

ASSEMBLY BILL NO. 249—ASSEMBLYWOMAN BUCKLEY

MARCH 21, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to vehicles.
(BDR 43-136)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: Yes.

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

AN ACT relating to vehicles; authorizing the Director of the Department of Motor Vehicles to expend money appropriated by the Legislature to assist in the acquisition of certain evidence; authorizing the Department to impose an administrative fine against a person who engages in certain deceptive trade practices relating to the purchase, sale or lease of a vehicle under certain circumstances; authorizing a person who is injured by a bonded dealer, distributor, rebuilder, manufacturer, representative or salesman to bring an action or to apply to the Director for compensation from the bond; providing that a rebuilt vehicle may not be registered unless it is inspected and certified by a garageman or the owner of a body shop; prohibiting a person from removing certain markings on a certificate of title for a rebuilt vehicle; authorizing the Department to adopt certain regulations relating to liens on vehicles; revising the duties of a manufacturer or its agent or authorized dealer concerning the sale, lease or transfer of ownership of a vehicle that fails to conform to certain express warranties; providing penalties; making an appropriation; and providing other matters properly relating thereto.



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

Section 1. Chapter 481 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director may expend money that the Legislature appropriates to assist local law enforcement agencies or the Division of Compliance Enforcement of the Department in the purchase of evidence and in employing persons other than peace officers to obtain that evidence.

2. Upon receiving a written request from the Director, or his designee, for money appropriated for a purpose specified in subsection 1, the State Controller shall:

(a) Draw his warrant, payable to the Department; or

(b) Electronically transfer money to the appropriate account of the Department,

as appropriate, in an amount which does not exceed any limit set by the Legislature in the appropriation.

3. The Director may keep money which he has drawn pursuant to this section in accounts in one or more banks or credit unions or in cash.

Sec. 2. Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 12, inclusive, of this act.

Sec. 3. *“Assembly” means a combination of parts assembled together in such a way as to create a complete part.*

Sec. 4. *“Complete front inner structure for a unibody” means the weld-on structure of a vehicle, including, without limitation, the radiator support, left and right aprons, upper and lower rails and strut towers, designed and intended to be located forward of the cowl assembly.*

Sec. 5. *“Conventional frame” means the main longitudinal structural members of the chassis of a vehicle used as the major support in the construction of the vehicle.*

Sec. 6. *“Cowl assembly” means the forward structural portion of a vehicle to which are intended to be attached all or a part of the windshield frame, fire wall, housing of the instrument panel and hinges for the front doors.*

Sec. 7. *“Floor pan assembly” means the pans designed and intended to form the floor of the passenger compartment of a vehicle.*

Sec. 8. *“Passenger compartment” means the area of a vehicle designed and intended for the seating of the driver and passengers.*



1 **Sec. 9.** *“Rear clip assembly” means the entire rear structural*
2 *portion of a vehicle designed and intended to be located behind the*
3 *rear seat of the vehicle.*

4 **Sec. 10.** *“Roof assembly” means the structural parts of a*
5 *vehicle, including, without limitation, more than one-half of the*
6 *vertical roof supports, the framework of the roof and the exterior*
7 *metal skin, that together are designed and intended to be located*
8 *over the passenger compartment to form the roof of the vehicle.*

9 **Sec. 11.** *“Truck cab assembly” means a removable portion of*
10 *a truck that uses a conventional frame assembly consisting of a*
11 *cab that may be bolted and unbolted which includes a floor*
12 *assembly, cowl assembly, roof assembly and rear panel and may*
13 *also include front, side or rear glass and front or rear left or right*
14 *doors.*

15 **Sec. 12. 1.** *The Department may impose an administrative*
16 *fine of not more than \$10,000 against any person who engages in*
17 *a deceptive trade practice. The Department shall afford to any*
18 *person so fined an opportunity for a hearing pursuant to the*
19 *provisions of NRS 233B.121.*

20 **2.** *For the purposes of this section, a person shall be deemed*
21 *to be engaged in a “deceptive trade practice” if, in the course of*
22 *his business or occupation, he:*

23 **(a)** *Enters into a contract for the sale of a vehicle on credit*
24 *with a customer, exercises a valid option to cancel the vehicle sale*
25 *and then, after the customer returns the vehicle with no damage*
26 *other than reasonable wear and tear, the seller:*

27 **(1)** *Fails to return any down payment or other*
28 *consideration in full, including, returning a vehicle accepted in*
29 *trade;*

30 **(2)** *Knowingly makes a false representation to the customer*
31 *that the customer must sign another contract for the sale of the*
32 *vehicle on less favorable terms; or*

33 **(3)** *Fails to use the disclosure as required in subsection 3.*

34 **(b)** *Uses a contract for the sale of the vehicle or a security*
35 *agreement that materially differs from the form prescribed by law.*

36 **(c)** *Engages in any deceptive trade practice, as defined in NRS*
37 *598.0915 to 598.0925, inclusive, that involves the purchase and*
38 *sale or lease of a motor vehicle.*

39 **(d)** *Engages in any other acts prescribed by the Department by*
40 *regulation as a deceptive trade practice.*

41 **3.** *If a seller of a vehicle exercises a valid option to cancel the*
42 *sale of a vehicle to a customer, the seller must provide a*
43 *disclosure, and the customer must sign that disclosure, before the*
44 *seller and customer may enter into a new agreement for the sale of*
45 *the same vehicle on different terms, or for the sale of a different*



1 *vehicle. The Department shall prescribe the form of the disclosure*
2 *by regulation.*

3 *4. All administrative fines collected by the Department*
4 *pursuant to this section must be deposited with the State Treasurer*
5 *to the credit of the State Highway Fund.*

6 *5. Except as otherwise provided in this subsection, the*
7 *administrative remedy provided in this section is not exclusive and*
8 *is intended to supplement existing law. The Department may not*
9 *impose a fine pursuant to this section against any person who*
10 *engages in a deceptive trade practice if a fine has previously been*
11 *imposed against that person pursuant to NRS 598.0903 to*
12 *598.0999, inclusive, for the same act. The provisions of this*
13 *section do not deprive a person injured by a deceptive trade*
14 *practice from resorting to any other legal remedy.*

15 **Sec. 13.** NRS 482.010 is hereby amended to read as follows:

16 482.010 As used in this chapter, unless the context otherwise
17 requires, the words and terms defined in NRS 482.011 to 482.137,
18 inclusive, *and sections 3 to 11, inclusive, of this act*, have the
19 meanings ascribed to them in those sections.

20 **Sec. 14.** NRS 482.098 is hereby amended to read as follows:

21 482.098 **1.** "Rebuilt vehicle" means a vehicle:

22 ~~1-1~~ **(a)** That is a salvage vehicle as that term is defined in NRS
23 487.770, excluding a nonrepairable vehicle; or

24 ~~1-2~~ **(b)** One or more major components of which have been
25 replaced as set forth in this subsection. For the purposes of this
26 subsection, the requisite major components of a vehicle which must
27 be replaced for a vehicle to be considered rebuilt are the:

28 ~~1-a~~ **(1)** Cowl assembly;

29 ~~1-b~~ **(2)** Rear clip assembly;

30 ~~1-c~~ **(3)** Roof assembly;

31 ~~1-d~~ **(4)** Floor pan assembly;

32 ~~1-e~~ **(5)** Conventional frame coupled with one additional major
33 component; or

34 ~~1-f~~ **(6)** Complete front inner structure for a unibody.

35 **2.** *The term does not include a vehicle for which the only*
36 *change is the installation of a truck cab assembly.*

37 **3.** *For the purposes of this section, "replaced" means the*
38 *substitution, or change in whole, of a new, used or after-market*
39 *part of a vehicle.*

40 **Sec. 15.** NRS 482.220 is hereby amended to read as follows:

41 482.220 **1.** If the vehicle to be registered ~~shall be~~ **is** a
42 specially constructed, reconstructed, **rebuilt** or foreign vehicle,
43 ~~such fact shall~~ **that fact must** be stated in the application. ~~and~~
44 ~~with reference to every~~ **If the vehicle is a** foreign vehicle which has
45 been registered theretofore outside of this State, the owner shall



1 exhibit to the Department the certificate of title and registration card
2 or other evidence of such former registration as may be in the
3 applicant's possession or control or such other evidence as will
4 satisfy the Department that the applicant is the lawful owner or
5 possessor of the vehicle.

6 2. ~~{Such application shall}~~ *The application must* be
7 accompanied by a motor vehicle inspection certificate signed by a
8 representative of the Department or, as one of the Department's
9 authorized agents, by:

- 10 (a) A peace officer;
11 (b) A dealer;
12 (c) A rebuilder;
13 (d) An automobile wrecker; or
14 (e) A garageman or a service station operator or attendant, so
15 designated in writing by the Director.

16 3. The Department or any of its authorized inspection agents
17 ~~{shall be}~~ *are* entitled to charge \$1 for inspection of any ~~{such~~
18 ~~vehicle.}~~ *vehicle described in subsection 1.*

19 **Sec. 16.** NRS 482.345 is hereby amended to read as follows:

20 482.345 1. Except as otherwise provided in subsection ~~{6,}~~ *8*,
21 before any dealer's license, dealer's plate, special dealer's plate,
22 rebuilder's license or rebuilder's plate, distributor's license or
23 distributor's plate or manufacturer's license or manufacturer's plate
24 is furnished to a manufacturer, distributor, dealer or rebuilder as
25 provided in this chapter, the Department shall require that the
26 applicant make an application for such a license and plate upon a
27 form to be furnished by the Department, and the applicant shall
28 furnish such information as the Department requires, including
29 proof that the applicant has an established place of business in this
30 State, and also, except as otherwise provided in subsection 2,
31 procure and file with the Department a good and sufficient bond in
32 the amount of \$50,000 with a corporate surety thereon, duly
33 licensed to do business within the State of Nevada, approved as to
34 form by the Attorney General, and conditioned that the applicant
35 shall conduct his business as a dealer, distributor, manufacturer or
36 rebuilder without breaching a consumer contract or engaging in a
37 deceptive trade practice, fraud or fraudulent representation, and
38 without violation of the provisions of this chapter. The Department
39 may, by agreement with any dealer, distributor, manufacturer or
40 rebuilder who has been in business for 5 years or more, allow a
41 reduction in the amount of the bond of the dealer, if his business has
42 been conducted satisfactorily for the preceding 5 years, but no bond
43 may be in an amount less than \$5,000.

44 2. A manufacturer, distributor, rebuilder or dealer who
45 manufactures, distributes or sells only motorcycles, horse trailers,



1 tent trailers, utility trailers or trailers designed to carry boats shall
2 file a bond as required by subsection 1 in the amount of \$5,000
3 regardless of the length of time he has been in business.

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

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

14 5. The bond must provide that any person injured by the action
15 of the dealer, distributor, rebuilder, manufacturer, representative or
16 salesman in violation of any provisions of this chapter may apply to
17 the Director, for good cause shown and after notice and opportunity
18 for hearing, for compensation from the bond. *The surety issuing the
19 bond shall appoint the Secretary of State as its agent to accept
20 service of notice or process for the surety in any action upon the
21 bond brought in a court of competent jurisdiction or brought
22 before the Director.*

23 6. *If a person is injured by the actions of a dealer, distributor,
24 rebuilder, manufacturer, representative or salesman, the person
25 may:*

26 (a) *Bring and maintain an action in any court of competent
27 jurisdiction. If the court enters:*

28 (1) *A judgment on the merits against the dealer, distributor,
29 rebuilder, manufacturer, representative or salesman, the judgment
30 is binding on the surety.*

31 (2) *A judgment other than on the merits against the dealer,
32 distributor, rebuilder, manufacturer, representative or salesman,
33 including, without limitation, a default judgment, the judgment is
34 binding on the surety only if the surety was given notice and an
35 opportunity to defend at least 20 days before the date on which the
36 judgment was entered against the dealer, distributor, rebuilder,
37 manufacturer, representative or salesman.*

38 (b) *Apply to the Director, for good cause shown and after
39 notice and opportunity for hearing, for compensation from the
40 bond.* The Director may determine the amount of compensation and
41 the person to whom it is to be paid. The surety shall then make the
42 payment.

43 ~~[6-]~~ (c) *Settle the matter with the dealer, distributor, rebuilder,
44 manufacturer, representative or salesman. If such a settlement is
45 made, the settlement must be reduced to writing, signed by both*



1 *parties and acknowledged before any person authorized to take*
2 *acknowledgments in this State, and submitted to the Director with*
3 *a request for compensation from the bond. If, after notice and*
4 *opportunity for a hearing, the Director determines that the*
5 *settlement was reached in good faith and there is no evidence of*
6 *collusion or fraud between the parties in reaching the settlement,*
7 *the surety shall make the payment to the injured person in the*
8 *amount agreed upon in the settlement.*

9 7. Any judgment entered by a court against a dealer,
10 distributor, rebuilder, manufacturer, representative or salesman
11 may be executed through a writ of attachment, garnishment,
12 execution or other legal process, or the person in whose favor the
13 judgment was entered may apply to the Director for compensation
14 from the bond of the dealer, distributor, rebuilder, manufacturer,
15 representative or salesman.

16 8. The provisions of this section do not apply to a manufacturer
17 without an established place of business in this State.

18 **Sec. 17.** NRS 482.352 is hereby amended to read as follows:

19 482.352 1. The Department may deny the issuance of,
20 suspend or revoke a license to engage in the activities of a
21 manufacturer, distributor, rebuilder or dealer in new or used vehicles
22 or to engage in the leasing of vehicles upon any of the following
23 grounds:

24 (a) Failure of the applicant to have an established place of
25 business in this State.

26 (b) Conviction of a felony in the State of Nevada or any other
27 state, territory or nation.

28 (c) Material misstatement in the application.

29 (d) Evidence of unfitness of the applicant or licensee.

30 (e) Willful failure to comply with any of the provisions of the
31 motor vehicle laws of the State of Nevada or the directives of the
32 Director. For the purpose of this paragraph, failure to comply with
33 the directives of the Director advising the licensee of his
34 noncompliance with any provision of the motor vehicle laws of this
35 State or regulations of the Department, within 10 days after receipt
36 of the directive, is prima facie evidence of willful failure to comply
37 with the directive.

38 (f) Failure or refusal to furnish and keep in force any bond.

39 (g) Failure on the part of the licensee to maintain a fixed place
40 of business in this State.

41 (h) Failure or refusal by a licensee to pay or otherwise discharge
42 any final judgment against the licensee rendered and entered against
43 him, arising out of the misrepresentation of any vehicle, trailer or
44 semitrailer, or out of any fraud committed in connection with the
45 sale of any vehicle, trailer or semitrailer.



1 (i) Failure of the licensee to maintain any other license or bond
2 required by any political subdivision of this State.

3 (j) Allowing an unlicensed salesman to sell or lease any vehicle.

4 (k) Failure or refusal to provide to the Department an
5 authorization for the disclosure of financial records for the business
6 as required pursuant to subsection 3.

7 *(l) Engaging in a deceptive trade practice relating to the*
8 *purchase and sale or lease of a vehicle.*

9 2. The Director may deny the issuance of a license to an
10 applicant or revoke a license already issued if the Department is
11 satisfied that the applicant or licensee is not entitled thereto.

12 3. Upon the receipt of any report or complaint alleging that an
13 applicant or a licensee has engaged in financial misconduct or has
14 failed to satisfy financial obligations related to the activities of a
15 manufacturer, distributor, dealer or rebuilder, the Department may
16 require the applicant or licensee to submit to the Department an
17 authorization for the disclosure of financial records for the business
18 as provided in NRS 239A.090. The Department may use any
19 information obtained pursuant to ~~{such-an}~~ *the* authorization only to
20 determine the suitability of the applicant or licensee for initial or
21 continued licensure. Information obtained pursuant to ~~{such-an}~~ *the*
22 authorization may be disclosed only to those employees of the
23 Department who are authorized to issue a license to an applicant
24 pursuant to NRS 482.318 to 482.363105, inclusive, or to determine
25 the suitability of an applicant or a licensee for such licensure.

26 **Sec. 18.** (Deleted by amendment.)

27 **Sec. 19.** NRS 482.565 is hereby amended to read as follows:

28 482.565 1. ~~{The}~~ *Except as otherwise provided in section 12*
29 *of this act, the* Department may impose an administrative fine, not
30 to exceed \$2,500, for a violation of any provision of this chapter, or
31 any rule, regulation or order adopted or issued pursuant thereto. The
32 Department shall afford to any person so fined an opportunity for a
33 hearing pursuant to the provisions of NRS 233B.121.

34 2. All administrative fines collected by the Department
35 pursuant to subsection 1 must be deposited with the State Treasurer
36 to the credit of the State Highway Fund.

37 3. In addition to any other remedy provided by this chapter, the
38 Department may compel compliance with any provision of this
39 chapter and any rule, regulation or order adopted or issued pursuant
40 thereto, by injunction or other appropriate remedy and the
41 Department may institute and maintain in the name of the State of
42 Nevada any such enforcement proceedings.



1 **Sec. 20.** Chapter 487 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 21 and 22 of this act.

3 **Sec. 21.** *“Rebuilt vehicle” has the meaning ascribed to it in*
4 *paragraph (b) of subsection 1 of NRS 482.098.*

5 **Sec. 22.** 1. *A rebuilt vehicle may not be registered until it:*

6 *(a) Has been inspected by a garageman who operates a garage*
7 *that is registered pursuant to NRS 487.560, by the owner of a body*
8 *shop licensed pursuant to NRS 487.630 or by an employee of such*
9 *a garage or body shop; and*

10 *(b) Is certified pursuant to subsection 2 that the components*
11 *which have been replaced have been installed properly and are*
12 *functional and operate safely in accordance with the standards of*
13 *the manufacturer.*

14 2. *If a garageman or owner of a body shop, or an employee*
15 *thereof, who performs an inspection pursuant to subsection 1*
16 *finds that the components replaced on a rebuilt vehicle have been*
17 *installed properly and are functional and operate safely in*
18 *accordance with the standards of the manufacturer, the*
19 *garageman, owner or employee shall complete and sign a*
20 *certificate of inspection, on a form prescribed by the state agency,*
21 *attesting to the fact that the replaced components have been*
22 *installed properly and are functional and operate safely in*
23 *accordance with the standards of the manufacturer.*

24 **Sec. 23.** NRS 487.710 is hereby amended to read as follows:

25 487.710 As used in NRS 487.710 to 487.890, inclusive, *and*
26 *sections 21 and 22 of this act*, unless the context otherwise requires,
27 the words and terms defined in NRS 487.720 to 487.790, inclusive,
28 *and section 21 of this act* have the meanings ascribed to them in
29 those sections.

30 **Sec. 24.** NRS 487.790 is hereby amended to read as follows:

31 487.790 1. “Total loss vehicle” means a motor vehicle:

32 ~~1-1~~ (a) Of a type which is subject to registration; and

33 ~~1-2~~ (b) Which has been wrecked, destroyed or otherwise
34 damaged to such an extent that the cost of repair, *not including any*
35 *cost associated with painting any portion of the vehicle*, is 65
36 percent or more of the fair market value of the vehicle immediately
37 before it was wrecked, destroyed or otherwise damaged.

38 2. The term does not include ~~1-3~~ :

39 (a) A nonrepairable vehicle ; ~~for other~~

40 (b) A motor vehicle which is 10 model years old or older and
41 which ~~requires only the replacement of the hood, trunk lid, grill~~
42 ~~assembly or two or fewer quarter panels, doors, bumper assemblies,~~
43 ~~headlight assemblies, taillight assemblies, or any combination~~
44 ~~thereof, to restore the vehicle to its condition before it~~ , *to restore*
45 *the vehicle to its condition before it was wrecked, destroyed or*



1 *otherwise damaged and regardless of cost, requires the*
2 *replacement of only:*

3 (1) *The hood;*

4 (2) *The trunk lid;*

5 (3) *Two or fewer of the following parts or assemblies,*
6 *which may be bolted or unbolted:*

7 (I) *Doors;*

8 (II) *A grill assembly;*

9 (III) *A bumper assembly;*

10 (IV) *A headlight assembly; or*

11 (V) *A taillight assembly; or*

12 (4) *Any combination of subparagraph (1), (2) or (3); or*

13 (c) *A motor vehicle, regardless of the age of the vehicle, for*
14 *which the cost to repair the vehicle, not including any cost*
15 *associated with painting any portion of the vehicle, is less than 65*
16 *percent of the fair market value of the vehicle immediately before*
17 *the vehicle was wrecked, destroyed or otherwise damaged.*

18 3. For the purposes of this section, the model year of
19 manufacture is calculated based on a year beginning on January 1 of
20 the calendar year in which the damage occurs.

21 **Sec. 25.** NRS 487.840 is hereby amended to read as follows:

22 487.840 1. A person shall not remove, cause to be removed
23 or conceal a marking on ~~it~~:

24 (a) *A salvage title or other title which indicates that the vehicle*
25 *is a salvage vehicle; or*

26 (b) *A certificate of title or other title for a rebuilt vehicle which*
27 *indicates that the vehicle is a rebuilt vehicle.*

28 2. A person who knowingly violates subsection 1 with the
29 intent to defraud:

30 (a) If the fair market value of the vehicle involved is \$250 or
31 more, is guilty of a category D felony and shall be punished as
32 provided in NRS 193.130.

33 (b) If the fair market value of the vehicle involved is less than
34 \$250, is guilty of a misdemeanor.

35 ➔ In addition to any other penalty, the court shall order the person
36 to pay restitution to the victim.

37 **Secs. 26 and 27.** (Deleted by amendment.)

38 **Sec. 28.** Chapter 108 of NRS is hereby amended by adding
39 thereto the provisions set forth as sections 28.3 and 28.7 of this act.

40 **Sec. 28.3.** *The Department of Motor Vehicles may adopt*
41 *such regulations as it deems necessary to ensure compliance with*
42 *all applicable laws relating to the processing of liens for storing,*
43 *maintaining, keeping or repairing vehicles required to be*
44 *registered with the Department pursuant to chapter 482 of NRS.*



1 **Sec. 28.7. 1. The Department of Motor Vehicles may**
2 *impose an administrative fine, not to exceed \$2,500, for a violation*
3 *of any provision of NRS 108.265 to 108.360, inclusive, and section*
4 *28.3 of this act relating to vehicles required to be registered with*
5 *the Department pursuant to chapter 482 of NRS, or any regulation*
6 *adopted by the Department pursuant thereto. The Department*
7 *shall afford to any person so fined an opportunity for a hearing*
8 *pursuant to the provisions of NRS 233B.121.*

9 2. All administrative fines collected by the Department of
10 Motor Vehicles pursuant to subsection 1 must be deposited with
11 the State Treasurer to the credit of the State Highway Fund.

12 3. In addition to any other remedy provided by this chapter,
13 the Department of Motor Vehicles may compel compliance with
14 this section and any provision of NRS 108.265 to 108.360,
15 inclusive, and section 28.3 of this act relating to vehicles required
16 to be registered with the Department pursuant to chapter 482 of
17 NRS, and any regulation adopted by the Department pursuant
18 thereto, by injunction or other appropriate remedy and the
19 Department may institute and maintain in the name of the State of
20 Nevada any such enforcement proceedings.

21 **Sec. 29.** NRS 108.265 is hereby amended to read as follows:

22 108.265 As used in NRS 108.265 to 108.360, inclusive, *and*
23 *sections 28.3 and 28.7 of this act*, unless the context otherwise
24 requires, the words and terms defined in NRS 108.266 to 108.2679,
25 inclusive, have the meanings ascribed to them in those sections.

26 **Secs. 30-33.** (Deleted by amendment.)

27 **Sec. 34.** Chapter 597 of NRS is hereby amended by adding
28 thereto the provisions set forth as sections 35 to 38, inclusive, of this
29 act.

30 **Sec. 35. 1. A manufacturer, or its agent or authorized**
31 *dealer, who reacquires a motor vehicle pursuant NRS 597.630 that*
32 *was registered in this State, or any other state, the District of*
33 *Columbia or any territory or possession of the United States, or*
34 *who assists a lienholder in reacquiring such a motor vehicle, shall,*
35 *before selling, leasing or transferring ownership of the motor*
36 *vehicle in this State or exporting the motor vehicle to another state*
37 *for sale, lease or transfer:*

38 (a) Cause the motor vehicle to be retitled in the name of the
39 manufacturer;

40 (b) Request the Department of Motor Vehicles to inscribe the
41 certificate of ownership for the motor vehicle with the notation
42 "Lemon Law Buyback"; and

43 (c) Affix a decal to the motor vehicle in accordance with
44 subsection 6.



2. Any manufacturer who reacquires, or assists a dealer or lienholder in reacquiring, a motor vehicle in response to a request by the buyer or lessee that the motor vehicle be replaced or accepted for a refund because the motor vehicle did not conform to express warranties shall, before the sale, lease or other transfer of the motor vehicle, execute and deliver to the subsequent transferee a notice and obtain the transferee's written acknowledgment of the notice in accordance with section 36 of this act.

3. Any person, including any dealer, who acquires a motor vehicle for resale and knows that the motor vehicle was reacquired by the manufacturer of the motor vehicle pursuant to NRS 597.630 shall, before the sale, lease or other transfer, execute and deliver to the subsequent transferee a notice and obtain the transferee's written acknowledgment of the notice in accordance with section 36 of this act.

4. Any person, including any manufacturer or dealer, who sells, leases or transfers ownership of a motor vehicle when the certificate of ownership for the motor vehicle is inscribed with the notation "Lemon Law Buyback" shall, before the sale, lease, or ownership transfer of the motor vehicle, submit to the transferee a written disclosure signed by the transferee stating that:

THIS VEHICLE WAS REPURCHASED BY ITS MANUFACTURER BECAUSE OF A DEFECT IN THE VEHICLE PURSUANT TO CONSUMER WARRANTY LAWS. THE TITLE TO THIS VEHICLE HAS BEEN PERMANENTLY INSCRIBED WITH THE NOTATION "LEMON LAW BUYBACK."

5. The requirements for disclosure set forth in subsections 1, 2 and 3 are in addition to any other notice requirements for consumers and do not relieve any person, including any dealer or manufacturer, from complying with any other applicable law.

6. The decal required pursuant to subsection 1 must be affixed to the left front doorframe of the motor vehicle or, if the motor vehicle does not have a left front doorframe, in a location designated by the Department of Motor Vehicles. The decal must specify that the certificate of title to the motor vehicle has been permanently inscribed with the notation "Lemon Law Buyback." A person shall not knowingly remove or alter any decal affixed to a motor vehicle pursuant to this subsection, regardless of whether the motor vehicle is licensed pursuant to this chapter.



Sec. 36. 1. The notice required pursuant to subsections 1 and 2 of section 35 of this act must be prepared by the manufacturer of the reacquired motor vehicle and specify:

(a) The year, make, model and vehicle identification number of the motor vehicle.

(b) Whether the certificate of title for the motor vehicle has been inscribed with the notation "Lemon Law Buyback."

(c) The nature of each nonconformity reported by the original buyer or lessee of the motor vehicle.

(d) The repairs, if any, made to the motor vehicle in an attempt to correct each nonconformity reported by the original buyer or lessee.

2. The notice must be included on a form 8 1/2 x 11 inches in size and printed in a size equal to at least 10-point black type on a white background. The form must only contain the following information and be completed by the manufacturer:

WARRANTY BUYBACK NOTICE

(Check One)

/___/ This vehicle was repurchased by the vehicle's manufacturer after the last retail owner or lessee requested its repurchase because of the problems listed below.

/___/ THIS VEHICLE WAS REPURCHASED BY ITS MANUFACTURER BECAUSE OF A DEFECT IN THE VEHICLE PURSUANT TO CONSUMER WARRANTY LAWS. THE TITLE TO THIS VEHICLE HAS BEEN PERMANENTLY INSCRIBED WITH THE NOTATION "LEMON LAW BUYBACK." Under Nevada law, the manufacturer must warrant to you, for 1 year, that the vehicle is free of the problems listed below.

V.I.N.	Year	Make	Model

Problem(s) Reported by Original Owner	Repairs Made, if any, to Correct Reported Problem(s)

Signature of Manufacturer

Date



* A B 2 4 9 R 3 *

Signature of Dealers

Date

Signature of Retail Buyer or Lessee Date

Sec. 37. 1. *A manufacturer, importer, distributor, dealer or lienholder who reacquires or assists in reacquiring a motor vehicle, whether by judgment, decree, arbitration award, settlement agreement or voluntary agreement, shall not:*

(a) Require, as a condition of the reacquisition of the motor vehicle, a buyer or lessee who is a resident of this State to agree to refrain from disclosing the problems with the motor vehicle experienced by the buyer or lessee or the nonfinancial terms of the reacquisition.

(b) Include, in any release or other agreement, whether prepared by the manufacturer, importer, distributor, dealer or lienholder, for signature by the buyer or lessee, a confidentiality clause, gag clause or similar clause prohibiting the buyer or lessee from disclosing information to any other person concerning the problems with the motor vehicle or the nonfinancial terms of the reacquisition of the motor vehicle by the manufacturer, importer, distributor, dealer or lienholder.

2. *Any confidentiality clause, gag clause or similar clause included in the release or other agreement in violation of this section is void.*

3. *The provisions of this section do not prohibit the inclusion within the release or other agreement any confidentiality clause, gag clause or similar clause regarding the financial terms of the reacquisition of the motor vehicle.*

Sec. 38. *A person who incurs an injury or damages as the proximate result of a violation of the provisions of section 35, 36 or 37 of this act may commence an action in a court of competent jurisdiction for the recovery of his actual damages, costs and reasonable attorney's fees and for any punitive damages that the facts may warrant.*

Sec. 39. *NRS 597.600 is hereby amended to read as follows:*
597.600 As used in NRS 597.600 to 597.680, inclusive, and sections 35 to 38 of this act, unless the context otherwise requires:

1. *"Buyer" means:*



(a) A person who purchases or contracts to purchase, other than for purposes of resale, a motor vehicle normally used for personal, family or household purposes.

(b) Any person to whom the motor vehicle is transferred during the time a manufacturer's express warranty applicable to the motor vehicle is in effect.

(c) Any other person entitled by the terms of the warranty to enforce its obligations.

2. Except as otherwise provided in this subsection "motor vehicle" has the meaning ascribed to it in NRS 482.075. The term does not include motor homes or off-road vehicles except for the purposes of NRS 597.680.

Sec. 40. Chapter 598 of NRS is hereby amended by adding thereto a new section to read as follows:

A civil penalty must not be imposed against any person who engages in a deceptive trade practice pursuant to NRS 598.0903 to 598.0999, inclusive, in a civil proceeding brought by the Commissioner, Director or Attorney General if a fine has previously been imposed against that person by the Department of Motor Vehicles pursuant to section 12 of this act, for the same act.

Sec. 41. NRS 598.0903 is hereby amended to read as follows:

598.0903 As used in NRS 598.0903 to 598.0999, inclusive, *and section 40 of this act*, unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947, inclusive, have the meanings ascribed to them in those sections.

Sec. 42. NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, the Commissioner may issue an order directed to the person to show cause why the Commissioner should not order the person to cease and desist from engaging in the practice. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.

2. If, after conducting a hearing pursuant to the provisions of subsection 1, the Commissioner determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing, the Commissioner may make a written report of his findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the Commissioner



determines in the report that such a violation has occurred, he may order the violator to:

(a) Cease and desist from engaging in the practice or other activity constituting the violation;

(b) Pay the costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the Commissioner free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive; and

(c) Provide restitution for any money or property improperly received or obtained as a result of the violation.

➤ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.

3. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 2 or who is aggrieved by the order may petition for judicial review in the manner provided in chapter 233B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.

4. If a person fails to comply with any provision of an order issued pursuant to subsection 2, the Commissioner may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

5. If the court finds that:

(a) The violation complained of is a deceptive trade practice;

(b) The proceedings by the Commissioner concerning the written report and any order issued pursuant to subsection 2 are in the interest of the public; and

(c) The findings of the Commissioner are supported by the weight of the evidence,

➤ the court shall issue an order enforcing the provisions of the order of the Commissioner.

6. ~~[Am]~~ *Except as otherwise provided in section 40 of this act,* an order issued pursuant to subsection 5 may include:

(a) A provision requiring the payment to the Commissioner of a penalty of not more than \$5,000 for each act amounting to a failure to comply with the Commissioner's order; or

(b) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.



7. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.

8. Upon the violation of any judgment, order or decree issued pursuant to subsection 5 or 6, the Commissioner, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999.

Sec. 43. NRS 598.0973 is hereby amended to read as follows:

598.0973 1. ~~It is~~ ***Except as otherwise provided in section 40 of this act, in*** any action brought pursuant to NRS 598.0979 to 598.099, inclusive, if the court finds that a person has engaged in a deceptive trade practice directed toward an elderly or disabled person, the court may, in addition to any other civil or criminal penalty, impose a civil penalty of not more than \$10,000 for each violation.

2. In determining whether to impose a civil penalty pursuant to subsection 1, the court shall consider whether:

(a) The conduct of the person was in disregard of the rights of the elderly or disabled person;

(b) The person knew or should have known that his conduct was directed toward an elderly or disabled person;

(c) The elderly or disabled person was more vulnerable to the conduct of the person because of the age, health, infirmity, impaired understanding, restricted mobility or disability of the elderly or disabled person;

(d) The conduct of the person caused the elderly or disabled person to suffer actual and substantial physical, emotional or economic damage;

(e) The conduct of the person caused the elderly or disabled person to suffer:

(1) Mental or emotional anguish;

(2) The loss of the primary residence of the elderly or disabled person;

(3) The loss of the principal employment or source of income of the elderly or disabled person;

(4) The loss of money received from a pension, retirement plan or governmental program;

(5) The loss of property that had been set aside for retirement or for personal or family care and maintenance;

(6) The loss of assets which are essential to the health and welfare of the elderly or disabled person; or

(7) Any other interference with the economic well-being of the elderly or disabled person, including the encumbrance of his primary residence or principal source of income; or

(f) Any other factors that the court deems to be appropriate.



1 **Sec. 44.** NRS 598.0999 is hereby amended to read as follows:

2 598.0999 1. ~~[A]~~ *Except as otherwise provided in section 40*
3 *of this act, a* person who violates a court order or injunction issued
4 pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive,
5 upon a complaint brought by the Commissioner, the Director, the
6 district attorney of any county of this State or the Attorney General
7 shall forfeit and pay to the State General Fund a civil penalty of not
8 more than \$10,000 for each violation. For the purpose of this
9 section, the court issuing the order or injunction retains jurisdiction
10 over the action or proceeding. Such civil penalties are in addition to
11 any other penalty or remedy available for the enforcement of the
12 provisions of NRS 598.0903 to 598.0999, inclusive.

13 2. ~~[H]~~ *Except as otherwise provided in section 40 of this act,*
14 *in* any action brought pursuant to the provisions of NRS 598.0903 to
15 598.0999, inclusive, if the court finds that a person has willfully
16 engaged in a deceptive trade practice, the Commissioner, the
17 Director, the district attorney of any county in this State or the
18 Attorney General bringing the action may recover a civil penalty not
19 to exceed \$2,500 for each violation. The court in any such action
20 may, in addition to any other relief or reimbursement, award
21 reasonable attorney's fees and costs.

22 3. A natural person, firm, or any officer or managing agent of
23 any corporation or association who knowingly and willfully engages
24 in a deceptive trade practice:

25 (a) For the first offense, is guilty of a misdemeanor.

26 (b) For the second offense, is guilty of a gross misdemeanor.

27 (c) For the third and all subsequent offenses, is guilty of a
28 category D felony and shall be punished as provided in
29 NRS 193.130.

30 4. Any offense which occurred within 10 years immediately
31 preceding the date of the principal offense or after the principal
32 offense constitutes a prior offense for the purposes of subsection 3
33 when evidenced by a conviction, without regard to the sequence of
34 the offenses and convictions.

35 5. If a person violates any provision of NRS 598.0903
36 to 598.0999, inclusive, 598.100 to 598.2801, inclusive, 598.305 to
37 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to
38 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply
39 with a judgment or order of any court in this State concerning a
40 violation of such a provision, or fails to comply with an assurance of
41 discontinuance or other agreement concerning an alleged violation
42 of such a provision, the Commissioner or the district attorney of any
43 county may bring an action in the name of the State of Nevada
44 seeking:



1 (a) The suspension of the person's privilege to conduct business
2 within this State; or

3 (b) If the defendant is a corporation, dissolution of the
4 corporation.

5 ➤ The court may grant or deny the relief sought or may order other
6 appropriate relief.

7 6. If a person violates any provision of NRS 228.500 to
8 228.640, inclusive, fails to comply with a judgment or order of any
9 court in this State concerning a violation of such a provision, or fails
10 to comply with an assurance of discontinuance or other agreement
11 concerning an alleged violation of such a provision, the Attorney
12 General may bring an action in the name of the State of Nevada
13 seeking:

14 (a) The suspension of the person's privilege to conduct business
15 within this State; or

16 (b) If the defendant is a corporation, dissolution of the
17 corporation.

18 ➤ The court may grant or deny the relief sought or may order other
19 appropriate relief.

20 **Sec. 45.** 1. There is hereby appropriated from the State
21 Highway Fund to the Department of Motor Vehicles to defray any
22 administrative costs incurred by the Department in carrying out the
23 provisions of section 12 of this act:

24 For the Fiscal Year 2005-2006..... \$234,644

25 For the Fiscal Year 2006-2007..... \$198,530

26 2. Any balance of the sums appropriated by subsection 1
27 remaining at the end of the respective fiscal years must not be
28 committed for expenditure after June 30 of the respective fiscal
29 years and must be reverted to the State Highway Fund on or before
30 September 15, 2006, and September 21, 2007, respectively.

31 **Sec. 46.** 1. This section and sections 28 to 29, inclusive, and
32 45 of this act become effective on July 1, 2005.

33 2. Sections 1 to 27, inclusive, and 30 to 44, inclusive, of this
34 act become effective on October 1, 2005.



