

# State of South Dakota

SEVENTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 1998

454B0532

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB137** - 1/28/98

Introduced by: Senators Rounds, Flowers, and Hutmacher and Representatives Kooistra,  
Koskan, and Pederson (Gordon)

1 FOR AN ACT ENTITLED, An Act to provide for an emergency vehicle dealer's license and to  
2 declare an emergency.

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

4 Section 1. That § 32-6B-1 be amended by adding thereto NEW SUBDIVISIONS to read as  
5 follows:

6 "Authorized emergency vehicle," any vehicle of a fire department and any ambulance and  
7 emergency vehicle of a municipal department or public service corporation that are designated  
8 or authorized by the Department of Commerce and Regulation.

9 "Emergency vehicle dealer," any person who converts or manufacturers authorized  
10 emergency vehicles and who, for commission or with intent to make a profit or gain, sells,  
11 exchanges, rents with option to purchase, offers, or attempts to negotiate a sale or exchange of  
12 new, or new and used authorized emergency vehicles, or who is engaged wholly or in part in the  
13 business of selling new, or new and used authorized emergency vehicles.

14 Section 2. That § 32-6B-2 be amended to read as follows:

15 32-6B-2. For purposes of this chapter, the term, "principal place of business," means an

1 enclosed commercial structure located within the State of South Dakota, easily accessible and  
2 open to the public at all reasonable times, with an improved display area immediately adjoining  
3 the building that is large enough to display five or more vehicles of the type the dealer is licensed  
4 to sell. It is the location at which the business of a vehicle dealer may be lawfully carried on in  
5 accordance with all applicable building codes, zoning, and other land use ordinances and in which  
6 building the public may contact the vehicle dealer or ~~his~~ the dealer's salesperson. It is the location  
7 where the books, records, and files necessary to conduct the business of the vehicle dealer are  
8 kept and maintained. In no event may rooms in a hotel, motel, apartment house, or any part of  
9 any single or multiple unit dwelling house be considered a "principal place of business" unless  
10 the entire ground floor of such facility is devoted principally to and occupied for commercial  
11 purposes. Any dealer licensed under this chapter shall maintain and continuously occupy a  
12 principal place of business. However, an emergency vehicle dealer is exempt from the  
13 requirement of having its principal place of business in South Dakota.

14 Section 3. That § 32-6B-6 be amended to read as follows:

15 32-6B-6. Any person selling vehicles pursuant to the requirements of this chapter shall file  
16 with the department, upon forms provided by the department, an application including the  
17 following:

- 18 (1) The name and address of the applicant;
- 19 (2) The name of the firm or copartnership, with the names and addresses of all members,  
20 if the applicant is a firm or copartnership;
- 21 (3) The name of the corporation, with the names and addresses of the principal officers,  
22 if the applicant is a body corporate;
- 23 (4) The exact location of the place of business and, if owned by the applicant, when  
24 acquired. If the place of business is leased, a true copy of the lease shall accompany  
25 the application;

- 1 (5) A certification that the location provides an adequately equipped office and is not the  
2 residence of the applicant;
- 3 (6) A certification that the location affords sufficient space to adequately store all vehicles  
4 offered for sale;
- 5 (7) A certification that the location is the place where the applicant keeps and maintains  
6 books, records, and files necessary to conduct business, which shall be available at all  
7 reasonable hours to inspection by the department;
- 8 (8) A consent to allow periodic inspections of the dealership by the department;
- 9 (9) A certification that the business of a vehicle dealer is the principal business conducted  
10 at the location;
- 11 (10) A description of the principal place of business and any supplemental lots;
- 12 (11) A statement that the applicant is either franchised by a manufacturer of vehicles, in  
13 which case the name of each vehicle that the applicant is franchised to sell shall be  
14 included or is a used vehicle dealer;
- 15 (12) A list of financial references;
- 16 (13) A certification that neither the applicant, nor any other partner, member, officer, or  
17 financial supporter, has been convicted of a crime involving vehicle theft or fraud in  
18 the last five years;
- 19 (14) Such other information as the department may require;
- 20 (15) Verification as to the accuracy of the information provided by the applicant; ~~and~~
- 21 (16) A certificate that the applicant has obtained a public liability insurance policy of not  
22 less than three hundred thousand dollars; and
- 23 (17) For any emergency vehicle dealer whose principal place of business is not located in  
24 South Dakota, proof it is a licensed dealer in another state and has no outstanding  
25 dealer violations.

Section 4. That § 32-6B-7 be amended to read as follows:

32-6B-7. Before any license is issued, the applicant shall deliver to the department a good and sufficient surety bond, executed by the applicant as principal and by a surety company qualified to do business in the state as surety. The bond shall be for an amount based upon the type of license applied for, as follows:

- (1) Vehicle dealer's license -- \$10,000;
- (2) Used vehicle dealer's license -- \$10,000;
- (3) Motorcycle dealer's license -- \$2,000; ~~or~~
- (4) Trailer dealer's license -- \$10,000 for trailers weighing 2,000 pounds or more; or
- (5) Emergency vehicle dealer's license -- \$10,000.

The bond shall be to the department and in favor of any customer who suffers any loss that may be occasioned by reason of the failure of title or by reason of any fraudulent misrepresentation or breaches of warranty as to freedom from liens. The bond shall be for the license period, and a new bond or a proper continuation certificate shall be delivered to the department at the beginning of each license period. Any surety company which pays a claim against the bond of a licensee shall notify the department, in writing, that it has paid such a claim. Any surety company which cancels the bond of a licensee shall notify the department, in writing, of such cancellation, giving the reason for that cancellation. If a claim is made to the department against the bond, which claim is based upon a final judgment of a court of record of this state, the dealer shall execute an additional bond for the amount necessary to maintain such security at the original level.

Section 5. That § 32-6B-12 be amended to read as follows:

32-6B-12. Any dealer's license issued under this chapter shall be of the following classes:

- (1) "Vehicle dealer's license," to permit the licensee to engage in the business of selling or exchanging new, or new and used, vehicles;

- 1 (2) "Used vehicle dealer's license," to permit the licensee to engage in the business of  
2 selling or exchanging used vehicles only;
- 3 (3) "Motorcycle dealer's license," to permit the licensee to engage in the business of  
4 selling or exchanging new or used motorcycles only;
- 5 (4) "Trailer dealer's license," to permit the licensee to engage in the business of selling or  
6 exchanging trailers, semitrailers, or travel trailers only, new or used; or
- 7 (5) "Emergency vehicle dealer's license," to permit the licensee to engage in the business  
8 of selling or exchanging new or used authorized emergency vehicles.

9 A license certificate identifying the class of dealership and containing a distinguishing  
10 identification number of licensee shall be issued by the department if the application is in  
11 compliance with the provisions of this chapter.

12 Section 6. That § 32-6B-13 be amended to read as follows:

13 32-6B-13. Upon making initial application for a dealer's license, the applicant shall pay a fee  
14 to the department. The initial fee required for each type of dealer's license is as follows:

- 15 (1) Vehicle dealer's license -- \$250;
- 16 (2) Used vehicle dealer's license -- \$250;
- 17 (3) Motorcycle dealer's license -- \$200; ~~or~~
- 18 (4) Trailer dealer's license -- \$75; or
- 19 (5) Emergency vehicle dealer's license -- \$250.

20 All money collected pursuant to this section shall be deposited in the state motor vehicle  
21 fund.

22 Section 7. That § 32-6B-15 be amended to read as follows:

23 32-6B-15. A renewal application shall be submitted to the department annually, prior to the  
24 expiration of the old license. The applicant shall pay a fee based on the following schedule to the  
25 department:

- 1       (1)    Vehicle dealer's license -- \$100;
- 2       (2)    Used vehicle dealer's license -- \$100;
- 3       (3)    Motorcycle dealer's license -- \$75; ~~or~~
- 4       (4)    Trailer dealer's license -- \$50; or
- 5       (5)    Emergency vehicle dealer's license -- \$100.

6       The renewal application shall contain the same information as required for the initial  
7   application in § 32-6B-6. Any application for renewal made after the expiration date shall be  
8   accompanied by a fee in the amount of the initial license fee as established in § 32-6B-13.

9       Section 8. That § 32-6B-17 be amended to read as follows:

10       32-6B-17. If the applicant sets up a principal place of business in more than one county of  
11   this state, the applicant shall secure a separate license for each county. However, an emergency  
12   vehicle dealer is not required to secure a separate license for each county if the licensee has  
13   otherwise complied with this chapter. No license for any additional county may be issued until  
14   the department is furnished with proof that the applicant has a principal place of business in such  
15   county and has otherwise complied with this chapter.

16       Section 9. Whereas, this Act is necessary for the immediate preservation of the public peace,  
17   health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and  
18   effect from and after its passage and approval.

1    **BILL HISTORY**

2    1/21/98 First read in Senate and referred to Transportation. S.J. 140

3    1/27/98 Scheduled for Committee hearing on this date.

4    1/27/98 Transportation Do Pass, Passed, AYES 7, NAYS 0. S.J. 212