

Introduced by

1 A BILL for an Act to create and enact section 39-22.3-03.1 of the North Dakota Century Code,
2 relating to a new motorcycle dealer franchise; to amend and reenact sections 39-22.3-01,
3 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,
4 39-22.3-09, and 39-22.3-10 of the North Dakota Century Code, relating to motorcycle dealer
5 licensing; to repeal sections 39-22.3-11 and 39-22.3-12 of the North Dakota Century Code,
6 relating to penalties and administration; and to provide a penalty.

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

8 **SECTION 1. AMENDMENT.** Section 39-22.3-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **39-22.3-01. Motorcycle dealer's license - Fees—Additional number plates Penalty.**

11 ~~It is unlawful for any~~ A person, partnership, corporation, or limited liability company to ~~may not~~
12 ~~advertise as being in, hold out to the public as engaging in, or engage in the business of buying,~~
13 ~~selling, or exchanging of motorcycles without possessing a current motorcycle dealer's license.~~
14 ~~No person, partnership, corporation, or limited liability company may advertise or hold out to the~~
15 ~~public as engaging in the buying, selling, or exchanging of motorcycles for resale without~~
16 ~~possession of a current motorcycle dealer's license. The motorcycle dealer's license fee is~~
17 ~~twenty five dollars per year and with which must be issued one dealer's plate. Additional~~
18 ~~dealer's plates are ten dollars each. A dealer plate may be displayed on any motorcycle owned~~
19 ~~by the dealer. A person violating this section is guilty of a class B misdemeanor.~~

20 **SECTION 2. AMENDMENT.** Section 39-22.3-02 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **39-22.3-02. Application required - Fees - Plates - Renewal. ~~No~~**

23 1. The director may not grant a license ~~may be granted~~ unless a completed
24 application has been made in the form prescribed by the director.

- 1 2. The motorcycle dealer's license fee is twenty-five dollars per year and must be
2 issued one dealer plate. Additional dealer plates are ten dollars each per year.
3 Dealer plates may be used on any vehicle owned by the dealership and used in the
4 direct functions of demonstrating, buying, or selling vehicles. Dealer plates may
5 not be used on service vehicles or vehicles used in other functions of the business,
6 sold units in possession of the purchaser, by family members not residing at the
7 dealer's residence, or by any other person not directly involved in the operation of
8 the dealership.
- 9 3. The director may issue to a dealer an in-transit license plate for a fee of five dollars
10 per plate. A dealer in-transit plate may be used on vehicles in lieu of a dealer plate
11 while a motorcycle is in transit from its place of manufacture, or any other place, to
12 the dealer or in transit from the dealer, by a direct route, to another destination.
- 13 4. The director may issue a dealer a demonstration plate for a fee of five dollars per
14 plate. A dealer demonstration plate may be used only on a vehicle which is owned
15 by the dealership and being demonstrated to a customer. A dealer demonstration
16 plate is valid for use only within a radius of one hundred miles [160.93 kilometers]
17 of the dealer's established place of business.
- 18 5. A dealer plate, in-transit plate, or demonstration plate displayed on a vehicle must
19 be displayed on the rear of the vehicle.
- 20 6. A dealer license issued under this chapter expires on December thirty-first of each
21 year. For a renewal, a dealer shall apply on a form prescribed by the department
22 and with the payment for the dealer license and dealer plate fees required by this
23 chapter. The department may not renew the dealer license of any applicant who
24 has made less than four retail motorcycle sales during the previous year.
- 25 7. Any person violating this section must be assessed a one hundred dollar fee by the
26 department for a first violation and a two hundred dollar fee by the department for a
27 second violation within two years of the first violation. The department shall
28 suspend the license of a motorcycle dealer licensed under this chapter if a third or
29 subsequent violation of this section occurs within five years of the first violation.

30 **SECTION 3. AMENDMENT.** Section 39-22.3-03 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **39-22.3-03. Issuance of license—Conditions Established central place of**
2 **business.** ~~No~~

3 1. ~~The director may not issue a license~~ ~~may be issued~~ until the applicant furnishes
4 proof satisfactory to the director that the applicant has and will continue to maintain
5 an established central place of business in this state. An established central place
6 of business ~~means~~ is a permanent enclosed building or structure of at least two
7 hundred fifty square feet [23.22 square meters] either owned or leased with a
8 stated periodic rental, at which a permanent business of bartering, trading, and
9 selling of motorcycles, the repair, maintenance, and servicing of motorcycles and
10 the storage of parts and accessories ~~therefor~~ for motorcycles, will be carried out in
11 good faith ~~and not for the purpose of evading this section, and where the business~~
12 ~~books, records, and files shall be maintained, and does.~~ A central place of
13 business is not ~~mean~~ a residence, tents, temporary stands, or other temporary
14 quarters, nor permanent quarters occupied pursuant to any temporary
15 arrangement. ~~Said~~

16 2. The central place of business may consist of several buildings, or structures, but
17 no building or structure may be located beyond one thousand feet [304.8 meters]
18 from any other buildings building or structures structure of said the central place of
19 business. ~~Such central place of business must be located within the state of North~~
20 ~~Dakota. The licensee must be permitted to use unimproved lots and premises for~~
21 ~~sales, storage, or display of motorcycles.~~ The central place of business must be
22 located on property zoned or otherwise approved for this purpose by the
23 appropriate zoning authority. The central place of business must be adequately
24 heated and lighted so as to be comfortable for customers and employees and be
25 equipped with standard office equipment necessary for conducting the business.
26 The central place of business must have a telephone publicly listed in the name of
27 the dealership, be open to the public during normal business hours, and have a
28 sign identifying the business to the public as a motorcycle dealership. The sign
29 must be at least thirty-two square feet [2.97 square meters] in size, contain the
30 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 motorcycle
2 manufacturer may be used in lieu of the sign requirements of this section.
- 3 3. All records related to the business, including titles or other documents showing
4 ownership of the vehicles, must be kept and maintained at the central place of
5 business.
- 6 4. If the licensee desires to move from the central place of business occupied when
7 the license was granted to a new location, the licensee must obtain permission
8 from the director. The licensee shall furnish proof satisfactory to the director that
9 the premises to which the licensee proposes to move conforms with the
10 requirements of this section.
- 11 5. A nonrefundable fee of ~~fifty~~ one hundred dollars ~~will~~ must be charged for each
12 inspection and must accompany each initial application for a motorcycle dealer's
13 license.
- 14 6. Any person violating this section must be assessed a one hundred dollar fee by the
15 department for a first violation and a two hundred dollar fee by the department for a
16 second violation within two years of the first violation. The department shall
17 suspend the license of a motorcycle dealer licensed under this chapter if a third or
18 subsequent violation of this section occurs within five years of the first violation.

19 **SECTION 4.** Section 39-22.3-03.1 of the North Dakota Century Code is created and
20 enacted as follows:

21 **39-22.3-03.1. Application for new motorcycle dealer license - Franchise required -**

22 **Penalty.**

- 23 1. In the case of an application for a new motorcycle dealer license, the applicant
24 shall furnish proof satisfactory to the director that the applicant has a bona fide
25 contract or franchise in effect with a manufacturer or distributor of the new
26 motorcycle in which the dealer proposes to deal. A new motorcycle dealer license
27 entitles the holder to deal in both used motorcycles and in those new motorcycles
28 only for which the dealer has a bona fide contract or franchise in effect with a
29 manufacturer or distributor. A used motorcycle dealer license entitles the holder to
30 deal solely in used motorcycles.

- 1 2. New motorcycle dealers who have been issued surrounding communities as a part
2 of their dealer area of responsibility may be issued additional new motorcycle
3 dealer licenses if the manufacturer provides the department written approval of
4 additional sites for display and sale of motorcycles. Applicants for additional new
5 motorcycle dealer licenses must meet all of the requirements of this chapter.
- 6 3. If a motorcycle dealer purchases or holds for sale a new motorcycle for which the
7 dealer does not have a bona fide contract or franchise in effect with a manufacturer
8 or distributor, the new motorcycle becomes, at the time of purchase or possession,
9 subject to the registration provisions of chapter 39-04, the title registration
10 provisions of chapter 39-05, and the motor vehicle excise tax provisions of
11 chapter 57-40.3.
- 12 4. Any person violating this section must be assessed a two hundred fifty dollar fee by
13 the department for a first violation and a five hundred dollar fee by the department
14 for a second violation within two years of the first violation. The department must
15 suspend the license of a motorcycle dealer licensed under this chapter if a third or
16 subsequent violation of this section occurs within five years of the first violation.

17 **SECTION 5. AMENDMENT.** Section 39-22.3-04 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **39-22.3-04. Grounds for denial, suspension, cancellation, or revocation of**
20 **dealer's license.** The director may deny an application for a dealer's license or suspend,
21 revoke, or cancel ~~such~~ a license after it has been granted for any of the following reasons:

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

1 **SECTION 6. AMENDMENT.** Section 39-22.3-05 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **39-22.3-05. Bond and insurance required.**

- 4 1. The license applicant shall furnish a surety bond executed by a surety company,
5 licensed and qualified to do business ~~within the state of North Dakota, which in this~~
6 state. The bond must run to the state of North Dakota in the amount of ten
7 thousand dollars and be conditioned upon the faithful compliance by ~~said the~~ the
8 applicant with all the statutes of ~~the this state of North Dakota,~~ regulating or being
9 applicable to a dealer in motorcycles, and indemnifying any person having a
10 motorcycle transaction with ~~said the~~ the dealer from any loss of damage occasioned
11 by the failure of ~~such the~~ the dealer to comply with any statutory requirement of ~~such~~
12 the transaction. The bond must be filed with the director ~~prior to~~ before the
13 issuance of a license and must stay in effect as a condition of licensure. The
14 aggregate liability of the surety of all persons may ~~in no event~~ not exceed the
15 amount of the bond. Any third party sustaining injury within the terms of the bond
16 may proceed against the principal and surety without making the state a party of
17 ~~any such to the~~ proceedings.
- 18 2. A motorcycle dealer shall provide proof to the director of a continuous policy of
19 general liability insurance in the minimum of one hundred thousand dollars per
20 person and three hundred thousand dollars per occurrence.

21 **SECTION 7. AMENDMENT.** Section 39-22.3-06 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **39-22.3-06. Disposition of fees.** Fees from registration of dealers and fees collected
24 from dealers found in violation of this chapter must be deposited with the state treasurer and
25 credited to the ~~highway tax distribution~~ motor vehicle registration fund. The fees deposited
26 under this section may be used only for enforcement of this chapter.

27 **SECTION 8. AMENDMENT.** Section 39-22.3-07 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **39-22.3-07. Dealer permitting license to be used by another dealer - License**
30 **revoked - Penalty.** A dealer who permits any other dealer to use that first dealer's license, or

1 permits the use of ~~such~~ the license for the benefit of any other dealer, is guilty of an infraction.
2 The director shall revoke the license of any dealer who violates this section.

3 **SECTION 9. AMENDMENT.** Section 39-22.3-08 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **39-22.3-08. Dealers to furnish fees, taxes, and information to director.** ~~All dealers~~
6 ~~engaged in the sale of motorcycles in this state~~

7 1. A motorcycle dealer shall furnish the director with ~~such~~ information as to models,
8 specifications, selling prices, and ~~such~~ any other data requested by the director as
9 may be necessary in carrying out the provisions of this chapter.

10 2. A motorcycle dealer shall submit any state fees, taxes, and applications collected
11 on behalf of a customer to the department within fifteen days of the date of sale.

12 3. Any person violating this section must be assessed a one hundred dollar fee by the
13 department for a first violation and a two hundred dollar fee by the department for a
14 second violation within two years of the first violation. The department must
15 suspend the license of a motor vehicle dealer licensed under this chapter if a third
16 or subsequent violation of this section occurs within five years of the first violation.

17 **SECTION 10. AMENDMENT.** Section 39-22.3-09 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **39-22.3-09. Powers of the director.** The director is responsible for the administration
20 of this chapter. In addition to other powers provided by law, the director has the following
21 powers and duties which must be exercised in conformity with this chapter:

22 1. To cancel, revoke, or suspend a dealer's license as provided for in this chapter.

23 2. To ~~prescribe~~ adopt rules not inconsistent with this chapter governing the
24 application for a dealer's ~~licenses~~ license and the cancellation or suspension or
25 revocation of a dealer's license. The department may adopt rules that limit the
26 number of dealer plates available to an applicant based on the applicant's
27 motorcycle sales history.

28 3. To employ and pay such persons as the director may deem necessary to inspect
29 dealers in this state, investigate dealers for the information of the director, to
30 procure evidence in connection with any prosecution or other action to suspend,

1 revoke, or cancel a dealer's license in relation to any matter in which the director
2 has any duty to perform.

3 **SECTION 11. AMENDMENT.** Section 39-22.3-10 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **39-22.3-10. Examination of books and records.** The director ~~or the director's duly~~
6 ~~authorized representative~~ may inspect the ~~books, letters, records, and contracts~~ of any licensed
7 motorcycle dealer relating to any specific complaint made against ~~such~~ the dealer and held to
8 be in violation of ~~any of the provisions of this title.~~ In addition, the director may inspect the
9 records of a dealer to verify that fees and applications collected from customers for the
10 department have been properly remitted to the department.

11 **SECTION 12. REPEAL.** Sections 39-22.3-11 and 39-22.3-12 of the North Dakota
12 Century Code are repealed.