

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. No claim may be filed more than 3 years after the***
9 ***commission of the act on which the claim is based. Upon receipt of***
10 ***a claim, the Director shall notify the person who brought the claim***



* A B 4 1 7 R 1 *

1 *that a bond is in effect or that a deposit has been made, and the*
2 *amount of either.*

3 *3. If the Director desires to make payment without awaiting*
4 *court action, the amount of the bond or deposit must be reduced to*
5 *the extent of any payment that the Director in good faith makes*
6 *from the deposit or directs the surety to make from the bond. Any*
7 *payment must be based on written claims received by the Director*
8 *before the court action.*

9 *4. The Director may bring an action for interpleader against*
10 *all claimants under the bond or deposit. If an action for*
11 *interpleader is commenced, the Director must serve each known*
12 *claimant and publish notice of the action at least once each week*
13 *for 2 weeks in a newspaper of general circulation in the county*
14 *where the dealer, distributor, manufacturer, rebuilder,*
15 *representative or salesman has his principal place of business. The*
16 *Director is entitled to deduct his costs of the action, including*
17 *attorney's fees and publication, from the deposit or direct the*
18 *surety to pay such costs from the bond.*

19 *5. Claims, other than claims filed by consumers, must not be*
20 *paid from the bond or deposit until 3 years after the commission of*
21 *the act on which the claim was based.*

22 *6. A claim filed by a consumer is a preferred claim. If any*
23 *bond or deposit is insufficient to pay all consumer claims in full,*
24 *the Director shall distribute or direct the surety to distribute the*
25 *compensation among all consumer claimants in proportion to the*
26 *amounts of their respective claims. Partial payment of claims is*
27 *not full payment, and the claimants may bring actions against the*
28 *dealer, distributor, manufacturer, rebuilder, representative or*
29 *salesman for the unpaid balances.*

30 *7. Claims, other than claims filed by consumers, have equal*
31 *priority, except where otherwise provided by law, and if, after*
32 *paying all claims filed by consumers, the bond or deposit is*
33 *insufficient to pay all remaining claims in full, they must be paid*
34 *pro rata. Partial payment of claims is not full payment, and the*
35 *claimants may bring actions against the dealer, distributor,*
36 *manufacturer, rebuilder, representative or salesman for the*
37 *unpaid balances.*

38 *8. An approved claim draws interest at a rate determined*
39 *pursuant to NRS 17.130 from the date of its approval until the*
40 *claim is paid. If the amount of an approved claim is reduced by the*
41 *Director before payment, interest is paid only on the reduced*
42 *amount.*

43 *9. The remedy provided in this section does not preclude a*
44 *person from bringing an action on a bond filed pursuant to NRS*
45 *482.345 or a deposit made pursuant to NRS 482.346, or otherwise*



* A B 4 1 7 R 1 *

1 *limit any rights or remedies the person may have pursuant to any*
2 *other law or agreement.*

3 *10. As used in this section, "claim" means an application to*
4 *the Director for compensation in the form of:*

5 *(a) Payment from a bond pursuant to NRS 482.345; or*

6 *(b) Disbursement from a deposit pursuant to NRS 482.346.*

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

8 482.3161 1. A person shall not operate as a vehicle
9 transporter in this state without a license issued by the Department.

10 2. The provisions of NRS 482.316 to 482.3175, inclusive, do
11 not apply to a manufacturer, distributor, dealer, broker or rebuilder
12 licensed pursuant to the provisions of NRS 482.318 to 482.363,
13 inclusive ~~1~~, and section 1 of this act.

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

15 482.345 1. Except as otherwise provided in subsection 6,
16 before any dealer's license, dealer's plate, special dealer's plate,
17 rebuilder's license or rebuilder's plate, distributor's license or
18 distributor's plate or manufacturer's license or manufacturer's plate
19 is furnished to a manufacturer, distributor, dealer or rebuilder as
20 provided in this chapter, the Department ~~shall~~ **must** require that the
21 applicant make an application for such a license and plate upon a
22 form to be furnished by the Department, and the applicant ~~shall~~
23 **must** furnish such information as the Department requires, including
24 proof that the applicant has an established place of business in this
25 state, and also, except as otherwise provided in subsection 2,
26 procure and file with the Department a good and sufficient bond in
27 the amount of \$50,000 with a corporate surety thereon, duly
28 licensed to do business within the State of Nevada, approved as to
29 form by the Attorney General, and conditioned that the applicant
30 shall conduct his business as a dealer, distributor, manufacturer or
31 rebuilder without breaching a consumer contract or engaging in a
32 deceptive trade practice, fraud or fraudulent representation, and
33 without violation of the provisions of this chapter. The Department
34 may, by agreement with any dealer, distributor, manufacturer or
35 rebuilder who has been in business for 5 years or more, allow a
36 reduction in the amount of the bond of the dealer, if his business has
37 been conducted satisfactorily for the preceding 5 years, but no bond
38 may be in an amount less than \$5,000.

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



* A B 4 1 7 R 1 *

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

4 4. The undertaking on the bond includes any breach of a
5 consumer contract, deceptive trade practice, fraud, fraudulent
6 representation or violation of any of the provisions of this chapter by
7 the representative of any licensed distributor or the salesman of any
8 licensed dealer, manufacturer or rebuilder who acts for the dealer,
9 distributor, manufacturer or rebuilder on his behalf and within the
10 scope of the employment of the representative or the salesman.

11 5. The bond must provide that any person injured by the action
12 of the dealer, distributor, rebuilder, manufacturer, representative or
13 salesman in violation of any provisions of this chapter may *bring an*
14 *action on the bond against the surety in a court of competent*
15 *jurisdiction or* apply to the Director, for good cause shown and after
16 notice and opportunity for hearing, for compensation from the bond
17 ~~[. The Director may determine the amount of compensation and the~~
18 ~~person to whom it is to be paid. The surety shall then make the~~
19 ~~payment.]~~ *pursuant to section 1 of this act.*

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

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

23 482.346 1. In lieu of a bond, an applicant may deposit with
24 the Department, under terms prescribed by the Department:

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

28 (b) A savings certificate of a bank, credit union or savings and
29 loan association situated in Nevada, which must indicate an account
30 of an amount equal to the amount of the bond which would
31 otherwise be required by NRS 482.345 and that this amount is
32 unavailable for withdrawal except upon order of the Department.
33 Interest earned on the amount accrues to the account of the
34 applicant.

35 2. A deposit made pursuant to subsection 1 may be disbursed
36 by the Director ~~[]~~ *pursuant to section 1 of this act*, for good cause
37 shown and after notice and opportunity for hearing, in an amount
38 determined by him to compensate a person injured by an action of
39 the licensee, or released upon receipt of:

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

42 (b) A statement signed by the person or persons under whose
43 name the deposit is made and acknowledged before any person
44 authorized to take acknowledgments in this state, requesting the



* A B 4 1 7 R 1 *

1 Director to release the deposit, or a specified portion thereof, and
2 stating the purpose for which the release is requested.

3 3. When a deposit is made pursuant to subsection 1, liability
4 under the deposit is in the amount prescribed by the Department. If
5 the amount of the deposit is reduced or there is an outstanding court
6 judgment for which the licensee is liable under the deposit, the
7 license is automatically suspended. The license must be reinstated if
8 the licensee:

9 (a) Files an additional bond pursuant to subsection 1 of
10 NRS 482.345;

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

13 (c) Satisfies the outstanding judgment for which he is liable
14 under the deposit.

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

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

19 (b) By order of court, at any time within 3 years after the date
20 the licensee ceases to be licensed by the Department, upon evidence
21 satisfactory to the court that there are no outstanding claims against
22 the deposit.

23 5. Any money received by the Department pursuant to
24 subsection 1 must be deposited with the State Treasurer for credit to
25 the Motor Vehicle Fund.

