

MOTOR-POWERED RECREATIONAL (MPR) VEHICLE DEALER LICENSING AND BONDING

CHAPTER 39-22.3

DEFINITIONS AND GENERAL PROVISIONS SUBSECTIONS 13 AND 43 OF SECTION 39-01-01

- 13.** "Dealer" means every person, partnership, corporation, or limited liability company engaged in the business of buying, selling, or exchanging motor vehicles, or who advertises, or holds out to the public as engaged in the buying, selling, or exchanging of motor vehicles, or who engages in the buying of motor vehicles for resale. Any person, partnership, corporation, limited liability company, or association doing business in several cities or in several locations within a city must be considered a separate dealer in each such location.
- 43.** "Motor-powered recreational vehicle" means:
- Motorcycle vehicle as defined in subsection 41:

"Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding implements of husbandry.
 - Off-highway vehicle as defined in section 39-29-01.2:

"Off-highway vehicle" means any wheeled motorized vehicle not designed for use on a highway and capable of cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain. An off-highway vehicle must be classified into one of the following categories:
 - a. Class I off-highway vehicle is a vehicle that does not qualify as road capable under chapters 39-21 and 39-27, has a seat or a saddle designed to be straddled by the operator, and has handlebars for steering control of two wheels.
 - b. Class II off-highway vehicle is less than fifty inches [1270.00 millimeters] in width, travels on three or more low-pressure tires, has a saddle designed to be straddled by the operator, and has handlebars for steering control.
 - c. Class III off-highway vehicle weighs less than eight thousand pounds, travels on four or more tires, has a seat and a wheel for steering control, and is designated for or capable of cross-country on or over

land, water, sand, snow, ice, marsh, swampland, or other natural terrain, unless registered by the department under chapter 39-04.,

or a

- Snowmobile as defined in section 39-24-01.8:

"Snowmobile" means a self-propelled vehicle designed for travel on snow, ice, or a natural terrain and steered by skis or runners.

39-22.3-01. Motor-powered recreational vehicle dealer's license - Fees – Additional number plates. A person may not engage in the business of buying, selling, or exchanging of motor-powered recreational vehicles without possessing a current motor-powered recreational vehicle dealer's license. A person may not advertise or hold out to the public as engaging in the buying, selling, or exchanging of motor-powered recreational vehicles for resale without possession of a current motor-powered recreational vehicle dealer's license. The motor-powered recreational vehicle dealer's license fee is twenty-five dollars per year and with which must be issued one dealer's plate. Additional dealer's plates are ten dollars each. A dealer plate may be displayed on any motor-powered recreational vehicle owned by the dealer.

39-22.3-02. Application required. A license may not be granted unless a completed application has been made in the form prescribed by the director.

39-22.3-03. Issuance of license - Conditions - Penalty. A license may not be issued until the applicant furnishes proof satisfactory to the director that the applicant has and will continue to maintain an established place of business. An established central place of business means a permanent enclosed building or structure either owned or leased with a stated periodic rental, at which a permanent business of bartering, trading, and selling of motor-powered recreational vehicles, the repair, maintenance, and servicing of motor-powered recreational vehicles and the storage of parts and accessories of motor-powered recreational vehicles will be carried out in good faith and not for the purpose of evading this section, and where the business books, records, and files must be maintained, and does not mean a residence, tents, temporary stands, or other temporary quarters, nor permanent quarters occupied pursuant to any temporary arrangement. The central place of business may consist of several buildings, or structures, but a building or structure may not be located beyond one thousand feet [304.8 meters] from any other buildings or structures of the central place of business. The central place of business must be located within this state. The licensee must be permitted to use unimproved lots and premises for sales, storage, or display of motor-powered recreational vehicles. A nonrefundable fee of fifty dollars will be charged for each inspection and must accompany each initial application for a motor-powered recreational vehicle dealer's license. 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 motor-powered recreational vehicle dealer licensed under this chapter if a third or subsequent violation of this chapter occurs within five years of the first violation.

39-22.3-04. Grounds for denial, suspension, cancellation, or revocation of dealer's license. The director may deny an application for a dealer's license or suspend, revoke, or cancel the license after it has been granted for the following reasons:

1. For any material misstatement by an applicant in the application for the license.

2. For any willful failure to comply with this chapter or with any rule adopted by the director.
3. For knowingly permitting any salesperson to sell or exchange, or offer or attempt to sell or exchange any motor-powered recreational vehicle except for the licensed motor-powered recreational vehicle dealer by whom the salesperson is employed, or to offer, transfer, or assign any sale or exchange that they may have negotiated to any other dealer.
4. For having violated any law relating to the sale, distribution, or financing of motorcycles.
5. For having ceased to have an established place of business.

39-22.3-05. Bond required. The license applicant shall furnish a continuous surety bond executed by a surety company, licensed and qualified to do business within this state and the bond must run to the state of North Dakota in the amount of ten thousand dollars and be conditioned upon the faithful compliance by the applicant with all the statutes of this state, regulating or being applicable to a dealer in motor-powered recreational vehicles, and indemnifying any person having a motor-powered recreational vehicle transaction with the dealer from any loss of damage occasioned by the failure of the dealer to comply with any statutory requirement of the transaction. The bond must be filed with the director before the issuance of a license. The aggregate liability of the surety of all persons may not exceed the amount of 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 of any proceedings. 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 subsequent liability. The surety remains liable, subject to the terms, conditions, and provisions of the bond, until the effective date of the cancellation.

39-22.3-06. Disposition of fees. Fees from registration of dealers must be deposited with the state treasurer and credited to the dealer enforcement fund to be used exclusively for enforcement of this chapter.

39-22.3-07. Dealer permitting license to be used by another dealer - License revoked - Penalty. A dealer who permits any other dealer to use that first dealer's license, or permits the use of the license for the benefit of any other dealer, is guilty of an infraction. The director shall revoke the license of any dealer who violates this section.

39-22.3-08. Dealers to furnish information to director. All dealers engaged in the sale of motor-powered recreational vehicles in this state shall furnish the director with information as to models, specifications, selling prices, and other data requested by the director as may be necessary in carrying out this chapter.

39-22.3-09. Powers of the director. In addition to other powers provided by law, the director in conformity with this chapter:

1. May cancel, revoke, or suspend a dealer's license as provided for in this chapter;
2. May prescribe rules not inconsistent with this chapter governing the application for dealer's licenses and the cancellation or suspension or revocation of a dealer's license; and

3. May employ and pay persons necessary to inspect dealers in this state, investigate dealers for the information of the director, and procure evidence in connection with any prosecution or other action to suspend, revoke, or cancel a dealer's license in relation to any matter in which the director has any duty to perform.

39-22.3-10. Examination of books and records. The director or the director's duly authorized representative may inspect the books, letters, records, and contracts of any licensed motor-powered recreational vehicle dealer relating to any specific complaint made against the dealer and held to be in violation of any provision of this title.

39-22.3-11. Officers to administer the provisions of chapter. The director and the director's appointees are responsible for the administration of the provisions of this chapter.

39-22.3-12. Penalty for violation of provisions of chapter. Any person violating any of the provisions of this chapter for which another penalty is not specifically provided is guilty of a class B misdemeanor.