

## **CHAPTER 39-22 MOTOR VEHICLE DEALER LICENSING**

### **39-22-01. Dealer defined.**

Repealed by S.L. 1987, ch. 439, § 2.

### **39-22-02. Motor vehicle dealer's license - Fees - Additional number plates.**

Repealed by S.L. 2001, ch. 337, § 19.

### **39-22-03. Motorcycle dealer's license - Fees.**

Repealed by S.L. 1983, ch. 451, § 2.

### **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 a dealer's license after it has been granted for making any material misstatement by an applicant in the application for the license; willfully failing to comply with the provisions of this chapter or with any rule adopted by the director; 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; willfully violating a law relating to the sale, distribution, or financing of motor vehicles; having ceased to have an established place of business; or having violated any state or federal law relating to alteration of odometers or vehicle identification number.

### **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.

#### **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 dealer enforcement fund, and used exclusively for enforcement of this chapter.

#### **39-22-05.2. When bid bonds not required in bids to state or political subdivisions.**

A person who submits a bid to the state, any of its agencies, or any of its political subdivisions to sell any type of motor vehicle is not required to submit a bidder's bond or a certified or cashier's check if that person is already bonded pursuant to section 39-22-05. If the

buyer requires a performance bond, then within ten days of the awarding of the contract, the successful bidder shall submit a performance bond to the appropriate state agency or political subdivision in an amount equal to the contract price.

**39-22-06. Motor vehicle lots - Location.**

A licensed dealer may establish secondary motor vehicle lots in the conduct of the dealer's business within five miles [8.05 kilometers] 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. A licensed dealer may not display vehicles except on the dealer's primary and secondary lots or as otherwise permitted in this chapter. The department may assess a person violating this section a one hundred dollar fee for a first violation and a two hundred dollar fee for a second violation within two years of the first violation. The department shall assess a fee of at least five hundred dollars but not more than two thousand dollars for a third or subsequent violation within five years of the first violation.

**39-22-07. Dealer permitting license to be used by another dealer - License revoked - Penalty.**

Repealed by S.L. 2001, ch. 337, § 19.

**39-22-07.1. Motor vehicle sales prohibited on Sunday - Penalty.**

A motor vehicle dealer may not sell a motor vehicle on Sunday. A violation of this section is a class B misdemeanor.

**39-22-08. Dealers to furnish information to director.**

Repealed by S.L. 2001, ch. 337, § 19.

**39-22-09. Dealer to file list of used motor vehicles with registrar - Fees paid on used cars by dealer - Delinquency - Penalty.**

Repealed by S.L. 1977, ch. 369, § 1.

**39-22-10. 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 cancel, revoke, or suspend a dealer's license as provided for in section 39-22-04.
2. To prescribe rules and regulations not inconsistent with this chapter governing the application for dealer's licenses and the cancellation or suspension or revocation of dealer's licenses.
3. To 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 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.

**39-22-11. Examination of books and records.**

The director or any duly authorized representative may inspect the pertinent books, letters, records, and contracts of any licensed motor vehicle dealer or any other person relating to any complaint made against such dealer or person and held to be in violation of any of the provisions of this title. 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.

**39-22-12. Officers to administer chapter - House car dealer, manufacturer, and distributor exemption.**

The director and any duly authorized representative are responsible for the administration of this chapter. This chapter does not apply to house car dealers, manufacturers, and distributors.

**39-22-13. Penalty for violation of chapter.**

Any person violating any of the provisions of this chapter for which another penalty is not specifically provided is guilty of a class B misdemeanor.

**39-22-14. Motor vehicle dealer license - Fees - Penalty.**

A person 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 for which the department shall issue one dealer plate. The applicant for an initial new or used motor vehicle dealer license shall submit a nonrefundable fee of one hundred dollars for the initial inspection with the application. The applicant shall provide the business's federal employer identification number or, in the case of an application from an individual, social security number. The department may assess a person violating this section a one hundred dollar fee for a first violation, a two hundred dollar fee for a second violation within two years of the first violation, or a fee of at least five hundred dollars but not more than two thousand dollars for a third or subsequent violation 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.

**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, or if multiple dealer licenses are held by a person, records may be kept and maintained at one established place of business for that person.
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.

4. 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 motor vehicle dealer licensed under this chapter if a third or subsequent violation of this section occurs within five years of the first violation.

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

1. In 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. 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.
4. The department may assess a person violating this section a two hundred fifty dollar fee for a first violation or a five hundred dollar fee for a second violation within two years of the first violation. The department 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.

**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 dollars each. A dealer number plate 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 vehicle or 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 a person not directly involved in the operation of the dealership.
2. A dealer plate displayed on a vehicle must be visibly displayed on the rear of the vehicle.
3. The department may assess a person violating this section a one hundred dollar fee for a first violation, a two hundred dollar fee for a second violation within two years of the first violation, or a fee of at least five hundred dollars but not more than two thousand dollars for a third or subsequent violation within five years of the first violation.

**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 may not renew the dealer license of any applicant who has made less than eight 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. For purposes of this section, "retail motor vehicle sales" means the sale of a motor vehicle that requires titling and registration in order to operate on the roads.

**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 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.

**39-22-20. Display and sale of vehicles by out-of-state dealers - Offsite display and sale by in-state 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.
4. The department may assess a person violating this section a one hundred dollar fee for a first violation, a two hundred dollar fee for a second violation within two years of the first violation, or a fee of at least five hundred dollars but not more than two thousand dollars for a third or subsequent violation within five years of the first violation.

**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.
2. The department may assess a person violating this section a one hundred dollar fee for a first violation, a two hundred dollar fee for a second violation within two years of

the first violation, or a fee of at least five hundred dollars but not more than two thousand dollars for a third or subsequent violation within five years of the first violation.

**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 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 and keep records for at least one year after the rental of a space verifying compliance with this requirement. A licensed motor vehicle dealer may not operate a display lot on property that is part of the licensed dealership. The department may inspect the records of the display lot operator related to any complaint made against the operator.
4. The department may assess a person violating this section a one hundred dollar fee for a first violation, a two hundred dollar fee for a second violation within two years of the first violation, or a fee of at least five hundred dollars but not more than two thousand dollars for a third or subsequent violation within five years of the first violation.

**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.
2. The department may assess a person violating this section a one hundred dollar fee for a first violation and a two hundred dollar fee for a second violation within two years of the first violation. The department 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.

**39-22-24. Factory store prohibited - Penalty.**

A manufacturer, importer, or distributor of new motor vehicles, or a subsidiary thereof, may not own, operate, or control a motor vehicle dealership in this state. This section does not apply if:

1. The ownership and operation is for a temporary period not to exceed one year during the transition from one owner or operator to another;
2. The dealership is being sold under a bona fide contract or purchase option to the operator of the dealership, or a contract exists under which the operator of the dealership can expect to acquire full ownership of or a controlling interest in the dealership, and after the transfer of ownership is completed the dealership will not be owned, operated, or controlled by the manufacturer, importer, or distributor, or a subsidiary thereof; or

3. The department determines there is no prospective independent dealer available to own or operate the dealership in a manner consistent with the public interest and meeting the requirements of this chapter.

Any person violating this section is guilty of a class A misdemeanor.

**39-22-25. Direct manufacturer sales prohibited - Penalty.**

A manufacturer or franchiser may not offer to sell directly or sell indirectly, any new motor vehicle to a consumer in this state, except through a new motor vehicle dealer holding a franchise for the line make covering the new motor vehicle. This section does not apply to manufacturer or franchiser sales of new motor vehicles to the federal government, charitable organizations, or employees of the manufacturer or franchiser. Any person violating this section is guilty of a class A misdemeanor.

**39-22-26. Brokering of motor vehicles prohibited - Penalty.**

A person may not act as, offer to act as, or hold out to be a motor vehicle broker. As used in this section, a broker is a person who, for a fee, commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale or exchange of a motor vehicle, and who is not:

1. A dealer or a bona fide agent or employee of a dealer;
2. A representative or a bona fide agent or employee of a manufacturer;
3. The bona fide owner of the motor vehicle involved in the transaction; or
4. A bona fide auctioneer conducting an auction involving motor vehicles not owned by the auctioneer.

Any person violating this section is guilty of a class A misdemeanor.

**39-22-27. Collector motor vehicle auctions.**

1. A person may engage in the business of conducting a collector motor vehicle auction without obtaining a motor vehicle dealer's license as otherwise required by this chapter if:
  - a. Each motor vehicle sold or offered for sale at the auction is a collector, antique, or special interest vehicle;
  - b. The sale is open to the public;
  - c. The person conducts no more than two collector motor vehicle auctions per year;
  - d. The site of the auction is located on property zoned or otherwise approved for this purpose by the appropriate zoning authority; and
  - e. The auction lasts no more than two days.
2. Collector motor vehicle auctions that comply with this section may be conducted any day of the week and sections 39-22-07.1 and 39-22-20 do not apply to motor vehicle dealers who participate in collector motor vehicle auctions.
3. A collector motor vehicle is a vehicle that is at least twenty-five years old; an antique motor vehicle is a vehicle that is at least forty years old; and a special interest vehicle is a vehicle that has an appreciating value because of rarity, originality, or limited production of an anniversary edition.