

ASSEMBLY BILL NO. 417—ASSEMBLYMEN ATKINSON, BUCKLEY,  
HORNE, PARKS, OHRENSCHALL, CLABORN, COLLINS,  
GOICOECHEA, KNECHT, KOIVISTO, LESLIE, MANENDO,  
OCEGUERA, PIERCE AND WILLIAMS

MARCH 17, 2003

Referred to Committee on Transportation

SUMMARY—Establishes procedures for claims against bonds and  
deposits of certain persons licensed by Department  
of Motor Vehicles. (BDR 43-1077)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

~

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

AN ACT relating to motor vehicles; establishing procedures for  
claims against bonds and deposits of dealers, distributors,  
manufacturers, rebuilders, representatives and salesmen  
licensed by the Department of Motor Vehicles; giving  
claims filed by consumers priority over other claims;  
providing under certain circumstances for payment of  
claims on a pro rata basis; 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  
2     thereto a new section to read as follows:

3     ***1. A person injured by the action of a dealer, distributor,***  
4     ***manufacturer, rebuilder, representative or salesman in violation***  
5     ***of any provision of this chapter may file a claim with the Director.***  
6     ***A person is not required to reduce the claim to a judgment before***  
7     ***filing a claim with the Director.***

8     ***2. The Director shall consider any claim that is filed within***  
9     ***the applicable statute of limitations. If the claim is upon a bond,***  
10    ***the Director shall not order payment on the bond until 2 years***



\* A B 4 1 7 \*

1 *after the expiration of the bond. Two years after the expiration of*  
2 *the bond, the Director shall order the surety to pay all approved*  
3 *claims.*

4 *3. A claim filed by a consumer is a preferred claim. If any*  
5 *bond or deposit is insufficient to pay all consumer claims in full,*  
6 *the Director shall distribute or direct the surety to distribute the*  
7 *compensation among all consumer claimants in proportion to the*  
8 *amounts of their respective claims. Partial payment of claims is*  
9 *not full payment, and the claimants may bring actions against the*  
10 *dealer, distributor, manufacturer, rebuilder, representative or*  
11 *salesman for the unpaid balances.*

12 *4. Claims, other than claims filed by consumers, have equal*  
13 *priority, except where otherwise provided by law, and if, after*  
14 *paying all claims filed by consumers, the bond or deposit is*  
15 *insufficient to pay all remaining claims in full, they must be paid*  
16 *pro rata. Partial payment of claims is not full payment, and the*  
17 *claimants may bring actions against the dealer, distributor,*  
18 *manufacturer, rebuilder, representative or salesman for the*  
19 *unpaid balances.*

20 *5. An approved claim draws interest at a rate determined*  
21 *pursuant to NRS 17.130 from the date of its approval until the*  
22 *claim is paid. If the amount of an approved claim is reduced by the*  
23 *Director before payment, interest is paid only on the reduced*  
24 *amount.*

25 *6. The remedy provided in this section does not preclude a*  
26 *person from bringing an action on a bond filed pursuant to NRS*  
27 *482.345 or a deposit made pursuant to NRS 482.346, or otherwise*  
28 *limit any rights or remedies the person may have pursuant to any*  
29 *other law or agreement.*

30 *7. As used in this section, "claim" means an application to*  
31 *the Director for compensation in the form of:*

- 32 *(a) Payment from a bond pursuant to NRS 482.345; or*  
33 *(b) Disbursement from a deposit pursuant to NRS 482.346.*

34 **Sec. 2.** NRS 482.3161 is hereby amended to read as follows:

35 482.3161 1. A person shall not operate as a vehicle  
36 transporter in this state without a license issued by the Department.

37 2. The provisions of NRS 482.316 to 482.3175, inclusive, do  
38 not apply to a manufacturer, distributor, dealer, broker or rebuilder  
39 licensed pursuant to the provisions of NRS 482.318 to 482.363,  
40 inclusive ~~§~~, and section 1 of this act.

41 **Sec. 3.** NRS 482.345 is hereby amended to read as follows:

42 482.345 1. Except as otherwise provided in subsection 6,  
43 before any dealer's license, dealer's plate, special dealer's plate,  
44 rebuilder's license or rebuilder's plate, distributor's license or  
45 distributor's plate or manufacturer's license or manufacturer's plate



1 is furnished to a manufacturer, distributor, dealer or rebuilder as  
2 provided in this chapter, the Department ~~{shall}~~ *must* require that the  
3 applicant make an application for such a license and plate upon a  
4 form to be furnished by the Department, and the applicant ~~{shall}~~  
5 *must* furnish such information as the Department requires, including  
6 proof that the applicant has an established place of business in this  
7 state, and also, except as otherwise provided in subsection 2,  
8 procure and file with the Department a good and sufficient bond in  
9 the amount of \$50,000 with a corporate surety thereon, duly  
10 licensed to do business within the State of Nevada, approved as to  
11 form by the Attorney General, and conditioned that the applicant  
12 shall conduct his business as a dealer, distributor, manufacturer or  
13 rebuilder without breaching a consumer contract or engaging in a  
14 deceptive trade practice, fraud or fraudulent representation, and  
15 without violation of the provisions of this chapter. The Department  
16 may, by agreement with any dealer, distributor, manufacturer or  
17 rebuilder who has been in business for 5 years or more, allow a  
18 reduction in the amount of the bond of the dealer, if his business has  
19 been conducted satisfactorily for the preceding 5 years, but no bond  
20 may be in an amount less than \$5,000.

21 2. A manufacturer, distributor, rebuilder or dealer who  
22 manufactures, distributes or sells only motorcycles, horse trailers,  
23 tent trailers, utility trailers or trailers designed to carry boats shall  
24 file a bond as required by subsection 1 in the amount of \$5,000  
25 regardless of the length of time he has been in business.

26 3. The bond must be continuous in form, and the total  
27 aggregate liability on the bond must be limited to the payment of the  
28 total amount of the bond.

29 4. The undertaking on the bond includes any breach of a  
30 consumer contract, deceptive trade practice, fraud, fraudulent  
31 representation or violation of any of the provisions of this chapter by  
32 the representative of any licensed distributor or the salesman of any  
33 licensed dealer, manufacturer or rebuilder who acts for the dealer,  
34 distributor, manufacturer or rebuilder on his behalf and within the  
35 scope of the employment of the representative or the salesman.

36 5. The bond must provide that any person injured by the action  
37 of the dealer, distributor, rebuilder, manufacturer, representative or  
38 salesman in violation of any provisions of this chapter may *bring an*  
39 *action on the bond against the surety in a court of competent*  
40 *jurisdiction or* apply to the Director, for good cause shown and after  
41 notice and opportunity for hearing, for compensation from the bond  
42 ~~[. The Director may determine the amount of compensation and the~~  
43 ~~person to whom it is to be paid. The surety shall then make the~~  
44 ~~payment.]~~ *pursuant to section 1 of this act.*



1       6. The provisions of this section do not apply to a manufacturer  
2 without an established place of business in this state.

3       **Sec. 4.** NRS 482.346 is hereby amended to read as follows:

4       482.346 1. In lieu of a bond, an applicant may deposit with  
5 the Department, under terms prescribed by the Department:

6       (a) A like amount of lawful money of the United States or bonds  
7 of the United States or of the State of Nevada of an actual market  
8 value of not less than the amount fixed by the Department; or

9       (b) A savings certificate of a bank, credit union or savings and  
10 loan association situated in Nevada, which must indicate an account  
11 of an amount equal to the amount of the bond which would  
12 otherwise be required by NRS 482.345 and that this amount is  
13 unavailable for withdrawal except upon order of the Department.  
14 Interest earned on the amount accrues to the account of the  
15 applicant.

16       2. A deposit made pursuant to subsection 1 may be disbursed  
17 by the Director ~~§~~ *pursuant to section 1 of this act*, for good cause  
18 shown and after notice and opportunity for hearing, in an amount  
19 determined by him to compensate a person injured by an action of  
20 the licensee, or released upon receipt of:

21       (a) A court order requiring the Director to release all or a  
22 specified portion of the deposit; or

23       (b) A statement signed by the person or persons under whose  
24 name the deposit is made and acknowledged before any person  
25 authorized to take acknowledgments in this state, requesting the  
26 Director to release the deposit, or a specified portion thereof, and  
27 stating the purpose for which the release is requested.

28       3. When a deposit is made pursuant to subsection 1, liability  
29 under the deposit is in the amount prescribed by the Department. If  
30 the amount of the deposit is reduced or there is an outstanding court  
31 judgment for which the licensee is liable under the deposit, the  
32 license is automatically suspended. The license must be reinstated if  
33 the licensee:

34       (a) Files an additional bond pursuant to subsection 1 of  
35 NRS 482.345;

36       (b) Restores the deposit with the Department to the original  
37 amount required under this section; or

38       (c) Satisfies the outstanding judgment for which he is liable  
39 under the deposit.

40       4. A deposit made pursuant to subsection 1 may be refunded:

41       (a) By order of the Director, 3 years after the date the licensee  
42 ceases to be licensed by the Department, if the Director is satisfied  
43 that there are no outstanding claims against the deposit; or

44       (b) By order of court, at any time within 3 years after the date  
45 the licensee ceases to be licensed by the Department, upon evidence



\* A B 4 1 7 \*

1 satisfactory to the court that there are no outstanding claims against  
2 the deposit.  
3 5. Any money received by the Department pursuant to  
4 subsection 1 must be deposited with the State Treasurer for credit to  
5 the Motor Vehicle Fund.

③



\* A B 4 1 7 \*