

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

347M0271

## HOUSE BILL NO. 1130

Introduced by: Representatives Olson (Ryan), Gillespie, Hackl, Klaudt, Kroger, Michels, O'Brien, Pederson (Gordon), Putnam, Rhoden, Rounds, and Wick and Senators Duenwald, Bartling, Koskan, Lintz, McNenny, Moore, Napoli, and Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to revise the definition of a temporary supplemental lot for  
2 use by vehicle dealers.

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

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

5 32-6B-1. Terms as used in this chapter, ~~unless the context otherwise requires,~~ mean:

- 6 (1) "Administrator," the administrator of the dealer licensing and inspection program of  
7 the Department of Revenue and Regulation ;
- 8 (2) "Auctioneer," a person who presides over a public auction where following an initial  
9 starting price, bids are taken from two or more people until a final bid or price is  
10 established for a motor vehicle;
- 11 (2A) "Authorized emergency vehicle," any vehicle of a fire department and any ambulance  
12 and emergency vehicle of a municipal department or public service corporation that  
13 are designated or authorized by the Department of Public Safety;
- 14 (3) "Broker," a person who, for a fee, commission, or other valuable consideration,



1 arranges or offers to arrange a transaction involving the sale or exchange of vehicles,  
2 and who is not:

3 (a) A dealer or a bona fide agent or employee of a dealer;

4 (b) A representative or a bona fide agent or employee of a manufacturer; or

5 (c) At any point in the transaction the bona fide owner of the vehicle involved in  
6 the transactions;

7 (4) "Community," the franchisee's area of responsibility as stipulated in the franchise. A  
8 community has a minimum radius of ten miles around an existing dealership;

9 (5) "Converter," a person who modifies or installs on previously assembled chassis  
10 special bodies or equipment which, when completed, form an integral part of the  
11 vehicle and which constitutes a major manufacturing alteration and who may issue  
12 a supplemental or secondary statement of origin;

13 (6) "Department," the Department of Revenue and Regulation ;

14 (6A) "Emergency vehicle dealer," any person who converts or manufacturers authorized  
15 emergency vehicles and who, for commission or with intent to make a profit or gain,  
16 sells, exchanges, rents with option to purchase, offers, or attempts to negotiate a sale  
17 or exchange of new, or new and used authorized emergency vehicles, or who is  
18 engaged wholly or in part in the business of selling new, or new and used authorized  
19 emergency vehicles;

20 (7) "Franchise," a written agreement or contract between a franchisor and franchisee  
21 which fixes the legal rights and liabilities of the parties to such agreement or contract;

22 (8) "Franchisee," person who receives vehicles from a franchisor under a franchise and  
23 who offers and sells the vehicles to the general public;

24 (9) "Franchisor," any person engaged in the manufacturing or distribution of vehicles

1 including any person who acts for the franchisor;

2 (10) "Manufacturer," a person who manufactures or assembles vehicles, including motor  
3 homes, and who issues the original or first manufacturer's statement of origin. The  
4 term, manufacturer, includes a central or principal sales corporation through which  
5 it distributes its products to franchised dealers;

6 (11) "Motor home," a motor vehicle designed as an integral unit to be used as a  
7 conveyance upon the public highways and for use as a temporary or recreational  
8 dwelling and having at least four of the following permanently installed systems:

9 (a) Cooking facilities;

10 (b) Ice box or mechanical refrigerator;

11 (c) Potable water supply including plumbing and a sink with faucet either  
12 self-contained or with connections for an external source, or both;

13 (d) Self-contained toilet connected to a plumbing system with connection for  
14 external water disposal;

15 (e) Heating or air conditioning system, or both, separate from the vehicle engine  
16 or the vehicle electrical system;

17 (f) A one hundred ten --one hundred fifteen volt (~~110-115~~) alternating current  
18 electrical system separate from the vehicle engine electrical system either with  
19 its own power supply or with a connection for an external source, or both, or  
20 a liquified petroleum system and supply;

21 (12) "Public auction," a business that is open to the public where South Dakota titled  
22 motor vehicles are consigned, displayed, and auctioned to the highest bidder by an  
23 auctioneer;

24 (13) "Sell-it-yourself lot," any space provided to a person for a fee to display that person's

1 boat or vehicle for sale.

2 (14) "Semitrailer," any vehicle of the trailer type, equipped with a kingpin assembly,  
3 designed and used in conjunction with a fifth wheel connecting device on a motor  
4 vehicle and constructed so that some part of its weight and that of its load rests upon  
5 or is carried by another vehicle;

6 (15) "Supplemental lot," a physically separate location owned and maintained by a  
7 licensed dealer within the same county as the principal place of business;

8 (16) "Temporary special events lot," a location other than the principal place of business,  
9 supplemental lot, or temporary supplemental lot where a licensed trailer dealer, a  
10 licensed used car dealer selling only truck tractors, travel trailers, or motor homes,  
11 or any combination thereof, or a licensed vehicle dealer selling only truck tractors,  
12 travel trailers, or motor homes, or any combination thereof, may conduct business for  
13 a period of time not to exceed ten consecutive days for a specific purpose such as  
14 fairs, auctions, shopping center sales, or tent sales. A temporary special events lot  
15 shall meet all local zoning and building codes for the type of business being  
16 conducted;

17 (17) "Temporary supplemental lot," a location other than the principal place of business  
18 or supplemental lot but within the same county as the principal place of business, or  
19 within the corporate limits of a municipality which overlaps boundaries of a county,  
20 or in an adjoining county, if the adjoining county has no licensed vehicle dealer  
21 selling automobiles, pick-ups, or passenger vans and the temporary supplemental lot  
22 is no more than ten miles from the principal place of business, where a licensed  
23 vehicle dealer or a licensed used vehicle dealer may conduct business for a period of  
24 time not to exceed ten consecutive days for a specific purpose such as fairs, auto

1 shows, auctions, shopping center promotions, or tent sales. A temporary  
2 supplemental lot shall meet all local zoning and building codes for the type of  
3 business being conducted. If a licensed vehicle dealer establishes a temporary  
4 supplemental lot in a county with a licensed used vehicle dealer, a licensed used  
5 vehicle dealer may establish a temporary supplemental lot in a county with a licensed  
6 vehicle dealer. A licensed vehicle dealer may establish, for manufacturer sponsored  
7 events, a temporary supplemental lot in an adjoining county that has no like  
8 franchised licensed dealer;

9 (18) "Trailer," any vehicle without motive power designed to be coupled to or drawn by  
10 a motor vehicle and constructed so that no part of its weight or that of its load rests  
11 upon the towing vehicle;

12 (19) "Trailer dealer," any person who, for commission or with intent to make a profit or  
13 gain, sells, exchanges, rents with option to purchase, offers or attempts to negotiate  
14 a sale or exchange of new or used trailers, semitrailers or travel trailers or who is  
15 engaged in the business of selling new or used trailers, semitrailers or travel trailers  
16 whether or not such vehicles are owned by such person;

17 (20) "Travel trailer," any trailer or semitrailer which provides as its primary purpose  
18 adequate, comfortable, temporary living quarters while on pleasure excursions or  
19 while touring for business, professional, educational or recreational purposes;

20 (21) "Used vehicle dealer," any person who, for commission or with intent to make a  
21 profit or gain sells, exchanges, rents with option to purchase, offers or attempts to  
22 negotiate a sale or exchange of used vehicles or who is engaged in the business of  
23 selling used vehicles; or any person who sells five or more used vehicles or offers for  
24 sale five or more used vehicles at the same address or telephone number in any one

1 calendar year;

2 (22) "Vehicle," any new or used automobile, truck, truck tractor, motorcycle, motor home,  
3 trailer, semitrailer or travel trailer of the type and kind required to be titled and  
4 registered under chapters 32-3 and 32-5, except manufactured homes, mobile homes,  
5 mopeds or snowmobiles;

6 (23) "Vehicle dealer," any person who, for commission or with intent to make a profit or  
7 gain, sells, exchanges, rents with option to purchase, offers or attempts to negotiate  
8 a sale or exchange of new, or new and used vehicles, or who is engaged wholly or in  
9 part in the business of selling new, or new and used vehicles.