

**SENATE BILL NO. 2280**

Introduced by

Senator Nelson

1 A BILL for an Act to amend and reenact section 39-22-26 of the North Dakota Century Code,  
2 relating to motor vehicle brokers; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 39-22-26 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **39-22-26. Brokering of motor vehicles prohibited - Penalty.**

7 ~~A person may not act as, offer to act as, or hold out to be a motor vehicle broker. As used in~~  
8 ~~this section, a broker is a person who, for a fee, commission, or other valuable consideration,~~  
9 ~~arranges or offers to arrange a transaction involving the sale or exchange of a motor vehicle,~~  
10 ~~and who is not:~~

- 11 1. ~~A dealer or a bona fide agent or employee of a dealer;~~
- 12 2. ~~A representative or a bona fide agent or employee of a manufacturer;~~
- 13 3. ~~The bona fide owner of the motor vehicle involved in the transaction; or~~
- 14 4. ~~A bona fide auctioneer conducting an auction involving motor vehicles not owned by~~  
15 ~~the auctioneer.~~

16 ~~Any person violating this section is guilty of a class A misdemeanor.~~

- 17 1. A motor vehicle broker shall provide each buyer or lessee with a written disclosure  
18 stating whether the motor vehicle broker receives a fee from the dealers with whom  
19 the broker does business. The new or used motor vehicle dealer is the seller of record  
20 in all transactions. The motor vehicle dealer may pay the motor vehicle broker a fee for  
21 brokering services rendered. A motor vehicle broker may:
  - 22 a. Advertise and solicit the brokering of new motor vehicles. A motor vehicle broker  
23 may not advertise or make any representations that state, imply, or suggest that  
24 the motor vehicle broker sells vehicles, is authorized to sell vehicles, or obtains

- 1           vehicles directly from the motor vehicle manufacturer. All advertising or other  
2           solicitations by a motor vehicle broker must disclose that sales of new motor  
3           vehicles are arranged through franchised motor vehicle dealers;  
4           b. Negotiate or quote the sale price or lease terms of motor vehicles;  
5           c. Prepare and deliver documents necessary to the transaction;  
6           d. Accept a down payment not to exceed six percent of the expected purchase price  
7           of the vehicle or five hundred dollars, whichever is greater, but otherwise may not  
8           accept payment in full or in part for a motor vehicle unless the payment is in the  
9           form of a negotiable instrument payable to the vehicle dealer;  
10          e. Keep the portion of a down payment in the amount of expenses incurred by the  
11          broker even if the broker does not arrange for a vehicle;  
12          f. Accompany a motor vehicle purchaser or lessee at the time of delivery by the  
13          selling dealer of a new motor vehicle; and  
14          g. Be present when warranties and safety features are described by the selling  
15          dealer in conjunction with the delivery of a new motor vehicle.  
16          2. A motor vehicle broker may not:  
17           a. Engage in the business of selling new or used motor vehicles;  
18           b. Execute contracts or official documents for the sale or lease of a new motor  
19           vehicle;  
20           c. Describe a new vehicle's warranties or safety features in conjunction with the  
21           delivery of a new motor vehicle;  
22           d. Display motor vehicles available for sale or lease; or  
23           e. Perform any dealer preparation of new motor vehicles.  
24          3. This section does not apply to licensed motor vehicle lessors and may not be  
25          construed to restrict licensed motor vehicle lessors from brokering motor vehicle  
26          leases or otherwise engaging in the leasing of motor vehicles.  
27          4. As used in this section, a "motor vehicle broker" is a person who, for a fee,  
28          commission, or other valuable consideration, arranges or offers to arrange a  
29          transaction involving the lease, sale, or exchange of a motor vehicle, and who is not:  
30           a. A dealer or a bona fide agent or employee of a dealer;  
31           b. A representative or a bona fide agent or employee of a manufacturer;

- 1           c. The bona fide owner of the motor vehicle involved in the transaction; or
- 2           d. A bona fide auctioneer conducting an auction involving motor vehicles not owned
- 3                 by the auctioneer.
- 4         5. A person violating this section is guilty of an infraction.