

Introduced by

1 A BILL for an Act to create and enact _____, relating to motorcycle
2 dealer licensing; to amend and reenact sections 39-22.3-01, 39-22.3-02, 39-22.3-03,
3 39-22.3-04, 39-22.3-05, 39-22.3-06, and 39-22.3-09 of the North Dakota Century Code, relating
4 to motorcycle dealer licensing; and to repeal sections 39-22.3-11 and 39-22.3-12 of the North
5 Dakota Century Code, relating to penalties and administration relating to motorcycle dealer
6 licenses; and to create a penalty.

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

8 **SECTION 1. AMENDMENT.** Section 39-22.3-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **39-22.3-01. Motorcycle dealer's license—Fees—Additional number plates.** It is
11 ~~unlawful for any~~ A person, partnership, corporation, or limited liability company to ~~may not~~
12 ~~advertise as being, hold out to the public as engaging in, or engage in the business of buying,~~
13 ~~selling, or exchanging of motorcycles without possessing a current motorcycle dealer's license.~~
14 ~~No person, partnership, corporation, or limited liability company may advertise or hold out to the~~
15 ~~public as engaging in the buying, selling, or exchanging of motorcycles for resale without~~
16 ~~possession of a current motorcycle dealer's license. The motorcycle dealer's license fee is~~
17 ~~twenty five dollars per year and with which must be issued one dealer's plate. Additional~~
18 ~~dealer's plates are ten dollars each. A dealer plate may be displayed on any motorcycle owned~~
19 ~~by the dealer~~ A person violating this section is guilty of a class B misdemeanor.

20 **SECTION 2. AMENDMENT.** Section 39-22.3-02 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **39-22.3-02. Application required- Fees - Plates - Renewal.**

23 1. No ~~The director may not grant or license may be granted~~ unless a completed
24 application has been made in the form prescribed by the director. The motorcycle

1 dealers license fee is twenty-five dollars per year and which must be issued one
2 dealer's plate. Additional dealer plates are ten dollars per year each. These
3 number plates may be used on any vehicle owned by the dealership and used in
4 the direct functions of demonstrating, buying, or selling vehicles. Dealer plates
5 may not be used on service vehicles or vehicles used in other functions of the
6 business, sold units in possession of the purchaser, by family members not
7 residing at the dealer's residence, or by any other person not directly involved in
8 the operation of the dealership. The director may issue to any dealer an in-transit
9 license plate for a fee of five dollars per plate and a demonstration plate for a fee of
10 five dollars per plate. A dealer in-transit plate may be used on vehicles in lieu of
11 dealer's plates while a motorcycle is in-transit from its place of manufacture, or any
12 other place, to the dealer or in-transit from the dealer, by a direct route, to another
13 destination. A dealer demonstration plate may be used only on a vehicle which is
14 owned by the dealership and being demonstrated to a customer. A dealer
15 demonstration plate is valid for use only within a radius of one hundred miles
16 [160.93 kilometers] of the dealer's established place of business. Any dealer plate,
17 in-transit plate, or demonstration plate displayed on a vehicle must be displayed on
18 the rear of the vehicle. Any person violating this section must be assessed a one
19 hundred dollar fee by the department for a first violation and a two hundred dollar
20 fee by the department for a second violation within two years of the first violation.
21 The department shall suspend the license of a motorcycle dealer licensed under
22 this chapter if a third or subsequent violation of this section occurs within five years
23 of the first violation.

24 2. A dealer license issued under this chapter expires on December 31 of each year.
25 A license dealer may apply for renewal of the dealer's license on form prescribed
26 by the department and payment of the dealer license and dealer plate fees
27 required by this chapter. The department shall not renew the dealer license of any
28 applicant who has made less than four retail motorcycle sales during the previous
29 year. The department may adopt administrative rules to limit the number of dealer
30 plates available to an applicant based on the applicant's motorcycle sales history.

1 **SECTION 3. AMENDMENT.** Section 39-22.3-03 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **39-22.3-03. ~~Issuance of license—Conditions~~ Establish Central Place of Business.**

4 ~~No~~ The director may not issue a license ~~may be issued~~ until the applicant furnishes proof
5 satisfactory to the director that the applicant has and will continue to maintain an established
6 central place of business in this state. An established central place of business means a
7 permanent enclosed building or structure of at least two hundred fifty square feet [23.22 square
8 meters] either owned or leased with a stated periodic rental, at which a permanent business of
9 bartering, trading, and selling of motorcycles, the repair, maintenance, and servicing of
10 motorcycles and the storage of parts and accessories ~~therefor~~ for motorcycles, will be carried
11 out in good faith ~~and not for the purpose of evading this section, and where the business books,~~
12 ~~records, and files shall be maintained, and.~~ A central place of business does not mean a
13 residence, tents, temporary stands, or other temporary quarters, nor permanent quarters
14 occupied pursuant to any temporary arrangement. ~~Said~~ The central place of business may
15 consist of several buildings, or structures, but no building or structure may be located beyond
16 one thousand feet [304.8 meters] from any other ~~buildings~~ building or structures structure of
17 said the central place of business. ~~Such central place of business must be located within the~~
18 ~~state of North Dakota. The licensee must be permitted to use unimproved lots and premises for~~
19 ~~sales, storage, or display of motorcycles.~~ The established place of business must be located on
20 property zoned or otherwise approved for this purpose by the appropriate zoning authority. The
21 established place of business must be adequately heated and lighted so as to be comfortable
22 for customers and employees and be equipped with standard office equipment necessary for
23 conduct of the business. All records related to the business including titles or other documents
24 showing ownership of the vehicles, must be kept and maintained at the established place of
25 business. An established place of business must have a telephone publicly listed in the name
26 of the dealership, be open to the public during normal business hours, and have a sign
27 identifying the business to the public as a motorcycle dealership. The sign must be at least
28 thirty-two square feet [2.97 square meters] in size, contain the name of dealership in letters at
29 least ten inches [25.4 centimeters] high, and be clearly visible from the street. A business sign
30 approved by a motorcycle manufacturer may be used in lieu of the sign requirements of this
31 section. If the licensee desires to more from the established place of business occupied when

1 the license was granted to a new location, the licensee shall have permission from the director.
2 The licensee must furnish proof satisfactory to the director that the premises to which the
3 licensee proposes to move conforms with the requirements of this section. A nonrefundable fee
4 of fifty dollars will be charged for each inspection and must accompany each initial application
5 for a motorcycle dealer's license. Any person violating this section must be assessed a one
6 hundred dollar fee by the department for a first violation and a two hundred dollar fee by the
7 department for a second violation within two years of the first violation. The department shall
8 suspend the license of a motorcycle dealer licensed under this chapter if a third or subsequent
9 violation of this section occurs within five years of the first violation.

10 **SECTION 4. AMENDMENT.** Section 39-22.3-04 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **39-22.3-04. Grounds for denial, suspension, cancellation, or revocation of**
13 **dealer's license.** The director may deny an application for a dealer's license or suspend,
14 revoke, or cancel ~~such~~ a license after it has been granted for the following reasons:

- 15 1. For any material misstatement by an applicant in the application for the license.
- 16 2. For any willful failure to comply with the provisions of this chapter or with any rule
17 adopted by the director.
- 18 3. For knowingly permitting any salesperson to sell or exchange, or offer or attempt to
19 sell or exchange any motorcycle except for the licensed motorcycle dealer by
20 whom the salesperson is employed, or to offer, transfer, or assign any sale or
21 exchange that they may have negotiated to any other dealer.
- 22 4. For having violated any law relating to the sale, distribution, or financing of
23 motorcycles.
- 24 5. For having ceased to have an established place of business ~~as herein defined.~~

25 **SECTION 5. AMENDMENT.** Section 39-22.3-05 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **39-22.3-05. Bond and insurance required.**

- 28 1. The license applicant shall furnish a surety bond executed by a surety company,
29 licensed and qualified to do business ~~within the state of North Dakota, which~~ in this
30 state. The bond must run to the state of North Dakota in the amount of ten
31 thousand dollars and be conditioned upon the faithful compliance by ~~said~~ the

1 applicant with all the statutes of ~~the this state of North Dakota~~, regulating or being
2 applicable to a dealer in motorcycles, and indemnifying any person having a
3 motorcycle transaction with ~~said the~~ dealer from any loss of damage occasioned
4 by the failure of ~~such the~~ dealer to comply with any statutory requirement of ~~such~~
5 the transaction. The bond must be filed with the director ~~prior to~~ before the
6 issuance of a license and must stay in effect as a condition of licensure. The
7 aggregate liability of the surety of all persons may ~~in no event~~ not exceed the
8 amount of the bond. Any third party sustaining injury within the terms of the bond
9 may proceed against the principal and surety without making the state a party of
10 ~~any such to the~~ proceedings.

11 2. A motorcycle dealer must provide proof to the director of a continuous policy of
12 general liability insurance in the minimum of ten thousand dollars per person and
13 three hundred thousand dollars per occurrence.

14 **SECTION 6. AMENDMENT.** Section 39-22.3-06 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **39-22.3-06. Disposition of fees.** Fees from registration of dealers and fees collected
17 from dealers found in violation of this chapter must be deposited with the state treasurer and
18 credited to the ~~highway tax distribution~~ the motor vehicle registration fund, and used exclusively
19 for enforcement of this chapter.

20 **SECTION 7. AMENDMENT.** Section 39-22.3-07 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **39-22.3-07. Dealer permitting license to be used by another dealer - License**
23 **revoked - Penalty.** A dealer who permits any other dealer to use that first dealer's license, or
24 permits the use of ~~such the~~ license for the benefit of any other dealer, is guilty of an infraction.
25 The director shall revoke the license of any dealer who violates this section.

26 **SECTION 8. AMENDMENT.** Section 39-22.3-08 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **39-22.3-08. Dealers to furnish fees, taxes, and information to director.**

29 1. All dealers engaged in the sale of motorcycles in this state A motorcycle dealer
30 shall furnish the director with ~~such~~ information as to models, specifications, selling
31 prices, and ~~such~~ any other data requested by the director as may be necessary in

1 carrying out the provisions of this chapter. A motorcycle dealer must submit any
2 state fees, taxes, and applications collected on behalf of a customer to the
3 department within fifteen days of the date of sale. Any person violating this section
4 must be assessed a one hundred dollar fee by the department for a first violation
5 and a two hundred dollar fee by the department for a second violation within two
6 years of the first violation. The department must suspend the license of a motor
7 vehicle dealer licensed under this chapter if a third or subsequent violation of this
8 section occurs within five years of the first violation.

9 **SECTION 9. AMENDMENT.** Section 39-22.3-09 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **39-22.3-09. Powers of the director.** The director is responsible for the administration
12 of this chapter. In addition to other powers provided by law, the director has the following
13 powers and duties which must be exercised in conformity with this chapter:

- 14 1. To cancel, revoke, or suspend a dealer's license as provided for in this chapter.
- 15 2. To prescribe rules not inconsistent with this chapter governing the application for
16 dealer's licenses and the cancellation or suspension or revocation of a dealer's
17 license.
- 18 3. To employ and pay such persons as the director may deem necessary to inspect
19 dealers in this state, investigate dealers for the information of the director, to
20 procure evidence in connection with any prosecution or other action to suspend,
21 revoke, or cancel a dealer's license in relation to any matter in which the director
22 has any duty to perform.

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

25 **39-22.3-10. Examination of books and records.** The director ~~or the director's duly~~
26 ~~authorized representative~~ may inspect ~~the books, letters, any records, and contracts~~ of any
27 licensed motorcycle dealer relating to any specific complaint made against such dealer and
28 held to be in violation of any of the provisions of this title.

29 **SECTION 11. REPEAL.** Sections 39-22.3-11 and 39-22.3-12 of the North Dakota
30 Century Code are repealed.