

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0347

HOUSE TRANSPORTATION COMMITTEE
ENGROSSED NO. **HB 1060** - 01/19/2005

Introduced by: The Committee on Transportation at the request of the Department of
Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to authorize the secretary of Revenue and Regulation to
2 issue a cease and desist order to vehicle, snowmobile, manufactured home, and boat dealers
3 for certain violations, to authorize imposition of monetary penalties for failure to comply
4 with a cease and desist order, and to modify the reasons for suspending or revoking a
5 dealer's license.

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

7 Section 1. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
8 follows:

9 In addition to any other remedy provided by law, the secretary of revenue and regulation
10 may issue an order directing a vehicle dealer to cease and desist from engaging in any act or
11 practice enumerated in § 32-6B-41. A cease and desist order issued pursuant to this section shall
12 be effective for a period of five years.

13 Section 2. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
14 follows:

15 Within twenty days after service of the order to cease and desist, the vehicle dealer may



1 request a hearing in writing on the question of whether acts or practices in violation of this title
2 have occurred. Any hearing shall be conducted pursuant to, and judicial review shall be
3 available as provided by, chapter 1-26.

4 Section 3. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
5 follows:

6 A cease and desist order pursuant to section 1 of this Act becomes final upon expiration of
7 the time allowed for appeals from the secretary's order if no appeal is taken, or, if an appeal is
8 taken, upon final decision of the court if the court affirms the secretary's order or dismisses the
9 appeal.

10 Section 4. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
11 follows:

12 If a dealer fails to comply with a cease and desist order issued pursuant to section 1 of this
13 Act, the secretary may issue an order which:

- 14 (1) Imposes a monetary penalty on the dealer of five hundred dollars for each violation
15 of the cease and desist order;
- 16 (2) Suspends dealer's license for not more than thirty days; or
- 17 (3) Revokes the dealer's license.

18 All monetary penalties collected pursuant to this section shall be deposited into the state
19 motor vehicle fund.

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

22 A dealer may request a hearing to contest an order issued pursuant to section 4 of this Act.
23 The request shall be submitted to the secretary in writing within twenty days after service of the
24 order. Any hearing shall be conducted pursuant to, and judicial review shall be available as

1 provided by, chapter 1-26.

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

4 An order issued pursuant to section 4 of this Act becomes final upon expiration of the time
5 allowed for appeals from the secretary's order, if no appeal is taken, or, if an appeal is taken,
6 upon final decision of the court if the court affirms the secretary's order or dismisses the appeal.

7 Section 7. That § 32-6B-41 be amended to read as follows:

8 32-6B-41. The department may deny any application, ~~or suspend or revoke~~ or apply the
9 provisions of sections 1 to 6, inclusive, of this Act on any license issued under the provisions
10 of this chapter, for ~~the violation of~~ any of the following:

- 11 (1) Commission of fraud or willful misrepresentation in the application for or in
12 obtaining a license;
- 13 (2) Conviction of a felony involving vehicle theft or odometer fraud in the last five years;
- 14 (3) ~~Second or subsequent~~ A violation of any law of this state which relates to dealing in
15 vehicles;
- 16 (4) ~~Repeated failure~~ Failure to comply with any administrative rule promulgated by the
17 department;
- 18 (5) Perpetration of a fraud upon any person as a result of dealing in vehicles;
- 19 (6) ~~Repeated failure~~ Failure to apply for transfers of title as required in chapter 32-3;
- 20 (7) ~~Willful failure~~ Failure to allow department inspections, including initial and annual
21 inspections, complaint investigations, and necessary follow-up inspections;
- 22 (8) ~~Willful misrepresentation~~ Misrepresentation through false, deceptive, or misleading
23 statements with regard to the sale or financing of vehicles which a dealer has, or
24 causes to have, advertised, printed, displayed, published, distributed, broadcast,

1 televised, or made in any manner with regard to the sale or financing of vehicles;

2 (9) Refusal to comply with a licensee's responsibility under the terms of the new vehicle
3 warranty issued by its respective manufacturer, unless such refusal is at the direction
4 of the manufacturer;

5 (10) ~~Repeated failure to provide customers or purchasers with an odometer disclosure~~
6 ~~statement;~~

7 ~~(11) Willful failure~~ Failure to comply with the terms of any bona fide written, executed
8 agreement pursuant to the sale of a vehicle;

9 ~~(12)~~(11) Inability to obtain or renew surety bond or to participate in a dealer asset pool;

10 ~~(13)~~(12) Failure to maintain and continuously occupy a principal place of business; or

11 ~~(14)~~(13) Failure to obtain or renew a public liability insurance policy of not less than
12 three hundred thousand dollars, if the dealer has been given thirty days written
13 notice to comply.

14 Section 8. That § 32-6B-40 be repealed.

15 ~~32-6B-40. If, prior to an inspection, a dealer refuses to allow the inspection, no inspection~~
16 ~~need be made. If, during the course of an inspection, a dealer refuses to allow the inspection to~~
17 ~~continue, the inspection will cease. In either case however, the department may initiate~~
18 ~~revocation proceedings against the dealer's license.~~

19 Section 9. That § 32-6B-43 be repealed.

20 ~~32-6B-43. The department may prepare and serve written notice upon a licensee which has~~
21 ~~violated § 32-6B-41. The notice shall state that the department intends to revoke and cancel the~~
22 ~~license thirty days after the notice was sent by certified mail or hand delivered and shall state~~
23 ~~that the licensee is entitled to a hearing if the licensee submits a written request for a hearing to~~
24 ~~the department prior to the effective date of the revocation. The notice may contain the~~

1 ~~requirements the licensee shall meet to correct the violation or to come into compliance with~~
2 ~~the provisions of this chapter.~~

3 Section 10. That § 32-6B-44 be repealed.

4 ~~— 32-6B-44. If a licensee, after receiving a license revocation notice pursuant to § 32-6B-43,~~
5 ~~decides to challenge the revocation, the licensee shall submit a request for a hearing in writing~~
6 ~~to the department prior to the effective date of the revocation. If no request is received by the~~
7 ~~department prior to the effective date of the revocation, the license shall be revoked and~~
8 ~~canceled. If a hearing request is made the department shall, in accordance with chapter 1-26 and~~
9 ~~at the time and place fixed pursuant to § 32-6B-43, hear and determine the matter on its merits.~~
10 ~~If the department finds the existence of any cause for suspension or revocation as set forth in~~
11 ~~§ 32-6B-41, it shall suspend or revoke the license. A copy of the order shall be served upon the~~
12 ~~licensee in the manner provided by chapter 1-26. Upon suspension or revocation the licensee~~
13 ~~shall immediately return to the department all dealers' metal plates issued to the licensee and~~
14 ~~shall immediately surrender the license certificate to a representative of the department serving~~
15 ~~the written order upon the licensee.~~

16 Section 11. That chapter 32-6C be amended by adding thereto a NEW SECTION to read as
17 follows:

18 In addition to any other remedy provided by law, the secretary of revenue and regulation
19 may issue an order directing a snowmobile dealer to cease and desist from engaging in any act
20 or practice enumerated in § 32-6C-14. A cease and desist order issued pursuant to this section
21 is effective for a period of five years.

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

24 Within twenty days after service of the order to cease and desist, the snowmobile dealer may

1 request a hearing in writing on the question of whether acts or practices in violation of this title
2 have occurred. Any hearing shall be conducted pursuant to, and judicial review shall be
3 available as provided by, chapter 1-26.

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

6 A cease and desist order pursuant to section 11 of this Act becomes final upon expiration
7 of the time allowed for appeals from the secretary's order if no appeal is taken, or, if an appeal
8 is taken, upon final decision of the court if the court affirms the secretary's order or dismisses
9 the appeal.

10 Section 14. That chapter 32-6C be amended by adding thereto a NEW SECTION to read as
11 follows:

12 If a dealer fails to comply with a cease and desist order issued pursuant to section 11 of this
13 Act, the secretary may issue an order which:

- 14 (1) Imposes a monetary penalty on the dealer of five hundred dollars for each violation
15 of the cease and desist order;
- 16 (2) Suspends dealer's license for not more than thirty days; or
- 17 (3) Revokes the dealer's license.

18 All monetary penalties collected pursuant to this section shall be deposited into the state
19 motor vehicle fund.

20 Section 15. That chapter 32-6C be amended by adding thereto a NEW SECTION to read as
21 follows:

22 A dealer may request a hearing to contest an order issued pursuant to section 14 of this Act.
23 The request shall be submitted to the secretary in writing within twenty days after service of the
24 order. Any hearing shall be conducted pursuant to, and judicial review shall be available as

1 provided by, chapter 1-26.

2 Section 16. That chapter 32-6C be amended by adding thereto a NEW SECTION to read as
3 follows:

4 An order issued pursuant to section 14 of this Act becomes final upon expiration of the time
5 allowed for appeals from the secretary's order, if no appeal is taken, or, if an appeal is taken,
6 upon final decision of the court if the court affirms the secretary's order or dismisses the appeal.

7 Section 17. That § 32-6C-14 be amended to read as follows:

8 32-6C-14. The department may deny any application, ~~or suspend or revoke~~ or apply the
9 provisions of sections 11 to 16, inclusive, of this Act on any license issued under the provisions
10 of this chapter, for the violation of any of the following provisions:

- 11 (1) Commission of fraud or willful misrepresentation in the application for or in
12 obtaining a license;
- 13 (2) Conviction of a felony involving the theft of snowmobiles or other motor vehicles
14 in the last five years;
- 15 (3) ~~Second or subsequent violations~~ A violation of any law of this state which relates to
16 dealing in snowmobiles;
- 17 (4) ~~Repeated failure~~ Failure to comply with any administrative rule promulgated by the
18 department;
- 19 (5) Perpetration of a fraud upon any person as a result of dealing in snowmobiles;
- 20 (6) ~~Repeated failure~~ Failure to apply for transfers of title as required in chapters 32-3 and
21 32-20A;
- 22 (7) ~~Willful failure~~ Failure to allow department inspections, including initial and annual
23 inspections, complaint investigations, and necessary follow-up inspections;
- 24 (8) ~~Willful misrepresentation~~ Misrepresentation through false, deceptive, or misleading

1 statements with regard to the sale or financing of snowmobiles which a dealer has,
2 or causes to have, advertised, printed, displayed, published, distributed, broadcast,
3 televised, or made in any manner with regard to the sale or financing of
4 snowmobiles;

5 (9) Refusal to comply with a licensee's responsibility under the terms of a snowmobile
6 warranty issued by its respective manufacturer, unless such refusal is at the direction
7 of the manufacturer;

8 (10) ~~Willful failure~~ Failure to comply with the terms of any bona fide written, executed
9 agreement pursuant to the sale of a snowmobile;

10 (11) ~~Willful failure~~ Failure to disclose damage to a new snowmobile of which the dealer
11 had knowledge if the dealer's actual cost to repair, exceeds five percent of the
12 manufacturer's suggested retail price; or

13 (12) Inability to obtain or renew surety bond.

14 Section 18. That § 32-6C-13 be repealed.

15 ~~— 32-6C-13. If, prior to an inspection, a dealer refuses to allow the inspection, no inspection~~
16 ~~need be made. If, during the course of an inspection, a dealer refuses to allow the inspection to~~
17 ~~continue, the inspection shall cease. In either case, however, the department may initiate~~
18 ~~revocation proceedings against the dealer's license.~~

19 Section 19. That § 32-6C-15 be repealed.

20 ~~— 32-6C-15. The department may prepare and serve written notice upon a licensee which it~~
21 ~~received complaints on in the manner provided by chapter 1-26. The notice shall require the~~
22 ~~licensee to appear before the department at a time and place, not less than five days after service~~
23 ~~of the notice, to show cause why the license should not be revoked.~~

24 Section 20. That § 32-6C-16 be repealed.

1 ~~32-6C-16. The department shall, in accordance with chapter 1-26 and at the time and place~~
2 ~~fixed pursuant to § 32-6C-15, hear and determine the matter on its merits. If the department~~
3 ~~finds the existence of any cause for suspension or revocation as set forth in § 32-6C-14, it shall~~
4 ~~suspend or revoke the license. A copy of the order shall be served upon the licensee in the~~
5 ~~manner provided by chapter 1-26. Upon suspension or revocation the licensee shall immediately~~
6 ~~surrender his license certificate to a representative of the department serving the written order~~
7 ~~upon him.~~

8 Section 21. That chapter 32-7A be amended by adding thereto a NEW SECTION to read
9 as follows:

10 In addition to any other remedy provided by law, the secretary of revenue and regulation
11 may issue an order directing a dealer to cease and desist from engaging in any act or practice
12 enumerated in § 32-7A-4.2. A cease and desist order issued pursuant to this section is effective
13 for a period of five years.

14 Section 22. That chapter 32-7A be amended by adding thereto a NEW SECTION to read
15 as follows:

16 Within twenty days after service of the order to cease and desist, the dealer may request a
17 hearing in writing on the question of whether acts or practices in violation of this title have
18 occurred. Any hearing shall be conducted pursuant to, and judicial review shall be available as
19 provided by, chapter 1-26.

20 Section 23. That chapter 32-7A be amended by adding thereto a NEW SECTION to read
21 as follows:

22 A cease and desist order pursuant to section 21 of this Act becomes final upon expiration
23 of the time allowed for appeals from the secretary's order if no appeal is taken, or, if an appeal
24 is taken, upon final decision of the court if the court affirms the secretary's order or dismisses

1 the appeal.

2 Section 24. That chapter 32-7A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 If a dealer fails to comply with a cease and desist order issued pursuant to section 21 of this
5 Act, the secretary may issue an order which:

- 6 (1) Imposes a monetary penalty on the dealer of five hundred dollars for each violation
7 of the cease and desist order;
- 8 (2) Suspends dealer's license for not more than thirty days; or
- 9 (3) Revokes the dealer's license.

10 All monetary penalties collected pursuant to this section shall be deposited into the state
11 motor vehicle fund.

12 Section 25. That chapter 32-7A be amended by adding thereto a NEW SECTION to read
13 as follows:

14 A dealer may request a hearing to contest an order issued pursuant to section 24 of this Act.
15 The request shall be submitted to the secretary in writing within twenty days after service of the
16 order. Any hearing shall be conducted pursuant to, and judicial review shall be available as
17 provided by, chapter 1-26.

18 Section 26. That chapter 32-7A be amended by adding thereto a NEW SECTION to read
19 as follows:

20 An order issued pursuant to section 24 of this Act becomes final upon expiration of the time
21 allowed for appeals from the secretary's order, if no appeal is taken, or, if an appeal is taken,
22 upon final decision of the court if the court affirms the secretary's order or dismisses the appeal.

23 Section 27. That § 32-7A-4.2 be amended to read as follows:

24 32-7A-4.2. The department may deny any application, ~~or suspend or revoke~~ or apply the

1 provisions of sections 21 to 26, inclusive, of this Act on any license issued under the provisions
2 of this chapter, for ~~a violation of any of the following provisions:~~

- 3 (1) Commission of fraud or willful misrepresentation in the application for or in
4 obtaining a license;
- 5 (2) A previous manufacturer or dealer license revocation in this or any other state;
- 6 (3) ~~Willful violation, which leads to a conviction,~~ A violation of any law of this state
7 which relates to dealing in manufactured homes or mobile homes;
- 8 (4) ~~Willful failure~~ Failure to comply with any administrative rule promulgated by the
9 department;
- 10 (5) Perpetration of a fraud upon any person as a result of dealing in manufactured homes
11 or mobile homes;
- 12 (6) Failure to allow department inspections, including initial and annual inspections,
13 complaint investigations and necessary follow-up inspections;
- 14 (7) ~~Willful misrepresentation~~ Misrepresentation through false, deceptive, or misleading
15 statements with regard to the sale or financing of manufactured homes or mobile
16 homes which a dealer has, or causes to have, advertised, printed, displayed,
17 published, distributed, broadcast, televised, or made in any manner with regard to the
18 sale or financing of manufactured homes or mobile homes;
- 19 (8) Refusal to comply with a licensee's responsibility under the terms of the new
20 manufactured home or mobile home warranty issued by its respective manufacturer,
21 unless such refusal is at the direction of the manufacturer;
- 22 (9) ~~Willful failure~~ Failure to comply with the terms of any bona fide written, executed
23 agreement pursuant to the sale of a manufactured home or mobile home;
- 24 (10) Violation by the dealer of any applicable manufactured home building or safety code;

- 1 (11) Failure to continuously occupy a principal place of business licensed under § 32-7A-
- 2 2;
- 3 (12) ~~Willful failure~~ Failure to deliver the manufacturer's statement of origin to the county
- 4 treasurer or the certificate of title to a person entitled to it within thirty days after date
- 5 of delivery;
- 6 (13) Conviction within the previous ~~ten~~ five years, of a crime that related directly to the
- 7 business of the dealer or manufacturer involving fraud, misrepresentation or misuse
- 8 of funds;
- 9 (14) Inability to obtain or renew a surety bond; or
- 10 (15) Misuse of the dealers' metal plates and lending for use on mobile homes or
- 11 manufactured homes not owned by the manufacturer or dealer;
- 12 ~~— (16) Transporting a used mobile home or manufactured home without an affidavit, four~~
- 13 ~~or more times within a one-year period, from the county treasurer of the county in~~
- 14 ~~which the mobile home or manufactured home is registered, stating that the current~~
- 15 ~~year's taxes are paid; or~~
- 16 ~~— (17) Having a used mobile home or manufactured home located on the licensed dealer's~~
- 17 ~~or manufacturer's lot without an affidavit, four or more times within a one-year~~
- 18 ~~period, from the county treasurer of the county in which the mobile home or~~
- 19 ~~manufactured home is registered, stating that the current year's taxes were paid when~~
- 20 ~~the licensed dealer acquired the home.~~

21 Section 28. That § 32-7A-20 be repealed.

22 ~~— 32-7A-20. If, prior to an inspection, a dealer refuses to allow the inspection, no inspection~~

23 ~~need be made. If, during the course of an inspection, a dealer refuses to allow the inspection to~~

24 ~~continue, the inspection shall cease. In either case however, the department may immediately~~

1 ~~initiate revocation proceedings against the dealer's license.~~

2 Section 29. That § 32-7A-21 be repealed.

3 ~~—32-7A-21. The department may prepare and serve written notice upon a licensee which it~~
4 ~~receives complaints on in the manner provided by chapter 1-26. The notice shall require the~~
5 ~~licensee to appear before the department at a time and place, not less than five days after service~~
6 ~~of the notice, to show cause why the license should not be revoked.~~

7 Section 30. That § 32-7A-22 be repealed.

8 ~~—32-7A-22. The department shall, in accordance with chapter 1-26 and at the time and place~~
9 ~~fixed pursuant to § 32-7A-21, hear and determine the matter on its merits. If the department~~
10 ~~finds the existence of any cause for suspension or revocation as set forth in § 32-7A-4.2, it shall~~
11 ~~suspend or revoke the license. A copy of the order shall be served upon the licensee in the~~
12 ~~manner provided by chapter 1-26. Upon suspension or revocation, the licensee shall~~
13 ~~immediately return to the department all dealers' metal plates issued to him and shall~~
14 ~~immediately surrender his license certificate to a representative of the department serving such~~
15 ~~written order upon him.~~

16 Section 31. That chapter 32-7B be amended by adding thereto a NEW SECTION to read as
17 follows:

18 In addition to any other remedy provided by law, the secretary of revenue and regulation
19 may issue an order directing a boat dealer to cease and desist from engaging in any act or
20 practice enumerated in § 32-7B-17. A cease and desist order issued pursuant to this section is
21 effective for a period of five years.

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

24 Within twenty days after service of the order to cease and desist, the boat dealer may request

1 a hearing in writing on the question of whether acts or practices in violation of this title have
2 occurred. Any hearing shall be conducted pursuant to, and judicial review shall be available as
3 provided by, chapter 1-26.

4 Section 33. That chapter 32-7B be amended by adding thereto a NEW SECTION to read as
5 follows:

6 A cease and desist order pursuant to section 31 of this Act becomes final upon expiration
7 of the time allowed for appeals from the secretary's order if no appeal is taken, or, if an appeal
8 is taken, upon final decision of the court if the court affirms the secretary's order or dismisses
9 the appeal.

10 Section 34. That chapter 32-7B be amended by adding thereto a NEW SECTION to read as
11 follows:

12 If a dealer fails to comply with a cease and desist order issued pursuant to section 31 of this
13 Act, the secretary may issue an order which:

- 14 (1) Imposes a monetary penalty on the dealer of five hundred dollars for each violation
15 of the cease and desist order;
- 16 (2) Suspends dealer's license for not more than thirty days; or
- 17 (3) Revokes the dealer's license.

18 All monetary penalties collected pursuant to this section shall be deposited into the state
19 motor vehicle fund.

20 Section 35. That chapter 32-7B be amended by adding thereto a NEW SECTION to read as
21 follows:

22 A dealer may request a hearing to contest an order issued pursuant to section 34 of this Act.
23 The request shall be submitted to the secretary in writing within twenty days after service of the
24 order. Any hearing shall be conducted pursuant to, and judicial review shall be available as

1 provided by, chapter 1-26.

2 Section 36. That chapter 32-7B be amended by adding thereto a NEW SECTION to read as
3 follows:

4 An order issued pursuant to section 34 of this Act becomes final upon expiration of the time
5 allowed for appeals from the secretary's order, if no appeal is taken, or, if an appeal is taken,
6 upon final decision of the court if the court affirms the secretary's order or dismisses the appeal.

7 Section 37. That § 32-7B-17 be amended to read as follows:

8 32-7B-17. The department may deny any application, ~~or suspend or revoke~~ or apply the
9 provisions of sections 31 to 36, inclusive, of this Act on any license issued under the provisions
10 of this chapter, for the violation of any of the following provisions:

- 11 (1) Commission of fraud or willful misrepresentation in the application for or in
12 obtaining a license;
- 13 (2) Conviction of a felony involving the theft of boats or other motor vehicles in the last
14 five years;
- 15 (3) ~~Second or subsequent violations~~ A violation of any law of this state that relates to
16 dealing in boats;
- 17 (4) ~~Repeated failure~~ Failure to comply with any administrative rule promulgated by the
18 department;
- 19 (5) Perpetration of a fraud upon any person as a result of dealing in boats;
- 20 (6) ~~Repeated failure~~ Failure to apply for transfers of title as required in chapters 32-3 and
21 42-8;
- 22 (7) ~~Willful failure~~ Failure to allow department inspections, including initial and annual
23 inspections, complaint investigations and necessary follow-up inspections;
- 24 (8) ~~Willful misrepresentation~~ Misrepresentation through false, deceptive, or misleading

1 statements with regard to the sale or financing of boats which a dealer has, or causes
2 to have, advertised, printed, displayed, published, distributed, broadcasted, televised,
3 or made in any manner with regard to the sale or financing of boats;

4 (9) Refusal to comply with a licensee's responsibility under the terms of a boat warranty
5 issued by its respective manufacturer, unless such refusal is at the direction of the
6 manufacturer;

7 (10) ~~Willful failure~~ Failure to comply with the terms of any bona fide written, executed
8 agreement pursuant to the sale of a boat;

9 (11) Inability to obtain or renew surety bond; or

10 (12) Failure to maintain a principal place of business.

11 Section 38. That § 32-7B-16 be repealed.

12 ~~— 32-7B-16. If, prior to an inspection, a dealer refuses to allow the inspection, no inspection~~
13 ~~need be made. If, during the course of an inspection, a dealer refuses to allow the inspection to~~
14 ~~continue, the inspection shall cease. In either case, however, the department may initiate~~
15 ~~revocation proceedings against the dealer's license.~~

16 Section 39. That § 32-7B-18 be repealed.

17 ~~— 32-7B-18. The department may prepare and serve written notice upon a licensee that it~~
18 ~~received complaints in the manner provided by chapter 1-26. The notice shall require the~~
19 ~~licensee to appear before the department at a time and place, not less than five days after service~~
20 ~~of the notice, to show cause why the license should not be revoked.~~

21 Section 40. That § 32-7B-19 be repealed.

22 ~~— 32-7B-19. The department shall, in accordance with chapter 1-26 and at the time and place~~
23 ~~fixed pursuant to § 32-7B-18, hear and determine the matter on its merits. If the department~~
24 ~~finds the existence of any cause for suspension or revocation as set forth in § 32-7B-17, it shall~~

1 ~~suspend or revoke the license. A copy of the order shall be served upon the licensee in the~~
2 ~~manner provided by chapter 1-26. Upon suspension or revocation, the licensee shall~~
3 ~~immediately surrender the license certificate to a representative of the department serving the~~
4 ~~written order upon the licensee.~~