

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2148
(Senators Nething, Heitkamp)
(Representatives Ruby, Vigesaa)

AN ACT to amend and reenact sections 39-22-04, 39-22-06, 39-22-14, 39-22-15, 39-22-16, 39-22-17, 39-22-20, 39-22-21, 39-22-22, and 39-22-23 of the North Dakota Century Code, relating to penalties for motor vehicle dealer licensees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

39-22-04. Grounds for denial, suspension, cancellation, or revocation of dealer's license.

The director may deny an application for a dealer's license or suspend, revoke, or cancel ~~such a~~ dealer's license after it has been granted for ~~the following reasons:~~

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

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

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

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

39-22-14. Motor vehicle dealer license - Fees - Penalty. ~~It is unlawful for any~~ A person ~~to~~ may not engage in the business of buying, selling, or exchanging of motor vehicles without possessing a current motor vehicle dealer license. A person may not advertise or otherwise 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 license or used motor vehicle dealer license. The motor vehicle dealer license fee is one hundred dollars per year and ~~with for which must be issued the department~~ shall issue one dealer plate. ~~A~~ The applicant for an initial new or used motor vehicle dealer license shall submit a nonrefundable fee of one hundred dollars ~~must be charged~~ for the initial inspection ~~of an~~ with the application for a dealer license and ~~must accompany the initial application for a new or used motor vehicle dealer license.~~ The applicant shall provide the business's federal employer identification number or, in the case of an application from an individual, social security number. ~~Any~~ The department may assess a person violating a provision of this section ~~must be assessed~~ a one hundred dollar fee ~~by the department~~ for a first violation and, a two hundred dollar fee ~~by the department~~ for a second violation within two years of the first violation. ~~The department must suspend the license of a motor vehicle dealer licensed under this chapter if, or a fee of at least five hundred dollars but not more than two thousand dollars for a third or subsequent violation of this section occurs~~ within five years of the first violation. Any person not licensed as a dealer under this section who has been previously found to be in violation of this section, and assessed the fees specified, is guilty of a class B misdemeanor if a third or subsequent violation occurs.

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

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

1. A dealer license may not be issued until the applicant furnishes proof satisfactory to the director that the applicant has, does, and will continue to maintain in North Dakota an established place of business adjacent to the primary motor vehicle display lot maintained by the dealer. An established place of business means a permanent enclosed building of at least two hundred fifty square feet [23.22 square meters] either owned, rented, or leased at which a permanent business of bartering, trading, and selling of motor vehicles will be conducted and does not mean a residence, tents, temporary stands, or other temporary quarters. The established place of business and primary motor vehicle display lot must cover at least two thousand five hundred square feet [232.26 square meters] and be located on property zoned or otherwise approved for this purpose by the appropriate zoning authority. The established place of business must be adequately heated and lighted so as to be comfortable for customers and employees and be equipped with standard office equipment necessary for the conduct of the business. All records related to the business, including titles or other documents showing ownership of the vehicles, must be kept and maintained at the established place of business.
2. An established 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 have a sign identifying the business to the public as a motor vehicle dealership. The sign must be at least thirty-two square feet [2.97 square meters] in size, contain the name of the dealership in letters at least ten inches [25.4 centimeters] high, and be clearly visible from the street. A business sign approved by a motor vehicle manufacturer may be used in lieu of the sign requirements of this section.
3. If the licensee desires to move from the established place of business occupied when the license was granted to a new location, the licensee shall first secure from the director permission to do so. The licensee must furnish proof satisfactory to the director that the premises to which the licensee proposes to move conform with the requirements of this section. ~~Any~~

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

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

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

- ~~1. In the case of an application for a new motor vehicle dealer license, the applicant shall furnish proof satisfactory to the director 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 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 license entitles the holder to deal in used motor vehicles only.~~
2. New motor vehicle dealers who have been issued surrounding communities as a part of their dealer area of responsibility may be issued additional new motor vehicle dealer licenses if the manufacturer provides the department written approval of additional sites for display and sale of motor vehicles. Applicants for additional new car dealer licenses must meet all of the requirements of this chapter.
- ~~3. Whenever~~ If 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, the 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. ~~Any~~
- ~~4. The department may assess a person violating this section must be assessed a two hundred fifty dollar fee by the department for a first violation and or a five hundred dollar fee by the department for a second violation within two years of the first violation. The department must may suspend the license of a motor vehicle dealer licensed under this chapter if a third or subsequent violation of this section occurs within five years of the first violation.~~

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

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

1. Additional dealer number plates must be issued to the dealer upon payment of a fee of twenty-five dollars each. These number plates may be used on any vehicle owned by the dealership and used in the direct functions of demonstrating, buying, or selling vehicles. Dealer plates may not be used on a service vehicles vehicle or vehicles a vehicle used in other functions of the business, sold units in the possession of the purchaser, by family members not residing at the dealer's residence, or by ~~other persons~~ a person not directly involved in the operation of the dealership.
2. The director may issue to any dealer an in-transit license plate for a fee of five dollars per plate and a demonstration plate for a fee of five dollars per plate. A dealer 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.

3. A dealer demonstration plate may be used only on a vehicle which is owned by the dealership and being demonstrated to a customer. A dealer demonstration plate is valid for use only within a radius of one hundred miles [160.93 kilometers] of the dealer's established place of business. ~~Any~~
4. A dealer plate, in-transit plate, or demonstration plate displayed on a vehicle must be displayed on the rear of the vehicle. ~~Any~~
5. The department may assess a person violating this section ~~must be assessed~~ a one hundred dollar fee ~~by the department~~ for a first violation ~~and, a two hundred dollar fee by the department~~ for a second violation within two years of the first violation. ~~The department shall suspend the license of a motor vehicle dealer licensed under this chapter if, or a fee of at least five hundred dollars but not more than two thousand dollars for a third or subsequent violation of this section occurs~~ within five years of the first violation.

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

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

1. An out-of-state motor vehicle dealer who possesses a current motor vehicle dealer license from the dealer's home jurisdiction may participate in bona fide North Dakota automobile shows and sales promotions after obtaining a permit from the department. The permit must be issued upon the payment of a fee of one hundred dollars and is valid for a period of time, not to exceed seven days, to be determined by the department.
2. A motor vehicle dealer licensed under this chapter may participate in bona fide automobile shows and sales promotions in this state after obtaining a permit from the department. The permit must be issued upon the payment of a fee of twenty-five dollars and is valid for a period of time, not to exceed seven days, to be determined by the department.
3. The department shall deny an application for a permit if it determines the applicant does not intend to participate in a bona fide show or promotion. ~~Any~~
4. The department may assess a person violating this section ~~must be assessed~~ a one hundred dollar fee ~~by the department~~ for a first violation ~~and, a two hundred dollar fee by the department~~ for a second violation within two years of the first violation. ~~The department shall suspend the license of a motor vehicle dealer licensed under this chapter if, or a fee of at least five hundred dollars but not more than two thousand dollars for a third or subsequent violation of this section occurs~~ within five years of the first violation.

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

39-22-21. Consignment vehicles - Penalty.

1. A motor vehicle dealer may sell a motor vehicle consigned to the dealer by a motor vehicle owner, except when the owner is a licensed motor vehicle dealer, under the terms of a consignment contract between the owner and the dealer. However, a motor vehicle dealer may sell a collector motor vehicle consigned to the dealer by an owner that is a licensed motor vehicle dealer. The consignment contract form must specify the terms of the agreement between the owner and the dealer, specify the location of the motor vehicle certificate of title, and must be approved by the department. ~~A~~

2. ~~The department may assess a person violating this section a one hundred dollar fee by the department for a first violation and, a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall revoke the license of a motor vehicle dealer licensed under this chapter if, or a fee of at least five hundred dollars but not more than two thousand dollars for a third or subsequent violation of this section occurs within five years of the first violation.~~

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

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

1. A person not licensed as a motor vehicle dealer may operate display lots on which the owner of a vehicle may display the vehicle for sale. The display lot must be located on property zoned or otherwise approved for this purpose by the appropriate zoning authority. The display lot operator must obtain an annual permit from the department to operate ~~such~~ a the lot. The annual fee for the permit is fifty dollars.
2. The display lot operator must provide the department with proof of a liability insurance policy with a minimum coverage of three hundred thousand dollars. The display lot must have a prominent sign identifying the business and the telephone number of the business owner. The sign must be at least thirty-two square feet [2.97 square meters] in size, contain the name of the display lot operator in letters at least ten inches [25.4 centimeters] high, and be clearly visible from the street.
3. The display lot operator, before providing space to a vehicle owner, must verify that the person renting the space is the owner of the displayed vehicle ~~that will be displayed~~ and keep records for at least one year ~~thereafter~~ after the rental of a space verifying compliance with this requirement. A licensed motor vehicle dealer ~~shall~~ may not be permitted to operate a display lots except lot on property that is ~~not otherwise~~ a part of the licensed dealership. The department may inspect the records of the display lot operator related to any complaint made against the operator. ~~Any~~
4. ~~The department may assess a person violating this section a one hundred dollar fee by the department for a first violation and, a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall suspend the permit if, or a fee of at least five hundred dollars but not more than two thousand dollars for a third or subsequent violation of this section occurs within five years of the first violation.~~

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

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

1. A person may not operate a wholesale or retail auto auction business without being licensed as a motor vehicle dealer. An auto auction operator must keep records related to the seller and purchaser of all vehicles sold through the operator's business for at least two years and make those records available to the director or an authorized representative of the director upon reasonable request. ~~Any~~
2. ~~The department may assess a person violating this section a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall may suspend the license of a motor vehicle dealer licensed under this chapter if a third or subsequent violation of this section occurs within five years of the first violation.~~

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2148.

Senate Vote: Yeas 46 Nays 1 Absent 0

House Vote: Yeas 86 Nays 5 Absent 3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,
at _____ o'clock _____ M.

Secretary of State