

SENATE BILL NO. 55—SENATOR TIFFANY

FEBRUARY 15, 2005

Referred to Committee on Transportation and Homeland Security

SUMMARY—Authorizes certain persons to arrange sale of certain governmental vehicles without being licensed as broker or dealer. (BDR 43-722)

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

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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 motor vehicles; authorizing a person who operates or does business as an advertising company to arrange the sale of certain governmental vehicles under certain circumstances without being licensed as a broker or dealer; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires a person to obtain a license from the Department of
2 Motor Vehicles before engaging in the activity of a broker of vehicles. (NRS
3 482.0127, 482.333) Existing law also requires a person to obtain a license from the
4 Department before engaging in the activity of a vehicle dealer. (NRS 482.020,
5 482.322)
6 This bill provides that a person who operates or does business as an advertising
7 company is not required to be licensed as a broker of vehicles or as a vehicle dealer
8 if the person engages in certain advertising activities to assist the State of Nevada, a
9 political subdivision of the State of Nevada or an agency or instrumentality of
10 either in the sale of vehicles owned by such entity under certain circumstances.

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 *A person who operates or does business as an advertising*
4 *company is not required to obtain a license as a broker, broker of*



1 *vehicles, dealer or vehicle dealer if his activities in selling and*
2 *assisting to sell vehicles are limited to the following:*

3 1. *He takes photographs of vehicles owned by the State of*
4 *Nevada, a political subdivision of the State of Nevada or an*
5 *agency or instrumentality of either, and lists those vehicles for sale*
6 *on a website on the Internet or its successor;*

7 2. *He does not alter, process or otherwise handle the*
8 *certificates of title or bills of sale relating to the sale of the vehicles*
9 *so listed;*

10 3. *He does not take possession of the vehicles so listed for any*
11 *purpose, including, without limitation, to transfer an interest in a*
12 *vehicle, to deliver a vehicle or to transport a vehicle;*

13 4. *He does not engage in negotiations for the sale or sales*
14 *price of the vehicles so listed; and*

15 5. *He is compensated for his services, if at all, by receiving a*
16 *flat fee for each vehicle so listed and sold.*

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

18 482.3161 1. A person shall not operate as a vehicle
19 transporter in this State without a license issued by the Department.

20 2. The provisions of NRS 482.316 to 482.3175, inclusive, do
21 not apply to a manufacturer, distributor, dealer, broker or rebuilder
22 licensed pursuant to the provisions of NRS 482.318 to 482.363,
23 inclusive ~~H~~, *and section 1 of this act.*

24 **Sec. 3.** NRS 482.322 is hereby amended to read as follows:

25 482.322 1. Except as otherwise provided in NRS 482.3225 ~~H~~
26 *and section 1 of this act*, a person shall not engage in the activities
27 of a new vehicle dealer, used vehicle dealer, manufacturer,
28 distributor or rebuilder in this State until he has been issued:

29 (a) A new vehicle dealer's, used vehicle dealer's,
30 manufacturer's, distributor's, rebuilder's or lessor's license
31 certificate or similar license or permit by every city within whose
32 corporate limits he maintains an established place of business and
33 by every county in which he maintains an established place of
34 business outside the corporate limits of a city; and

35 (b) A license by the Department. The Department shall not issue
36 a license to the person until he has been issued all certificates,
37 licenses and permits required by paragraph (a).

38 2. A vehicle dealer's, manufacturer's or rebuilder's license
39 issued pursuant to this chapter does not permit a person to engage in
40 the business of a new or used mobile home dealer, manufacturer or
41 rebuilder.

42 3. The Department shall investigate any applicant for a
43 dealer's, manufacturer's, distributor's, rebuilder's or lessor's license



1 certificate or license and complete an investigation report on a form
2 provided by the Department.

3 **Sec. 4.** NRS 482.333 is hereby amended to read as follows:

4 482.333 1. ~~[A]~~ *Except as otherwise provided in section 1 of*
5 *this act, a* person shall not engage in the activity of a broker of
6 vehicles in this State without first having received a license from the
7 Department. Before issuing a license to a broker, the Department
8 shall require:

9 (a) An application, signed and verified by the applicant, stating
10 that the applicant desires to be licensed as a broker, his residential
11 address, his social security number and the address of his principal
12 place of business;

13 (b) A statement as to whether any previous application of the
14 applicant for a license as a vehicle dealer or broker has been denied
15 or whether such a license has been suspended or revoked;

16 (c) Payment of a nonrefundable license fee of \$125;

17 (d) For initial licensure, the submission of a complete set of the
18 applicant's fingerprints and written permission authorizing the
19 Department to forward those fingerprints to the Central Repository
20 for Nevada Records of Criminal History for submission to the
21 Federal Bureau of Investigation for its report; and

22 (e) Any other information the Department deems necessary.

23 ➤ A license issued pursuant to this section expires on December 31
24 of the year in which it was issued and may be renewed annually
25 upon the payment of a fee of \$50.

26 2. The Department may deny the issuance of, suspend or
27 revoke a license to engage in the activities of a broker of vehicles
28 upon any of the following grounds:

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

31 (b) Conviction of a felony in this State or any other state,
32 territory or nation.

33 (c) Material misstatement in the application.

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

35 (e) Failure or refusal to provide to the Department an
36 authorization for the disclosure of financial records for the business
37 as required pursuant to subsection 6.

38 (f) Willful failure to comply with a provision of the motor
39 vehicle laws of this State or a directive of the Director. For the
40 purpose of this paragraph, failure to comply with a directive of the
41 Director advising the licensee of his noncompliance with a provision
42 of the motor vehicle laws of this State or a regulation of the
43 Department, within 10 days after the receipt of the directive, is
44 prima facie evidence of willful failure to comply with the directive.



- 1 (g) Failure or refusal to furnish and keep in force any bond.
2 (h) Failure on the part of the licensee to maintain a fixed place
3 of business in this State.
4 (i) Failure or refusal by the licensee to pay or otherwise
5 discharge a final judgment against the licensee rendered and entered
6 against him, arising out of the misrepresentation of a vehicle, trailer
7 or semitrailer, or out of a fraud committed in connection with the
8 brokering of a vehicle, trailer or semitrailer.
9 (j) Failure of the licensee to maintain any other license or bond
10 required by a political subdivision of this State.
11 (k) Any other reason determined by the Director to be in the best
12 interests of the public.
13 ➡ The Director may deny the issuance of a license to an applicant
14 or revoke a license already issued if the Department is satisfied that
15 the applicant or licensee is not entitled thereto.
16 3. If an application for a broker's license has been denied, the
17 applicant may not reapply sooner than 6 months after the denial.
18 4. A broker's license must be posted in a conspicuous place on
19 the premises of the broker's principal place of business.
20 5. If any information submitted in the application for a broker's
21 license changes, the broker shall submit a written notice of the
22 change to the Department within 10 days after the change occurs.
23 6. Upon the receipt of any report or complaint alleging that an
24 applicant or a licensee has engaged in financial misconduct or has
25 failed to satisfy financial obligations related to the activity of a
26 broker of vehicles, the Department may require the applicant or
27 licensee to submit to the Department an authorization for the
28 disclosure of financial records for the business as provided in NRS
29 239A.090. The Department may use any information obtained
30 pursuant to such an authorization only to determine the suitability of
31 the applicant or licensee for initial or continued licensure.
32 Information obtained pursuant to such an authorization may be
33 disclosed only to those employees of the Department who are
34 authorized to issue a license to an applicant pursuant to NRS
35 482.333 to 482.334, inclusive, or to determine the suitability of an
36 applicant or a licensee for such licensure.
37 7. Except as otherwise provided in NRS 482.555, any person
38 who fails to comply with the provisions of this section is guilty of a
39 misdemeanor.
40 **Sec. 5.** NRS 482.333 is hereby amended to read as follows:
41 482.333 1. ~~[A]~~ *Except as otherwise provided in section 1 of*
42 *this act,* a person shall not engage in the activity of a broker of
43 vehicles in this State without first having received a license from the



1 Department. Before issuing a license to a broker, the Department
2 shall require:

3 (a) An application, signed and verified by the applicant, stating
4 that the applicant desires to be licensed as a broker, his residential
5 address and the address of his principal place of business;

6 (b) A statement as to whether any previous application of the
7 applicant for a license as a vehicle dealer or broker has been denied
8 or whether such a license has been suspended or revoked;

9 (c) Payment of a nonrefundable license fee of \$125;

10 (d) For initial licensure, the submission of a complete set of the
11 applicant's fingerprints and written permission authorizing the
12 Department to forward those fingerprints to the Central Repository
13 for Nevada Records of Criminal History for submission to the
14 Federal Bureau of Investigation for its report; and

15 (e) Any other information the Department deems necessary.

16 ➔ A license issued pursuant to this section expires on December 31
17 of the year in which it was issued and may be renewed annually
18 upon the payment of a fee of \$50.

19 2. The Department may deny the issuance of, suspend or
20 revoke a license to engage in the activities of a broker of vehicles
21 upon any of the following grounds:

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

24 (b) Conviction of a felony in this State or any other state,
25 territory or nation.

26 (c) Material misstatement in the application.

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

28 (e) Failure or refusal to provide to the Department an
29 authorization for the disclosure of financial records for the business
30 as required pursuant to subsection 6.

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

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

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

41 (i) Failure or refusal by the licensee to pay or otherwise
42 discharge a final judgment against the licensee rendered and entered
43 against him, arising out of the misrepresentation of a vehicle, trailer



1 or semitrailer, or out of a fraud committed in connection with the
2 brokering of a vehicle, trailer or semitrailer.

3 (j) Failure of the licensee to maintain any other license or bond
4 required by a political subdivision of this State.

5 (k) Any other reason determined by the Director to be in the best
6 interests of the public.

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

10 3. If an application for a broker's license has been denied, the
11 applicant may not reapply sooner than 6 months after the denial.

12 4. A broker's license must be posted in a conspicuous place on
13 the premises of the broker's principal place of business.

14 5. If any information submitted in the application for a broker's
15 license changes, the broker shall submit a written notice of the
16 change to the Department within 10 days.

17 6. Upon the receipt of any report or complaint alleging that an
18 applicant or a licensee has engaged in financial misconduct or has
19 failed to satisfy financial obligations related to the activity of a
20 broker of vehicles, the Department may require the applicant or
21 licensee to submit to the Department an authorization for the
22 disclosure of financial records for the business as provided in NRS
23 239A.090. The Department may use any information obtained
24 pursuant to such an authorization only to determine the suitability of
25 the applicant or licensee for initial or continued licensure.
26 Information obtained pursuant to such an authorization may be
27 disclosed only to those employees of the Department who are
28 authorized to issue a license to an applicant pursuant to NRS
29 482.333 to 482.334, inclusive, or to determine the suitability of an
30 applicant or a licensee for such licensure.

31 7. Except as otherwise provided in NRS 482.555, any person
32 who fails to comply with the provisions of this section is guilty of a
33 misdemeanor.

34 **Sec. 6.** 1. This section and sections 1 to 4, inclusive, of this
35 act become effective on July 1, 2005.

36 2. Section 4 of this act expires by limitation on the date on
37 which the provisions of 42 U.S.C. § 666 requiring each state to
38 establish procedures under which the state has authority to withhold
39 or suspend, or to restrict the use of professional, occupational and
40 recreational licenses of persons who:

41 (a) Have failed to comply with a subpoena or warrant relating to
42 a proceeding to determine the paternity of a child or to establish or
43 enforce an obligation for the support of a child; or



- 1 (b) Are in arrears in the payment for the support of one or more
2 children,
3 ➡ are repealed by the Congress of the United States.
- 4 3. Section 5 of this act becomes effective on the date on which
5 the provisions of 42 U.S.C. § 666 requiring each state to establish
6 procedures under which the state has authority to withhold or
7 suspend, or to restrict the use of professional, occupational and
8 recreational licenses of persons who:
9 (a) Have failed to comply with a subpoena or warrant relating to
10 a proceeding to determine the paternity of a child or to establish or
11 enforce an obligation for the support of a child; or
12 (b) Are in arrears in the payment for the support of one or more
13 children,
14 ➡ are repealed by the Congress of the United States.



