

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

SENATE BILL NO. 2255
(Senator Wardner)

AN ACT to create and enact sections 39-22.1-01.1, 39-22.1-05, and 39-22.1-06 of the North Dakota Century Code, relating to the licensure of trailer dealers; and to amend and reenact sections 39-22-19, 39-22.1-01, 39-22.1-02, 39-22.1-03, and 39-22.1-04 of the North Dakota Century Code, relating to insurance for motor vehicle dealers and requirements for the licensing of trailer dealers; to provide a penalty; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-22-19 of the North Dakota Century Code is amended and reenacted as follows:

39-22-19. Garage liability insurance requirement.

Before the issuance of a motor vehicle dealer license, the applicant must provide proof to the department of a continuous policy of garage liability insurance for the business operation of the applicant which includes general, business automobile, and sales, repair, or service operations liability as is appropriate to the business operation. The insurance company that issued the policy must notify the department of any cancellation, suspension, or revocation of the coverage. Any motor vehicle dealer who fails to maintain the insurance coverage required by this section shall return the dealer license and dealer number plates to the department on or before the effective date of the cancellation, suspension, or revocation. Failure to return the dealer license or dealer number plates results in automatic revocation by operation of law. The department may order the superintendent to take possession of any dealer license or dealer number plates not returned to the department as required in this section. The department shall reinstate the dealer license and dealer number plates only when proof of insurance coverage is received.

SECTION 2. AMENDMENT. Section 39-22.1-01 of the North Dakota Century Code is amended and reenacted as follows:

39-22.1-01. Trailer dealer's license - Fees - Plates - Definition.

No

1. A person, ~~partnership, corporation, or limited liability company~~ may not engage in the business of buying, selling, or exchanging of trailers, or advertise or hold ~~oneself or itself~~ out to the public as being in the business of buying, selling, or exchanging of trailers without first being licensed ~~to do so as hereinafter provided.~~
2. Application for dealer's license and renewal license must be made to the director on such forms as the director prescribes and furnishes, and the application must be accompanied by an annual fee of thirty dollars for which must be issued one dealer plate. The applicant for an initial trailer dealer license shall submit a nonrefundable fee of one hundred dollars for the initial inspection with the application. 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. 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.
3. A trailer dealer's license may be issued only to those who will maintain a ~~permanent office~~ and a primary established place of business and will abide by all the provisions of law

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

4. Upon the payment of a fee of ten dollars for each additional plate, the director shall register and issue dealer's license plates for use on any trailers owned by the licensed dealer, and the trailers bearing the dealer's license plates may be lawfully operated upon the public highways ~~of the state of North Dakota~~ this state by the dealer or the dealer's agents or representatives during the year of the registration, in the direct functions of demonstrating, buying, selling, or transporting trailers. A dealer's license plates expire on December thirty-first of each year.
5. The term "trailer" as used in this chapter does not include those trailers exempt from registration in chapter 39-04.

SECTION 3. Section 39-22.1-01.1 of the North Dakota Century Code is created and enacted as follows:

39-22.1-01.1. Primary established place of business - Penalty.

1. If the licensee desires to move from the primary established place of business occupied when the license was granted to a new location, the licensee shall notify the director.
2. A licensed dealer may establish secondary trailer display lots in the conduct of the dealer's business. Secondary lots must be identified as a part of the licensed dealer's operation.
3. The department may assess a person violating this section a one hundred dollar fee for a first violation or a two hundred dollar fee for a second violation within two years of the first violation. The department may suspend the license of a trailer dealer licensed under this chapter if a third or subsequent violation of this section occurs within five years of the first violation.

SECTION 4. 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 ~~or the renewal of~~ a trailer dealer's license, as provided by law, the applicant for ~~such~~ 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 must be in the amount of ten thousand dollars, and be conditioned upon the faithful compliance by ~~said~~ the applicant as a dealer, if ~~such~~ the license be issued to the applicant, that ~~such~~ the dealer will comply with all the laws of ~~the~~ this state of North Dakota pertaining to ~~such~~ the business, and regulating or being applicable to the business of ~~said~~ the dealer as a dealer in trailers, and indemnifying any person dealing or transacting business with ~~such~~ the dealer in connection with any trailer from any loss or damage occasioned by the failure of ~~such~~ the dealer to comply with the ~~provisions of the laws of the~~ provisions of the laws of ~~the~~ this 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~~ the trailer, and that ~~such~~ the bond shall be filed with the director ~~prior to~~ before the issuance of the license ~~herein provided for~~. ~~Provided, however~~ However, that the aggregate liability of the surety to all ~~such~~ persons for all ~~such~~ losses or damages may, ~~in no event,~~ not exceed the amount of ~~such~~ 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 any ~~such~~ proceedings. Any applicant bonded ~~pursuant to the provisions of~~ under chapter 39-18 or 39-22 may not be required to furnish the surety bond provided for in this section ~~whenever~~ if the bond issued ~~pursuant to~~ under 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~~ after that thirty days. The surety remains liable, subject to the terms, conditions, and provisions of the bond, until the effective date of the cancellation.

SECTION 5. AMENDMENT. Section 39-22.1-03 of the North Dakota Century Code is amended and reenacted as follows:

39-22.1-03. Suspension or, denial, revocation, or cancellation 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; deny an application for a dealer's license or suspend, revoke, or cancel a dealer's license after it has been granted for making any material misstatement by an applicant in the application for a license; willfully failing to comply with this chapter; willfully violating a law relating to the sale, distribution, or financing of trailers; ceasing to have a primary established place of business; or for the failure~~ failing 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~~any provision~~ 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 6. AMENDMENT. Section 39-22.1-04 of the North Dakota Century Code is amended and reenacted as follows:

39-22.1-04. Penalty Examination of books and records.

~~Any person who violates the provisions of this chapter is guilty of a class B misdemeanor. The director or any duly authorized representative may inspect the pertinent books, letters, records, and contracts of any licensed trailer dealer or any other person relating to any complaint made against the dealer or person and held to be in violation of this chapter. In addition, any duly authorized representative of the department may inspect the records of any licensed dealer to verify that fees collected for the department have been properly remitted.~~

SECTION 7. Section 39-22.1-05 of the North Dakota Century Code is created and enacted as follows:

39-22.1-05. Powers of the director.

In addition to other powers provided by law, the director may:

1. Cancel, revoke, or suspend a dealer's license as provided for in section 39-22.1-03.
2. Adopt rules not inconsistent with this chapter governing the application for dealer's licenses and the cancellation or suspension or revocation of dealer's licenses.
3. Employ and pay any person as the director determines necessary to inspect dealers in this state or investigate dealers for information for the director to 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 8. Section 39-22.1-06 of the North Dakota Century Code is created and enacted as follows:

39-22.1-06. Penalty.

Any person who violates this chapter is guilty of a class B misdemeanor.

SECTION 9. EFFECTIVE DATE. Except as otherwise provided in this Act, this Act becomes effective on January 1, 2012.

SECTION 10. EMERGENCY. Section 1 of this Act is declared to be an emergency measure.

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 Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2255 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 85 Nays 6 Absent 3

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State