

ASSEMBLY BILL NO. 271—COMMITTEE ON TRANSPORTATION

(ON BEHALF OF DEPARTMENT OF MOTOR VEHICLES
AND PUBLIC SAFETY)

FEBRUARY 17, 1999

Referred to Committee on Transportation

SUMMARY—Makes various changes relating to consignment of vehicles. (BDR 43-654)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to vehicles; requiring certain information to be included in a consignment contract involving a vehicle; requiring a consignee of a vehicle to establish a trust account in which the proceeds of a consignment sale of the vehicle must be deposited; prescribing duties for a consignee of a consignment contract involving a vehicle; providing penalties; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 482 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 6, inclusive, of this act.
3 **Sec. 2.** *As used in sections 2 to 6, inclusive, of this act, unless the*
4 *context otherwise requires, the words and terms defined in sections 3 and*
5 *4 of this act have the meanings ascribed to them in those sections.*
6 **Sec. 3.** *“Consignment” means any transaction whereby the*
7 *registered owner or lienholder of a vehicle subject to registration*
8 *pursuant to this chapter agrees, entrusts, or in any other manner allows*
9 *another person to act as his agent to sell, exchange, negotiate or attempt*
10 *to negotiate a sale or an exchange of the interest of the registered owner*
11 *or lienholder in the vehicle, whether or not for compensation.*

1 **Sec. 4.** *“Consignment contract” means a written agreement between*
2 *a registered owner or lienholder of a vehicle and an agent to whom the*
3 *vehicle has been entrusted by consignment for the purpose of sale that*
4 *specifies the terms and conditions of the consignment and sale.*

5 **Sec. 5.** *A consignment contract must include, without limitation:*

- 6 1. *The names of the consignor and consignee;*
- 7 2. *The date on which the consignment contract was entered into;*
- 8 3. *A complete description of the vehicle subject to the consignment*
9 *contract, including the vehicle identification number, the year, make and*
10 *model of the vehicle, and the number of miles registered on the odometer*
11 *of the vehicle at the time that the consignment contract is entered into;*
- 12 4. *The term of the consignment contract;*
- 13 5. *The name of each person or business entity holding any security*
14 *interest in the vehicle to be consigned;*
- 15 6. *The minimum sales price for the vehicle and the disposition of the*
16 *proceeds therefrom, as agreed upon by the consignor and consignee; and*
- 17 7. *The signatures of the consignor and consignee acknowledging all*
18 *the terms and conditions set forth in the consignment contract.*

19 **Sec. 6.** 1. *A consignee of a vehicle, including, without limitation, a*
20 *dealer or rebuilder licensed pursuant to this chapter, shall, upon entering*
21 *into a consignment contract or other form of agreement to sell a vehicle*
22 *owned by another person, open and maintain a separate trust account in*
23 *a federally insured bank or savings and loan association that is located*
24 *in this state, into which the consignee shall deposit all money received*
25 *from a prospective buyer as a deposit, or as partial or full payment of the*
26 *purchase price agreed upon, toward the purchase or transfer of interest*
27 *in the vehicle. A consignee of a vehicle shall not:*

- 28 (a) *Commingle the money in the trust account with any other money*
29 *that is not on deposit or otherwise maintained toward the purchase of the*
30 *vehicle subject to the consignment contract or agreement; or*
- 31 (b) *Use any money in the trust account to pay his operational*
32 *expenses for any purpose that is not related to the consignment contract*
33 *or agreement.*

34 2. *Upon the sale or transfer of interest in the vehicle, the consignee*
35 *shall forthwith:*

- 36 (a) *Satisfy or cause to be satisfied all outstanding security interests in*
37 *the vehicle; and*
- 38 (b) *Satisfy the financial obligations due the consignor pursuant to the*
39 *consignment contract.*

40 3. *Upon the receipt of money by delivery of cash, bank check or*
41 *draft, or any other form of legal monetary exchange, or after any form of*
42 *transfer of interest in a vehicle, the consignee shall notify the consignor*
43 *that the money has been received or that a transfer of interest in the*

1 vehicle has occurred. Notification by the consignee to the consignor must
2 be given in person or, in the absence of the consignor, by registered or
3 certified mail addressed to the last address or residence of the consignor
4 known to the consignee. The notification must be made within 3 business
5 days after the date on which the money is received or the transfer of
6 interest in the vehicle is made.

7 4. The provisions of this section do not apply to an executor, an
8 administrator, a sheriff or any other person who sells a vehicle pursuant
9 to the powers or duties granted to or imposed on him by specific statute.

10 5. Notwithstanding any provision of NRS 482.423 to 482.4245,
11 inclusive, to the contrary, a vehicle subject to a consignment contract
12 may not be operated in accordance with NRS 482.423 to 482.4245,
13 inclusive, by displaying a special permit to operate the vehicle unless
14 such operation of the vehicle is authorized by the express written consent
15 of the consignor.

16 6. A vehicle subject to a consignment contract may not be operated
17 by the consignee, an employee or agent of the consignee, or a prospective
18 buyer in accordance with NRS 482.320 by displaying a special plate
19 unless such operation of the vehicle is authorized by the express written
20 consent of the consignor.

21 7. A dealer or rebuilder shall maintain a written log for each vehicle
22 for which he has entered into a consignment contract. The written log
23 must include:

- 24 (a) The name and address, or place of residence, of the consignor;
- 25 (b) A description of the vehicle consigned, including the year, make,
26 model and serial or identification number of the vehicle;
- 27 (c) The date on which the consignment contract is entered into;
- 28 (d) The period that the vehicle is to be consigned;
- 29 (e) The minimum agreed upon sales price for the vehicle;
- 30 (f) The approximate amount of money due any lienholder or other
31 person known to have an interest in the vehicle;
- 32 (g) If the vehicle is sold, the date on which the vehicle is sold;
- 33 (h) The date that the money due the consignor and the lienholder was
34 paid;
- 35 (i) The name and address of the federally insured bank or savings and
36 loan association in which the dealer or rebuilder opened the trust
37 account required pursuant to subsection 1; and
- 38 (j) The signature of the consignor acknowledging that the terms of the
39 consignment contract were fulfilled or terminated, as appropriate.

40 8. A person who:

- 41 (a) Appropriates, diverts or otherwise converts to his own use money
42 in a trust account opened pursuant to subsection 1 or otherwise subject to
43 a consignment contract or agreement is guilty of embezzlement and shall

1 *be punished in accordance with NRS 205.300. If the amount of money*
2 *embezzled by the person is \$250 or more, the court shall, in addition to*
3 *any other penalty, order the person to pay restitution.*

4 *(b) Violates any other provision of this section is guilty of a*
5 *misdemeanor.*

6 **Sec. 7.** NRS 482.320 is hereby amended to read as follows:

7 482.320 1. ~~[A]~~ *Except as otherwise provided in section 6 of this act,*
8 *a* manufacturer, distributor, dealer or rebuilder who has an established
9 place of business in this state, or a manufacturer who has executed a
10 franchise with a dealer or distributor who has an established place of
11 business in this state, and who owns or controls any new or used vehicle of
12 a type otherwise required to be registered under the provisions of this
13 chapter, may operate that vehicle or allow it to be operated for purposes of
14 display, demonstration, maintenance, sale or exchange if there is displayed
15 thereon a special plate or plates issued to the manufacturer, distributor,
16 dealer or rebuilder as provided in NRS 482.275 and 482.330. Such a
17 vehicle may also be moved or operated for the purpose of towing other
18 vehicles which are to be sold or exchanged, or stored for the purpose of
19 sale or exchange. Owners or officers of the corporation, heads of
20 departments and salesmen may operate a vehicle displaying such plates.

21 2. The provisions of this section do not apply to:

22 (a) Work or service vehicles owned or controlled by a manufacturer,
23 distributor, dealer or rebuilder.

24 (b) Vehicles leased by dealers, except vehicles rented or leased to
25 vehicle salesmen in the course of their employment.

26 (c) Vehicles which are privately owned by the owners, officers or
27 employees of the manufacturer, distributor, dealer or rebuilder.

28 (d) Vehicles which are being used for personal reasons by a person who
29 is not licensed by the department or otherwise exempted in subsection 1.

30 (e) Vehicles which have been given or assigned to persons who work
31 for a manufacturer, distributor, dealer or rebuilder for services performed.

32 **Sec. 8.** The amendatory provisions of this act do not apply to offenses
33 that are committed before the effective date of this act.

34 **Sec. 9.** This act becomes effective upon passage and approval.