

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

SENATE BILL NO. 2317
(Senators Poolman, Klein)
(Representatives Dockter, Drovdal)

AN ACT to create and enact two new subsections to section 39-01-01 of the North Dakota Century Code, relating to definitions; and to amend and reenact sections 39-18-01, 39-18-02, 39-18-06, and 39-18-08 of the North Dakota Century Code, relating to mobile home and manufactured home dealer regulation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 39-01-01 of the North Dakota Century Code is created and enacted as follows:

"Manufactured home" means a structure, transportable in one or more sections, that, in the traveling mode, is eight body feet [2.44 meters] or more in width or forty body feet [12.19 meters] or more in length, or, when erected on site, is three hundred twenty square feet [29.73 square meters] or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to whether the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under title 42 of the United States Code.

SECTION 2. A new subsection to section 39-01-01 of the North Dakota Century Code is created and enacted as follows:

"Mobile home" means a structure, either single or multisectional, which is built on a permanent chassis, ordinarily designed for human living quarters, either on a temporary or permanent basis, owned or used as a residence or place of business of the owner or occupant, which is either attached to utility services or is twenty-seven feet [8.23 meters] or more in length.

SECTION 3. AMENDMENT. Section 39-18-01 of the North Dakota Century Code is amended and reenacted as follows:

39-18-01. Mobile home and manufactured home dealer's license - Fees - Dealer's plates - Penalty.

1. ~~No~~ ~~A~~ person, partnership, corporation, or limited liability company may not engage in the business of buying, selling, or exchanging of mobile homes, manufactured homes, or travel trailers, or advertise or hold ~~oneself or itself~~ that person out to the public as being in the business of buying, selling, or exchanging of mobile homes, manufactured homes, or travel trailers without first being licensed ~~to do so as hereinafter provided~~.
2. Application for a dealer's license and renewal license must be made to the department on ~~such~~ forms as the department prescribes and furnishes, and the application must be accompanied by an annual fee of thirty-five dollars for which must be issued one dealer plate. A dealer's license expires on December thirty-first of each year, and application for renewal of a dealer's license must be made on or before the expiration of the current dealer's license.
3. A mobile home or manufactured home dealer's license must be issued only to those who will maintain a permanent office and place of business, and an adequate service department,

during the licensing year, and will abide by all the provisions of law pertaining to mobile home or manufactured home dealers.

4. In addition, the dealer shall maintain that person's business records in one central location.
5. Upon the payment of the fee of ten dollars for each additional plate, the department shall register and issue dealer's license plates for use on any mobile or manufactured homes owned by the licensed dealer, and the mobile and manufactured homes bearing the dealer's license plates may be lawfully operated upon the public highways of the state of North Dakota by the dealer, and the dealer's agents and servants, during the year of the registration. A dealer's license plates expire on December thirty-first of each year.
6. The term "mobile home" as used in this chapter includes and has the same meaning as "housetrailer", and both terms have the meaning prescribed in section 39-01-01. The terms "travel trailer" and "manufactured home" as used in this chapter have the meaning as prescribed in section 39-01-01.
7. Any mobile home or manufactured home dealer licensed under the provisions of this chapter may sell house cars without being licensed under the provisions of chapter 39-22. A mobile home or manufactured home dealer plate displayed on a house car must be displayed on the rear of the vehicle.
8. Any dealer violating this chapter must be assessed a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall suspend the license of a mobile home or manufactured home dealer licensed under this chapter if a third or subsequent violation of this chapter occurs within five years of the first violation.

SECTION 4. AMENDMENT. Section 39-18-02 of the North Dakota Century Code is amended and reenacted as follows:

39-18-02. Bond required.

Before the issuance of a mobile home or manufactured home dealer's license, as provided by law, the applicant for such the license shall furnish a continuous surety bond executed by the applicant as principal and executed by a surety company licensed and qualified to do business within the state of North Dakota, which this state. The bond must be in the amount of ten fifty thousand dollars, and be conditioned upon the faithful compliance by said the applicant as a dealer, if such the license be issued to the dealer, that such the dealer will comply with all the laws of the state of North Dakota this state pertaining to such the business, and regulating or being applicable to the business of said the dealer as a dealer in mobile homes or manufactured homes, and indemnifying any person dealing or transacting business with such the dealer in connection with any mobile home or manufactured home from any loss or damage occasioned by the failure of such the dealer to comply with the provisions of the laws of the state of North Dakota, including this state. This includes the furnishing of a proper and valid certificate of title to the vendee of a mobile home within fifteen days of the sale of such a mobile home, and to the vendee of a travel trailer as defined by section 57-55-01 within fifteen days of the sale of such a travel trailer, and that such. In addition, this includes furnishing to the vendee of a manufactured home within fifteen days of the sale of a manufactured home an affidavit of affixation that is obtained from the county recorder in the county where the real property is affixed, a letter of confirmation, and a bill of sale that includes a statement as to whether there are any liens or encumbrances on the manufactured home. The bond must be filed with the director prior to before the issuance of the license herein provided for under this chapter. Provided, however, that the The aggregate liability of the surety to all such persons for all such losses or damages may, in no event, not exceed the amount of such the bond. Any third party sustaining injury within the terms of the bond may proceed against the principal and surety without making the state a party to any such proceedings proceeding. The bond may be canceled by the surety, as to future liability, by giving written notice by certified mail, addressed to the principal at the address stated in the bond, and to the department. Thirty days after the mailing of the notice, the bond is null

and void as to any liability thereafter arising. The surety remains liable, subject to the terms, conditions, and provisions of the bond, until the effective date of the cancellation.

SECTION 5. AMENDMENT. Section 39-18-06 of the North Dakota Century Code is amended and reenacted as follows:

39-18-06. Suspension or revocation of dealer's license.

The department may suspend or revoke any dealer's license for failure of the licensee to comply with any of the laws of ~~the state of North Dakota~~ this state governing mobile home or manufactured home dealers, or for failure to comply with the reasonable rules and regulations of the department set up under chapter 28-32, but ~~nean~~ an order suspending or revoking a dealer's license may not be made before a hearing at which the licensee must be given an opportunity to be heard.

SECTION 6. AMENDMENT. Section 39-18-08 of the North Dakota Century Code is amended and reenacted as follows:

39-18-08. Sales by real estate broker or salesperson of used mobile home or manufactured home - Penalty.

Notwithstanding any other provision of law, a person licensed as a real estate broker or salesperson may sell or offer to sell, buy or offer to buy, solicit prospective purchasers of, solicit or obtain listings of, or negotiate the purchase, sale, or exchange of any used mobile home or manufactured home. For the purposes of this section, a used mobile home is a mobile home which has been previously sold by a mobile home dealer and a used manufactured home is a manufactured home that has been previously sold by a manufactured home dealer. Any person, including a person licensed as a real estate broker or salesperson, who obtains a listing for the sale or exchange of a used mobile home which or manufactured home that is located in a mobile home park, as defined in section 23-10-01, shall provide notice of ~~such~~ the listing within seven days after the listing is obtained, in writing, to the owner or operator of the mobile home park.

~~Ne~~ A real estate broker who engages in the activities authorized by this section may not maintain any place of business where two or more mobile homes are displayed and offered for sale by the broker, unless the broker is also licensed as a mobile home or manufactured home dealer ~~pursuant~~ under this chapter. A person who violates this section is guilty of an infraction.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2317.

Senate Vote: Yeas 46 Nays 1 Absent 0

House Vote: Yeas 90 Nays 2 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State