

**SENATE BILL NO. 2148**

Introduced by

Senators Nething, Heitkamp

Representatives Ruby, Vigesaa

1 A BILL for an Act to amend and reenact sections 39-22-04, 39-22-06, 39-22-14, 39-22-15,  
2 39-22-16, 39-22-17, 39-22-20, 39-22-21, 39-22-22, and 39-22-23 of the North Dakota Century  
3 Code, relating to penalties for motor vehicle dealer licensees.

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

5 **SECTION 1. AMENDMENT.** Section 39-22-04 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **39-22-04. Grounds for denial, suspension, cancellation, or revocation of dealer's**  
8 **license.** The director may deny an application for a dealer's license or suspend, revoke, or  
9 cancel ~~such a~~ dealer's license after it has been granted for ~~the following reasons:~~

- 10 1. ~~For~~ making any material misstatement by an applicant in the application for the  
11 license:
- 12 2. ~~For any willful failure;~~ willfully failing to comply with the provisions of this chapter or  
13 with any rule ~~or regulation promulgated~~ adopted by the director:
- 14 3. ~~For;~~ knowingly permitting any person to sell or exchange, or offer or attempt to sell  
15 or exchange any motor vehicle except for the licensed motor vehicle dealer by  
16 whom the person is employed:
- 17 4. ~~For having violated any;~~ willfully violating a law relating to the sale, distribution, or  
18 financing of motor vehicles:
- 19 5. ~~For;~~ having ceased to have an established place of business ~~as herein defined.~~
- 20 6. ~~For;~~ or having violated any state or federal law relating to alteration of odometers  
21 or vehicle identification number.

22 **SECTION 2. AMENDMENT.** Section 39-22-06 of the North Dakota Century Code is  
23 amended and reenacted as follows:

1           **39-22-06. Motor vehicle lots - Location.** A licensed dealer ~~as described in this~~  
2 ~~chapter~~ may establish secondary motor vehicle lots ~~as may be necessary~~ in the conduct of the  
3 dealer's business ~~in an area not further removed than~~ within five miles [8.05 kilometers] ~~from of~~  
4 the dealer's established place of business. Secondary lots must be identified as a part of the  
5 licensed dealer's operation with a sign displaying the name and telephone number of the  
6 licensed dealer. The sign must be at least thirty-two square feet [2.97 square meters] in size,  
7 contain the name of the dealership in letters at least ten inches [25.4 centimeters] high, and be  
8 clearly visible from the street. ~~Motor vehicle dealers~~ A licensed dealer may not display vehicles  
9 except on ~~their~~ the dealer's primary and secondary lots or as otherwise permitted in this  
10 chapter. ~~Any~~ The department may assess a person violating this section ~~must be assessed~~ a  
11 one hundred dollar fee ~~by the department~~ for a first violation ~~and,~~ a two hundred dollar fee ~~by~~  
12 ~~the department~~ for a second violation within two years of the first violation. ~~The department~~  
13 ~~shall suspend the license of a motor vehicle dealer licensed under this chapter if, or a five~~  
14 hundred dollar fee for a third or subsequent violation of this section occurs within five years of  
15 the first violation.

16           **SECTION 3. AMENDMENT.** Section 39-22-14 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18           **39-22-14. Motor vehicle dealer license - Fees - Penalty.** ~~It is unlawful for any~~ A  
19 ~~person to~~ may not engage in the business of buying, selling, or exchanging of motor vehicles  
20 without possessing a current motor vehicle dealer license. A person may not advertise or  
21 otherwise hold out to the public as engaging in the buying, selling, or exchanging of motor  
22 vehicles for resale without possession of a current new motor vehicle dealer license or used  
23 motor vehicle dealer license. The motor vehicle dealer license fee is one hundred dollars per  
24 year and ~~with for which~~ ~~must be issued~~ the department shall issue one dealer plate. ~~A~~ The  
25 applicant for an initial new or used motor vehicle dealer license shall submit a nonrefundable  
26 fee of one hundred dollars ~~must be charged~~ for the initial inspection ~~of an~~ with the application  
27 ~~for a dealer license and must accompany the initial application for a new or used motor vehicle~~  
28 ~~dealer license.~~ The applicant shall provide the business's federal employer identification  
29 number or, in the case of an application from an individual, social security number. ~~Any~~ The  
30 department may assess a person violating a ~~provision of~~ this section ~~must be assessed~~ a one  
31 hundred dollar fee ~~by the department~~ for a first violation ~~and,~~ a two hundred dollar fee ~~by the~~

1 ~~department~~ for a second violation within two years of the first violation. ~~The department must~~  
2 ~~suspend the license of a motor vehicle dealer licensed under this chapter if, or a five hundred~~  
3 ~~dollar fee for a third or subsequent violation of this section occurs~~ within five years of the first  
4 violation. Any person not licensed as a dealer under this section who has been previously  
5 found to be in violation of this section, and assessed the fees specified, is guilty of a class B  
6 misdemeanor if a third or subsequent violation occurs.

7 **SECTION 4. AMENDMENT.** Section 39-22-15 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **39-22-15. Established place of business - Penalty.**

- 10 1. A dealer license may not be issued until the applicant furnishes proof satisfactory  
11 to the director that the applicant has, does, and will continue to maintain in North  
12 Dakota an established place of business adjacent to the primary motor vehicle  
13 display lot maintained by the dealer. An established place of business means a  
14 permanent enclosed building of at least two hundred fifty square feet [23.22 square  
15 meters] either owned, rented, or leased at which a permanent business of  
16 bartering, trading, and selling of motor vehicles will be conducted and does not  
17 mean a residence, tents, temporary stands, or other temporary quarters. The  
18 established place of business and primary motor vehicle display lot must cover at  
19 least two thousand five hundred square feet [232.26 square meters] and be located  
20 on property zoned or otherwise approved for this purpose by the appropriate  
21 zoning authority. The established place of business must be adequately heated  
22 and lighted so as to be comfortable for customers and employees and be equipped  
23 with standard office equipment necessary for the conduct of the business. All  
24 records related to the business, including titles or other documents showing  
25 ownership of the vehicles, must be kept and maintained at the established place of  
26 business.
- 27 2. An established place of business must have a telephone publicly listed in the name  
28 of the dealership, be open to the public during normal business hours, and have a  
29 sign identifying the business to the public as a motor vehicle dealership. The sign  
30 must be at least thirty-two square feet [2.97 square meters] in size, contain the  
31 name of the dealership in letters at least ten inches [25.4 centimeters] high, and be

- 1 clearly visible from the street. A business sign approved by a motor vehicle  
2 manufacturer may be used in lieu of the sign requirements of this section.
- 3 3. If the licensee desires to move from the established place of business occupied  
4 when the license was granted to a new location, the licensee shall first secure from  
5 the director permission to do so. The licensee must furnish proof satisfactory to  
6 the director that the premises to which the licensee proposes to move conform with  
7 the requirements of this section. ~~Any~~
- 8 4. The department may assess a person violating this section ~~must be assessed~~ a  
9 one hundred dollar fee ~~by the department~~ for a first violation ~~and~~ or a two hundred  
10 dollar fee ~~by the department~~ for a second violation within two years of the first  
11 violation. The department ~~shall~~ may suspend the license of a motor vehicle dealer  
12 licensed under this chapter if a third or subsequent violation of this section occurs  
13 within five years of the first violation.

14 **SECTION 5. AMENDMENT.** Section 39-22-16 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **39-22-16. Application for new motor vehicle dealer license - Franchise required -**  
17 **Selling vehicles without a franchise - Penalty.**

- 18 1. ~~In the case of~~ an application for a new motor vehicle dealer license, the applicant  
19 shall furnish proof satisfactory to the director that the applicant has a bona fide  
20 contract or franchise in effect with a manufacturer or distributor of the new motor  
21 vehicle or motor vehicles in which the dealer proposes to deal. A new motor  
22 vehicle dealer license entitles the holder to deal in both used motor vehicles and in  
23 those new motor vehicles only for which the dealer has a bona fide contract or  
24 franchise in effect with a manufacturer or distributor. A used motor vehicle dealer  
25 license entitles the holder to deal in used motor vehicles only.
- 26 2. New motor vehicle dealers who have been issued surrounding communities as a  
27 part of their dealer area of responsibility may be issued additional new motor  
28 vehicle dealer licenses if the manufacturer provides the department written  
29 approval of additional sites for display and sale of motor vehicles. Applicants for  
30 additional new car dealer licenses must meet all of the requirements of this  
31 chapter.

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

7           4. The department may assess a person violating this section ~~must be assessed a~~  
8           two hundred fifty dollar fee ~~by the department~~ for a first violation ~~and~~ or a five  
9           hundred dollar fee ~~by the department~~ for a second violation within two years of the  
10          first violation. The department ~~must~~ may suspend the license of a motor vehicle  
11          dealer licensed under this chapter if a third or subsequent violation of this section  
12          occurs within five years of the first violation.

13           **SECTION 6. AMENDMENT.** Section 39-22-17 of the North Dakota Century Code is  
14          amended and reenacted as follows:

15           **39-22-17. Additional dealer plates - In-transit plates - Demonstration plates - Fees**  
16          **- Use of dealer plates - Penalty.**

17          1. Additional dealer number plates must be issued to the dealer upon payment of a  
18          fee of twenty-five dollars each. These number plates may be used on any vehicle  
19          owned by the dealership and used in the direct functions of demonstrating, buying,  
20          or selling vehicles. Dealer plates may not be used on ~~a service vehicles~~ vehicle or  
21          ~~vehicles~~ a vehicle used in other functions of the business, sold units in the  
22          possession of the purchaser, by family members not residing at the dealer's  
23          residence, or by ~~other persons~~ a person not directly involved in the operation of the  
24          dealership.

25          2. The director may issue to any dealer an in-transit license plate for a fee of five  
26          dollars per plate and a demonstration plate for a fee of five dollars per plate. A  
27          dealer in-transit plate may be used on vehicles in lieu of dealer's plates while a  
28          motor vehicle is in transit from its place of manufacture, or any other place, to the  
29          dealer or in transit from the dealer, by a direct route, to another destination.

30          3. A dealer demonstration plate may be used only on a vehicle which is owned by the  
31          dealership and being demonstrated to a customer. A dealer demonstration plate is

- 1 valid for use only within a radius of one hundred miles [160.93 kilometers] of the  
2 dealer's established place of business. ~~Any~~
- 3 4. A dealer plate, in-transit plate, or demonstration plate displayed on a vehicle must  
4 be displayed on the rear of the vehicle. ~~Any~~
- 5 5. The department may assess a person violating this section ~~must be assessed a~~  
6 one hundred dollar fee by the department for a first violation and, a two hundred  
7 dollar fee by the department for a second violation within two years of the first  
8 violation. ~~The department shall suspend the license of a motor vehicle dealer~~  
9 licensed under this chapter if, or a five hundred dollar fee for a third or subsequent  
10 violation of this section occurs within five years of the first violation.

11 **SECTION 7. AMENDMENT.** Section 39-22-20 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **39-22-20. Display and sale of vehicles by out-of-state dealers - Offsite display and**  
14 **sale by instate dealers - Penalty.**

- 15 1. An out-of-state motor vehicle dealer who possesses a current motor vehicle dealer  
16 license from the dealer's home jurisdiction may participate in bona fide North  
17 Dakota automobile shows and sales promotions after obtaining a permit from the  
18 department. The permit must be issued upon the payment of a fee of one hundred  
19 dollars and is valid for a period of time, not to exceed seven days, to be determined  
20 by the department.
- 21 2. A motor vehicle dealer licensed under this chapter may participate in bona fide  
22 automobile shows and sales promotions in this state after obtaining a permit from  
23 the department. The permit must be issued upon the payment of a fee of  
24 twenty-five dollars and is valid for a period of time, not to exceed seven days, to be  
25 determined by the department.
- 26 3. The department shall deny an application for a permit if it determines the applicant  
27 does not intend to participate in a bona fide show or promotion. ~~Any~~
- 28 4. The department may assess a person violating this section ~~must be assessed a~~  
29 one hundred dollar fee by the department for a first violation and, a two hundred  
30 dollar fee by the department for a second violation within two years of the first  
31 violation. ~~The department shall suspend the license of a motor vehicle dealer~~

1           ~~licensed under this chapter if, or a five hundred dollar fee for a third or subsequent~~  
2           ~~violation of this section occurs~~ within five years of the first violation.

3           **SECTION 8. AMENDMENT.** Section 39-22-21 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **39-22-21. Consignment vehicles - Penalty.**

- 6           1. A motor vehicle dealer may sell a motor vehicle consigned to the dealer by a motor  
7           vehicle owner, except when the owner is a licensed motor vehicle dealer, under the  
8           terms of a consignment contract between the owner and the dealer. However, a  
9           motor vehicle dealer may sell a collector motor vehicle consigned to the dealer by  
10          an owner that is a licensed motor vehicle dealer. The consignment contract form  
11          must specify the terms of the agreement between the owner and the dealer,  
12          specify the location of the motor vehicle certificate of title, and must be approved  
13          by the department. A
- 14          2. ~~The department may assess a person violating this section~~ ~~must be assessed a~~  
15          one hundred dollar fee ~~by the department~~ for a first violation ~~and,~~ a two hundred  
16          dollar fee ~~by the department~~ for a second violation within two years of the first  
17          violation. ~~The department shall revoke the license of a motor vehicle dealer~~  
18          ~~licensed under this chapter if, or a five hundred dollar fee for a third or subsequent~~  
19          ~~violation of this section occurs~~ within five years of the first violation.

20          **SECTION 9. AMENDMENT.** Section 39-22-22 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22          **39-22-22. Operators of motor vehicle display lots - Permit required - Fee -**

23 **Records required - Penalty.**

- 24          1. A person not licensed as a motor vehicle dealer may operate display lots on which  
25          the owner of a vehicle may display the vehicle for sale. The display lot must be  
26          located on property zoned or otherwise approved for this purpose by the  
27          appropriate zoning authority. The display lot operator must obtain an annual  
28          permit from the department to operate ~~such a~~ the lot. The annual fee for the permit  
29          is fifty dollars.
- 30          2. The display lot operator must provide the department with proof of a liability  
31          insurance policy with a minimum coverage of three hundred thousand dollars. The

1 display lot must have a prominent sign identifying the business and the telephone  
2 number of the business owner. The sign must be at least thirty-two square feet  
3 [2.97 square meters] in size, contain the name of the display lot operator in letters  
4 at least ten inches [25.4 centimeters] high, and be clearly visible from the street.

5 3. The display lot operator, before providing space to a vehicle owner, must verify that  
6 the person renting the space is the owner of the displayed vehicle ~~that will be~~  
7 ~~displayed~~ and keep records for at least one year ~~thereafter~~ after the rental of a  
8 space verifying compliance with this requirement. A licensed motor vehicle dealer  
9 ~~shall~~ may not be permitted to operate a display lot ~~except lot~~ on property that is  
10 ~~not otherwise~~ a part of the licensed dealership. The department may inspect the  
11 records of the display lot operator related to any complaint made against the  
12 operator. ~~Any~~

13 4. The department may assess a person violating this section ~~must be assessed a~~  
14 one hundred dollar fee ~~by the department~~ for a first violation ~~and~~, a two hundred  
15 dollar fee ~~by the department~~ for a second violation within two years of the first  
16 violation. ~~The department shall suspend the permit if, or a five hundred dollar fee~~  
17 for a third or subsequent violation of this section occurs within five years of the first  
18 violation.

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

21 **39-22-23. Auto auction operators - License required - Records required - Penalty.**

22 1. A person may not operate a wholesale or retail auto auction business without being  
23 licensed as a motor vehicle dealer. An auto auction operator must keep records  
24 related to the seller and purchaser of all vehicles sold through the operator's  
25 business for at least two years and make those records available to the director or  
26 an authorized representative of the director upon reasonable request. ~~Any~~

27 2. The department may assess a person violating this section ~~must be assessed a~~  
28 one hundred dollar fee ~~by the department~~ for a first violation and a two hundred  
29 dollar fee ~~by the department~~ for a second violation within two years of the first  
30 violation. The department ~~shall~~ may suspend the license of a motor vehicle dealer

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- 1 licensed under this chapter if a third or subsequent violation of this section occurs
- 2 within five years of the first violation.