

Amendment No. 187

Senate Amendment to Senate Bill No. 246

(BDR 43-989)

Proposed by: Senate Committee on Energy, Infrastructure and Transportation**Amends:** Summary: No Title: Yes 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. 246 (§§ 5, 14).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

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.

SJH/TMC



Date: 4/6/2009

S.B. No. 246—Revises provisions governing the sale of vehicles. (BDR 43-989)



SENATE BILL NO. 246—SENATORS TOWNSEND, HARDY; CEGAVSKE, HORSFORD, LEE,
MATHEWS, MCGINNESS AND RHODS

MARCH 16, 2009

Referred to Committee on Energy, Infrastructure and Transportation

SUMMARY—Revises provisions governing the sale of vehicles. (BDR 43-989)

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: No.

~

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

AN ACT relating to vehicles; prohibiting a manufacturer from requiring a dealer to alter substantially an existing facility of the dealer or construct a new facility. ~~It~~ except under certain circumstances; prohibiting a manufacturer from taking adverse action against a dealer relating to the exportation of a vehicle outside the United States except under certain circumstances; ~~providing that it is an unfair act or practice for any manufacturer to refuse the return of or reduce the price of a part, accessory or assembled component under certain circumstances;~~ providing for the licensure of an agent of a broker; revising provisions governing the modification or replacement of a franchise; ~~revising provisions governing warranties for certain used vehicles;~~ establishing fees; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill prohibits a manufacturer from requiring a dealer to alter substantially an existing facility or to construct a new facility for any new vehicles that are handled by the dealer. ~~It~~ under certain circumstances. Section 2 also provides that such a requirement constitutes a modification of the franchise of the dealer.

Section 3 of this bill prohibits a manufacturer from taking adverse action against a dealer who sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.

~~Section 4 of this bill provides that it is an unfair act or practice for any manufacturer to refuse to accept and reimburse a dealer for the return of a part, accessory or assembled component for less than 1 year after the date the dealer purchased the part, accessory or assembled component. Section 4 further prohibits a manufacturer from reducing the suggested retail price of any part, accessory or assembled component, unless the cost to the dealer of the part, accessory or assembled component is reduced by an equal amount.~~

Sections 5 and 14 of this bill provide for the licensure of an agent for a broker of vehicles in this State. A person who violates the provisions governing the licensure of such agents is guilty of a misdemeanor.

Section 8 of this bill provides that if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the ~~original~~ franchise agreement, ~~it~~ offered to other dealers of the same line-make vehicles. Section 8 defines such vehicles as those vehicles which are offered for sale, lease or distribution under the same name, trademark, service mark or brand of the manufacturer of the vehicles. (NRS 482.36354)

~~Sections 10 and 11 of this bill provide that a used vehicle dealer who sells to a retail customer a used vehicle with not less than 75,000 miles or more than 105,000 miles on the odometer must provide to that retail customer an express written warranty under certain circumstances. (NRS 482.26662, 482.26662) Section 12 of this bill provides for the submission of complaints by a retail customer for a violation by the used vehicle dealer of such an express warranty. (NRS 482.26664))~~

Section 13 of this bill provides that the forms for the application for credit and contracts to be used in the sale of vehicles prescribed by the Commissioner of Financial Institutions must contain a provision that provides if the seller elects to rescind the contract, he must provide written notice to the buyer not less than 20 days after the date of the contract. (NRS 97.299)

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. 1. A manufacturer shall not require a dealer:

~~1. (a) To alter substantially an existing facility of the dealer; or~~

~~2. (b) To construct a new facility,~~

✓ for any new vehicles that are handled by the dealer it, unless the alteration or new construction constitutes a reasonable facility requirement in accordance with the franchise agreement.

2. If a manufacturer requires a substantial alteration of an existing facility of the dealer or requires the dealer to construct a new facility, that requirement constitutes a modification of the franchise of the dealer for the purposes of this section, NRS 482.36311 to 482.36425, inclusive, and sections 3 and 4 of this act.

Sec. 3. A manufacturer shall not modify the franchise of a dealer or take any adverse action against a dealer that sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.

Sec. 4. ~~1. Except as otherwise provided in subsection 3, it is an unfair act or practice for any manufacturer:~~

~~(a) To refuse to accept and reimburse a dealer for the return of a part, accessory or assembled component for less than 1 year after the date the dealer purchased the part, accessory or assembled component;~~

~~(b) To reduce the suggested retail price of any part, accessory or assembled component, unless the cost to the dealer for the part, accessory or assembled component is reduced by an equal amount;~~

~~2. A manufacturer shall reimburse a dealer in an amount not less than the purchase price for each part, accessory or assembled component described in paragraph (a) of subsection 1;~~

~~3. This section does not apply to any part, accessory or assembled component that is not returned to the manufacturer in the original package or container as purchased by the dealer. (Deleted by amendment.)~~

Sec. 5. 1. A person shall not engage in the activity of an agent for a broker, or act in the capacity of an agent in this State without first having

1 received a license or temporary permit from the Department. Before issuing a
2 license or temporary permit to engage in the activity of an agent, the Department
3 shall require the applicant to submit to the Department:

4 (a) An application, signed and verified by the applicant, stating:

5 (1) That the applicant is to engage in the activity of an agent;

6 (2) The name, residence address and social security number of the
7 applicant; and

8 (3) The name and address of the employer of the applicant.

9 (b) Proof of the employment of the applicant by a broker at the time the
10 application is filed.

11 (c) A statement as to whether any previous application of the applicant has
12 been denied or any previous license of the applicant has been revoked.

13 (d) Payment of a nonrefundable license fee of \$75. The license expires on
14 December 31 of each calendar year and may be renewed annually upon the
15 payment of a fee of \$40.

16 (e) For initial licensure, a complete set of his fingerprints and written
17 permission authorizing the Department to forward those fingerprints to the
18 Central Repository for Nevada Records of Criminal History for submission to the
19 Federal Bureau of Investigation for its report.

20 (f) Any other information the Department determines necessary.

21 2. The Department may issue a 60-day temporary permit to an applicant
22 who has submitted a complete application and paid the required fee.

23 3. A license to act as an agent of a broker issued pursuant to this section
24 does not authorize a person to engage in the business of selling mobile homes.

25 4. The Department may deny an application for a license as an agent or
26 suspend or revoke a license issued pursuant to this section upon any of the
27 following grounds:

28 (a) Failure of the applicant to establish by proof satisfactory to the
29 Department that he is employed by a broker.

30 (b) Conviction of a felony.

31 (c) Conviction of a gross misdemeanor.

32 (d) Conviction of a misdemeanor for a violation of any of the provisions of
33 this chapter.

34 (e) Falsification of the application.

35 (f) Evidence of unfitness as described in NRS 482.3255.

36 (g) Failure of the applicant to provide any information determined necessary
37 by the Department to process the application.

38 (h) Any reason determined by the Director to be in the best interests of the
39 public.

40 5. An agent shall not engage in any activity, or act in any other capacity as
41 an agent other than for the account of, or for and on behalf of, a single employer,
42 at a specified place of business of that employer, who must be a broker.

43 6. If an application for a license as an agent is denied, the applicant may
44 reapply for a license not less than 6 months after the denial.

45 7. An agent's license must be posted in a conspicuous place on the premises
46 of the broker by whom the agent is employed.

47 8. If an agent ceases to be employed by a broker, his license to act as an
48 agent is automatically suspended and his right to act as an agent immediately
49 ceases, and he shall not engage in the activity of an agent until he has:

50 (a) Paid the Department a transfer fee of \$20 and submitted a certificate of
51 employment indicating that he has been reemployed by a broker; and

52 (b) Presented a current temporary permit or new license to the broker by
53 whom he is employed.

9. If an agent changes his residential address, he shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. If a person who holds a temporary permit to act as an agent ceases to be employed by a broker, his permit to act as an agent is automatically suspended, his right to act as an agent immediately ceases and his application for licensure must be denied until he has:

(a) Paid the Department a transfer fee of \$20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

11. A broker who employs an agent shall notify the Department of the termination of employment of the agent not later than 10 days after the date of termination by forwarding the license of the agent to the Department.

12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

13. As used in this section, "agent" means a person who is employed by a broker and who, for a fee or any other consideration, assists the broker in offering to provide to another person the service of arranging, negotiating or assisting in the purchase of a new or used vehicle which has not been registered or for which an ownership interest has not been taken by the broker.

Sec. 6. NRS 482.319 is hereby amended to read as follows:

482.319 1. Except as otherwise provided in subsection 5, a natural person who applies for the issuance or renewal of a license issued pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, ~~and sections 2 to 5, inclusive,~~ section 5 of this act shall submit to the Department the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Department shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Department.

3. A license may not be issued or renewed by the Department pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, ~~and sections 2 to 5, inclusive,~~ section 5 of this act if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Department shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

5. If a licensee renews an existing license electronically, the licensee shall keep the original of the statement required pursuant to subsection 1 at his place of business for not less than 3 years after submitting the electronic renewal. The statement must be available during business hours for inspection by any authorized agent of the Director or the State of Nevada.

1 **Sec. 7.** NRS 482.3195 is hereby amended to read as follows:

2 482.3195 1. If the Department receives a copy of a court order issued
3 pursuant to NRS 425.540 that provides for the suspension of all professional,
4 occupational and recreational licenses, certificates and permits issued to a person
5 who is the holder of a license issued pursuant to NRS 482.318 to 482.363105,
6 inclusive, ~~and [sections 2 to 5, inclusive,]~~ section 5 of this act, the Department
7 shall deem the license issued to that person to be suspended at the end of the 30th
8 day after the date on which the court order was issued unless the Department
9 receives a letter issued to the holder of the license by the district attorney or other
10 public agency pursuant to NRS 425.550 stating that the holder of the license has
11 complied with the subpoena or warrant or has satisfied the arrearage pursuant to
12 NRS 425.560.

13 2. The Department shall reinstate a license issued pursuant to NRS 482.318 to
14 482.363105, inclusive, ~~and [sections 2 to 5, inclusive,]~~ section 5 of this act that has
15 been suspended by a district court pursuant to NRS 425.540 if the Department
16 receives a letter issued by the district attorney or other public agency pursuant to
17 NRS 425.550 to the person whose license was suspended stating that the person
18 whose license was suspended has complied with the subpoena or warrant or has
19 satisfied the arrearage pursuant to NRS 425.560.

20 **Sec. 7.5.** NRS 482.36311 is hereby amended to read as follows:

21 482.36311 As used in NRS 482.36311 to 482.36425, inclusive, and sections
22 2, 3 and 4 of this act, unless the context otherwise requires, the words and terms
23 defined in NRS 482.36318 to 482.36348, inclusive, have the meanings ascribed to
24 them in those sections.

25 **Sec. 8.** NRS 482.36354 is hereby amended to read as follows:

26 482.36354 1. A manufacturer or distributor shall not modify the franchise of
27 a dealer or replace the franchise with another franchise if the modification or
28 replacement would have a substantially adverse effect upon the dealer's investment
29 or his obligations to provide sales and service, unless:

30 (a) The manufacturer or distributor has given written notice of its intention to
31 the Director and the dealer affected by the intended modification or replacement;
32 and

33 (b) Either of the following conditions occurs:

34 (1) The dealer does not file a protest with the Director within 30 days after
35 receiving the notice; or

36 (2) After a protest has been filed with the Director and the Director has
37 conducted a hearing, the Director issues an order authorizing the manufacturer or
38 distributor to modify or replace the franchise.

39 2. The notice required by subsection 1 must be given to the dealer and to the
40 Director at least 60 days before the date on which the intended action is to take
41 place.

42 3. If a manufacturer or distributor changes the area of primary responsibility
43 of a dealer, the change constitutes a modification of the franchise of the dealer for
44 the purposes of NRS 482.36311 to 482.36425, inclusive, ~~§~~, and sections 2, 3 and
45 4 of this act. As used in this subsection, "area of primary responsibility" means the
46 geographic area in which a dealer, pursuant to a franchise agreement, is responsible
47 for selling, servicing and otherwise representing the products of a manufacturer or
48 distributor.

49 4. Notwithstanding the provisions of this section, if a manufacturer is
50 purchased by another manufacturer or entity, a dealer must be offered a
51 franchise agreement that is substantially similar to the ~~original~~ franchise
52 agreement ~~§~~ offered to other dealers of the same line-make vehicles.

1 5. As used in this section, "line-make vehicles" means those vehicles which
2 are offered for sale, lease or distribution under the same name, trademark,
3 service mark or brand of the manufacturer of the vehicles.

4 Sec. 8.2. NRS 482.36366 is hereby amended to read as follows:

5 482.36366 1. Each witness, other than an officer or employee of the State or
6 of a political subdivision of the State or an expert witness, who appears by order of
7 the Director in a hearing pursuant to NRS 482.36311 to 482.36425, inclusive, and
8 sections 2, 3 and 4 of this act is entitled to receive for his attendance the same fees
9 allowed by law to witnesses in civil cases. Except as otherwise provided in
10 subsection 2, the amount must be paid by the party at whose request the witness is
11 ordered to appear.

12 2. The Director may assess other costs against the parties as he deems
13 appropriate. After any hearing on a protest filed pursuant to NRS 482.36352,
14 482.36354 or 482.36357, if the Director determines that the manufacturer or
15 distributor has failed to establish that there is good cause to terminate, refuse to
16 continue, modify or replace a franchise, or to establish an additional dealership or
17 relocate an existing dealership, the Director shall award to the dealer his attorney's
18 fees and costs.

19 3. For the purposes of this section, "costs" includes:

20 (a) Except as otherwise provided in paragraph (b), any applicable cost set forth
21 in NRS 18.005; and

22 (b) The actual amount of any fees paid by a dealer to an expert witness in
23 connection with the hearing.

24 Sec. 8.4. NRS 482.3638 is hereby amended to read as follows:

25 482.3638 It is an unfair act or practice for any manufacturer, distributor or
26 factory branch, directly or through any representative, to:

27 1. Require a dealer to agree to a release, assignment, novation, waiver or
28 estoppel which purports to relieve any person from liability imposed by this
29 chapter, or require any controversy between a dealer and a manufacturer, distributor
30 or representative to be referred to any person or agency except as set forth in this
31 chapter if that referral would be binding on the dealer, except that this section does
32 not prevent the parties from mutually agreeing to arbitration pursuant to law.

33 2. Require a dealer to agree to the jurisdiction, venue or tribunal in which a
34 controversy arising under the provisions of the franchise agreement may or may not
35 be submitted for resolution, or prohibit a dealer from bringing an action in any
36 forum allowed by Nevada law.

37 3. Require a dealer to agree to a term or condition of a franchise agreement
38 which violates any provision of NRS 482.36311 to 482.36425, inclusive, 4, and
39 sections 2, 3 and 4 of this act.

40 4. Require a dealer to waive a trial by jury in actions involving the
41 manufacturer, distributor or factory branch.

42 5. Increase prices of new vehicles which the dealer had ordered for private
43 retail consumers before his receipt of the written official notification of a price
44 increase. A sales contract signed by a retail consumer constitutes evidence of each
45 order. Price changes applicable to new models or series of vehicles at the time of
46 the introduction of the new models or series shall not be deemed a price increase.
47 Price changes caused by:

48 (a) The addition to a vehicle of equipment formerly optional as standard or
49 required equipment pursuant to state or federal law;

50 (b) Revaluation of the United States dollar in the case of foreign-made
51 vehicles; or

52 (c) Transportation cost increases,

53 ➤ are not subject to this subsection.

6. Deny the principal owner the opportunity to designate his spouse, a member of his family, a qualified manager, or a trust or other artificial person controlled by any of them as entitled to participate in the ownership of:

(a) The franchised dealership;

(b) A successor franchised dealership for 2 years or a longer reasonable time after the incapacity of the principal owner; or

(c) A successor franchised dealership after the death of the principal in accordance with NRS 482.36396 to 482.36414, inclusive.

7. Modify unilaterally, replace, enter into, relocate, terminate or refuse to renew a franchise in violation of law.

8. Terminate or refuse to approve a transfer of a franchise for a dealership, or honor the right of succession set forth in a franchise agreement or refuse to approve the transfer of a controlling interest in a dealership because the dealer has, before October 1, 1997, established an additional franchise to sell or service another line or make of new vehicles in the same facility as the existing dealership.

9. Prevent a dealer from establishing, on or after October 1, 1997, an additional franchise to sell or service another line or make of new vehicles in the same facility as the existing dealership if the dealer:

(a) Submits a written request for approval of the additional franchise to the manufacturer, distributor or factory branch of the existing dealership;

(b) Complies with the reasonable requirements for approval set forth in the franchise of the existing dealership; and

(c) Obtains the approval of the manufacturer, distributor or factory branch of the existing dealership.

➤ The manufacturer, distributor or factory branch shall notify the dealer in writing of its decision to approve or deny the request within 90 days after receipt of the request. The manufacturer, distributor or factory branch shall not unreasonably withhold its approval. If the request is denied, the material reasons for the denial must be stated. Failure to approve or deny the request, in writing, within 90 days has the effect of approval.

Sec. 8.6. NRS 482.36423 is hereby amended to read as follows:

482.36423 1. Whenever it appears that a person has violated, is violating or is threatening to violate any provision of NRS 482.36311 to 482.36425, inclusive, and sections 2, 3 and 4 of this act, any person aggrieved thereby may apply to the district court in the county where the defendant resides, or in the county where the violation or threat of violation occurs, for injunctive relief to restrain the person from continuing the violation or threat of violation.

2. In addition to any other judicial relief, any dealer or person who assumes the operation of a franchise pursuant to NRS 482.36396 to 482.36414, inclusive, who is injured in his business or property by reason of a violation of NRS 482.36311 to 482.36425, inclusive, and sections 2, 3 and 4 of this act may bring an action in the district court in which the dealership is located, and may recover three times the pecuniary loss sustained by him, and the cost of suit, including a reasonable attorney's fee. The amount of pecuniary loss sustained by a dealer, pursuant to subsection 7 of NRS 482.3638, is the fair market value of the franchised dealership at the time of notification of termination, refusal to continue or unilateral modification of a franchise.

3. Any artificial person created and existing under the laws of any other state, territory, foreign government or the government of the United States, or any person residing outside the State, who grants a franchise to any dealer in this State may be served with any legal process in any action for injunctive relief or civil damages in the following manner:

(a) By delivering a copy of the process to the Director; and

(b) By mailing to the last known address of the manufacturer or distributor, by certified mail, return receipt requested, a copy of the summons and a copy of the complaint, together with copies of any petition or order for injunctive relief.

4. The defendant has 30 days, exclusive of the day of service, within which to answer or plead.

5. The method of service provided in this section is cumulative and may be utilized with, after or independently of all other methods of service.

Sec. 8.8. NRS 482.36425 is hereby amended to read as follows:

482.36425 1. Any manufacturer or distributor who willfully violates any provision of NRS 482.36311 to 482.36425, inclusive, and sections 2, 3 and 4 of this act is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each day of violation and for each act of violation. All civil penalties recovered must be paid to the State of Nevada.

2. Whenever it appears that a manufacturer or distributor has violated, is violating or is threatening to violate any provision of NRS 482.36311 to 482.36425, inclusive, and sections 2, 3 and 4 of this act, the Attorney General may institute a civil suit in any district court of this State for injunctive relief to restrain the violation or threat of violation or, if the violation or threat is willful, for the assessment and recovery of the civil penalty, or both.

Sec. 9. ~~[NRS 482.36661 is hereby amended to read as follows:~~

~~482.36661 Before a used vehicle dealer may sell to a retail customer a used vehicle the odometer of which registers at least 75,000 [miles or more.] but less than 105,000 miles, the used vehicle dealer must conduct a reasonably thorough inspection of the soundness and safety of the vehicle's engine and drivetrain and disclose in writing any defects in the engine or drivetrain known to him or which he reasonably should have known after he conducts the inspection.] (Deleted by amendment.)~~

Sec. 10. ~~[NRS 482.36662 is hereby amended to read as follows:~~

~~482.36662 1. A used vehicle dealer who sells to a retail customer a used vehicle the odometer of which registers at least 75,000 but less than 105,000 miles [or more] shall provide to that retail customer an express written warranty which complies with the requirements set forth in subsection 2 and is valid for the period set forth in the schedule of warranties created pursuant to NRS 482.36663, if the used vehicle dealer is the subject of more than three substantiated complaints filed against him with the Department [of Motor Vehicles] during a 12-month period.~~

~~2. An express written warranty required pursuant to subsection 1 must contain a statement that, in the event the operation of the used vehicle becomes impaired as a result of a defect in a component or system of the vehicle's engine or drivetrain, the used vehicle dealer shall, with reasonable promptness, correct the defect or cause the defect to be corrected.] (Deleted by amendment.)~~

Sec. 11. ~~[NRS 482.36663 is hereby amended to read as follows:~~

~~482.36663 If an express written warranty is provided to a retail customer for a used vehicle pursuant to NRS 482.36662, the duration of the warranty must be determined pursuant to this section. If, on the date the vehicle was purchased from the used vehicle dealer, the odometer in the used vehicle registered:~~

~~1. At least 75,000 but less than 80,001 miles, the warranty is valid for a period of 30 days therefrom or until the odometer in the vehicle registers 1,000 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.~~

~~2. At least 80,001 but less than 85,001 miles, the warranty is valid for a period of 20 days therefrom or until the odometer in the vehicle registers 600 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.~~

~~3. At least 85,001 but less than 90,001 miles, the warranty is valid for a period of 10 days therefrom or until the odometer in the vehicle registers 300 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.~~

~~4. At least 90,001 but less than 100,001 miles, the warranty is valid for a period of 5 days therefrom or until the odometer in the vehicle registers 150 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.~~

~~5. At least 100,001 but less than 105,000 miles, the warranty is valid for a period of 2 days therefrom or until the odometer in the vehicle registers 100 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.~~

~~The period for which a warranty is valid pursuant to this section must be tolled during any period in which the dealer has possession of the vehicle or the operation of the vehicle is impaired and the vehicle is inoperable due to a defect in the vehicle's engine or drivetrain.~~ **(Deleted by amendment.)**

Sec. 12. ~~NRS 482.36664 is hereby amended to read as follows:~~

~~482.36664 1. A retail customer who purchases a used vehicle the odometer of which registers at least 75,000 but less than 105,000 miles [or more] may submit to the Department a written complaint regarding the used vehicle dealer. The Department shall, within 10 days after it receives a complaint pursuant to this section, provide a copy of the complaint to the used vehicle dealer who is the subject of the complaint.~~

~~2. A complaint submitted pursuant to subsection 1 must include:~~

~~(a) A clear and concise statement of the complaint and the facts relating to the complaint;~~

~~(b) Copies of any documents relating to the complaint; and~~

~~(c) A statement of the manner in which the retail customer wishes to have the complaint resolved.~~

~~3. Upon receipt of a complaint pursuant to this section, the Department shall investigate the complaint and determine whether the used vehicle dealer who is the subject of the complaint has violated the provisions of NRS 482.36655 to 482.36667, inclusive, or the regulations adopted by the Department pursuant thereto.~~

~~4. If the Department determines that a used vehicle dealer has violated the provisions of NRS 482.36655 to 482.36667, inclusive, or the regulations adopted by the Department pursuant thereto, the Department shall notify the used vehicle dealer of that determination and recommend to the dealer the actions that he may take to resolve the complaint.~~

~~5. A retail customer or used vehicle dealer who is aggrieved by the decision of the Department may appeal the decision to the Director.~~ **(Deleted by amendment.)**

Sec. 13. NRS 97.299 is hereby amended to read as follows:

97.299 1. The Commissioner of Financial Institutions shall prescribe, by regulation, forms for the application for credit and contracts to be used in the sale of vehicles if:

(a) The sale involves the taking of a security interest to secure all or a part of the purchase price of the vehicle;

(b) The application for credit is made to or through the seller of the vehicle;

(c) The seller is a dealer; and

(d) The sale is not a commercial transaction.

2. The forms prescribed pursuant to subsection 1 must meet the requirements of NRS 97.165, must be accepted and acted upon by any lender to whom the

1 application for credit is made and, in addition to the information required in NRS
2 97.185 and required to be disclosed in such a transaction by federal law, must:

3 (a) Identify and itemize the items embodied in the cash sale price, including the
4 amount charged for a contract to service the vehicle after it is purchased.

5 (b) In specifying the amount of the buyer's down payment, identify the
6 amounts paid in money and allowed for property given in trade and the amount of
7 any manufacturer's rebate applied to the down payment.

8 (c) Contain a description of any property given in trade as part of the down
9 payment.

10 (d) Contain a description of the method for calculating the unearned portion of
11 the finance charge upon prepayment in full of the unpaid total of payments as
12 prescribed in NRS 97.225.

13 (e) *Contain a provision which provides that if the seller elects to rescind the*
14 *contract as a result of being unable to assign the contract to a financial*
15 *institution with whom the seller regularly does business, the seller must provide*
16 *written notice to the buyer not less than 20 days after the date of the contract.*

17 (f) Include the following notice in at least 10-point bold type:

18 NOTICE TO BUYER

19
20
21 Do not sign this agreement before you read it or if it contains any blank
22 spaces. You are entitled to a completed copy of this agreement. If you pay
23 the amount due before the scheduled date of maturity of the indebtedness
24 and you are not in default in the terms of the contract for more than 2
25 months, you are entitled to a refund of the unearned portion of the finance
26 charge. If you fail to perform your obligations under this agreement, the
27 vehicle may be repossessed and you may be liable for the unpaid
28 indebtedness evidenced by this agreement.

29
30 3. The Commissioner shall arrange for or otherwise cause the translation into
31 Spanish of the forms prescribed pursuant to subsection 1.

32 4. If a change in state or federal law requires the Commissioner to amend the
33 forms prescribed pursuant to subsection 1, the Commissioner need not comply with
34 the provisions of chapter 233B of NRS when making those amendments.

35 5. As used in this section:

36 (a) "Commercial transaction" means any sale of a vehicle to a buyer who
37 purchases the vehicle solely or primarily for commercial use or resale.

38 (b) "Dealer" has the meaning ascribed to it in NRS 482.020.

39 **Sec. 14.** Section 5 of this act is hereby amended to read as follows:

40 **Sec. 5.** 1. A person shall not engage in the activity of an agent for a
41 broker, or act in the capacity of an agent in this State without first having
42 received a license or temporary permit from the Department. Before issuing
43 a license or temporary permit to engage in the activity of an agent, the
44 Department shall require the applicant to submit to the Department:

45 (a) An application, signed and verified by the applicant, stating:

46 (1) That the applicant is to engage in the activity of an agent;

47 (2) The name ~~and~~ **and** residence address ~~and social security number~~
48 of the applicant; and

49 (3) The name and address of the employer of the applicant.

50 (b) Proof of the employment of the applicant by a broker at the time the
51 application is filed.

52 (c) A statement as to whether any previous application of the applicant
53 has been denied or any previous license of the applicant has been revoked.

(d) Payment of a nonrefundable license fee of \$75. The license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of \$40.

(e) For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Any other information the Department determines necessary.

2. The Department may issue a 60-day temporary permit to an applicant who has submitted a complete application and paid the required fee.

3. A license to act as an agent of a broker issued pursuant to this section does not authorize a person to engage in the business of selling mobile homes.

4. The Department may deny an application for a license as an agent or suspend or revoke a license issued pursuant to this section upon any of the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that he is employed by a broker.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for a violation of any of the provisions of this chapter.

(e) Falsification of the application.

(f) Evidence of unfitness as described in NRS 482.3255.

(g) Failure of the applicant to provide any information determined necessary by the Department to process the application.

(h) Any reason determined by the Director to be in the best interests of the public.

5. An agent shall not engage in any activity, or act in any other capacity as an agent other than for the account of, or for and on behalf of, a single employer, at a specified place of business of that employer, who must be a broker.

6. If an application for a license as an agent is denied, the applicant may reapply for a license not less than 6 months after the denial.

7. An agent's license must be posted in a conspicuous place on the premises of the broker by whom the agent is employed.

8. If an agent ceases to be employed by a broker, his license to act as an agent is automatically suspended and his right to act as an agent immediately ceases, and he shall not engage in the activity of an agent until he has:

(a) Paid the Department a transfer fee of \$20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

9. If an agent changes his residential address, he shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. If a person who holds a temporary permit to act as an agent ceases to be employed by a broker, his permit to act as an agent is automatically suspended, his right to act as an agent immediately ceases and his application for licensure must be denied until he has:

(a) Paid the Department a transfer fee of \$20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

11. A broker who employs an agent shall notify the Department of the termination of employment of the agent not later than 10 days after the date of termination by forwarding the license of the agent to the Department.

12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

13. As used in this section, "agent" means a person who is employed by a broker and who, for a fee or any other consideration, assists the broker in offering to provide to another person the service of arranging, negotiating or assisting in the purchase of a new or used vehicle which has not been registered or for which an ownership interest has not been taken by the broker.

Sec. 15. 1. This section ~~and sections 1 to 13, inclusive,~~ **and sections 1 to 4, inclusive, and 7.5 to 13, inclusive, of this act become effective upon passage and approval.**

~~2. Sections 5, 6 and 7 of this act become effective on {October 1, 2009; 21 July 1, 2010.~~

~~3.~~ Section 5 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment of the support of one or more children, are repealed by the Congress of the United States.

~~4.~~ Section 14 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children, are repealed by the Congress of the United States.