

# State of South Dakota

NINETY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2016

932X0284

## HOUSE TAXATION ENGROSSED NO. **HB 1083** - 02/04/2016

Introduced by: Representatives Stalzer, Duvall, Gibson, Gosch, Haggar (Don), Kirschman, Solum, Verchio, Werner, Wiik, and Willadsen and Senators Rampelberg, Ewing, Monroe, Novstrup (David), Peterson (Jim), and Tieszen

1 FOR AN ACT ENTITLED, An Act to change the taxation method used in the sale of certain  
2 off-road vehicles and require that the sale of these vehicles be by licensed vehicle dealers.

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

4 Section 1. That § 32-5B-1 be amended to read:

5 32-5B-1. In addition to all other license and registration fees for the use of the highways, a  
6 person shall pay an excise tax at the rate of four percent on the purchase price of any motor  
7 vehicle, as defined by § 32-3-1 or 32-5B-21, purchased or acquired for use on the streets and  
8 highways of this state and required to be registered under the laws of this state. A person shall  
9 pay an excise tax at the rate of four percent on the purchase of an off-road vehicle as defined by  
10 § 32-3-1 and required to be titled pursuant to § 32-20-12. This tax shall be in lieu of any tax  
11 levied by chapters 10-45, 10-46, and 10-46E on the sales of such vehicles. Failure to pay the full  
12 amount of excise tax is a Class 1 misdemeanor.

13 Section 2. That subdivision (22) of § 32-6B-1 be amended to read:

14 (22) "Vehicle," any new or used automobile, truck, truck tractor, motorcycle, off-road



1           vehicle, motor home, trailer, semitrailer or travel trailer of the type and kind required  
2           to be titled and registered under chapters 32-3 and 32-5, or required to be titled under  
3           chapter 32-20 except manufactured homes, mobile homes, mopeds or snowmobiles;

4           Section 3. That § 32-6B-7 be amended to read:

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--\$25,000;
- 10          (2)    Used vehicle dealer's license--\$25,000;
- 11          (3)    Motorcycle and off-road vehicle dealer's license--\$5,000;
- 12          (4)    Trailer dealer's license--\$10,000 for trailers weighing more than ~~3,000~~ three thousand  
13                pounds; or
- 14          (5)    Emergency vehicle dealer's license--\$10,000.

15          The bond shall be to the department and in favor of any customer who suffers any loss that  
16          may be occasioned by reason of the failure of title or by reason of any fraudulent  
17          misrepresentation or breaches of warranty as to freedom from liens. The bond shall be for the  
18          license period. A new bond or a proper continuation certificate shall be delivered to the  
19          department at the beginning of each license period. Any surety company that pays a claim  
20          against the bond of a licensee shall notify the department, in writing, that it has paid such a  
21          claim. Any surety company that cancels the bond of a licensee shall notify the department, in  
22          writing, of the cancellation, giving the reason for that cancellation. If a claim is made to the  
23          department against the bond, which claim is based upon a final judgment of a court of record  
24          of this state, the dealer shall execute an additional bond for the amount necessary to maintain

1 the security at the original level.

2 Section 4. That § 32-6B-12 be amended to read:

3 32-6B-12. Any dealer's license issued under this chapter shall be of the following classes:

4 (1) "Vehicle dealer's license," a license that permits the licensee to engage in the business  
5 of selling or exchanging new, or new and used, vehicles;

6 (2) "Used vehicle dealer's license," a license that permits the licensee to engage in the  
7 business of selling or exchanging used vehicles only;

8 (3) "Motorcycle and off-road vehicle dealer's license," a license that permits the licensee  
9 to engage in the business of selling or exchanging new or used motorcycles and new  
10 or used off-road vehicles only;

11 (4) "Trailer dealer's license," a license that permits the licensee to engage in the business  
12 of selling or exchanging trailers, semitrailers, recreational park trailers, or travel  
13 trailers only, new or used;

14 (5) "Emergency vehicle dealer's license," a license that permits the licensee to engage in  
15 the business of selling or exchanging new or used authorized emergency vehicles; or

16 (6) "Final stage manufacturer dealer's license," a license that permits the licensee to  
17 engage in the business of selling or exchanging a previously assembled new motor  
18 vehicle chassis cab that has been completed by the final stage manufacturer and to  
19 engage in the business of selling or exchanging used motor vehicles.

20 A license certificate identifying the class of dealership and containing a distinguishing  
21 identification number of licensee shall be issued by the department if the application is in  
22 compliance with the provisions of this chapter.

23 Section 5. That § 32-6B-13 be amended to read:

24 32-6B-13. Upon making initial application for a dealer's license, the applicant shall pay a

1 fee to the department. The initial fee required for each type of dealer's license is as follows:

- 2 (1) Vehicle dealer's license--\$300;
- 3 (2) Used vehicle dealer's license--\$300;
- 4 (3) Motorcycle and off-road vehicle dealer's license--\$250;
- 5 (4) Trailer dealer's license--\$125;
- 6 (5) Emergency vehicle dealer's license--\$300; or
- 7 (6) Final stage manufacturer dealer's license--\$300.

8 All money collected pursuant to this section shall be deposited in the state motor vehicle  
9 fund.

10 Section 6. That § 32-6B-15 be amended to read:

11 32-6B-15. A renewal application shall be submitted to the department annually, prior to the  
12 expiration of the old license. The applicant shall pay a fee based on the following schedule to  
13 the department:

- 14 (1) Vehicle dealer's license--\$175;
- 15 (2) Used vehicle dealer's license--\$175;
- 16 (3) Motorcycle and off-road vehicle dealer's license--\$150;
- 17 (4) Trailer dealer's license--\$100; or
- 18 (5) Emergency vehicle dealer's license--\$175.

19 The renewal application shall contain the same information as required for the initial  
20 application in § 32-6B-6. Any application for renewal made after the expiration date shall be  
21 accompanied by a fee in the amount of the initial license fee as established in § 32-6B-13.

22 Section 7. That chapter 32-5B be amended by adding a NEW SECTION to read:

23 All excise taxes collected on the purchase of an off-road vehicle as provided by § 32-5B-1  
24 shall be deposited in the state general fund.