

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

572Q0526

HOUSE BILL NO. 1150

Introduced by: Representatives Turbiville, Kirkeby, and Putnam and Senators Schmidt,
Haverly, and Nelson

1 FOR AN ACT ENTITLED, An Act to revise certain requirements for any person to sell
2 motorcycles at an event and to provide a penalty for violation thereof.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-6B-5 be amended to read as follows:

5 32-6B-5. The following persons are exempt from the provisions of this chapter:

- 6 (1) Any employee of any person licensed as a vehicle dealer if engaged in the specific
7 performance of the employee's duties;
- 8 (2) Any financial institution chartered or licensed in any other jurisdiction that acquires
9 vehicles as an incident to ~~its~~ the financial institution's regular business and sells ~~such~~
10 the vehicles to dealers licensed under this chapter;
- 11 (3) Any nonprofit automobile club if selling automobiles twenty years old or older under
12 the provisions of chapter 32-3;
- 13 (4) Any person acting as an auctioneer if auctioning South Dakota titled vehicles for a
14 licensed dealer or a person who is exempt from the provisions of this chapter;
- 15 (5) Any person engaged in the business of manufacturing or converting new vehicles if



1 selling ~~such~~ the vehicles to a licensed dealer holding a franchise from the original
2 manufacturer of the vehicle;

- 3 (6) Any person engaged in the business of manufacturing or customizing motor vehicles
4 may display but may not sell any motor vehicle at an event, if the event lasts three or
5 more days and if the person registers with and purchases a permit from the
6 Department of Revenue and Regulation ~~at least five days before the event. The. If~~
7 purchased in advance of the event, the person shall pay a fee of ~~one hundred fifty~~ two
8 hundred fifty dollars for a ten-day temporary permit. However, if the permit is
9 purchased at ~~least five days before~~ the event, the person shall pay a fee of ~~one~~ five
10 hundred dollars for the temporary permit. This subdivision does not apply to any
11 customized motorcycle being built for and displayed during a sponsored event where
12 the participants had to qualify through competition. A permit is required if any
13 customized motorcycle is being displayed outside the sponsored event. Any person
14 found to be in violation of the provisions contained in this subdivision shall be
15 denied a temporary permit for a period of one year from the date of violation;

- 16 (7) Any person engaged in the business of manufacturing trailers may display but may
17 not sell any trailers at an event, if the event lasts three or more days and if the person
18 registers with and purchases a permit from the Department of Revenue and
19 Regulation ~~at least five days before the event. The. If purchased in advance of the~~
20 event, the person shall pay a fee of ~~seventy-five~~ two hundred fifty dollars for a ten-
21 day temporary permit. However, if the permit is purchased at ~~least five days before~~
22 the event, the person shall pay a fee of ~~fifty~~ five hundred dollars for the temporary
23 permit. Any person found to be in violation of the provisions contained in this
24 subdivision shall be denied a temporary permit for a period of one year from the date

1 of violation;

2 (8) Any person may sell motorcycles at an event, if the event lasts three or more days and
3 if the person registers and purchases a permit from the Department of Revenue and
4 Regulation ~~at least five days before the event.~~ Before issuance of a permit, the
5 applicant shall provide proof the applicant is a licensed dealer in the applicant's own
6 state and has no outstanding dealer violations. The permit shall only be issued if the
7 new motorcycles being sold are not franchised in this state. ~~The~~ If purchased in
8 advance of the event, the person shall pay a fee of ~~three hundred fifty~~ two hundred
9 fifty dollars for a ten-day temporary permit. However, if the permit is purchased at
10 ~~least five days before~~ the event, the person shall pay a fee of ~~two hundred five~~
11 hundred dollars for the temporary permit. Any person found to be in violation of the
12 provisions contained in this subdivision shall be denied a temporary permit for a
13 period of one year from the date of violation;

14 (9) Any person may sell trailers at an event, if the event lasts three or more days and if
15 the person registers and purchases a permit from the Department of Revenue and
16 Regulation ~~at least five days before the event.~~ Before issuance of a permit, the
17 applicant shall provide proof the applicant is a licensed dealer in the applicant's own
18 state and has no outstanding dealer violations. The permit will only be issued if the
19 trailers being sold are not franchised in this state. ~~The~~ If purchased in advance of the
20 event, the person shall pay a fee of ~~two hundred twenty-five~~ two hundred fifty dollars
21 for a ten-day temporary permit. However, regardless of whether or not there is a
22 franchise in this state, any person may display a trailer at such an event. However, if
23 the permit is purchased ~~at least five days~~ before the event, the person shall pay a fee
24 of ~~one hundred fifty~~ five hundred dollars for the temporary permit. Any person found

to be in violation of the provisions contained in this subdivision shall be denied a temporary permit for a period of one year from the date of violation;

(10) Any person not engaged in the sale of vehicles as a business and is disposing of vehicles used solely for personal use if the vehicles were acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter;

(11) Any person not engaged in the sale of vehicles as a business who operates fleets of vehicles and is disposing of vehicles used in the person's business if the same were acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter;

(12) Any person who sells less than five vehicles in a twelve-month period, unless the person is licensed as a dealer in another state or holds himself or herself out as being in the business of selling vehicles. However, if the vehicles are travel trailers, any person who sells less than three travel trailers in a twelve-month period;

(13) Any public officer while performing the officer's official duties;

(14) Any receiver, trustee, administrator, executor, guardian, or other person appointed by or acting under the judgment or order of any court;

(15) Any regulated lenders as that term is defined in § 54-3-14, any insurance company authorized to do business in this state, or any financing institution as defined in and licensed pursuant to chapter 54-4 that acquires vehicles as an incident to its regular business;

(16) Any towing agency that acquires and sells a vehicle which has been towed at the request of a private landowner under the provision of chapter 32-36 or at the request of a law enforcement officer, if no vehicle is sold for an amount over two hundred dollars;

- 1 (17) Any vehicle rental and leasing company that sells its used vehicles to dealers licensed
- 2 under this chapter; and
- 3 (18) Any South Dakota nonprofit corporation which gives a donated motor vehicle to a
- 4 needy family or individual.