

Amendment No. 445

Senate Amendment to Senate Bill No. 218 (BDR 20-846)

Proposed by: Senate Committee on Taxation**Amendment Box:** Replaces Amendment No. 195.**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 218 (§§ 1, 2).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold dashed underlining is newly added transitory language.

MMM/RBL



Date: 4/11/2009

S.B. No. 218—Revises provisions governing certain fees charged by and certain duties performed by constables. (BDR 20-846)



SENATE BILL NO. 218—SENATORS PARKS, COFFIN, CARE, NOLAN, HORSFORD;
BREEDEN, COPENING, LEE, SCHNEIDER, WIENER AND WOODHOUSE

MARCH 13, 2009

JOINT SPONSORS: ASSEMBLYMEN SPIEGEL, ATKINSON, KOIVISTO, ANDERSON,
BOBZIEN; CLABORN, MANENDO, MASTROLUCA, MCCLAIN, OHRENSCHALL,
PIERCE, SEGERBLOM, SETTELMAYER AND STEWART

Referred to Committee on Taxation

SUMMARY—Revises provisions governing certain fees charged by and certain
duties performed by constables. (BDR 20-846)

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 constables; specifically authorizing constables to issue citations for failure to register vehicles that are required to be registered in this State; increasing the fee to which constables are entitled for removing or causing the removal of abandoned vehicles from public property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill specifically authorizes constables to issue citations for the failure to register a vehicle that is required by existing law to be registered in this State. **It and requires constables to charge and collect a fee from the person to whom the citation is issued.** The citation is to be issued to the owner of the vehicle or the driver if the driver is not the owner but is the party responsible for registering the vehicle pursuant to existing law. (NRS 258.070) **Sections 3 and 4** of this bill clarify that constables are entitled to demand and to view the certificate of registration and to request information to determine whether the vehicle is required to be registered in this State. (NRS 482.255, 482.385)

Section 2 of this bill increases the fee to which constables are entitled for their services of removing or causing the removal of an abandoned vehicle from public property from \$50 to \$100. **Section 2 also increases the amount the constable may collect when collecting all sums on execution or writ charged against a defendant from 2 percent of the first \$3,500 to 2 percent of the first \$10,000.** (NRS 258.125)

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

Section 1. NRS 258.070 is hereby amended to read as follows:

258.070 1. Each constable shall:

(a) Be a peace officer in his township.

(b) Serve all mesne and final process issued by a court of competent jurisdiction.

(c) Execute the process, writs or warrants that he is authorized to receive pursuant to NRS 248.100.

(d) Discharge such other duties as are or may be prescribed by law.

2. *Pursuant to the procedures and subject to the limitations set forth in chapters 482 and 484 of NRS, a constable may issue a citation to an owner or driver, as appropriate, of a vehicle that is required to be registered in this State if the constable determines that the vehicle is not properly registered. The constable shall, upon the issuance of such citation, charge and collect a fee of \$100 from the person to whom the citation is issued, which may be retained by the constable as compensation.*

3. If a sheriff or his deputy in any county in this State arrests a person charged with a criminal offense or in the commission of an offense, the sheriff or his deputy shall serve all process, whether mesne or final, and attend the court executing the order thereof in the prosecution of the person so arrested, whether in a justice court or a district court, to the conclusion, and whether the offense is an offense of which a justice of the peace has jurisdiction, or whether the proceeding is a preliminary examination or hearing. The sheriff or his deputy shall collect the same fees and in the same manner therefor as the constable of the township in which the justice court is held would receive for the same service.

Sec. 2. NRS 258.125 is hereby amended to read as follows:

258.125 1. Constables are entitled to the following fees for their services:

For serving a summons or other process by which a suit is commenced in civil cases.....	\$17
For summoning a jury before a justice of the peace	7
For taking a bond or undertaking	5
For serving an attachment against the property of a defendant	9
For serving subpoenas, for each witness	15
For a copy of any writ, process or order or other paper, when demanded or required by law, per folio	3
For drawing and executing every constable's deed, to be paid by the grantee, who must also pay for the acknowledgment thereof	20
For each certificate of sale of real property under execution.....	5
For levying any writ of execution or writ of garnishment, or executing an order of arrest in civil cases, or order for delivery of personal property, with traveling fees as for summons.....	9
For serving one notice required by law before the commencement of a proceeding for any type of eviction.....	26
For serving not fewer than 2 nor more than 10 such notices to the same location, each notice.....	20
For serving not fewer than 11 nor more than 24 such notices to the same location, each notice.....	17
For serving 25 or more such notices to the same location, each notice.....	15

For mileage in serving such a notice, for each mile necessarily and actually traveled in going only.....\$2

But if two or more notices are served at the same general location during the same period, mileage may only be charged for the service of one notice.

For each service in a summary eviction, except service of any notice required by law before commencement of the proceeding, and for serving notice of and executing a writ of restitution21

For making and posting notices, and advertising property for sale on execution, not to include the cost of publication in a newspaper.....9

For each warrant lawfully executed.....48

For mileage in serving summons, attachment, execution, order, venire, subpoena, notice, summary eviction, writ of restitution or other process in civil suits, for each mile necessarily and actually traveled, in going only2

But when two or more persons are served in the same suit, mileage may only be charged for the most distant, if they live in the same direction.

For mileage in making a diligent but unsuccessful effort to serve a summons, attachment, execution, order, venire, subpoena or other process in civil suits, for each mile necessarily and actually traveled, in going only2

But mileage may not exceed \$20 for any unsuccessful effort to serve such process.

2. A constable is also entitled to receive:

(a) For receiving and taking care of property on execution, attachment or order, his actual necessary expenses, to be allowed by the court which issued the writ or order, upon the affidavit of the constable that the charges are correct and the expenses necessarily incurred.

(b) For collecting all sums on execution or writ, to be charged against the defendant, on the first ~~(\$3,500.1~~ \$10,000, 2 percent thereof, and on all amounts over that sum, one-half of 1 percent.

(c) For service in criminal cases, except for execution of warrants, the same fees as are allowed sheriffs for like services, to be allowed, audited and paid as are other claims against the county.

(d) For removing or causing the removal of, pursuant to NRS 487.230, a vehicle that has been abandoned on public property, ~~\$50.1~~ \$100.

3. Deputy sheriffs acting as constables are not entitled to retain for their own use any fees collected by them, but the fees must be paid into the county treasury on or before the fifth working day of the month next succeeding the month in which the fees were collected.

4. Constables shall, on or before the fifth working day of each month, account for and pay to the county treasurer all fees collected during the preceding month, except fees which may be retained as compensation.

Sec. 3. NRS 482.255 is hereby amended to read as follows:

482.255 1. Upon receipt of a certificate of registration, the owner shall place it or a legible copy in the vehicle for which it is issued and keep it in the vehicle. If the vehicle is a motorcycle, trailer or semitrailer, he shall carry the certificate in the tool bag or other convenient receptacle attached to the vehicle.

2. The owner or operator of a motor vehicle shall, upon demand, surrender the certificate of registration or the copy for examination to any peace officer, **including a constable, or a** justice of the peace or deputy of the Department.

3. No person charged with violating this section may be convicted if he produces in court a certificate of registration which was previously issued to him and was valid at the time of the demand.

Sec. 4. NRS 482.385 is hereby amended to read as follows:

482.385 1. Except as otherwise provided in subsection 4 and NRS 482.390, a nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter, owning any vehicle which has been registered for the current year in the state, country or other place of which the owner is a resident and which at all times when operated in this State has displayed upon it the registration license plate issued for the vehicle in the place of residence of the owner, may operate or permit the operation of the vehicle within this State without its registration in this State pursuant to the provisions of this chapter and without the payment of any registration fees to this State.

2. This section does not:

(a) Prohibit the use of manufacturers', distributors' or dealers' license plates issued by any state or country by any nonresident in the operation of any vehicle on the public highways of this State.

(b) Require registration of vehicles of a type subject to registration pursuant to the provisions of this chapter operated by nonresident common motor carriers of persons or property, contract motor carriers of persons or property, or private motor carriers of property as stated in NRS 482.390.

(c) Require registration of a vehicle operated by a border state employee.

3. When a person, formerly a nonresident, becomes a resident of this State, he shall:

(a) Within 60 days after becoming a resident; or

(b) At the time he obtains his driver's license,

➤ whichever occurs earlier, apply for the registration of each vehicle he owns which is operated in this State. When a person, formerly a nonresident, applies for a driver's license in this State, the Department shall inform the person of the requirements imposed by this subsection and of the penalties that may be imposed for failure to comply with the provisions of this subsection. A citation may be issued pursuant to this subsection only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. A person who violates the provisions of this subsection is guilty of a misdemeanor and shall be punished by a fine of not less than \$250 nor more than \$500 and such fine is in addition to any fine or penalty imposed for the other alleged violation or offense for which the vehicle was halted or its driver arrested. In addition, the Department shall maintain or cause to be maintained a list or other record of persons who fail to comply with the provisions of this subsection and shall, at least once each month, provide a copy of that list or record to the Department of Public Safety.

4. Any resident operating upon a highway of this State a motor vehicle which is owned by a nonresident and which is furnished to the resident operator for his continuous use within this State, shall cause that vehicle to be registered within 60 days after beginning its operation within this State.

5. A person registering a vehicle pursuant to the provisions of subsection 3, 4 or 6 or pursuant to NRS 482.390:

(a) Must be assessed the registration fees and governmental services tax, as required by the provisions of this chapter and chapter 371 of NRS; and

1 (b) Must not be allowed credit on those taxes and fees for the unused months
2 of his previous registration.

3 6. If a vehicle is used in this State for a gainful purpose, the owner shall
4 immediately apply to the Department for registration, except as otherwise provided
5 in NRS 482.390, 482.395 and 706.801 to 706.861, inclusive.

6 7. An owner registering a vehicle pursuant to the provisions of this section
7 shall surrender the existing nonresident license plates and registration certificates to
8 the Department for cancellation.

9 8. A vehicle may be cited for a violation of this section regardless of whether
10 it is in operation or is parked on a highway, in a public parking lot or on private
11 property which is open to the public if, after communicating with the owner or
12 operator of the vehicle, the peace officer issuing the citation determines that:

13 (a) The owner of the vehicle is a resident of this State; or

14 (b) The vehicle is used in this State for a gainful purpose.

15 *As used in this subsection, "peace officer" includes a constable.*