

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2273

2001 SENATE TRANSPORTATION

SB 2273

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2273

Senate Transportation Committee

☐ Conference Committee

Hearing Date 2-8-012-15-01

Tape Number	Side A	Side B	Meter #
1	x		0-End
2		x	0-13.7
2-15	1	x	5.1-6.6
Committee Clerk Signature <i>[Signature]</i>			

Minutes: SB 2273 relates to the licensing of motor vehicle dealers; vehicle title transfer requirements; to provide a penalty; and to provide an effective date.

**Senator Stenehjem:** (District 30; Supports) This bill is a result of comments made regarding SB 2440 from last legislative session. This bill is also a result of discussions and compromises that have taken place over the last 18 months.

**Keith Kiser:** (Motor Vehicle Division Director; Supports) See attached testimony.

**Senator Bercier:** Regarding Section 6, there's no monetary value stated, why?

**Keith Kiser:** We looked hard and long at that and decided to use a number versus dollar amount.

**Senator Stenehjem:** Do we license dealers by city and not by State? Will there be a reduction in revenue?

**Keith Kiser:** Correct for first question and there will be an increase, not a decrease, in revenue.

**Senator O'Connell:** Regarding Section 12, what's "certain circumstances"?

**Keith Kiser:** The intent is to prohibit manufacturers from competing with dealers.

**Senator Trenbeath:** Explain brokering concept to me.

**Keith Kiser:** Brokering is another tool for curbstoners. There's a fine line between brokering and curbstoners. If you're brokering a car, you would need a license. Many people have a used car dealers license for convenience and it's much cheaper. It allows you to buy and sell cars without paying taxes.

**Casey Stoudt:** ( Ford Dealer in Jamestown; Supports) Motivation for serving on the committee for last 18 months is that there were rules that were difficult to enforce. There are no laws available to enforce these and also a money shortage. We looked hard at what these changes do to the consumer and if this will harm any of the dealerships. It's not the goal to do this. Feels that the current "legal" working dealers will flourish and others who abuse current law will be eliminated.

**Senator Espgaard:** Is the use of demo plates limited to demo cars?

**Casey Stoudt:** No. An example is a collector with lots of classic cars with demo plates can switch plates whenever he wants to drive a different car. So it can be abused.

**Todd Krandel:**( Attorney; Northland Independent Automobile Dealer's Association; Supports) Supports bill.

**Randy Jacobson:** ( President of ND Chapter of the Northland Independent Automobile Dealer's Association; Supports) See attached testimony.

**Senator Mutch:** Would auto body shops who fix up wrecks need a license?

Randy Jacobson: Yes.

**Senator Stenehjem:** I would expect that most of the places you are referring to already hold a used car dealer's license.

**Terry Yoney:** ( Dealer from Finley, Mayville, Fargo; Supports) The main thing he'd like to see pass is the enforcement issue.

**Senator Trenbeath:** Concerned with Section 12, why is that in the best interest of consumers?

**Terry Yoney:** Manufacturers have unfair advantages over dealers. We feel if manufacturers are allowed to come in and compete, dealerships would go under.

**Senator Trenbeath:** Why is that in the best interest of the consumer and where is the constitutionality there?

**Todd Krandel:** I do believe that there are states that have laws like these. I will check into it and get back to you

**Senator Espgaard:** The only part I have concern over is the restriction of manufacturing coming into the state.

**Keith Kiser:** ( Motor Vehicle Division Director) This is a national trend. Manufacturers are going into direct contact with the consumers and leaving the dealers out.

**Gerald Rohrich:** (Used car dealer in Mandan; Supports) Supports bill and points out that Section 7 is good in that it requires insurance coverage.

**Bob Lamp:** ( Automobile Dealer's Association; Supports) States that the problem with manufacturers becoming retailers is that it puts imbalance in system.

**Senator Espgaard:** Does anywhere in this bill address Internet sales of vehicles?

**Bob Lamp:** The only reference to this is in Section 13.

**Donovan Birch:** ( Theel Inc, Bottineau; President of ND Auto Dealers; Supports) Supports bill.

**Senator O'Connell:** Do you personally feel that this is a good bill for everyone?

**Donovan Birch:** Yes, we've looked real hard to find a common playing field for everyone.

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Senate Transportation Committee

Bill/Resolution Number SB 2273

Hearing Date 2-8-01 ~~2-15-01~~

Hearing closed on SB 2273.

Committee reconvened on 2-15-01

Senator Trenbeath moves to Do Pass. Senator O'Connell seconded. Roll call taken. 4-1-1. Floor  
carrier is Senator O'Connell.

Committee closed.

## FISCAL NOTE

Requested by Legislative Council

01/22/2001

Bill/Resolution No.: SB 2273

Amendment to:

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$72,000		\$150,000
Expenditures				\$10,000		\$20,000
Appropriations				\$10,000		\$10,000

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill is a re-write of the licensing laws that relate to new and used motor vehicle dealers. The bill provides for an increase of the annual fees that are paid for a dealer license and dealer plates.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Based on past history, it is estimated this bill will generate approximately \$72,000 in increased collections in the 2001-2003 biennium and \$150,000 in the 2003-2005 biennium as a result of the increase dealer license and dealer plate fees.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

It is estimated that the additional expenses to enforce the provisions of this bill will be \$10,000 during the 2001-2003 biennium and \$20,000 during the 2003-2005 biennium.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

We will need a budget enhancement to cover the anticipated increased cost of enforcing the provision of this bill.

<b>Name:</b>	Keith Kiser	<b>Agency:</b>	NDDOT
<b>Phone Number:</b>	328-2725	<b>Date Prepared:</b>	01/23/2001



Date:

**Roll Call Vote #:**

2273

## Committee

or



Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By 1 Seconded 1

## Seconded

By

1  
2  
4  
3

Total	(Yes)	9	No	7
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No

Absent	
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Floor Assignment 011 Convent

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

**REPORT OF STANDING COMMITTEE (410)**  
**February 16, 2001 7:57 a.m.**

**Module No: SR-29-3597**  
**Carrier: O'Connell**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2273: Transportation Committee (Sen. Stenehjem, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2273 was rereferred to the Appropriations Committee.**

2001 HOUSE TRANSPORTATION

SB 2273

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2273

House Transportation Committee

☐ Conference Committee

Hearing Date March 9, 2001

Tape Number	Side A	Side B	Meter #
1	x		130
		x	0
Committee Clerk Signature <i>Lauren B. Fink</i>			

Minutes: Rep. Weisz - Chairman opened the hearing on SB 2273; A BILL for an Act to create and enact thirteen new sections to chapter 39-22 of the North Dakota Century Code; relating to the licensing of motor vehicle dealers; to amend and reenact sections 39-05-17, 39-22-04, 39-22-05.1, 39-22-06, and 39-22-11 of the North Dakota Century Code, relating to vehicle title transfer requirements and motor vehicle dealer licensing; to repeal sections 39-22-02, 39-22-07, and 39-22-08 of the North Dakota Century Code, relating to motor vehicle dealer licensing; to provide a penalty; and to provide an effective date.

Rep. Mahoney: ( 130 ) For the record I am Rep. John Mahoney from Center, North Dakota, District 33. We considered last session and I believe the session before, too-- of doing something about the "fly-by-night" people selling cars. People who have held licenses but weren't really in the business -- they were just kind of abusing their licenses -- not fairly representing the dealership of North Dakota -- What this bill -- is something we put together to require that if somebody is going to have a license a motor vehicle sales dealer -- they are going to have an

establishment that is for the sales of vehicles. They are going to have sell so many cars -- they are going to have to have a lot that is so big -- they are going to have to have a garage that is so big -- that in a nutshell is what this bill is all about.

Rep. Weisz - Chairman ( 247 ) Is that going to effect some of the very small dealers in our rural areas?

Rep. Mahoney to tell you the truth I was concerned about that last session and still have some concerns about that but as we look at this -- I would be amenable to some amendments so that we make sure that we are not hurting those people.

Rep. Carlson: ( 303 ) Is this modeled after some other state?

Rep. Mahoney: I can tell you for sure -- but to my knowledge it is not.

Rep. Ruby: ( 347 ) If somebody sells cars now -- do they have to sell a minimum number of cars and do they have to have a structure to have a license -- ?

Rep. Mahoney: Currently I don't believe there is any minimum number that they have to sell but if you don't have a license you don't get the benefits of being a dealer unless you have a dealer's license.

Rep. Thoreson: ( 430 ) Do grocery stores have to have a sign up of a certain size as you are expecting in this bill?

Rep. Mahoney: To my knowledge they don't. I know that as a law office we don't because we haven't put up a sign in 2 years.

Rep. Schmidt: ( 485 ) Why do we need this bill?

Rep. Mahoney: I think that some of the dealers and others to testify will be getting into that in a little more detail.

Keith Kiser: I am Director of the Motor Vehicle Division of the DOT. I do have my testimony in written form. A copy of that testimony is attached. His testimony has a section which details the requirements of each section of the bill.

Rep. Weisz - Chairman ( 1039) From the DOT's perspective, how do these conditions -- how do these conditions -- how does this help the state?

Keith Kiser: This is joint effort between the DOT and the automobile industry. In fact when we held our meetings we felt that the DOT would be an observer and a participant also -- what we talked to the committee was those things that are difficult for us now under the current law. What is of concern to us right now is -- What constitutes a service facility - one stall or a completely out fitted garage. There is in the current statute that there is sign up -- but no size requirement -- so how do you enforce things like that. We have a lot of people who have dealers license who are not in the automobile sales business. It is convenient to get a dealers license. If I live on a farm or have a gas station -- we have several electric co-ops who are dealer licensed. This what Rep. Mahoney talked about --is license abuses because they buy or use a lot of cars but don't pay the taxes under a dealers license.

Rep. Mahoney: ( 1270 ) How does this bill in its form now compare with other states?

Keith Kiser: When the committee was first formed, we started to look at other states but there is such a wide variety of other state approaches as to how to regulate the automobile industry that we decided we start off with the core of what we had and see what we liked about, what we had and what we didn't like and what it was we wanted to add. We did pick and chose some requirements out of other jurisdictions. But this is not patterned in any way after any other state's law.

Rep. Hawken: (1323 ) If the first section, it changes from an infraction to a misdemeanor -- isn't that a real stretch?

Keith Kiser: I guess it is a matter of perception. There is a wide range of problems that occur with the public -- if a dealer doesn't deliver the title to a buyer that is a real problem for the public to deal with -- it doesn't happen so much within the automobile industry but in some of these outside dealers who may not stay in business.

Rep. Grumbo: ( 1447 ) The section that deals with manufacturers -- in putting it in you must have had something in mind -- is there something going on in the state -- or will be going on that might be --

Keith Kiser: At the moment I don't think there is anything -- my understanding of this there is a move going on nationwide that automobile dealers are trying to protect themselves from factory stores.

Rep. Grumbo: ( 1573 ) How about internet sales?

Keith Kiser: We have dealt with this for a long time but we couldn't come up with a satisfactory solution so that isn't addressed in here.

Rep. Thoreson: (1607) Are there some people sort of on the border line in their sale/operation who don't necessarily agree with this concept?

Keith Kiser: Our approach was because the new car dealers are already regulated. We therefore directed went to the independent car dealers for their input. We brought into this group the presidents of two of these organizations and made them part of the committee to help develop this proposed legislation. So we did and do have people on the committee who represent small dealerships. Beyond that we had a person from Bismarck who owned a body shop.

Rep. Thoreson: ( 1747 ) So that body man would have to sell 6 cars a year?

Keith Kiser: That is correct.

Rep. Pollert - Vice Chairman: ( 1762 ) I think there are probably quite a few 'tool monkeys' out there who do this as a sideline so now we are going to mandate that they must have sign, a telephone number--- so my view is that if they have license and want to sell cars -- why are going to mandate all this?

Keith Kiser: From my perspective to require a license at all is to protect the consumer -- over the last years we have provided some regulation of the industry -- it is pretty much a consumer issue as they deal with people in these transactions.

Rep. Kelsch: ( 1944 ) If you were to take away the requirement for a service facility you get even more specific and you say their display lot has asphalt or concrete or gravel. It just seems to me that you are simply trying to get at the hobby dealers. You say that you are putting on a few minor requirements. These aren't a few minor -- they are major and they can be fined.

Keith Kiser: I don't know if it is a small problem or not -- again I think what the committee looked at was to set some reasonable criteria so that when a customer stepped on the lot to buy a car -- it is sad to say that I have been several used car lots that were mud holes in the grass. I don't no that that is a good consumer protection issue so that is some sort of consumer protection so that they can --- the beauty is in the eyes of the beholder -- it doesn't seem to me or to the committee that this is unreasonable requirement to have a dealers license to do business in the state of North Dakota.

Rep. Kelsch: ( 2085 ) What you and I think are reasonable, we see differently.



Rep. Ruby: ( 2105 ) My opinion is that the market will dictate that -- if people don't want in a mud hole they won't buy there. In section 9 you have -- a section on consignments between dealers? In current law, if somebody wanted to sell cars did they have to have a dealers license -does this law require that?

Keith Kiser: Under current law there are no requirements for what are called "sell-your-own" lots. That is if you want to display you car in a high visibility area -- there is no provision in current law -- there is a provision in section 10 of the bill. It does have a requirement to have insurance coverage, and keep some records regarding who consigns vehicles, and the person displaying the vehicle that the person selling the vehicle has a valid title.

Rep. Mahoney: ( 2232 ) How many dealer licenses are out there right now and about what percentage of them would you say are legitimate dealers?

Keith Kiser: Currently there are about 135 new car dealers; 675 licensed used car dealers; and, if I were to guess and it is only a guess I would say that about 75 - 5 make their living at it and 25% have license because is cheap and you get tax advantages.

Rep. Carlson: ( 2307 ) There seems to be a new name on the used car lot about every other week and I think that is part of the reason that this bill is here because if you buy the car today -- you may or you may not find the guy who sold it to you tomorrow. Some turn over information would be good for this committee. I am beginning to see that the consumer may need some protection in this area. We are arguing over the gravel parking lots and the size of the signs- may those things are going too far-- but on the other hand -- it any body can sell you a car who knows what you are going to get -- so if you had some statistics to back -- give us the turn over in the licenses specifically in the used car business.

Keith Kiser: I don't know that we keep track of the turn over. We know that we have turn over as we a growing number of used car dealer licenses and a shrinking number of new car dealer licenses. Part of the current law is that we do inspections before we license a new used car dealer or a new car dealer and we seem to be weekly targeted to do an inspection somewhere. I simply don't know how to give you valid statistics as to how many go out of business and show up somewhere else.

Rep. Carlson: ( 2533 ) I guess I agree with some of the committee members that you can question whether a lot should be graveled or whether it should be paved or whether the sign should be a certain size -- I am not sure that we need to get that deep into it -- but I am assuming that the intent of this bill was to make sure that those who are selling vehicles are legitimate operating businesses paying their all their license fees and that the consumer somehow has some protection there. So that is why I question Rep. Mahoney ( at the beginning ) -- it is an awfully big bill for those requirements to be met. I don't think most of us disagree with that just wonder about the length and the amount of detail and some of the little things.

Keith Kiser: I agree the bill has gotten long but from the perspective of the regulator we believe that we need that detail otherwise things are left to interpretation and interpreted differently.

Rep. Weisz - Chairman ( 2648 ) Can you explain to me how the Department is improving consumer safety -- what is the consumer supposed to be getting out the dealer

Keith Kiser: Are you talking the current laws or this bill?

Rep. Weisz - Chairman ( 2674 ) The current laws or the proposed? You are issuing the licenses what is protecting the consumer?

Keith Kiser: Under the current law and I know what it is under this law -- first of all the deal

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**NEXT FIGURE**

is bonded. So people who suffer financial losses are covered. The new bill before would be providing some additional one by mandating liability insurance, mandating there would be some environmental things, -- so there are things as you read through here that -- reasonable signing requirement, -- the fact that you have a lot where reasonably expect the consumer can walk on without breaking his leg -- I think those are consumer protection measures.

Rep. Waist - Chairman you are implying the dealer is more honest so that the vehicle a person buys is more reliable?

Keith Kiser: I didn't speak to the issue of honesty but the more of an investment a dealer has in his place of business you are more likely to be more responsive to your customers and more likely to be there in the long haul.

Rep. Dosch: (2812 ) You talked of the advantages of having a dealers license? Can you enlighten me?

Keith Kiser: As a dealer you are entitled to a tax exemption on vehicles you had for resale - it is not collected until you sell the vehicle -- there is some usage of those vehicles -- you are able to go to an auto auction and buy them at a discounted price -- you are allowed not to register them as long as you buy dealer plates which you can rotate-- those are some of the advantages as I see it.

Rep. Pollert - Vice Chairman ( 2902 ) I guess before I would question before I vote to pass this I would need to know how many complaints -- when I look at the committee make up ( the committee that put the bill together) it looks like its big city and not small city involved there or rural areas and so I would like to know how many complaints have we had against these 'tool

monkeys'? And complaints versus the complaints against the bigger dealers? This is only my second session but this is the most fines and the most fees I have ever seen in a bill.

Keith Kiser: We don't get complaints against the "tool-monkeys" because we don't regulate them. So people will not normally come to us with complaints. We do get complaints against dealers both used and new. We spoke with the States Attorneys Association and one of the problems under the current law is prosecuting them because the current law is not very specific.

Rep. Carlson: ( 3134 ) Just for my benefit would you give me the basic cost -- if I want to be a car dealer tomorrow -- just list to me the basic requirements - skip the fines and that stuff --

Keith Kiser: Under the provisions of this bill -- it would cost you \$100 to have a dealers license, that's for one year -- that would include one dealer plate -- additional dealer plates under this bill would be \$25 -- if you want to use the smaller plate the dealer have for specific purposes those plates would be \$5 each -- You would be required to have a bond which I think generally cost \$100 to \$200 a year -- you would have to have some liability insurance and for up to \$300,000 minimum liability -- you would have to put up some signs and beyond that then it depends on the type of facility that you would start with -- if you have to build a building or pave a parking lot but the cost the state would charge you would be the \$100 license fee and the dealer plate costs -- we would charge you a one time inspection fee of \$100 and that is the cost to you from the state of North Dakota.

Rep. Carlson: ( 3320 ) I just wanted to put this in perspective if I was one of those guys who wanted to sell only six cars a year it would cost me -- so for basically less than a \$1000 a year I could be in the used car business. So we aren't making it so restrictive that a guy in the small town can't get or somebody can't get into the business- are we?

Keith Kiser: I don't believe there is any thing in this proposed bill that would prevent some one who truly wanted to be in a legitimate business, he can do so.

Rep. Carlson: ( 3398 ) I my concern is that we don't make this a small town/big town bill.

Rep. Ruby: ( 3448 ) Getting back to the question of the consumer having some kind of protection -- if there is a license and I can understand that with a licensed dealer -- I have no interest in consignment abut I want to get back to this -- when those are set up those are purchases between one private party to another private party. The consignment lots just provide the place to be able to see them and yet here you have to have a sign to do that -- in Minot there are business who also provide space -- so they would have to have sign, license and all that stuff? I see that as unnecessary when all that business is doing is providing space.

Keith Kiser: I think one of the reason we addressed that issue, is display your own lot we addressed the insurance issue in there when you have people coming onto to your property you should have some protection -- the fact is that sell-your-own lots -- are great place for those people who in the business don't pay their taxes and they buy cars and sell it to you but don't pay the taxes they should -- a lot of those people -- we don't think there is anything wrong with people selling their cars that way but we think they should own the cars before they sell it and pay the fees.

Rep. Ruby: ( 3725 ) I was just getting to the insurance's -- I do think that if you are going to have strangers walking on your property it would be stupid not to have insurance already. The other part there is how do you know that they really don't own the lot and don't own the vehicle how is this going to help ?

Keith Kiser: This isn't going to cover that and that is the complaints that we get -- we get complaints from mall owners who have parking lots and people come in and park their cars for the high visibility.

Rep. Schmidt: ( 3838 ) Soon we won't have a dealer left in the small towns.

Rep. Thoreson: ( 3957 ) In other areas of retail do we set goals for them to meet in sales like the 6 cars a year, etc.?

Casey Stoudt: I am a third generation family business man. I support this law as enforceable an attempt. I serve on the committee which tried to create a good and worthwhile law that would work in North Dakota. We tried to help the small town dealer. An example is that in the present law there is a requirement that they have a full service facility. We removed that and that makes it I think easier for the small dealer. There are other ways we have helped them too. WE want to keep these small businesses survive in the small towns because they do come in and buy new cars from us if they are out there. They also form a market for the used cars. We are raising the fees on ourselves -- we haven't put the burden of enforcement of this new legislation on the small dealers. In fact I think this will help the small dealers in that if they are licensed and the -- what we call "curb stoners" sellers it will help those who are licensed by eliminating the "curb stoner". Also by eliminating those who try to slip by without paying license fees, taxes, etc.

Rep. Thoreson: ( 5405 ) When you take a car on trade-in, do you pay tax on that?

Casey Stoudt: As a dealer I do not. That is one of the things my license allows me not to do. But if the 'shade-tree-mechanic' would be honest, he would owe and pay the tax.

Rep. Thoreson: ( 5509 ) You listed some small town representatives on your committee. I have been to some of those small towns and they are anything but small dealers. They are quite big dealerships.

Rep. Pollert - Vice Chairman: ( 5624 ) I have been to Jamestown, are those used car dealers I just mentioned required to have liability insurance? I am sure they do property wise so is that how they fall under the liability coverage requirement of this bill?

Casey Stoudt: No they are not required to have the coverage. They are required to have the bond.

Rep. Pollert - Vice Chairman: ( 5747 ) They probably have the liability insurance anyway because they have people walking around anyway -- are these used dealers( the ones I mentioned) are they getting any advantage to compete with you presently?

Casey Stoudt: They are solid competitors of mine and they often sell more used cars than I do but no.

SIDE TWO - TAPE ONE ( 6220 )

Rep. Ruby: ( 12 ) Open titles was mentioned earlier -- with an open title they don't pay the sales tax -- they could still do that couldn't they by putting their car on a lot - - under the provisions of this bill? Would you object to requiring the only way to get a title is through a licensed dealer?

Casey Stoudt: That is one of the issues here. Frankly I don't want even the dealer to get an open title. When I buy a car at auction they close that title. We would like there to never be an open title.

Rep. Ruby: ( 111 ) So you pay taxes on each car you but that way?



Casey Stoudt: No -- because I have a license -- I am not paying tax on that but the title is transferred each time I receive a car from Tri-State Auction or others. Each step is recorded in these transactions.

Rep. Ruby: ( 191 ) That fine and I understand that but what I am getting at is where a dealer is just providing space.

Casey Stoudt: Our concern is not to close the 'shade - tree' mechanic or the 'curb-stoners', it is to get the title skippers which is a protection for the consumers.

Rep. Thorpe: ( 387 ) Say a restorer paid \$10,000 for a shell and \$75,000 rebuilding it, - - I don't see where he skipped a lot of tax.

Casey Stoudt: I think you are very accurate. I point out that he didn't pay the first \$500.

Todd Kranda: I am an attorney with the Kelsch Law firm. I appear on behalf of Northland Independent Automobile Dealers Association. Mr. Randy Jacobson was unable to appear before you today. I present his written testimony for your consideration. A copy is attached.

Bob Lamp: I represent the Automobile Dealers Association of North Dakota. I was part of this committee that did work on this bill. I think that when you look at this bill you have to look at it in terms of public policy. You look at it in terms of a regulated industry and this one is one of the most highly regulated except that part which you are trying to get at with this bill.

OPPOSITION TESTIMONY ---

Rick Marquardt: I am a hobby dealer from Napoleon, ND. I am an RM dealer. While does increase some fee, it is the overhead that I am opposed to -- whether you sell one car or 100 -- your garage liability is going to cost you \$1500 -- \$2000 a year. That's a quote from my agent. I

have traveled to the southeast part of the state and a lot of small town dealers have frankly told me this bill will put them out of business.

Rep. Welsz - Chairman ( 1088 ) Would the restrictions of 6 sales a year -- would that effect you?

Rick Marquardt: No displaying signage isn't a big issue -- 6 you can sell.

Rep. Hawken: ( 1173 ) Do you pay taxes on these cars?

Rick Marquardt: No I don't. I do have a dealers license.

Rep. Welsz - Chairman ( 1198 ) Your vehicles, on the lot -- when you have vehicle out for resale do you drive them?

Rick Marquardt: Anything I own is for resale -- but I guess the only way you can get around the issue of the open title is to put a time limit on it.

Rep. Thoreson: ( 1245 ) You say it will put a lot of people out of business -- is that because they don't have the facilities -- or why would they go out of business?

Rick Marquardt: A lot of them are quite small -- these small town dealers are struggling already it is putting bread and butter on the table but -- if they have a small town body shop a sale here and there they depend on -- and the people there are not buying the \$15 - \$20 000 cars -- they are buying the \$3,4,-5,000 cars and trying to make a buck.

Leah Coghlan: I am an attorney with the Pearce and Durick Law firm here in Bismarck. I am testifying in behalf of General Motors. A copy of my prepared remarks are available for each of you. A copy is attached. We have included some recommended amendments.

Rep. Mahoney: ( 1812 ) On that internet concern, is the that about selling -- is that what you are getting at here?

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House Transportation Committee

Bill/Resolution Number SB 2273

Hearing Date March 9, 2001

Leah Coghlan: Yes -- In internet selling under this bill might be interpreted as direct manufacturers selling when they advertise on the Internet.

Rep. Welsz - Chairman ( 1945 ) if there is no one else wishing to testify either for or against SB 2273 we will close the hearing for any further testimony.

## 2001 HOUSE STANDING COMMITTEE MINUTES

### BILL/RESOLUTION NO. SB 2273 B

House Transportation Committee

☐ Conference Committee

Hearing Date March 15, 2001

Tape Number	Side A	Side B	Meter #
3	x		3,245
Committee Clerk Signature <i>Lauren B. Smith</i>			

Minutes: Rep. Weisz - Chairman opened the discussion for action SB 2273.

Rep. Weisz - Chairman we again have some amendments to consider. He discussed and explained the intended purpose of the amendments -- step by step beginning with page 5 - line 21 through page 10, line 21. A copy of these proposed amendments are attached.

Rep. Mahoney: ( 3618 ) I move approval of the amendments.

Rep. Ruby: Seconded for discussion.

On a roll call vote ( 5825 ) the amendments were approved: 9 yeas 4 nays 1 absent.

Rep. Mahoney: ( 5989 ) I move a 'Do Pass as Amended' for SB 2273.

Rep. Grumbo: I second that motion.

Discussion followed to SIDE B OF TAPE 3 ( 134 )

On a roll call vote the motion carried. 11 yeas 2 nays 1 absent.

Rep. Weisz carried SB 2273 on the floor.

VR  
3/16/01

HOUSE AMENDMENTS TO SB 2273 HTRN 3-19-01

Page 5, line 21, replace "six" with "four"

Page 5, line 28, remove "which policy must be a minimum of three hundred thousand dollars of"

Page 5, line 29, remove "coverage"

Page 10, line 20, remove "The dealer's primary and"

Page 10, line 21, remove "secondary display lots must be surfaced with asphalt, concrete, or gravel."

Renumber accordingly

Date: 3/15  
Roll Call Vote #:

**2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB 2273**

House Transportation Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended

Motion Made By Rep Ma Seconded By Rep Grun

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	✓		Howard Grumbo	✓	
Chet Pollert - Vice Chairman	✓		John Mahoney	✓	
Al Carlson		✓	Arlo E. Schmidt	✓	
Mark A. Dosch		✓	Elwood Thorpe	✓	
Kathy Hawker	✓				
Roxanne Jensen	✓				
RaeAnn G. Kelsch	✓				
Clara Sue Price	✓				
Dan Ruby	✓				
Laurel Thoreson	A				

Total (Yes) 11 No 2

Absent 1

Floor Assignment Rep Weisz

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

REPORT OF STANDING COMMITTEE

SB 2273: Transportation Committee (Rep. Weisz, Chairman) recommends  
**AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS**  
(11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2273 was placed on the Sixth  
order on the calendar.

Page 5, line 21, replace "~~six~~" with "four"

Page 5, line 28, remove ", which policy must be a minimum of three hundred thousand dollars  
of"

Page 5, line 29, remove "coverage"

Page 10, line 20, remove "The dealer's primary and"

Page 10, line 21, remove "secondary display lots must be surfaced with asphalt, concrete, or  
gravel."

Renumber accordingly

2001 TESTIMONY

SB 2273



**SENATE TRANSPORTATION COMMITTEE  
FEBRUARY 8, 2001**

**North Dakota Department of Transportation  
Keith Kiser, Motor Vehicle Division Director**

**SB 2273**

---

The North Dakota Department of Transportation supports SB 2273, which makes significant changes to motor vehicle dealer licensing laws.

This bill is the direct result of comments we made regarding Senate Bill 2440, which was introduced late in the 1999 legislative session. That bill, as you may recall, required used vehicle dealers to have at least \$50,000 in taxable sales in the preceding year in order to renew their dealer license for the following year. Although the bill ultimately failed, both the Department of Transportation and the Automobile Dealers Association of North Dakota testified that we had previously begun conversations regarding a complete rewrite of the dealer licensing laws. We testified that it was our intent to work with the used car dealer organization to develop a comprehensive rewrite of the dealer licensing statutes that were written in 1963.

A volunteer committee representing both the new and used vehicle industry, as well as members of the NDDOT Motor Vehicle Division staff and I, have been meeting regularly for the past 18 months.. This bill is the result of the discussions and compromises that took place during those meetings.

The changes proposed in the bill draft are, first, intended to enhance consumer protection by assuring they are doing business with legitimate dealers. Requirements such as signing, adequate display lots, and liability insurance should help consumers identify motor vehicle dealers and provide additional protections if they are hurt or their property is damaged at the dealership..

It is also my belief this bill addresses major concerns of both the industry and the Motor Vehicle Division. It provides many measurable criteria that will help dealers better understand what they must do to acquire and maintain a dealer license. Those same measurable criteria will be used by the division to better determine whether or not dealers continue to remain in compliance with the dealer licensing requirements.

Before finalizing this bill for presentation, the volunteer committee held a series of meetings around the state this past October. Invitations were sent to all new and used vehicle dealers, encouraging them to review the proposals outlined in a draft bill and attend one of the meetings to offer comments. Meetings were held in Fargo, Grand Forks, Jamestown, Devils Lake, Minot, Bismarck, Williston, and Dickinson. Although attendance at the meetings was somewhat sparse, all comments were considered before the committee finalized it plans for this bill.

This bill makes significant changes to several aspects of the current requirements to acquire and maintain a license to engage in the business of buying and selling new and used motor vehicles. The more significant of the proposed changes include:

**ELIMINATION OF SERVICE FACILITY REQUIREMENT.** The committee believes that there are no longer valid reasons for requiring used vehicle dealers to have a service facility. New vehicle dealers are already required to maintain approved service facilities by the manufacturers they represent, and used vehicle dealers currently do very little service for the vehicles they sell.

**PENALTY PROVISIONS.** Many of the sections of the proposed legislation give the Motor Vehicle Division authority to directly levy fees against dealers and others who violate the provisions of the dealer licensing requirements. These fees, in most cases, are \$100 for a first violation and \$200 for a second violation within two years. Third and subsequent violations within five years of the first violation would result in suspension of the dealer license.

**DEALER LICENSE FEES (Section 2).** Annual dealer license fees are increased from \$50 to \$100.

**INSPECTION FEE (Section 2).** The inspection fee charged to first-time applicants is increased from \$50 to \$100.

**ESTABLISHMENT OF MEASURABLE CRITERIA (Sections 3 and 17).** Requirements for acquiring and maintaining a vehicle dealer license have been made more specific, which will allow for a clearer understanding by applicants.

**DEALER LICENSE PLATE FEES (Section 5).** The fee for dealer license plates is increased: from \$15 to \$25 for large size dealer plates, and from \$3 to \$5 for small size dealer plates.

**MINIMUM SALES REQUIREMENT (Section 6).** This section requires dealers to have had at least six retail sales during the past year in order to renew their dealer license for the following year.

**LIABILITY INSURANCE REQUIREMENTS (Section 7).** Requires applicants to provide proof of a minimum of \$300,000 of insurance coverage as a condition for issuance of a dealer license.

**DEDICATED FEE USAGE (Section 16).** Requires that fees collected from the registration of dealers be used exclusively for enforcement of the dealer licensing statutes.

Mr. Chairman, this concludes my comments in support of SB 2273. However, attached to my prepared testimony is a list of volunteer committee members, a detailed description of the intent of each section of the bill, a copy of the current statutes that would be repealed, and a copy of the current statutes that would not be changed. I hope this information is helpful to your committee as you review this bill.

## COMMITTEE MEMBERS

### DEALER LICENSING REVIEW COMMITTEE

Pete Boesen	Russ Honda West	Fargo
Fred Denis	Fred's Auto Sales	Fargo
Jim Hopfauf	Metro Collision Center	Bismarck
Randy Jacobson	Randy's Auto Sales, Inc.	West Fargo
Bob Lamp	ADAND	Fargo
Casey Stoudt	R.M. Stoudt, Inc.	Jamestown
Terry Yoney	Finley Motors, Inc.	Finley
Kent Zabel	Tri State Auction Co., Inc.	West Fargo
Donovan Bertsch	Theel, Inc.	Bottineau
Ted Moser	Capital Faxnet, Inc.	Fargo
Jeffrey Lau	Lau Motors, Inc.	Verona
Keith Kiser	Department of Transportation	Bismarck
Lyle Paulson	Department of Transportation	Bismarck
Jerry Auch	Department of Transportation	Bismarck

*The following is an explanation of the intent of each section of the proposed legislation.*

**SECTION 1.** Amends section 39-05-17 (NDCC) to specifically require vehicle owners, when transferring the ownership of a vehicle, to include the name of the purchaser and the selling price as part of the assignment of ownership. It also changes the penalty for violating the provisions of the section from an infraction to a Class B Misdemeanor.

**SECTION 2.** Establishes when a person must obtain a dealer license, the annual dealer license fee, and the one-time dealer inspection fee. Annual dealer license fees are increased from \$50 to \$100.

**SECTION 3.** Establishes minimum criteria for a dealer's place of business. Requirements include size of building, overall size of building and display lot, telephone, and business signs.

**SECTION 4.** Requires dealers who sell new vehicles to have a franchise agreement with the manufacturer.

**SECTION 5.** Establishes the fees for and appropriate use for the three types of dealer license plates that are available. The fees for dealer plates have been increased from \$15 to \$25 for large (multi-use) dealer plates and from \$3 to \$5 for small (restricted use) dealer plates.

**SECTION 6.** Requires dealers to sell at least six vehicles each year in order to renew their license for the following year.

**SECTION 7.** Requires dealers to maintain proof of continuous liability insurance coverage. This section also allows the Motor Vehicle Division to immediately close any dealership that does not maintain the required insurance coverage.

**SECTION 8 -** Allows out of state dealers, after obtaining a \$100 permit, to participate in bona fide North Dakota automobile shows and sales promotions. Also allows North Dakota dealers to participate in automobile shows and sales promotions in cities where they are not licensed by obtaining a \$25 permit.

**SECTION 9 -** Provides for the sale of consigned vehicles by licensed dealers and the use of an approved consignment form.

**SECTION 10 -** Provides for the regulation of "sell-your-own" display lots by requiring the operator to obtain an annual \$50 permit from the Motor Vehicle Division. Also provides for minimum insurance requirements and business signs.

**SECTION 11.** Requires wholesale and retail auto auction businesses to be licensed as motor vehicle dealers and keep at least two years of records relating to vehicles sold through the auction.

**SECTION 12.** Prohibits motor vehicle manufacturers from owning, operating, or controlling a motor vehicle dealership in North Dakota except under certain circumstances, and provides for a penalty.

**SECTION 13.** Prohibits motor vehicle manufacturers from selling motor vehicles to consumers except through a licensed dealer, and provides for a penalty.

**SECTION 14.** Prohibits persons from acting as a motor vehicle broker unless licensed as a motor vehicle dealer, and provides a penalty.

**SECTION 15.** Amends section 39-22-04 (NDCC) to update the statute on grounds for suspension, cancellation, or revocation of a dealer license. Also adds alteration of a vehicle identification number as grounds for suspension, cancellation, or revocation.

**SECTION 16.** Amends section 39-22-05.1 (NDCC) to provide that all dealer licensing fees be used exclusively for enforcement of the dealer license statutes.

**SECTION 17.** Amends section 39-22-06 (NDCC) to provide for additional requirements for display lots used by motor vehicle dealers, including a requirement that all display lots be surfaced with asphalt, concrete, or gravel.

**SECTION 18.** Amends section 39-22-11 (NDCC) to allow inspection of pertinent records of any person or dealership if a complaint has been filed against them alleging a violation of Title 39.

**SECTION 19.** Repeals three sections of the current dealer licensing statute.

**SECTION 20 .** vides for an effective date to coincide with the renewal of dealer licenses for 2002.

## REPEALED STATUTES

**39-22-02. Motor vehicle dealer's license - Fees - Additional number plates.** It is unlawful for any person, partnership, corporation, or limited liability company to engage in the business of buying, selling, or exchanging of motor vehicles without possessing a current motor vehicle dealer's license. No person, partnership, corporation, or limited liability company may advertise or hold out to the public as engaging in the buying, selling, or exchanging of motor vehicles for resale without possession of a current new motor vehicle dealer's license, or used motor vehicle dealer's license. The motor vehicle dealer's license fee is fifty dollars per year and with which must be issued one dealer plate. Additional dealer's number plates must be issued to the dealer upon payment of a fee of fifteen dollars each. Such number plates may be used on any vehicle owned by the dealership and used in the direct functions of demonstrating, buying, or selling vehicles. These may not include service vehicles or vehicles used in other functions of the business. In addition to the dealer's license plates, the director may issue to any dealer holding a regular dealer's license plate, an in-transit license plate for a fee of three dollars per plate. Such in-transit plate may be used on vehicles in lieu of dealer's plates while a motor vehicle is in transit from its place of manufacture or any other place, to the dealer or in transit from the dealer, by a direct route, to another destination. Any dealer plate or in-transit plate displayed on a vehicle must be displayed on the rear of the vehicle. Special utility plates may be issued by the director to any dealer, for a fee of three dollars, which special utility plate shall be used only on a vehicle while it is being used by the dealership to which the plate is issued within a radius of fifty miles [80.47 kilometers] of the licensee's place of business.

No application may be granted nor a license issued to anyone until or unless the applicant shall furnish proof satisfactory to the director of the fact that the applicant has, does, and will continue to maintain, in the case of a used motor vehicle dealer's license, an established place of business, and has facilities and equipment for the maintenance, servicing, and repair of motor vehicles. An established central place of business, when used in this sense, means a permanent or enclosed building or structure either owned, rented, or leased at which a permanent business of bartering, trading, and selling of motor vehicles, the repair, maintenance, and servicing of motor vehicles, and the storage of parts and accessories therefor, will be carried on, and at which place of business must be kept and maintained the records of such business and the titles or other documents showing ownership of the vehicles, and does not mean a residence, tents, temporary stands, or other temporary quarters. An established central place of business must have a telephone publicly listed in the name of the dealership, be open to the public during normal business hours, and be identified by a sign identifying the business, to the public, as a motor vehicle dealership. Said central place of business may consist of several buildings, or structures, but no building or structure constituting a part of said central place of business may be located at a distance greater than one thousand feet [304.8 meters] from any other buildings or structures of said central place of business. If the license is granted hereunder, the licensee must be permitted to use unimproved lots and premises for sales, storage, or display of motor vehicles. A nonrefundable fee of fifty dollars will be charged for each inspection and must accompany the initial application for new or used motor vehicle dealer's license.

Every dealer must have repair and service facilities at the central established place of business. The established place of business must be located within the state of North Dakota. In the case of an application for a new motor vehicle dealer's license, the applicant shall furnish proof satisfactory to the director of the fact that the applicant has, does, and will continue to

maintain all of the facilities described above applicable to a used motor vehicle dealer's license and in addition thereto, shall furnish proof satisfactory to the director of the fact that the applicant has a bona fide contract or franchise in effect with a manufacturer or distributor of the new motor vehicle or motor vehicles in which the dealer proposes to deal. A new motor vehicle dealer's license entitles the holder to deal in both used motor vehicles and in those new motor vehicles only for which the dealer has a bona fide contract or franchise in effect with a manufacturer or distributor. A used motor vehicle dealer's license entitles the holder to deal in used motor vehicles only.

Whenever a motor vehicle dealer purchases or holds for sale a new motor vehicle for which the dealer does not have a bona fide contract or franchise in effect with a manufacturer or distributor, such new motor vehicle becomes, at the time of purchase or possession, subject to the registration provisions of chapter 39-04, the title registration provisions of chapter 39-05, and the motor vehicle excise tax provisions of chapter 57-40.3.

If the licensee desires to remove from the central established place of business occupied when the license is granted to a new location, the licensee shall first secure from the director permission to do so. The licensee must be required to furnish proof satisfactory to the director that the premises to which the licensee proposes to remove conform with the requirements hereinbefore set forth.

**39-22-07. Dealer permitting license to be used by another dealer - License revoked**

- **Penalty.** Any person who is a dealer who permits any other dealer to use the person's dealer's license, or permits the use of such license for the benefit of any other dealer, shall have the person's dealer's license revoked and is guilty of an infraction.

**39-22-08. Dealers to furnish information to director.** All dealers engaged in the sale of motor vehicles in this state shall furnish the director or any duly authorized representative with such information as to models, specifications, selling prices, and such other data as may be necessary in carrying out the provisions of this chapter.

## **UNCHANGED CURRENT STATUTES**

**39-22-05. Bond required.** Before the issuance of a motor vehicle dealer's license, as provided by law, the applicant for the license shall furnish a 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 bond must run to the state of North Dakota, be in the amount of twenty-five thousand dollars and be conditioned upon the faithful compliance by the applicant as a dealer, if the license is issued to the dealer, that such dealer will comply with all of the statutes of the state of North Dakota regulating or being applicable to the business of the dealer as a dealer in motor vehicles, and indemnifying any person dealing or transacting business with the dealer in connection with any motor vehicle from any loss or damage occasioned by the failure of the dealer to comply with any of the provisions of this title, including the furnishing of a proper and valid certificate of title to the motor vehicle involved in any such transaction, and that the bond shall be filed with the director prior to the issuance of license provided by law. The aggregate liability of the surety of all persons, however, may in no event exceed the amount of 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 the proceedings.

**39-22-05.2. When bid bonds not required in bids to state or political subdivisions.** A person who submits a bid to the state, any of its agencies, or any of its political subdivisions to sell any type of motor vehicle is not required to submit a bidder's bond or a certified or cashier's check if that person is already bonded pursuant to section 39-22-05. If the buyer requires a performance bond, then within ten days of the awarding of the contract, the successful bidder shall submit a performance bond to the appropriate state agency or political subdivision in an amount equal to the contract price.

**39-22-07.1. Motor vehicle sales prohibited on Sunday - Penalty.** A motor vehicle dealer may not sell a motor vehicle on Sunday. A violation of this section is a class B misdemeanor.

**39-22-10. Powers of the director.** In addition to other powers provided by law, the director has the following powers and duties which must be exercised in conformity with this chapter:

- 1 To cancel, revoke, or suspend a dealer's license as provided for in section 39-22-04.
- 2 To prescribe rules and regulations not inconsistent with this chapter governing the application for dealer's licenses and the cancellation or suspension or revocation of dealer's licenses.
3. To employ and pay such persons as the director may deem necessary to inspect dealers in this state, investigate dealers for the information of 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.

**39-22-12. Officers to administer chapter.** The director and any duly authorized representative shall be responsible for the administration of the provisions of this chapter.

**TESTIMONY BEFORE THE  
HOUSE TRANSPORTATION COMMITTEE  
IN SUPPORT OF  
SB 2273**

I'm a used car dealer from West Fargo and President of the North Dakota Chapter of the Northland Independent Automobile Dealers Association. Northland IADA is comprised of dealers in a four state area.

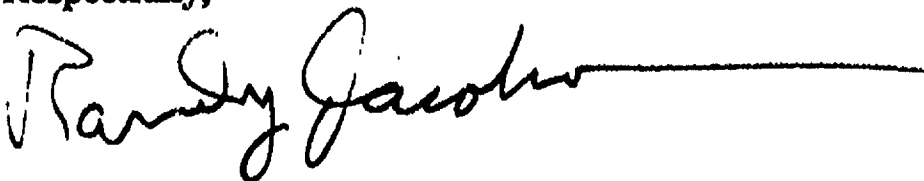
Several years ago our group met with the representatives of the new car dealers association and discussed the state's dealer license law. A little over a year ago, we formed a committee consisting of new and used car dealers, Motor Vehicle Department personnel and other industry people. After several meetings which included extensive discussion, deliberation and consideration of the impact not only on the industry, but the consumer as well, we drafted the legislation proposed in Bill #2273.

There are many good revisions and additions proposed in this Bill including a clear definition of who is and what the requirements are to be a dealer. Insurance requirements are addressed as well.

We put emphasis on what is good for both the industry and the consumer. It is my belief that a revision of the current law is needed.

The North Dakota dealers of the Northland Independent Automobile Dealers Association are in full support of Senate Bill #2273 as presented.

Respectfully,

A handwritten signature in cursive script, reading "Randy Jacobson", followed by a horizontal line.

**Randy Jacobson  
President - North Dakota Chapter  
Northland IADA**



Testimony on SB2273  
submitted to the House Transportation Committee

by Leah K. Coghlan of Pearce & Durick

on behalf of  
General Motors Corporation

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Good morning, Chairman Weisz and members of the Committee.

I am here to offer amendments to Senate Bill 2273 on behalf of General Motors. These amendments are also supported by the Auto Alliance, which consists of, in addition to General Motors, BMW, DaimlerChrysler, Ford Motor Company, Fiat, Isuzu, Mazda, Mitsubishi Motors, Nissan, Porsche, Toyota, Volkswagen, and Volvo. General Motors and the Auto Alliance are in favor of these amendments to support their new car franchises in the state of North Dakota.

The proposed amendment to Section 3 of SB 2273 is necessary to clarify that a consumer can buy a car from a manufacturer's financing subsidiary after the lease expires.

Regarding the proposed amendment to Section 4, the responsibility to provide the department with written approval of additional display and sale sites for motor vehicles should be on the dealer and not the manufacturer. In addition, the dealer should obtain permission from the manufacturer for these additional sites to ensure that the dealer is not infringing upon another dealer's sales territory.

The proposed amendment to Section 12, which deals with factory stores, is needed to allow the dealerships an adequate amount of time to successfully place a new dealer in a community. The one-year time period allowed for in the bill is going to be a difficult, if not impossible, deadline to meet. This is due to the fact that it is often difficult to attract new dealers

to small towns in North Dakota because many of these small towns have marginal to poor economies. The bill's present requirement would hurt also dealer development programs, which foster minority-owned dealerships. The one year time frame is simply not long enough because a new dealer may be brought in within the year but may fail within that same year, and the search for a new dealer may have to begin anew.

The two-year period requested in our amendments is a much more realistic time frame in which to get a new dealer into a dealership. The one-year time frame is too harsh because jobs, tax dollars, and licensing fees will be lost by our state if the manufacturer is unable to meet the one-year time constraints of this bill.

In addition, in Section 12, the language making a violation of this section a class A misdemeanor is too harsh. It should not be a crime to promote business ownership in the state.

In Section 13, the bill provides exceptions for a manufacturer's direct sales of motor vehicles. The categories listed in our amendments are standard exceptions for direct sales and should be included because these are favorable to dealers because they are "captured sales."

The last sentence of the amendment to Section 13 would allow internet marketing of motor vehicles. There currently is a website in the works that is a joint venture between the dealers and General Motors, which will direct the consumer to the specific dealer for the actual sale of the motor vehicle. This amendment would ensure this project is protected.

Also in Section 13, General Motors believes violation of this section should not be a criminal offense.

In Section 17 of the bill, our amendment is needed to clarify that the secondary motor vehicle lot is subject to the manufacturer's approval. The manufacturer's approval of a secondary lot is necessary to ensure a secondary lot is not encroaching on another dealer's sales

territory.

With regard to Section 18, General Motors does not support the proposed changes to the statute and urges the Committee to leave the current statutory language as it is. The danger of the proposed language is that it would give the department the authority to look into the manufacturer's books any time a violation of this chapter is alleged. This power is unnecessarily broad and expansive and could result in "fishing expeditions" for violations occurring.

We urge your favorable consideration of the amendments we have presented today.

Thank you for your consideration.

*This amendment is requested by General Motors Corporation and submitted to the House Transportation Committee by Leah K. Coghlan of Pearce & Durick.*

**PROPOSED AMENDMENTS TO**  
**SENATE BILL NO. 2273**

Page 3, Line 2, insert:

"This section shall not prevent a manufacturer's financing subsidiary from obtaining a used motor vehicle dealer license to sell repossessed vehicles or to sell leased motor vehicles, upon the expiration of a lease, to the lessees of such motor vehicles."

Page 4, Line 10 replace "manufacturer" with "dealer obtains and"

Page 4, Line 10, following "department", insert "with the manufacturer's"

Page 8, Lines 16 and 17, replace "The ownership and operation is for a temporary period not to exceed one year during the transition from one owner or operator to another; or" with "The ownership and operation is for temporary period of not more than twenty-four months if the dealership is for sale at a reasonable price and on reasonable terms and conditions to an independent qualified buyer. On showing of good cause by a manufacturer, importer, or distributor, the time limit set forth above may be extended for an additional period up to twelve months."

Page 8, Line 27, delete "Any person violating this section is guilty of a class A misdemeanor."

Page 9, Line 4, following "franchiser", add "or its affiliated companies, family members of such employees, retirees, family members of retirees, or qualified vendors. This section shall not preclude a manufacturer or franchiser from providing information to a consumer for the purpose of marketing or facilitating sales of new motor vehicles or from establishing a program to sell or offer to sell new motor vehicles through participating dealers in the state."

Page 9, Lines 4 and 5, delete "Any person violating this section is guilty of a class A misdemeanor."

Page 10, Line 13, following "establish", add ", subject to any necessary approval by the manufacturer or franchiser,"

Renumber accordingly.