

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

716J0454

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 78 - 01/27/2004

Introduced by: Senators Kelly, de Hueck, Knudson, and Schoenbeck and Representatives Solum, Konold, LaRue, Peterson (Jim), and Weems

1 FOR AN ACT ENTITLED, An Act to increase the bond requirements for certain vehicle
2 dealers.

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

4 Section 1. That § 32-6B-7 be amended to read as follows:

5 32-6B-7. Before any license is issued, the applicant shall deliver to the department a good
6 and sufficient surety bond, executed by the applicant as principal and by a surety company
7 qualified to do business in the state as surety. The bond shall be for an amount based upon the
8 type of license applied for, as follows:

- 9 (1) Vehicle dealer's license -- ~~\$10,000~~ \$25,000;
- 10 (2) Used vehicle dealer's license -- ~~\$10,000~~ \$25,000;
- 11 (3) Motorcycle dealer's license -- ~~\$2,000~~ \$5,000;
- 12 (4) Trailer dealer's license -- \$10,000 for trailers weighing 2,000 pounds or more; or
- 13 (5) Emergency vehicle dealer's license -- \$10,000.

14 The bond shall be to the department and in favor of any customer who suffers any loss that
15 may be occasioned by reason of the failure of title or by reason of any fraudulent



1 misrepresentation or breaches of warranty as to freedom from liens. The bond shall be for the
2 license period, and a new bond or a proper continuation certificate shall be delivered to the
3 department at the beginning of each license period. Any surety company ~~which~~ that pays a claim
4 against the bond of a licensee shall notify the department, in writing, that it has paid such a
5 claim. Any surety company ~~which~~ that cancels the bond of a licensee shall notify the
6 department, in writing, of ~~such~~ the cancellation, giving the reason for that cancellation. If a
7 claim is made to the department against the bond, which claim is based upon a final judgment
8 of a court of record of this state, the dealer shall execute an additional bond for the amount
9 necessary to maintain ~~such~~ the security at the original level.

10 Section 2. That § 32-6C-4 be amended to read as follows:

11 32-6C-4. Before any license may be issued, the applicant shall deliver to the department, a
12 surety bond in the amount of ~~two~~ five thousand dollars, executed by the applicant as principal
13 and by a surety company qualified to do business in the state as surety. The bond shall be to the
14 department and in favor of any customer who suffers any loss that may be occasioned by reason
15 of the failure of title or by reason of any fraudulent misrepresentation or breach of warranty as
16 to freedom from liens. The bond shall be for the license period, and a new bond or a proper
17 continuation certificate shall be delivered to the department at the beginning of each license
18 period. Any surety company ~~which~~ that pays a claim against the bond of a licensee shall notify
19 the department, in writing, that it has paid such a claim and shall state the reason and the amount
20 of the claim. Any surety company ~~which~~ that cancels the bond of a licensee shall notify the
21 department, in writing, of ~~such~~ the cancellation, giving the reason for that cancellation. If a
22 claim is made to the department against the bond, which claim is based upon a final judgment
23 of a court record of this state, the dealer shall execute an additional bond for the amount
24 necessary to maintain such security at the original level.

1 Section 3. That § 32-7B-6 be amended to read as follows:

2 32-7B-6. Before any license may be issued, the applicant shall deliver to the department, a
3 surety bond in the amount of ~~ten~~ twenty thousand dollars, executed by the applicant as principal
4 and by a surety company qualified to do business in the state as surety. If the applicant has
5 multiple dealer licenses, one bond ~~will~~ may cover all dealer licenses. The bond shall be of the
6 amount to cover bonding requirements under each license. The bond shall be to the department
7 and in favor of any customer who suffers any loss that may be occasioned by reason of the
8 failure of title or by reason of any fraudulent misrepresentation or breach of warranty as to
9 freedom from liens. The bond shall be for the license period, and a new bond or a proper
10 continuation certificate shall be delivered to the department prior to the bond's expiration. Any
11 surety company that pays a claim against the bond of a licensee shall notify the department, in
12 writing, that it has paid such a claim and shall state the reason and the amount of the claim. Any
13 surety company that cancels the bond of a licensee shall notify the department, in writing, of
14 ~~such~~ the cancellation, giving the reason for that cancellation. If a claim is made to the
15 department against the bond, which claim is based upon a final judgment of a court of record
16 of this state, the dealer shall execute an additional bond for the amount necessary to maintain
17 such security at the original level.

18 Section 4. That § 32-7A-5 be amended to read as follows:

19 32-7A-5. No license as provided in § 32-7A-3 may be issued to anyone, until the applicant
20 executes a bond issued by a company licensed to do business in this state, as surety in the
21 amount of ~~ten~~ twenty-five thousand dollars. The bond shall be payable to the Department of
22 Revenue and Regulation for the use and benefit of any purchaser or holder of lien to pay any
23 loss, damages, and expenses resulting from the failure of any title for any fraudulent
24 misrepresentation or breach of warranty as to freedom from a lien. If any claim is made to the

1 department against such bond and the claim is based upon a final judgment of a court of record
2 of this state, the dealer shall execute an additional bond for the amount not to exceed thirty
3 thousand dollars, which claim is based upon a final judgment of a court of record of this state,
4 the dealer shall execute an additional bond for the amount necessary to maintain the security at
5 the original level.

6 Section 5. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
7 follows:

8 To implement any increase in the amount of a dealer bond, a dealer, upon renewal of a bond
9 or upon annual renewal of a dealer license, whichever comes first, shall deliver to the
10 department an original bond or a bond rider that is issued by the surety company showing the
11 new bond amount.

12 Section 6. That chapter 32-6C be amended by adding thereto a NEW SECTION to read as
13 follows:

14 To implement any increase in the amount of a dealer bond, a dealer, upon renewal of a bond
15 or upon annual renewal of a dealer license, whichever comes first, shall deliver to the
16 department an original bond or a bond rider that is issued by the surety company showing the
17 new bond amount.

18 Section 7. That chapter 32-7A be amended by adding thereto a NEW SECTION to read as
19 follows:

20 To implement any increase in the amount of a dealer bond, a dealer, upon renewal of a bond
21 or upon annual renewal of a dealer license, whichever comes first, shall deliver to the
22 department an original bond or a bond rider that is issued by the surety company showing the
23 new bond amount.

24 Section 8. That chapter 32-7B be amended by adding thereto a NEW SECTION to read as

1 follows:

2 To implement any increase in the amount of a dealer bond, a dealer, upon renewal of a bond
3 or upon annual renewal of a dealer license, whichever comes first, shall deliver to the
4 department an original bond or a bond rider that is issued by the surety company showing the
5 new bond amount.