

Amendment No. 843

Assembly Amendment to Senate Bill No. 246 Third Reprint (BDR 43-989)

Proposed by: Assemblywoman Spiegel

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.

DLJ/RBL



Date: 5/20/2009

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 RHOADS

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.

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

AN ACT relating to vehicles; prohibiting a manufacturer from requiring a dealer to alter substantially an existing facility of the dealer or construct a new facility 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 for the licensure of an agent of a broker; revising provisions governing the modification or replacement of a franchise; ***revising provisions governing the termination of a franchise agreement with a manufacturer or distributor of motor 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 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.

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.

Under existing law, when a franchise agreement is terminated by a manufacturer or distributor of motor vehicles, the manufacturer or distributor is required to compensate the new vehicle dealer for the dealer's inventory of new vehicles and certain inventory of parts and accessories of the dealer. (NRS 482.363521) Sections 7.1-7.7 of this bill provide that, if the franchise agreement is terminated due to the bankruptcy of the manufacturer or distributor, the dealer may elect instead to retain the inventory of new vehicles and certain parts and accessories, and is authorized for a specified period to sell the vehicles at retail and thereafter to sell the vehicles as used vehicles. The dealer is further authorized to sell the inventory of the retained parts and accessories.

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

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 thereto the
2 provisions set forth as sections 2 to 5, inclusive, of this act.

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

4 (a) *To alter substantially an existing facility of the dealer; or*

5 (b) *To construct a new facility,*

6 *↪ for any new vehicles that are handled by the dealer, unless the alteration or*
7 *new construction constitutes a reasonable facility requirement in accordance*
8 *with the franchise agreement.*

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

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

17 **Sec. 4.** (Deleted by amendment.)

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

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

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

25 (2) *The name, residence address and social security number of the*
26 *applicant; and*

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

28 (b) *Proof of the employment of the applicant by a broker at the time the*
29 *application is filed.*

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

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

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

- 1 (f) Any other information the Department determines necessary.
- 2 2. The Department may issue a 60-day temporary permit to an applicant
- 3 who has submitted a complete application and paid the required fee.
- 4 3. A license to act as an agent of a broker issued pursuant to this section
- 5 does not authorize a person to engage in the business of selling mobile homes.
- 6 4. The Department may deny an application for a license as an agent or
- 7 suspend or revoke a license issued pursuant to this section upon any of the
- 8 following grounds:
- 9 (a) Failure of the applicant to establish by proof satisfactory to the
- 10 Department that he is employed by a broker.
- 11 (b) Conviction of a felony.
- 12 (c) Conviction of a gross misdemeanor.
- 13 (d) Conviction of a misdemeanor for a violation of any of the provisions of
- 14 this chapter.
- 15 (e) Falsification of the application.
- 16 (f) Evidence of unfitness as described in NRS 482.3255.
- 17 (g) Failure of the applicant to provide any information determined necessary
- 18 by the Department to process the application.
- 19 (h) Any reason determined by the Director to be in the best interests of the
- 20 public.
- 21 5. An agent shall not engage in any activity, or act in any other capacity as
- 22 an agent other than for the account of, or for and on behalf of, a single employer,
- 23 at a specified place of business of that employer, who must be a broker.
- 24 6. If an application for a license as an agent is denied, the applicant may
- 25 reapply for a license not less than 6 months after the denial.
- 26 7. An agent's license must be posted in a conspicuous place on the premises
- 27 of the broker by whom the agent is employed.
- 28 8. If an agent ceases to be employed by a broker, his license to act as an
- 29 agent is automatically suspended and his right to act as an agent immediately
- 30 ceases, and he shall not engage in the activity of an agent until he has:
- 31 (a) Paid the Department a transfer fee of \$20 and submitted a certificate of
- 32 employment indicating that he has been reemployed by a broker; and
- 33 (b) Presented a current temporary permit or new license to the broker by
- 34 whom he is employed.
- 35 9. If an agent changes his residential address, he shall submit a written
- 36 notice of the change to the Department within 10 days after the change occurs.
- 37 10. If a person who holds a temporary permit to act as an agent ceases to be
- 38 employed by a broker, his permit to act as an agent is automatically suspended,
- 39 his right to act as an agent immediately ceases and his application for licensure
- 40 must be denied until he has:
- 41 (a) Paid the Department a transfer fee of \$20 and submitted a certificate of
- 42 employment indicating that he has been reemployed by a broker; and
- 43 (b) Presented a current temporary permit or new license to the broker by
- 44 whom he is employed.
- 45 11. A broker who employs an agent shall notify the Department of the
- 46 termination of employment of the agent not later than 10 days after the date of
- 47 termination by forwarding the license of the agent to the Department.
- 48 12. Any person who fails to comply with the provisions of this section is
- 49 guilty of a misdemeanor except as otherwise provided in NRS 482.555.
- 50 13. As used in this section, "agent" means a person who is employed by a
- 51 broker and who, for a fee or any other consideration, assists the broker in
- 52 offering to provide to another person the service of arranging, negotiating or

1 *assisting in the purchase of a new or used vehicle which has not been registered*
2 *or for which an ownership interest has not been taken by the broker.*

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

4 482.319 1. Except as otherwise provided in subsection 5, a natural person
5 who applies for the issuance or renewal of a license issued pursuant to the
6 provisions of NRS 482.318 to 482.363105, inclusive, *and section 5 of this act* shall
7 submit to the Department the statement prescribed by the Division of Welfare and
8 Supportive Services of the Department of Health and Human Services pursuant to
9 NRS 425.520. The statement must be completed and signed by the applicant.

10 2. The Department shall include the statement required pursuant to subsection
11 1 in:

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

14 (b) A separate form prescribed by the Department.

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

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

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

23 4. If an applicant indicates on the statement submitted pursuant to subsection
24 1 that he is subject to a court order for the support of a child and is not in
25 compliance with the order or a plan approved by the district attorney or other public
26 agency enforcing the order for the repayment of the amount owed pursuant to the
27 order, the Department shall advise the applicant to contact the district attorney or
28 other public agency enforcing the order to determine the actions that the applicant
29 may take to satisfy the arrearage.

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

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

36 482.3195 1. If the Department receives a copy of a court order issued
37 pursuant to NRS 425.540 that provides for the suspension of all professional,
38 occupational and recreational licenses, certificates and permits issued to a person
39 who is the holder of a license issued pursuant to NRS 482.318 to 482.363105,
40 inclusive, *and section 5 of this act*, the Department shall deem the license issued to
41 that person to be suspended at the end of the 30th day after the date on which the
42 court order was issued unless the Department receives a letter issued to the holder
43 of the license by the district attorney or other public agency pursuant to NRS
44 425.550 stating that the holder of the license has complied with the subpoena or
45 warrant or has satisfied the arrearage pursuant to NRS 425.560.

46 2. The Department shall reinstate a license issued pursuant to NRS 482.318 to
47 482.363105, inclusive, *and section 5 of this act* that has been suspended by a
48 district court pursuant to NRS 425.540 if the Department receives a letter issued by
49 the district attorney or other public agency pursuant to NRS 425.550 to the person
50 whose license was suspended stating that the person whose license was suspended
51 has complied with the subpoena or warrant or has satisfied the arrearage pursuant to
52 NRS 425.560.

Sec. 7.1. NRS 482.322 is hereby amended to read as follows:

482.322 1. Except as otherwise provided in subsection 2 and NRS 482.3225, a person shall not engage in the activities of a new vehicle dealer, used vehicle dealer, manufacturer, distributor or rebuilder in this State until he has been issued:

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

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

2. ~~Except as otherwise provided in NRS 482.363521,~~ a person licensed as a dealer pursuant to this chapter shall not engage in the activities of a new vehicle dealer until he has provided the Department with satisfactory proof that he is authorized by a manufacturer to display and offer for sale vehicles produced or distributed by that manufacturer.

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

4. The Department shall investigate any applicant for a dealer's, manufacturer's, distributor's, rebuilder's or lessor's license certificate or license and complete an investigation report on a form provided by the Department.

5. A person who violates subsection 1 or 2 is guilty of:

(a) For a first offense, a misdemeanor.

(b) For a second offense, a gross misdemeanor.

(c) For a third and any subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.

Sec. 7.3. NRS 482.350 is hereby amended to read as follows:

482.350 1. A new vehicle dealer's license shall not be furnished to any dealer in new vehicles, trailers or semitrailers unless the dealer first furnishes the Department an instrument executed by or on behalf of the manufacturer certifying that he is an authorized franchised dealer for the make or makes of vehicle concerned. ~~New~~ Except as otherwise provided in NRS 482.363521, new vehicle dealers are authorized to sell at retail only those new vehicles for which they are certified as franchised dealers by the manufacturer.

2. In addition to selling used vehicles, a used vehicle dealer may:

(a) Sell at wholesale a new vehicle taken in trade or acquired as a result of a sales contract to a new vehicle dealer who is licensed and authorized to sell that make of vehicle;

(b) Sell at wholesale a new vehicle through a wholesale vehicle auction provided that the wholesale vehicle auctioneer:

(1) Does not take an ownership interest in the vehicle; and

(2) Auctions the vehicle to a vehicle dealer who is licensed and authorized to sell that make of vehicle or to an automobile wrecker who is licensed in this State or any other state; or

(c) Sell a new vehicle on consignment from a person not licensed as a vehicle dealer, rebuilder or a long-term or short-term lessor.

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

482.36311 As used in NRS 482.36311 to 482.36425, inclusive, and sections 2, 3 and 4 of this act, unless the context otherwise requires, the words and terms

defined in NRS 482.36318 to 482.36348, inclusive, have the meanings ascribed to them in those sections.

Sec. 7.7. NRS 482.363521 is hereby amended to read as follows:

482.363521 1. ~~Upon~~ **Except as otherwise provided in subsection 6, upon** the termination or refusal to continue a franchise, the manufacturer or distributor shall compensate the dealer for:

(a) The dealer's inventory of new vehicles, including new vehicles not of the current model year if delivered to the dealer during the 18-month period immediately preceding the effective date of the termination or refusal to continue the franchise. ~~[As used in this paragraph, a "new vehicle" is one which has not been damaged, materially altered or registered with the Department or with the appropriate agency of authority of any other state, the District of Columbia, any territory or possession of the United States or any foreign state, province or country.]~~

(b) The dealer's inventory of parts and accessories which:

(1) Have been purchased by the dealer from the manufacturer or distributor; and

(2) Are listed in a current parts catalog of the manufacturer or distributor.

(c) Any special tools purchased by the dealer from the manufacturer or distributor, less a reasonable allowance for depreciation.

(d) Any equipment, furnishings or signs purchased by the dealer from the manufacturer or distributor, less a reasonable allowance for depreciation.

(e) Except as otherwise provided in subsection 4, the fair rental value for 90 days, and any additional period allowed by the Director after considering the difficulty of finding a new tenant for the dealer's premises affected, after the effective date of the termination or refusal to continue of the portion of the dealer's place of business that was used by the dealer to sell or service vehicles or other products of the manufacturer or distributor.

2. Compensation paid pursuant to paragraphs (a) to (d), inclusive, of subsection 1 must be paid in an amount at least equal to the greater of:

(a) The amount actually paid by the dealer for the vehicles, parts, tools and equipment; or

(b) The amount currently paid by other dealers in this State for the vehicles, parts, tools and equipment.

3. If compensation is paid pursuant to paragraph (e) of subsection 1, the dealer shall allow the manufacturer or distributor paying the compensation the use and possession of the premises affected.

4. The manufacturer or distributor is not required to pay compensation pursuant to paragraph (e) of subsection 1 if the dealer has been convicted of a crime involving fraud in connection with his application for or operation of the franchise.

5. This section does not relieve a dealer of his obligation to mitigate damages resulting from the termination or refusal to continue the franchise.

6. If a franchise agreement is terminated by or on behalf of the manufacturer or distributor as a result of a reorganization of the business of the manufacturer or distributor pursuant to an order of a federal bankruptcy court, the dealer may elect to retain the inventory of new vehicles, parts and accessories, special tools and equipment, furnishing or signs which meet the requirements of paragraphs (a) to (d), inclusive, of subsection 1. A dealer that makes such an election must inform the manufacturer or distributor and the Director in writing not later than 30 days after the effective date of the termination of the franchise agreement of that election.

7. A dealer that elects to retain the inventory pursuant to subsection 6:

(a) Forfeits any right to seek compensation pursuant to subsection 1; and

(b) Does not forfeit the right to protest the termination of the franchise agreement pursuant to NRS 482.36352.

8. A dealer that elects to retain an inventory of new vehicles pursuant to subsection 6 may sell those vehicles at retail for 6 months after the date on which the manufacturer or distributor and the Director are notified of the dealer's election pursuant to subsection 6, provided that the dealer retains a license as a new vehicle dealer. Any such sale:

(a) Is subject to all applicable provisions of this chapter; and

(b) Must include a written disclosure by the dealer to the customer that clearly states:

(1) The terms of the manufacturer's warranty, if any;

(2) The terms of any express warranty made by the dealer; or

(3) That the vehicle is being sold without any express or implied warranty.

9. After the period set forth in subsection 8, if the dealer is licensed as a used vehicle dealer, the dealer may sell any remaining vehicles as used vehicles, subject to all applicable provisions of this chapter.

10. A dealer who elects to retain his inventory of parts and accessories, special tools and equipment, furnishing or signs pursuant to subsection 6 may retain, sell or otherwise dispose of the parts and accessories, special tools and equipment, furnishing or signs.

11. As used in this section, "new vehicle" means a vehicle which has not been damaged, materially altered or registered with the Department or with the appropriate agency of authority of any other state, the District of Columbia, any territory or possession of the United States or any foreign state, province or country.

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

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

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

(b) Either of the following conditions occurs:

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

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

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

3. If a manufacturer or distributor changes the area of primary responsibility of a dealer, the change constitutes a modification of the franchise of the dealer for the purposes of NRS 482.36311 to 482.36425, inclusive ~~1~~, and sections 2, 3 and 4 of this act. As used in this subsection, "area of primary responsibility" means the geographic area in which a dealer, pursuant to a franchise agreement, is responsible for selling, servicing and otherwise representing the products of a manufacturer or distributor.

4. Notwithstanding the provisions of this section, if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a

1 *franchise agreement that is substantially similar to the franchise agreement*
2 *offered to other dealers of the same line-make vehicles.*

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

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

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

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

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

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

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

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

27 482.3638 It is an unfair act or practice for any manufacturer, distributor or
28 factory branch, directly or through any representative, to:

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

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

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

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

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

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

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

(c) Transportation cost increases,
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

1 served with any legal process in any action for injunctive relief or civil damages in
2 the following manner:

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

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

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

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

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

12 482.36425 1. Any manufacturer or distributor who willfully violates any
13 provision of NRS 482.36311 to 482.36425, inclusive, *and sections 2, 3 and 4 of*
14 *this act* is subject to a civil penalty of not less than \$50 nor more than \$1,000 for
15 each day of violation and for each act of violation. All civil penalties recovered
16 must be paid to the State of Nevada.

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

23 **Sec. 9.** (Deleted by amendment.)

24 **Sec. 10.** (Deleted by amendment.)

25 **Sec. 11.** (Deleted by amendment.)

26 **Sec. 12.** (Deleted by amendment.)

27 **Sec. 13.** (Deleted by amendment.)

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

29 Sec. 5. 1. A person shall not engage in the activity of an agent for a
30 broker, or act in the capacity of an agent in this State without first having
31 received a license or temporary permit from the Department. Before issuing
32 a license or temporary permit to engage in the activity of an agent, the
33 Department shall require the applicant to submit to the Department:

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (b) Conviction of a felony.

10 (c) Conviction of a gross misdemeanor.

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

13 (e) Falsification of the application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51 13. As used in this section, "agent" means a person who is employed
52 by a broker and who, for a fee or any other consideration, assists the broker
53 in offering to provide to another person the service of arranging,

1 negotiating or assisting in the purchase of a new or used vehicle which has
2 not been registered or for which an ownership interest has not been taken
3 by the broker.

4 **Sec. 15.** 1. This section and sections 1 to 4, inclusive, and ~~7.5~~ 7.1 to 13,
5 inclusive, of this act become effective upon passage and approval.

6 2. Sections 5, 6 and 7 of this act become effective on July 1, 2010.

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

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

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

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

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

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