

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

347M0273

HOUSE BILL NO. 1139

Introduced by: Representatives Krebs, Dennert, Dykstra, Elliott, Frost, Fryslie, Gillespie, Haverly, Kroger, Lange, McCoy, McLaughlin, Murschel, Novstrup, Pederson (Gordon), Rhoden, Roberts, Rounds, Street, Thompson, Turbiville, Valandra, Vehle, Weems, Wick, and Willadsen and Senators Gray, Abdallah, Apa, Bogue, Gant, Greenfield, Hundstad, Kelly, Kloucek, Koskan, Lintz, McCracken, McNenny, Moore, Napoli, Peterson (Jim), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to define the use of vehicles bearing dealer's demonstration
2 or in-transit permits and to revise the penalty for the misuse of such permits.

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;



- 1 (3) "Broker," a person who, for a fee, commission, or other valuable consideration,
2 arranges or offers to arrange a transaction involving the sale or exchange of vehicles,
3 and who is not:
- 4 (a) A dealer or a bona fide agent or employee of a dealer;
 - 5 (b) A representative or a bona fide agent or employee of a manufacturer; or
 - 6 (c) At any point in the transaction the bona fide owner of the vehicle involved in
7 the transactions;
- 8 (4) "Community," the franchisee's area of responsibility as stipulated in the franchise. A
9 community has a minimum radius of ten miles around an existing dealership;
- 10 (5) "Converter," a person who modifies or installs on previously assembled chassis
11 special bodies or equipment which, when completed, form an integral part of the
12 vehicle and which constitutes a major manufacturing alteration and who may issue
13 a supplemental or secondary statement of origin;
- 14 (6) "Demonstration," the noncommercial use of a dealer owned vehicle by any employee
15 of the dealership for any purpose in the ordinary course of business relating to the
16 sale of the vehicle within the trade or market area of the dealership or demonstration
17 by any prospective buyer for a period of three days. The term includes vehicles
18 donated by a dealership to a community or organization and used for a one-day
19 parade or event;
- 20 (6A) "Department," the Department of Revenue and Regulation;
- 21 ~~(6A)~~(6B) "Emergency vehicle dealer," any person who converts or manufacturers
22 authorized emergency vehicles and who, for commission or with intent to
23 make a profit or gain, sells, exchanges, rents with option to purchase, offers,
24 or attempts to negotiate a sale or exchange of new, or new and used authorized

1 emergency vehicles, or who is engaged wholly or in part in the business of
2 selling new, or new and used authorized emergency vehicles;

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

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

7 (9) "Franchisor," any person engaged in the manufacturing or distribution of vehicles
8 including any person who acts for the franchisor;

9 (10) "In-transit," the noncommercial use of a dealer owned vehicle by any employee of the
10 dealership for travel to and from any service facility, detail shop, repair shop, gas
11 station, car wash, dealer auction, another lot owned by the dealer, a supplemental lot,
12 temporary special events lot, temporary supplemental lot, or any other location to
13 facilitate a dealer trade;

14 (10A) "Manufacturer," a person who manufactures or assembles vehicles, including motor
15 homes, and who issues the original or first manufacturer's statement of origin. The
16 term, manufacturer, includes a central or principal sales corporation through which
17 it distributes its products to franchised dealers;

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

21 (a) Cooking facilities;

22 (b) Ice box or mechanical refrigerator;

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

- 1 (d) Self-contained toilet connected to a plumbing system with connection for
2 external water disposal;
- 3 (e) Heating or air conditioning system, or both, separate from the vehicle engine
4 or the vehicle electrical system;
- 5 (f) A one hundred ten --one hundred fifteen volt (110-115) alternating current
6 electrical system separate from the vehicle engine electrical system either with
7 its own power supply or with a connection for an external source, or both, or
8 a liquified petroleum system and supply;
- 9 (12) "Public auction," a business that is open to the public where South Dakota titled
10 motor vehicles are consigned, displayed, and auctioned to the highest bidder by an
11 auctioneer;
- 12 (13) "Sell-it-yourself lot," any space provided to a person for a fee to display that person's
13 boat or vehicle for sale.
- 14 (14) "Semitrailer," any vehicle of the trailer type, equipped with a kingpin assembly,
15 designed and used in conjunction with a fifth wheel connecting device on a motor
16 vehicle and constructed so that some part of its weight and that of its load rests upon
17 or is carried by another vehicle;
- 18 (15) "Supplemental lot," a physically separate location owned and maintained by a
19 licensed dealer within the same county as the principal place of business;
- 20 (16) "Temporary special events lot," a location other than the principal place of business,
21 supplemental lot, or temporary supplemental lot where a licensed trailer dealer, a
22 licensed used car dealer selling only truck tractors, travel trailers, or motor homes,
23 or any combination thereof, or a licensed vehicle dealer selling only truck tractors,
24 travel trailers, or motor homes, or any combination thereof, may conduct business for

1 a period of time not to exceed ten consecutive days for a specific purpose such as
2 fairs, auctions, shopping center sales, or tent sales. A temporary special events lot
3 shall meet all local zoning and building codes for the type of business being
4 conducted;

5 (17) "Temporary supplemental lot," a location other than the principal place of business
6 or supplemental lot but within the same county as the principal place of business, or
7 within the corporate limits of a municipality which overlaps boundaries of a county,
8 or in an adjoining county, if the adjoining county has no licensed vehicle dealer
9 selling automobiles, pick-ups, or passenger vans and the temporary supplemental lot
10 is no more than ten miles from the principal place of business, where a licensed
11 vehicle dealer or a licensed used vehicle dealer may conduct business for a period of
12 time not to exceed ten consecutive days for a specific purpose such as fairs, auto
13 shows, auctions, shopping center promotions, or tent sales. A temporary
14 supplemental lot shall meet all local zoning and building codes for the type of
15 business being conducted. If a licensed vehicle dealer establishes a temporary
16 supplemental lot in a county with a licensed used vehicle dealer, a licensed used
17 vehicle dealer may establish a temporary supplemental lot in a county with a licensed
18 vehicle dealer;

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

22 (19) "Trailer dealer," any person who, for commission or with intent to make a profit or
23 gain, sells, exchanges, rents with option to purchase, offers or attempts to negotiate
24 a sale or exchange of new or used trailers, semitrailers or travel trailers or who is

1 engaged in the business of selling new or used trailers, semitrailers or travel trailers
2 whether or not such vehicles are owned by such person;

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

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

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

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

20 Section 2. That § 32-6B-25 be amended to read as follows:

21 32-6B-25. Any new or used vehicle owned by a licensed dealer, bearing dealers'
22 demonstration or in-transit permits, may be driven upon the streets and highways of this state
23 for demonstration or in-transit purposes and for travel to and from a service facility, such as a
24 repair shop, detail shop, gas station, or car wash. Such vehicles may be driven upon the streets

1 and highways for demonstration purposes by any prospective buyer for a period of three days.
2 ~~A dealer or his representative may not~~ No dealer nor any dealer's representative may issue a
3 dealers' demonstration or in-transit permit to any vehicle for any other purpose. A violation of
4 this section is a ~~Class 1~~ Class 2 misdemeanor.