

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

462B0704

HOUSE BILL NO. 1254

Introduced by: Representative Richter and Senator Paisley

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the sale of titled
2 vehicles and to declare an emergency.

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

4 Section 1. That § 32-6B-3 be amended to read as follows:

5 32-6B-3. Any vehicle dealer or public auction may sell, or offer to sell, new or used vehicles
6 on consignment. For the purposes of this chapter, consignment means the delivery of a vehicle
7 by the owner into the possession of another without transfer of title for the purpose of sale or
8 where there is any condition that the purchaser does not have an absolute obligation to pay for
9 the vehicle or has a right to return the vehicle to the seller. Any vehicle dealer or public auction
10 who sells, or offers to sell, ~~South Dakota titled~~ vehicles on consignment shall enter into a
11 contract with the consignor. The department shall prescribe the form of the contract.

12 Section 2. That § 32-6B-3.2 be amended to read as follows:

13 32-6B-3.2. Before a ~~South Dakota titled~~ vehicle may be sold by a consignee or at a public
14 auction pursuant to § 32-6B-3, the consignee or auctioneer shall have in possession an odometer
15 reading certified by the owner of the motor vehicle, a damage disclosure statement signed by the
16 owner of the motor vehicle, and a ~~South Dakota~~ title for the motor vehicle. A violation of this

1 section is a Class 2 misdemeanor.

2 Section 3. That § 32-6B-5 be amended to read as follows:

3 32-6B-5. The following persons are exempt from the provisions of this chapter:

4 (1) Any employee of any person licensed as a vehicle dealer if engaged in the specific
5 performance of the employee's duties;

6 (2) Any financial institution chartered or licensed in any other jurisdiction that acquires
7 vehicles as an incident to its regular business and sells such vehicles to dealers licensed
8 under this chapter;

9 (3) Any nonprofit automobile club if selling automobiles twenty years old or older under
10 the provisions of chapter 32-3;

11 (4) Any person acting as an auctioneer if auctioning ~~South Dakota-titled~~ vehicles for a
12 licensed dealer or a person who is exempt from the provisions of this chapter;

13 (5) Any person engaged in the business of manufacturing or converting new vehicles if
14 selling such vehicles to a licensed dealer holding a franchise from the original
15 manufacturer of the vehicle;

16 (6) Any person engaged in the business of manufacturing or customizing motorcycles
17 may display but may not sell any motorcycles at an event, if the event lasts three or
18 more days and if the person registers with and purchases a permit from the
19 Department of Revenue at least five days before the event. The person shall pay a fee
20 of one hundred dollars for a ten-day temporary permit;

21 (7) Any person engaged in the business of manufacturing trailers may display but may not
22 sell any trailers at an event, if the event lasts three or more days and if the person
23 registers with and purchases a permit from the Department of Revenue at least five
24 days before the event. The person shall pay a fee of fifty dollars for a ten-day
25 temporary permit;

1 (8) Any person may sell motorcycles at an event, if the event lasts three or more days and
2 if the person registers and purchases a permit from the Department of Revenue at
3 least five days before the event. Before issuance of a permit, the applicant must
4 provide proof they are a licensed dealer in their own state and have no outstanding
5 dealer violations. The permit will only be issued if the motorcycles being sold are not
6 franchised in this state. The person shall pay a fee of two hundred dollars for a ten-day
7 temporary permit;

8 (9) Any person may sell trailers at an event, if the event lasts three or more days and if the
9 person registers and purchases a permit from the Department of Revenue at least five
10 days before the event. Before issuance of a permit, the applicant must provide proof
11 they are a licensed dealer in their own state and have no outstanding dealer violations.
12 The permit will only be issued if the trailers being sold are not franchised in this state.
13 The person shall pay a fee of one hundred and fifty dollars for a ten-day temporary
14 permit. However, regardless of whether or not there is a franchise in this state, any
15 person may display a trailer at such an event;

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

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

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

- 1 person who sells less than three travel trailers in a twelve-month period;
- 2 (13) Any public officer while performing the officer's official duties;
- 3 (14) Any receiver, trustee, administrator, executor, guardian, or other person appointed
- 4 by or acting under the judgment or order of any court;
- 5 (15) Any regulated lenders as that term is defined in § 54-3-14, any insurance company
- 6 authorized to do business in this state or any financing institution as defined in and
- 7 licensed pursuant to chapter 54-7 that acquires vehicles as an incident to its regular
- 8 business;
- 9 (16) Any towing agency that acquires and sells a vehicle which has been towed at the
- 10 request of a private landowner under the provision of chapter 32-36 or at the request
- 11 of a law enforcement officer, if no vehicle is sold for an amount over two hundred
- 12 dollars; and
- 13 (17) Any vehicle rental and leasing company that sells its used vehicles to dealers licensed
- 14 under this chapter.

15 Section 4. Whereas, this Act is necessary for the support of the state government and its

16 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full

17 force and effect from and after its passage and approval.