

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

HOUSE BILL NO. 1465  
(Representatives Hawken, Nelson, Weisz)  
(Senator Nething)

AN ACT to create and enact a new subsection to section 39-01-01 of the North Dakota Century Code, relating to the definition of motor-powered recreational vehicles; and to amend and reenact sections 39-22-05.1, 39-22.3-01, 39-22.3-02, 39-22.3-03, 39-22.3-04, 39-22.3-05, 39-22.3-06, 39-22.3-07, 39-22.3-08, 39-22.3-09, and 39-22.3-10 of the North Dakota Century Code, relating to deposit of dealer enforcement funds and the licensing of motor-powered recreational vehicle dealers.

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

**SECTION 1.** A new subsection to section 39-01-01 of the North Dakota Century Code is created and enacted as follows:

"Motor-powered recreational vehicle" means a motorcycle, off-highway vehicle as defined in section 39-29-01, or a snowmobile as defined in section 39-24-01.

**SECTION 2. AMENDMENT.** Section 39-22-05.1 of the North Dakota Century Code is amended and reenacted as follows:

**39-22-05.1. Disposition of fees.** Fees from registration of dealers and fees collected from dealers found in violation of this chapter must be deposited with the state treasurer, credited to the ~~motor vehicle registration~~ dealer enforcement fund, and used exclusively for enforcement of this chapter.

**SECTION 3. AMENDMENT.** Section 39-22.3-01 of the North Dakota Century Code is amended and reenacted as follows:

**39-22.3-01. ~~Motorcycle~~ Motor-powered recreational vehicle dealer's license - Fees - Additional number plates.** ~~It is unlawful for any A person, partnership, corporation, or limited liability company to~~ may not engage in the business of buying, selling, or exchanging of ~~motorcycles~~ motor-powered recreational vehicles without possessing a current ~~motorcycle~~ motor-powered recreational vehicle dealer's license. ~~No A person, partnership, corporation, or limited liability company may not~~ not advertise or hold out to the public as engaging in the buying, selling, or exchanging of ~~motorcycles~~ motor-powered recreational vehicles for resale without possession of a current ~~motorcycle~~ motor-powered recreational vehicle dealer's license. The ~~motorcycle~~ motor-powered recreational vehicle dealer's license fee is twenty-five dollars per year and with which must be issued one dealer's plate. Additional dealer's plates are ten dollars each. A dealer plate may be displayed on any ~~motorcycle~~ motor-powered recreational vehicle owned by the dealer.

**SECTION 4. AMENDMENT.** Section 39-22.3-02 of the North Dakota Century Code is amended and reenacted as follows:

**39-22.3-02. Application required.** ~~No~~ A license may not be granted unless a completed application has been made in the form prescribed by the director.

**SECTION 5. AMENDMENT.** Section 39-22.3-03 of the North Dakota Century Code is amended and reenacted as follows:

**39-22.3-03. Issuance of license - Conditions - Penalty.** ~~No~~ A license may not be issued until the applicant furnishes proof satisfactory to the director that the applicant has and will continue to

maintain an established place of business. An established central place of business means a permanent enclosed building or structure either owned or leased with a stated periodic rental, at which a permanent business of bartering, trading, and selling of ~~motorcycles~~ motor-powered recreational vehicles, the repair, maintenance, and servicing of ~~motorcycles~~ motor-powered recreational vehicles and the storage of parts and accessories ~~therefor, of motor-powered recreational vehicles~~ will be carried out in good faith and not for the purpose of evading this section, and where the business books, records, and files ~~shall~~ must be maintained, and does not mean a residence, tents, temporary stands, or other temporary quarters, nor permanent quarters occupied pursuant to any temporary arrangement. ~~Said~~ The central place of business may consist of several buildings, or structures, but ~~no~~ a building or structure may not be located beyond one thousand feet [304.8 meters] from any other buildings or structures of ~~said~~ the central place of business. ~~Such~~ The central place of business must be located within ~~the~~ this state of ~~North Dakota~~. The licensee must be permitted to use unimproved lots and premises for sales, storage, or display of ~~motorcycles~~ motor-powered recreational vehicles. A nonrefundable fee of fifty dollars will be charged for each inspection and must accompany each initial application for a ~~motorcycle~~ motor-powered recreational vehicle dealer's license. Any dealer violating this chapter 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 ~~motorcycle~~ motor-powered recreational vehicle dealer licensed under this chapter if a third or subsequent violation of this chapter occurs within five years of the first violation.

**SECTION 6. AMENDMENT.** Section 39-22.3-04 of the North Dakota Century Code is amended and reenacted as follows:

**39-22.3-04. 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~~ the license after it has been granted for the following reasons:

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

**SECTION 7. AMENDMENT.** Section 39-22.3-05 of the North Dakota Century Code is amended and reenacted as follows:

**39-22.3-05. Bond required.** The license applicant shall furnish a continuous surety bond executed by a surety company, licensed and qualified to do business within ~~the state of North Dakota,~~ this state and the bond must run to the state of North Dakota in the amount of ten thousand dollars and be conditioned upon the faithful compliance by ~~said~~ the applicant with all the statutes of ~~the state of North Dakota~~ this state, regulating or being applicable to a dealer in ~~motorcycles~~ motor-powered recreational vehicles, and indemnifying any person having a ~~motorcycle~~ motor-powered recreational vehicle transaction with ~~said~~ the dealer from any loss of damage occasioned by the failure of ~~such~~ the dealer to comply with any statutory requirement of ~~such~~ the transaction. The bond must be filed with the director ~~prior to~~ before the issuance of a license. The aggregate liability of the surety of all persons may ~~in no event~~ not 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 of any ~~such~~ proceedings. The bond may be canceled by the surety, as to future liability, by giving written

notice by certified mail, addressed to the principal at the address stated in the bond, and to the department. Thirty days after the mailing of the notice, the bond is null and void as to any subsequent liability thereafter arising. The surety remains liable, subject to the terms, conditions, and provisions of the bond, until the effective date of the cancellation.

**SECTION 8. AMENDMENT.** Section 39-22.3-06 of the North Dakota Century Code is amended and reenacted as follows:

**39-22.3-06. Disposition of fees.** Fees from registration of dealers must be deposited with the state treasurer and credited to the ~~highway tax distribution fund~~ dealer enforcement fund to be used exclusively for enforcement of this chapter.

**SECTION 9. AMENDMENT.** Section 39-22.3-07 of the North Dakota Century Code is amended and reenacted as follows:

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

**SECTION 10. AMENDMENT.** Section 39-22.3-08 of the North Dakota Century Code is amended and reenacted as follows:

**39-22.3-08. Dealers to furnish information to director.** All dealers engaged in the sale of ~~motorcycles~~ motor-powered recreational vehicles in this state shall furnish the director with ~~such~~ information as to models, specifications, selling prices, and ~~such~~ other data requested by the director as may be necessary in carrying out ~~the provisions of this chapter.~~

**SECTION 11. AMENDMENT.** Section 39-22.3-09 of the North Dakota Century Code is amended and reenacted as follows:

**39-22.3-09. 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~~ May cancel, revoke, or suspend a dealer's license as provided for in this chapter;
2. ~~To~~ May prescribe rules not inconsistent with this chapter governing the application for dealer's licenses and the cancellation or suspension or revocation of a dealer's license; and
3. ~~To~~ May 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~~ and 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.

**SECTION 12. AMENDMENT.** Section 39-22.3-10 of the North Dakota Century Code is amended and reenacted as follows:

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

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Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1465.

House Vote:      Yeas    89      Nays    0      Absent    5

Senate Vote:    Yeas    38      Nays    9      Absent    0

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Chief Clerk of the House

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