such as Dealer license categories, license applications, place of business, just to mention a few. For this bill to work a lot of work would need to be done.

Being there no additional testimony in favor, opposition or neutral, **Chairman Oehlke** closed the hearing. Action delayed.

# 2015 SENATE STANDING COMMITTEE MINUTES

**Transportation Committee**  
Lewis and Clark Room, State Capitol

**SB 2280**  
2/6/2015  
Recording job number 23370

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature

*David E. Perez*

**Explanation or reason for introduction of bill/resolution:**

To amend and reenact section 39-22-26 of the North Dakota Century Code, relating to motor vehicle brokers; and to provide a penalty.

**Minutes:**

Attachment: 0

**Chairman Oehlke** opened the discussion on SB 2280, all committee members were present.

**Senator Rust:** I am not sure about passing a bill for just one person; there are very few brokers in adjacent states, the possibilities of ripping off customers are many. This bill will need a lot of work, I am not exactly opposed to brokers but this bill is not enough.

**Moved: do not pass**

**Vice Chairman Casper seconded.**

**Senator Sinner** agreed this bill lacks a lot that Minnesota requires.

**Chairman Oehlke** agreed with them

**Roll call vote was taken:**    **Yes**   **6**       **No**   **0**       **Absent**   **0**

**Carrier: Senator Rust**

**2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
SB BILL NO. 2280**

Senate TRANSPORTATION Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Senator Rust Seconded By Vice Chairman Casper

Senators	Yes	No	Senators	Yes	No
Chairman Oehlke	X		Senator Axness	X	
Vice Chairman Casper	X		Senator Sinner	X	
Senator Campbell	X				
Senator Rust	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Rust

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2280: Transportation Committee (Sen. Oehlke, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2280 was placed on the Eleventh order on the calendar.

**2015 TESTIMONY**

**SB 2280**

#1 - 1

Senate Bill 2280  
Testimony before Senate Transportation Committee  
**Matthew C. Larsgaard, MBA**  
**Automobile Dealers Association of North Dakota**  
10:45 a.m., February 5, 2015

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The Automobile Dealers Association of North Dakota opposes Senate Bill 2280.

SB 2280 effectively repeals section 39-22-26 which prohibits the brokering of motor vehicles. This section was originally drafted during the 2001 session **in an effort to “enhance consumer protection”** by ensuring that the non-casual transfer of motor vehicles was conducted by legitimate, accountable businesses. This bill challenges that concept by proposing to allow unlicensed, un-bonded individuals to solicit the sale of motor vehicles.

SB 2280 appears to be a word-for-word copy of the Minnesota motor vehicle brokering law, however, several key consumer protection provisions of that law have been deleted from this bill such as:

1. Broker Licensing Requirements – There is no way to know if the individual knocking on your door is a legitimate broker or someone who is attempting to defraud you.
2. Bonding Requirements – Bonds are intended to protect consumers from financial losses as a result of fraudulent practices or encumbered vehicle titles.
3. Record Retention Requirements – Records should be maintained and open to inspection by the department.
4. Non-residential Office Requirement – Typical industry business protocol requires a commercial office, working and advertised telephone service, records storage, etc.

Other concerns:

- a. Page 2, lines 6-11: allows a broker to demand a vehicle down payment which could equate to thousands of dollars. **If the deal is cancelled, the broker may keep the down payment for “expenses incurred.”**
- b. Page 1, line 16 and Page 3, line 4: greatly weakens enforcement by reducing the penalty for a violation from a class A misdemeanor to an infraction.

The retail automobile industry is one of the most heavily regulated sectors in our economy. This bill significantly weakens those regulations and creates a very real threat to consumer protection.

Matthew C. Larsgaard, MBA  
President/CEO

Automobile Dealers Association of North Dakota

#2-1

**Senate Transportation Committee**  
**February 5, 2015 – 10:45 a.m. – Lewis and Clark**

**North Dakota Department of Transportation**  
**Linda Sitz, Director of Motor Vehicle Division**  
**Senate Bill 2280**

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Mr. Chairman and members of the committee - I'm Linda Sitz, Director of the Motor Vehicle Division at the North Dakota Department of Transportation (DOT). Thank you for giving me the opportunity to present information to you today.

The DOT opposes SB2280. The way the bill is written it does not state that brokering will be limited to North Dakota (ND) new and used motor vehicles dealers. There is a concern about protection to the consumer, especially with out of state dealers selling vehicles within the state of ND. It also may increase the civil issues between dealer, broker, customer and the DOT.

Currently in ND a dealer is required to be licensed and bonded, however as written in this bill it appears the broker would not be required to be bonded? DOT also seeks clarification on the definition of a "bona fide" agent as referred to in this proposed bill?

On page 2 Sections 1c and 2b appear to contradict each other: 1c states: a motor vehicle broker may prepare and deliver documents necessary to the transaction and 2b states: a motor vehicle broker may not execute contracts or official documents for the sale or lease of new motor vehicles.

In its current format, SB2280 does not cover the regulating of Motor Vehicle Brokers. Motor Vehicle researched the Minnesota Century Code (MNCC) as it relates to brokers and found that the language used in SB2280 is consistent with the language used in the MNCC, however, there were several items not included in SB2280 relating to the regulation of brokers that we felt were relevant to this conversation.

**Minnesota Century Code, language relating to Motor Vehicle Brokers:**

**Subd. 1a. Dealer license categories.**

(a) No person shall engage in the business of selling new motor vehicles or shall offer to sell, solicit, deliver, or advertise the sale of new motor vehicles without first acquiring a new motor vehicle dealer license.

- (i) No person shall engage in the business of brokering motor vehicles without first acquiring a motor vehicle broker's license.

#2-2  
SB 2280  
2/05/15

**Subd. 9. Application.**

All license applications under this section and all license renewals must be made to the registrar of motor vehicles and duly verified by oath. The applicant shall submit such information as the registrar may require to administer this section in a manner and format prescribed by the registrar.

**Subd. 10. Place of business.**

(a) All licensees under this section shall have an established place of business which shall include as a minimum:

(6) For a motor vehicle broker, the following: a commercial office space where books, records, and files necessary to conduct business are kept and maintained with personnel available during normal business hours, or an automatic telephone answering service available during normal business hours. A sign, clearly identifying the motor vehicle broker by name and listing the broker's business hours, must be posted in a location and manner readily viewable by a member of the public visiting the office space. The office space must be owned or under lease for a minimum term of one year by the licensee.

Mr. Chairman, I would be happy to answer any questions at this time. Thank you