

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1099
(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to amend and reenact sections 39-18-01, 39-18-02, 39-22-05, 39-22-14, 39-22-18, 39-22.1-02, 39-22.1-03, 39-22.3-03, and 39-22.3-05 of the North Dakota Century Code, relating to penalties assessed against vehicle dealers, bond requirements for vehicle dealers, renewal of a dealer license, and unlicensed vehicle dealers; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-18-01 of the North Dakota Century Code is amended and reenacted as follows:

39-18-01. Mobile home dealer's license - Fees - Dealer's plates - Penalty. No person, partnership, corporation, or limited liability company may engage in the business of buying, selling, or exchanging of mobile homes or travel trailers, or advertise or hold oneself or itself out to the public as being in the business of buying, selling, or exchanging of mobile homes or travel trailers without first being licensed to do so as hereinafter provided.

Application for dealer's license and renewal license must be made to the department on such forms as the department prescribes and furnishes, and the application must be accompanied by an annual fee of thirty-five dollars for which must be issued one dealer plate. A dealer's license expires on December thirty-first of each year, and application for renewal of a dealer's license must be made on or before the expiration of the current dealer's license.

A mobile home dealer's license must be issued only to those who will maintain a permanent office and place of business, and an adequate service department, during the licensing year, and will abide by all the provisions of law pertaining to mobile home dealers.

In addition, the dealer shall maintain that person's business records in one central location.

Upon the payment of the fee of ten dollars for each additional plate, the department shall register and issue dealer's license plates for use on any mobile homes owned by the licensed dealer, and the mobile homes bearing the dealer's license plates may be lawfully operated upon the public highways of the state of North Dakota by the dealer, and the dealer's agents and servants, during the year of the registration. A dealer's license plates expire on December thirty-first of each year.

The term "mobile home" as used in this chapter includes and has the same meaning as "housetrailer", and both terms have the meaning prescribed in section 39-01-01. The term "travel trailer" as used in this chapter has the meaning as prescribed in section 39-01-01.

Any mobile home dealer licensed under the provisions of this chapter may sell house cars without being licensed under the provisions of chapter 39-22. A mobile home dealer plate displayed on a house car must be displayed on the rear of the vehicle.

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 mobile home dealer licensed under this chapter if a third or subsequent violation of this chapter occurs within five years of the first violation.

SECTION 2. AMENDMENT. Section 39-18-02 of the North Dakota Century Code is amended and reenacted as follows:

39-18-02. Bond required. Before the issuance of a mobile home dealer's license, as provided by law, the applicant for such license shall furnish a continuous 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 must be in the amount of ten thousand dollars, and be conditioned upon the faithful compliance by said applicant as a dealer, if such license be issued to the dealer, that such dealer will comply with all the laws of the state of North Dakota pertaining to such business, and regulating or being applicable to the business of said dealer as a dealer in mobile homes, and indemnifying any person dealing or transacting business with such dealer in connection with any mobile home from any loss or damage occasioned by the failure of such dealer to comply with the provisions of the laws of the state of North Dakota, including the furnishing of a proper and valid certificate of title to the vendee of a mobile home within fifteen days of the sale of such mobile home, and to the vendee of a travel trailer as defined by section 57-55-01 within fifteen days of the sale of such travel trailer, and that such bond must be filed with the director prior to the issuance of the license herein provided for. Provided, however, that the aggregate liability of the surety to all such persons for all such losses or damages may, in no event, exceed the amount of such 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 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 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 3. AMENDMENT. Section 39-22-05 of the North Dakota Century Code is amended and reenacted as follows:

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 continuous 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. 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 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 4. 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 person to 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 which must be issued one dealer plate. A

nonrefundable fee of one hundred dollars must be charged for the initial inspection of an 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 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 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 5. AMENDMENT. Section 39-22-18 of the North Dakota Century Code is amended and reenacted as follows:

39-22-18. Renewal of dealer license - Fees - Minimum sales requirement - Penalty. A dealer license issued under this chapter expires on December thirty-first of each year. A licensed dealer may apply for renewal of the dealer's license on forms prescribed by the department and payment of the dealer license and dealer plate fees required by this chapter. The department shall not renew the dealer license of any applicant who has made less than four retail motor vehicle sales during the previous year. The department may adopt administrative rules to limit the number of dealer plates available to an applicant based on the applicant's motor vehicle sales history. Any dealer who fails to submit a renewal application before the expiration of the dealer's current license, in addition to all other fees due, shall pay a one hundred dollar fee at the time the dealer's license is renewed.

SECTION 6. AMENDMENT. Section 39-22.1-02 of the North Dakota Century Code is amended and reenacted as follows:

39-22.1-02. Bond required. Before the issuance of a trailer dealer's license, as provided by law, the applicant for such license shall furnish a continuous 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 must be in the amount of ten thousand dollars, and be conditioned upon the faithful compliance by said applicant as a dealer, if such license be issued to the applicant, that such dealer will comply with all the laws of the state of North Dakota pertaining to such business, and regulating or being applicable to the business of said dealer as a dealer in trailers, and indemnifying any person dealing or transacting business with such dealer in connection with any trailer from any loss or damage occasioned by the failure of such dealer to comply with the provisions of the laws of the state of North Dakota, including, but not limited to, the furnishing of a proper and valid certificate of title to the vendee of a trailer within fifteen days of the sale of such trailer, and that such bond shall be filed with the director prior to the issuance of the license herein provided for. Provided, however, that the aggregate liability of the surety to all such persons for all such losses or damages may, in no event, exceed the amount of such 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 any such proceedings. Any applicant bonded pursuant to the provisions of chapter 39-18 or 39-22 may not be required to furnish the surety bond provided for in this section whenever the bond issued pursuant to chapter 39-18 or 39-22 is written to include the requirements of this section. 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 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 7. AMENDMENT. Section 39-22.1-03 of the North Dakota Century Code is amended and reenacted as follows:

39-22.1-03. Suspension or revocation of dealer's license - Penalty. The director may suspend or revoke any dealer's license for failure of the licensee to comply with any of the laws of the state of North Dakota governing trailer dealers, or for the failure to comply with the reasonable rules

and regulations of the director as established under chapter 28-32, but no order suspending or revoking a dealer's license may be made without a hearing at which the licensee must be given an opportunity to be heard. Any dealer violating the provisions of 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 trailer dealer licensed under this chapter if a third or subsequent violation of the chapter occurs within five years of the first violation.

SECTION 8. 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 license may 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, the repair, maintenance, and servicing of motorcycles and the storage of parts and accessories therefor, 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 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 central place of business may consist of several buildings, or structures, but no building or structure may be located beyond one thousand feet [304.8 meters] from any other buildings or structures of said central place of business. Such central place of business must be located within the state of North Dakota. The licensee must be permitted to use unimproved lots and premises for sales, storage, or display of motorcycles. A nonrefundable fee of fifty dollars will be charged for each inspection and must accompany each initial application for a motorcycle 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 dealer licensed under this chapter if a third or subsequent violation of this chapter occurs within five years of the first violation.

SECTION 9. 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, which 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 applicant with all the statutes of the state of North Dakota, regulating or being applicable to a dealer in motorcycles, and indemnifying any person having a motorcycle transaction with said dealer from any loss of damage occasioned by the failure of such dealer to comply with any statutory requirement of such transaction. The bond must be filed with the director prior to the issuance of a license. The aggregate liability of the surety of all persons 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 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 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 10. EFFECTIVE DATE. This Act becomes effective on January 1, 2006.

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 Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1099.

House Vote: Yeas 73 Nays 15 Absent 6

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State