

AN ACT

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

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

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

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

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

(22) "Vehicle," any new or used automobile, truck, truck tractor, motorcycle, off-road vehicle, motor home, trailer, semitrailer or travel trailer of the type and kind required to be titled and registered under chapters 32-3 and 32-5, or required to be titled under chapter 32-20 except manufactured homes, mobile homes, mopeds or snowmobiles;

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

32-6B-7. Before any license is issued, the applicant shall deliver to the department a good and sufficient surety bond, executed by the applicant as principal and by a surety company qualified to do business in the state as surety. The bond shall be for an amount based upon the type of license applied for, as follows:

(1) Vehicle dealer's license--\$25,000;

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

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

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

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

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

- (4) "Trailer dealer's license," a license that permits the licensee to engage in the business of selling or exchanging trailers, semitrailers, recreational park trailers, or travel trailers only, new or used;
- (5) "Emergency vehicle dealer's license," a license that permits the licensee to engage in the business of selling or exchanging new or used authorized emergency vehicles; or
- (6) "Final stage manufacturer dealer's license," a license that permits the licensee to engage in the business of selling or exchanging a previously assembled new motor vehicle chassis cab that has been completed by the final stage manufacturer and to engage in the business of selling or exchanging used motor vehicles.

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

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

32-6B-13. Upon making initial application for a dealer's license, the applicant shall pay a fee to the department. The initial fee required for each type of dealer's license is as follows:

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

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

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

32-6B-15. A renewal application shall be submitted to the department annually, prior to the

expiration of the old license. The applicant shall pay a fee based on the following schedule to the department:

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

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

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

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

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I certify that the attached Act originated in the

HOUSE as Bill No. 1083

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1083
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State