ASSEMBLY BILL NO. 393-ASSEMBLYWOMAN BUCKLEY

MARCH 16, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to the repair of motor vehicles. (BDR 43-821)

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.

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

AN ACT relating to motor vehicles; transferring the authority for the regulation of trade practices by garagemen from the Commissioner of Consumer Affairs to the Department of Motor Vehicles; requiring that a transferor of an interest in a motor vehicle indicate if the vehicle is a rebuilt vehicle or a reconstructed vehicle; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for regulation of garages and garagemen by the Commissioner of Consumer Affairs and their registration with the Department of Motor Vehicles. (NRS 487.530-487.570, 597.480-597.590) **Sections 2-14** of this bill transfer authority for regulation to the Department and provide for enforcement of those provisions by the Director of the Department. **Section 20** of this bill requires that a transferor of an interest in a motor vehicle indicate if the vehicle is a rebuilt vehicle or a reconstructed vehicle.

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

Section 1. Chapter 487 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. "Person authorizing repairs" means a person who uses the services of a garage. The term includes an insurance



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1	company, its agents or representatives, authorizing repairs to
2	motor vehicles under a policy of insurance.
3	Sec. 3. 1. Each garageman shall display conspicuously in
4	those areas of his place of business frequented by persons seeking
5	repairs on motor vehicles a sign, not less than 22 inches by 28
6	inches in size, setting forth in boldface letters the following:
7	CTATE OF NEVADA
8 9	STATE OF NEVADA
	REGISTERED GARAGE
10 11	REGISTERED GARAGE
12	THIS GARAGE IS REGISTERED WITH THE
13	DEPARTMENT OF MOTOR VEHICLES
14	DETARTMENT OF MOTOR VEHICLES
15	NEVADA AUTOMOTIVE REPAIR CUSTOMER
16	BILL OF RIGHTS
17	DILL OF MOHIS
18	AS A CUSTOMER IN NEVADA:
19	ABA COSTOMER IN WEATHER.
20	YOU have the right to receive repairs from a business that is
21	REGISTERED with the Department of Motor Vehicles that will
22	ensure the proper repair of your vehicle. (cite to this section of this
23	act)
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25	YOU have the right to receive a WRITTEN ESTIMATE of
26	charges for repairs made to your vehicle which exceed \$50. (cite to
27	section 5 of this act)
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29	YOU have the right to read and understand all documents and
30	warranties BEFORE YOU SIGN THEM. (cite to this section)
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32	YOU have the right to INSPECT ALL REPLACED PARTS and
33	accessories that are covered by a warranty and for which a charge
34	is made. (cite to section 9 of this act)
35	
36	YOU have the right to request that all replaced parts and
37	accessories that are not covered by a warranty BE RETURNED
38	TO YOU AT THE TIME OF SERVICE. (cite to section 9 of this
39	act)
40	VOII have the wight to require authorization DEFORE
41 42	YOU have the right to require authorization BEFORE any additional repairs are made to your vehicle if the charges for those
42	repairs exceed 20% of the original estimate or \$100, whichever is
44	less. (cite to section 6 of this act)
44	iess. (cue lo section o of this act)





YOU have the right to receive a COMPLETED STATEMENT OF CHARGES for repairs made to your vehicle. (NRS 487.035)

YOU have the right to a FAIR RESOLUTION of any dispute that develops concerning the repair of your vehicle. (cite to this section)

FOR MORE INFORMATION PLEASE CONTACT:

THE DEPARTMENT OF MOTOR VEHICLES

IN CLARK COUNTY: (702) 486-4368

ALL OTHER AREAS TOLL-FREE: 1-877-368-7828

- 2. The sign required pursuant to the provisions of subsection 1 must include a replica of the great seal of the State of Nevada. The seal must be 2 inches in diameter and be centered on the face of the sign directly above the words "STATE OF NEVADA."
- 3. Any person who violates the provisions of this section is guilty of a misdemeanor.
- Sec. 4. If any garageman accepts or assumes control of a motor vehicle for the purpose of making or completing any repair, he shall comply with the provisions of sections 3 to 14, inclusive, of this act.
- Sec. 5. 1. Except as otherwise provided in section 7 of this act, a person requesting or authorizing the repair of a motor vehicle that is more than \$50 must be furnished an estimate or statement signed by the person making the estimate or statement on behalf of the garageman, indicating the total charge for the performance of the work necessary to accomplish the repair, including the charge for labor and all parts and accessories necessary to perform the work.
- 2. If the estimate is for the purpose of diagnosing a malfunction, the estimate must include the cost of:
 - (a) Diagnosis and disassembly; and
 - (b) Reassembly, if the person does not authorize the repair.
- 3. The provisions of this section do not require a garageman to reassemble a motor vehicle if he determines that the reassembly of the motor vehicle would render the vehicle unsafe to operate.
- Sec. 6. Except as otherwise provided in section 7 of this act, if it is determined that additional charges are required to perform the repair authorized, and those additional charges exceed, by 20 percent or \$100, whichever is less, the amount set forth in the estimate or statement required to be furnished pursuant to the





provisions of section 5 of this act, the garageman shall notify the person authorizing the repairs of the amount of those additional charges.

- Sec. 7. The person authorizing the repairs may waive the estimate or statement required pursuant to the provisions of section 5 of this act or the notification required by section 6 of this act by executing a written waiver of that requirement or notification. The waiver must be executed by the person authorizing the repairs at the time he authorizes those repairs.
- Sec. 8. 1. A person authorizing repairs who has been notified of additional charges pursuant to section 6 of this act shall:
- (a) Authorize the performance of the repair at the additional expense; or
- (b) Without delay, and upon payment of the authorized charges, take possession of the motor vehicle.
- 2. Until the election provided for in subsection 1 has been made, the garageman shall not undertake any repair which would involve such additional charges.
- 3. If the person elects to take possession of the motor vehicle but fails to take possession within a 24-hour period after such election, the garageman may charge for storage of the vehicle.
- Sec. 9. 1. If the repair work performed on a motor vehicle requires the replacement of any parts or accessories, the garageman shall, at the request of the person authorizing the repairs or any person entitled to possession of the motor vehicle, deliver to such person all parts and accessories replaced as a result of the work done.
- 29 2. The provisions of subsection 1 do not apply to parts or 30 accessories which must be returned to a manufacturer or 31 distributor under a warranty arrangement or which are subject to 32 exchange, but the customer on request is entitled to be shown such 33 warranty parts for which a charge is made.
 - Sec. 10. The garageman shall retain copies of any estimate, statement or waiver required by sections 6 to 9, inclusive, of this act as an ordinary business record of the garage, for a period of not less than 1 year after the date such estimate, statement or waiver is signed.
 - Sec. 11. In every instance where charges are made for the repair of a motor vehicle, the garageman making the repairs shall comply with the provisions of NRS 487.035 as well as the provisions of sections 6 to 9, inclusive, of this act. He is not entitled to detain a motor vehicle by virtue of any common law or statutory lien, or otherwise enforce such lien, nor shall he have the right to sue on any contract for repairs made by him, unless he





has complied with the requirements of sections 6 to 9, inclusive, of this act in addition to those of NRS 487.035.

Sec. 12. 1. The Attorney General or any district attorney may bring an action in any court of competent jurisdiction in the name of the State of Nevada on the complaint of the Director or of any person allegedly aggrieved by such violation to enjoin any violation of the provisions of sections 3 to 14, inclusive, of this act.

2. Any person who knowingly violates any provision of sections 3 to 14, inclusive, of this act is liable, in addition to any other penalty or remedy which may be provided by law, for a civil penalty of not more than \$500 for each offense, which may be recovered by civil action on complaint of the Director or the district attorney.

Sec. 13. 1. There is hereby created a Revolving Account for the Department of Motor Vehicles in the sum of \$7,500, which must be used for the payment of expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 3 to 14, inclusive, of this act.

The Director shall deposit the money in the Revolving Account in a bank or credit union qualified to receive deposits of public money as provided by law, and the deposit must be secured by a depository bond satisfactory to the State Board of Examiners.

- The Director or his designee may:
- (a) Sign all checks drawn upon the Revolving Account; and
- (b) Make withdrawals of cash from the Revolving Account.
- 4. Payments made from the Revolving Account must be promptly reimbursed from the legislative appropriation, if any, to the Director for the expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 3 to 14, inclusive, of this act. The claim for reimbursement must be processed and paid as other claims against the State are paid.
 - The Director shall:
- (a) Approve any disbursement from the Revolving Account; 35 36
 - (b) Maintain records of any such disbursement.

Sec. 14. 1. In addition to any other penalty, the Department may impose an administrative fine of not more than \$10,000 against any person who engages in a deceptive trade practice. The Department shall provide to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

For the purposes of this section, a person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of

45 his business or occupation, he:



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- (a) Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the repair of a motor vehicle; or
- (b) Engages in any other acts prescribed by the Department by regulation as a deceptive trade practice.
- 3. The Director may negotiate the recovery of losses by a person aggrieved by a deceptive trade practice from the garageman who engaged in the practice in lieu of imposing an administrative fine, and may mediate any disputes between customers and garagemen.
- 4. All administrative fines collected by the Department pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.
- 5. Except as otherwise provided in this subsection, the administrative remedy provided in this section is not exclusive and is intended to supplement existing law. The Department may not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person pursuant to NRS 598.0903 to 598.0999, inclusive, for the same act. The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.
 - **Sec. 15.** NRS 487.530 is hereby amended to read as follows:
- 487.530 As used in NRS 487.530 to 487.570, inclusive, *and sections 2 to 14, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS [487.535] 487.540 to 487.550, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.
 - **Sec. 16.** NRS 487.555 is hereby amended to read as follows:
- 487.555 The provisions of NRS 487.530 to 487.570, inclusive, *and sections 2 to 14, inclusive, of this act* do not apply to a service station that is exclusively engaged in the business of selling motor vehicle fuel, lubricants or goods unrelated to the repair of motor vehicles.
 - **Sec. 17.** NRS 487.563 is hereby amended to read as follows:
- 487.563 1. Each person who submits an application for registration pursuant to the provisions of NRS 487.560 must include in the application a written statement to the Department that specifies whether he agrees to submit to binding arbitration any claims against him arising out of a contract for repairs made by him to a motor vehicle. If the person fails to submit the statement to the Department or specifies in the statement that he does not agree to arbitrate those claims, the person shall file with the Department a bond in the amount of \$5,000, with a corporate surety for the bond that is licensed to do business in this State. The form of the bond





must be approved by the Attorney General and be conditioned upon whether the applicant conducts his business as an owner or operator of a garage without fraud or fraudulent representation and in compliance with the provisions of NRS 487.035, 487.530 to 487.570, inclusive, and [597.480 to 597.590, inclusive.] sections 2 to 14, inclusive, of this act.

- 2. The bond must be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.
- 3. In lieu of a bond required to be filed pursuant to the provisions of subsection 1, a person may deposit with the Department, pursuant to the terms prescribed by the Department:
- (a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or
- (b) A savings certificate of a bank or savings and loan association located in this State, which must indicate an account of an amount equal to the amount of the bond that would otherwise be required pursuant to this section and that the amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.
- 4. If a claim is arbitrated pursuant to the provisions of this section, the proceedings for arbitration must be conducted in accordance with the provisions of NRS 38.206 to 38.248, inclusive.
 - 5. If a person:

- (a) Submits the statement to the Department specifying that he agrees to arbitrate a claim pursuant to the provisions of subsection 1; and
- (b) Fails to submit to binding arbitration any claim specified in that subsection,
- → the person asserting the claim may notify the Department of that fact. Upon receipt of the notice, the Department shall, after notice and hearing, revoke or refuse to renew the certificate of registration of the person who failed to submit the claim to arbitration.
- 6. If a person fails to comply with an order of a court that relates to the repair of a motor vehicle, the Department shall, after notice and hearing, revoke or refuse to renew the certificate of registration of the person who failed to comply with the order.
- 7. The Department may reinstate or renew a certificate of registration that is:
- (a) Revoked pursuant to the provisions of subsection 5 if the person whose certificate of registration is revoked:
- (1) Submits the claim to arbitration pursuant to the provisions of subsection 4 and notifies the Department of that fact; or





- (2) Files a bond or makes a deposit with the Department pursuant to the provisions of this section.
- (b) Revoked pursuant to the provisions of subsection 6 if the person whose certificate of registration is revoked complies with the order of the court.
 - **Sec. 18.** NRS 487.568 is hereby amended to read as follows:

487.568 A person who violates any provision of NRS 487.530 to 487.570, inclusive, *and sections 2 to 14, inclusive, of this act* is guilty of a misdemeanor.

Sec. 19. NRS 487.570 is hereby amended to read as follows: 487.570 A garageman shall comply with the provisions of [NRS 597.480 to 597.590, inclusive.] sections 3 to 14, inclusive, of this act.

Sec. 20. NRS 487.640 is hereby amended to read as follows:

No license may be issued to an operator of a body 1. shop until he procures and files with the Department a good and sufficient bond in the amount of \$10,000, with a corporate surety thereon licensed to do business in the State of Nevada, approved as to form by the Attorney General, and conditioned that the applicant shall conduct his business as an operator of a body shop without fraud or fraudulent representation, and in compliance with the provisions of NRS 487.035, sections 3 to 14, inclusive, of this act and NRS 487.600 to 487.690, inclusive. [, and 597.480 to 597.590, inclusive. The Department may, by agreement with any operator of a body shop who has been licensed by the Department for 5 years or more, allow a reduction in the amount of the bond of the operator, if the business of the operator has been conducted satisfactorily for the preceding 5 years, but no bond may be in an amount less than \$1,000.

- 2. The bond may be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.
- 3. The bond must provide that any person injured by the action of the operator of the body shop in violation of any of the provisions of NRS 487.035, *sections 3 to 14*, *inclusive*, *of this act and NRS* 487.600 to 487.690, inclusive , [, and 597.480 to 597.590, inclusive,] may apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.
- 4. In lieu of a bond an operator of a body shop may deposit with the Department, under the terms prescribed by the Department:





- (a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or
- (b) A savings certificate of a bank, credit union or savings and loan association situated in Nevada, which must indicate an account of an amount equal to the amount of the bond which would otherwise be required by this section and that this amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.
- 5. A deposit made pursuant to subsection 4 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the licensee, or released upon receipt of:
- (a) An order of a court requiring the Director to release all or a specified portion of the deposit; or
- (b) A statement signed by the person under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State, requesting the Director to release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.
- 6. When a deposit is made pursuant to subsection 4, liability under the deposit is in the amount prescribed by the Department. If the amount of the deposit is reduced or there is an outstanding judgment of a court for which the licensee is liable under the deposit, the license is automatically suspended. The license must be reinstated if the licensee:
 - (a) Files an additional bond pursuant to subsection 1;
- (b) Restores the deposit with the Department to the original amount required under this section; or
- (c) Satisfies the outstanding judgment for which he is liable under the deposit.
 - 7. A deposit made pursuant to subsection 4 may be refunded:
- (a) By order of the Director, 3 years after the date the licensee ceases to be licensed by the Department, if the Director is satisfied that there are no outstanding claims against the deposit; or
- (b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the Department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit.
- 8. Any money received by the Department pursuant to subsection 4 must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.





- **Sec. 21.** NRS 487.650 is hereby amended to read as follows:
- 487.650 1. The Department may refuse to issue a license or, after notice and hearing, may suspend, revoke or refuse to renew a license to operate a body shop upon any of the following grounds:
- (a) Failure of the applicant or licensee to have or maintain an established place of business in this State.
- (b) Conviction of the applicant or licensee or an employee of the applicant or licensee of a felony, or of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.
 - (c) Any material misstatement in the application for the license.
- (d) Willful failure of the applicant or licensee to comply with the motor vehicle laws of this State and NRS 487.035, 487.610 to 487.690, inclusive, or [597.480 to 597.590, inclusive.] sections 3 to 14, inclusive, of this act.
- (e) Failure or refusal by the licensee to pay or otherwise discharge any final judgment against him arising out of the operation of the body shop.
- (f) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 2.
- (g) A finding of guilt by a court of competent jurisdiction in a case involving a fraudulent inspection, purchase, sale or transfer of a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.
- (h) An improper, careless or negligent inspection of a salvage vehicle pursuant to NRS 487.800 by the applicant or licensee or an employee of the applicant or licensee.
- (i) A false statement of material fact in a certification of a salvage vehicle pursuant to NRS 487.800 or a record regarding a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.
- 2. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a body shop, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.610 to 487.690, inclusive, or to determine the suitability of an applicant or a licensee for such licensure.





1 3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 22. NRS 487.830 is hereby amended to read as follows:

- 487.830 1. Any person who transfers an interest in a motor vehicle in this State shall, before the transfer, disclose in writing to the transferee any information that the transferor knows or reasonably should know concerning whether the vehicle is a salvage vehicle ..., a rebuilt vehicle or a reconstructed vehicle, as that term is defined in NRS 482.100.
- 2. If the transferor is subject to any of the provisions of NRS 482.423 to 482.4245, inclusive, the transferor shall:
 - (a) Make the disclosure required by subsection 1 before executing a contract of sale or a long-term lease;
 - (b) Provide a copy of the disclosure to the transferee; and
 - (c) Retain the written disclosure in his records for the period specified in NRS 482.3263.
 - 3. A person who violates subsection 1 is guilty of obtaining property by false pretenses as provided in NRS 205.380.

Sec. 23. NRS 598.985 is hereby amended to read as follows:

- 598.985 1. The Division and the Department shall cooperate to enhance the protection of persons who authorize the repair of motor vehicles by a garage that is registered with the Department pursuant to the provisions of NRS 487.530 to 487.570, inclusive.
- 2. The Commissioner of Consumer Affairs may provide to the Department a copy of any complaint filed with the Division that alleges a deceptive trade practice pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, by a garage or garageman registered pursuant to the provisions of NRS 487.530 to 487.570, inclusive [...], and sections 2 to 14, inclusive, of this act. If the Commissioner provides the Department with a copy of a complaint, the Department is subject to the provisions of NRS 598.098 with respect to the complaint.
- 33 3. The Department may provide assistance to the Division in carrying out the provisions of NRS 598.990.
 - **Sec. 24.** NRS 598.990 is hereby amended to read as follows: 598.990 The Division shall:
 - 1. Establish and maintain a toll-free telephone number for persons to report to the Division information concerning alleged violations of NRS 487.035, 487.530 to 487.570, inclusive, [597.480 to 597.590, inclusive,] and sections 2 to 14, inclusive, of this act, and 598.0903 to 598.0999, inclusive.
 - 2. Develop a program to provide information to the public concerning:





- (a) The duties imposed on a garageman by the provisions of NRS 487.035, 487.530 to 487.570, inclusive, and [597.480 to 597.590, inclusive;] sections 2 to 14, inclusive, of this act;
- (b) The rights and protections established for a person who uses the services of a garage;
 - (c) The repair of motor vehicles; and
- (d) Deceptive trade practices relating to the repair of motor vehicles by a garage.
- 9 **Sec. 25.** NRS 487.535, 597.480, 597.490, 597.500, 597.510, 597.520, 597.530, 597.540, 597.550, 597.560, 597.570, 597.580 and 597.590 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

487.535 "Division" defined.

597.480 Definitions.

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597.490 Display of sign required; contents of sign; penalty.

597.500 Duties of garageman on acceptance of vehicle for repair.

597.510 Estimate of costs required for certain repairs.

597.520 Notice of additional charges over estimate required in certain cases.

597.530 Waiver of estimate of costs or notice of additional charges; execution of waiver.

 $5\bar{9}7.\bar{5}40$ Duties of person authorizing repairs upon receipt of notice of additional charges.

597.550 Replaced parts to be delivered to person authorizing repairs if requested; exception.

597.560 Records to be retained by garageman.

597.570 Compliance with NRS 487.035 also required; enforcement of liens and contracts.

597.580 Violations: Injunctive relief.

597.590 Violations: Civil penalties.





