

SENATE BILL NO. 101—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE SECRETARY OF STATE)

PREFILED DECEMBER 15, 2008

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to securities.
(BDR 7-416)

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

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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 securities; revising the provisions governing the examination of certain records by the Administrator of the Securities Division of the Office of the Secretary of State; increasing the amount of certain civil penalties for certain violations relating to securities; revising the provisions governing recovery of the costs of investigation and prosecution of certain violations; authorizing the Department of Motor Vehicles to issue a driver's license to a criminal investigator employed by the Secretary of State who is engaged in an undercover investigation; making various other changes relating to securities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 **Section 2** of this bill: (1) changes the name of the entity that administers
2 examinations for a sales representative from the National Association of Securities
3 Dealers to the Financial Industry Regulatory Authority; and (2) requires a sales
4 representative to pass either the Uniform Investment Adviser Law Examination or
5 the Uniform Combined State Law Examination and the General Securities
6 Registered Representative Examination. (NRS 90.340)
7 **Sections 3 and 4** of this bill make technical changes to include references to
8 the Investment Adviser Registration Depository and the Financial Industry
9 Regulatory Authority. (NRS 90.350)
10 **Section 5** of this bill removes the requirement in existing law that the
11 Administrator of the Securities Division of the Office of the Secretary of State must
12 obtain authorization from the Attorney General or his designee to examine the



records of a person issuing securities who is not licensed but is required to be licensed. (NRS 90.410)

Section 7 of this bill increases the civil penalty that the Administrator may impose for a willful violation of chapter 90 of NRS from \$2,500 for a single violation and \$100,000 for multiple violations to \$25,000 for each violation. (NRS 90.630) **Section 7** also authorizes the Administrator to order reimbursement for the costs of a proceeding to impose sanctions, including investigative costs and attorney's fees, rather than applying to a court for an order for reimbursement of such costs.

Section 7.5 of this bill increases the civil penalty that a district court may impose for a violation of chapter 90 of NRS from \$2,500 for a single violation and \$100,000 for multiple violations to \$25,000 for each violation. (NRS 90.640)

Section 8 of this bill provides that a court may order a person who is convicted of a willful violation of a statute, a regulation or an order of the Administrator to pay the costs of investigation and prosecution incurred by the Division and the Office of the Attorney General. (NRS 90.650)

Section 9 of this bill provides that chapter 239A of NRS, which contains provisions regarding disclosure of financial records to governmental agencies, does not prohibit the Administrator from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts. (NRS 239A.070)

Section 9.5 of this bill increases: (1) the period that the court may delay the notification of a customer that a subpoena for the financial records of the customer has been issued from 60 days to 120 days; and (2) the period for any additional extension of such a delayed notification from 30 days to 60 days. (NRS 239A.100)

Sections 10 and 11 of this bill authorize the Department of Motor Vehicles to issue a driver's license for purposes of identification only to a criminal investigator employed by the Secretary of State who is engaged in an undercover investigation. (NRS 483.340)

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 90.340 is hereby amended to read as follows:

90.340 1. The following persons are exempt from licensing under NRS 90.330:

(a) An investment adviser who is registered or is not required to be registered as an investment adviser under the Investment Advisers Act of 1940 if:

(1) Its only clients in this State are other investment advisers, broker-dealers or financial or institutional investors;

(2) The investment adviser has no place of business in this State and directs business communications in this State to a person who is an existing client of the investment adviser and whose principal place of residence is not in this State; or

(3) The investment adviser has no place of business in this State and during any 12 consecutive months it does not direct business communications in this State to more than five present or



1 prospective clients other than those specified in subparagraph (1),
2 whether or not the person or client to whom the communication is
3 directed is present in this State;

4 (b) A representative of an investment adviser who is employed
5 by an investment adviser who is exempt from licensing pursuant to
6 paragraph (a);

7 (c) A sales representative licensed pursuant to NRS 90.310 who:

8 (1) Has passed ~~{one of}~~ the following examinations
9 administered by the ~~{National Association of Securities Dealers,
10 Inc.}~~ **Financial Industry Regulatory Authority:**

11 (I) The Uniform Investment Adviser Law Examination,
12 designated as the Series 65 examination; or

13 (II) The ~~{examination}~~ **Uniform Combined State Law**
14 **Examination** designated as the Series 66 examination ~~{}~~ **and the**
15 **General Securities Registered Representative Examination,**
16 **designated as the Series 7 examination;** or

17 (2) On January 1, 1996, has been continuously licensed in
18 this State as a sales representative for 5 years or more; and

19 (d) Other investment advisers and representatives of investment
20 advisers the Administrator by regulation or order exempts.

21 2. The Administrator may, by order or rule, waive the
22 ~~{examination}~~ **examinations** required by subparagraph (1) of
23 paragraph (c) of subsection 1 for an applicant or a class of
24 applicants if the Administrator determines that the examination is
25 not necessary for the protection of investors because of the training
26 and experience of the applicant or class of applicants.

27 **Sec. 3.** NRS 90.350 is hereby amended to read as follows:

28 90.350 1. Except as otherwise provided in subsection 3, an
29 applicant for licensing as a broker-dealer, sales representative,
30 investment adviser, representative of an investment adviser or
31 transfer agent must file with the Administrator an application for
32 licensing and a consent to service of process pursuant to NRS
33 90.770 and pay the fee required by NRS 90.360. The application for
34 licensing must contain the social security number of the applicant
35 and any other information the Administrator determines by
36 regulation to be necessary and appropriate to facilitate the
37 administration of this chapter.

38 2. The requirements of subsection 1 are satisfied by an
39 applicant who has filed and maintains a completed and current
40 registration with the Securities and Exchange Commission or a self-
41 regulatory organization if the information contained in that
42 registration is readily available to the Administrator through the
43 **Investment Adviser Registration Depository, the** Central
44 Registration Depository or another depository for registrations that
45 has been approved by the Administrator by regulation or order.



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1 Except as otherwise provided in subsection 3, such an applicant
2 must also file a notice with the Administrator in the form and
3 content determined by the Administrator by regulation and a consent
4 to service of process pursuant to NRS 90.770 and the fee required
5 by NRS 90.360. The Administrator, by order, may require the
6 submission of additional information by an applicant.

7 3. An applicant for licensing as a transfer agent is not required
8 to pay the fee required by NRS 90.360.

9 4. As used in this section **H** :

10 (a) "Central Registration Depository" means the Central
11 Registration Depository of the ~~{National Association of Securities~~
12 ~~Dealers, Inc.,}~~ **Financial Industry Regulatory Authority**, or its
13 successor, and the North American Securities Administrators
14 Association or its successor.

15 (b) "**Investment Adviser Registration Depository**" means the
16 **Investment Adviser Registration Depository of the Financial**
17 **Industry Regulatory Authority, or its successor, and the North**
18 **American Securities Administrators Association or its successor.**

19 **Sec. 4.** NRS 90.350 is hereby amended to read as follows:

20 90.350 1. Except as otherwise provided in subsection 3, an
21 applicant for licensing as a broker-dealer, sales representative,
22 investment adviser, representative of an investment adviser or
23 transfer agent must file with the Administrator an application for
24 licensing and a consent to service of process pursuant to NRS
25 90.770 and pay the fee required by NRS 90.360. The application for
26 licensing must contain the information the Administrator determines
27 by regulation to be necessary and appropriate to facilitate the
28 administration of this chapter.

29 2. The requirements of subsection 1 are satisfied by an
30 applicant who has filed and maintains a completed and current
31 registration with the Securities and Exchange Commission or a self-
32 regulatory organization if the information contained in that
33 registration is readily available to the Administrator through the
34 **Investment Adviser Registration Depository, the** Central
35 Registration Depository or another depository for registrations that
36 has been approved by the Administrator by regulation or order.
37 Except as otherwise provided in subsection 3, such an applicant
38 must also file a notice with the Administrator in the form and
39 content determined by the Administrator by regulation and a consent
40 to service of process pursuant to NRS 90.770 and the fee required
41 by NRS 90.360. The Administrator, by order, may require the
42 submission of additional information by an applicant.

43 3. An applicant for licensing as a transfer agent is not required
44 to pay the fee required by NRS 90.360.

45 4. As used in this section **H** :



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(a) "Central Registration Depository" means the Central Registration Depository of the ~~{National Association of Securities Dealers, Inc.,}~~ **Financial Industry Regulatory Authority**, or its successor, and the North American Securities Administrators Association or its successor.

(b) "**Investment Adviser Registration Depository**" means the **Investment Adviser Registration Depository of the Financial Industry Regulatory Authority, or its successor, and the North American Securities Administrators Association or its successor.**

Sec. 5. NRS 90.410 is hereby amended to read as follows:

90.410 1. The Administrator, without previous notice, may examine in a manner reasonable under the circumstances the records, within or without this State, of a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser ~~{for any person issuing securities who would otherwise be required to be licensed pursuant to NRS 90.310 upon authorization by the Attorney General or his designee, in order}~~ to determine compliance with this chapter. ~~{Broker-dealers,}~~ **Licensed broker-dealers**, sales representatives, investment advisers and representatives of investment advisers shall make their records available to the Administrator in legible form.

2. **The Administrator, without previous notice, may examine, in a manner reasonable under the circumstances and as the Administrator considers necessary or appropriate in the public interest and for the protection of investors, the records, within or without this State, of any person who would otherwise be required to be licensed pursuant to NRS 90.310 or 90.330. Such persons shall make their records available to the Administrator in legible form.**

3. Except as otherwise provided in subsection ~~{3,}~~ 4, the Administrator may copy records or require a licensed person to copy records and provide the copies to the Administrator to the extent and in a manner reasonable under the circumstances.

~~{3,}~~ 4. The Administrator may inspect and copy records or require a transfer agent to copy records and provide the copies to the Administrator to the extent such records relate to information concerning principals, corporate officers or stockholders of any publicly traded company based in this State.

~~{4,}~~ 5. The Administrator by regulation may impose a reasonable fee for the expense of conducting an examination under this section.

Sec. 6. NRS 90.520 is hereby amended to read as follows:

90.520 1. As used in this section:

(a) "Guaranteed" means guaranteed as to payment of all or substantially all of principal and interest or dividends.



(b) "Insured" means insured as to payment of all or substantially all of principal and interest or dividends.

2. Except as otherwise provided in subsections 4 and 5, the following securities are exempt from NRS 90.460 and 90.560:

(a) A security, including a revenue obligation, issued, insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or a certificate of deposit ~~+~~ for any of the foregoing, but this exemption does not include a security payable solely from revenues to be received from an enterprise unless the:

(1) Payments are insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or by a person whose securities are exempt from registration pursuant to paragraphs (b) to (e), inclusive, or (g), or the revenues from which the payments are to be made are a direct obligation of such a person;

(2) Security is issued by this State or an agency, instrumentality or political subdivision of this State; or

(3) Payments are insured or guaranteed by a person who, within the 12 months next preceding the date on which the securities are issued, has received a rating within one of the top four rating categories of either Moody's Investors Service, Inc., or Standard and Poor's Ratings Services.

(b) A security issued, insured or guaranteed by Canada, a Canadian province or territory, a political subdivision of Canada or of a Canadian province or territory, an agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government or governmental combination or entity with which the United States maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer, insurer or guarantor.

(c) A security issued by and representing an interest in or a direct obligation of a depository institution if the deposit or share accounts of the depository institution are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a successor to an applicable agency authorized by federal law.



(d) A security issued by and representing an interest in or a direct obligation of, or insured or guaranteed by, an insurance company organized under the laws of any state and authorized to do business in this State.

(e) A security issued or guaranteed by a railroad, other common carrier, public utility or holding company that is:

(1) Subject to the jurisdiction of the Surface Transportation Board;

(2) A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of a registered holding company within the meaning of that act;

(3) Regulated in respect to its rates and charges by a governmental authority of the United States or a state; or

(4) Regulated in respect to the issuance or guarantee of the security by a governmental authority of the United States, a state, Canada, or a Canadian province or territory.

(f) Equipment trust certificates in respect to equipment leased or conditionally sold to a person, if securities issued by the person would be exempt pursuant to this section.

(g) A security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Chicago Stock Exchange, the Pacific Stock Exchange or other exchange designated by the Administrator, any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so listed or approved, or a warrant or right to purchase or subscribe to any of the foregoing.

(h) A security designated or approved for designation upon issuance or notice of issuance for inclusion in the national market system by the ~~{National Association of Securities Dealers, Inc.,}~~ **Financial Industry Regulatory Authority**, any other security of the same issuer which is of senior or substantially equal rank, a security called for by subscription right or warrant so designated, or a warrant or a right to purchase or subscribe to any of the foregoing.

(i) An option issued by a clearing agency registered under the Securities Exchange Act of 1934, other than an off-exchange futures contract or substantially similar arrangement, if the security, currency, commodity or other interest underlying the option is:

(1) Registered under NRS 90.470, 90.480 or 90.490;

(2) Exempt pursuant to this section; or

(3) Not otherwise required to be registered under this chapter.

(j) A security issued by a person organized and operated not for private profit but exclusively for a religious, educational, benevolent, charitable, fraternal, social, athletic or reformatory



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1 purpose, or as a chamber of commerce, or trade or professional
2 association if at least 10 days before the sale of the security the
3 issuer has filed with the Administrator a notice setting forth the
4 material terms of the proposed sale and copies of any sales and
5 advertising literature to be used and the Administrator by order
6 does not disallow the exemption within the next 5 full business
7 days.

8 (k) A promissory note, draft, bill of exchange or banker's
9 acceptance that evidences an obligation to pay cash within 9 months
10 after the date of issuance, exclusive of days of grace, is issued in
11 denominations of at least \$50,000 and receives a rating in one of the
12 three highest rating categories from a nationally recognized
13 statistical rating organization, or a renewal of such an obligation that
14 is likewise limited, or a guarantee of such an obligation or of a
15 renewal.

16 (l) A security issued in connection with an employees' stock
17 purchase, savings, option, profit-sharing, pension or similar
18 employees' benefit plan.

19 (m) A membership or equity interest in, or a retention certificate
20 or like security given in lieu of a cash patronage dividend issued by,
21 a cooperative organized and operated as a nonprofit membership
22 cooperative under the cooperative laws of any state if not traded to
23 the general public.

24 (n) A security issued by an issuer registered as an open-end
25 management investment company or unit investment trust under
26 section 8 of the Investment Company Act of 1940 if:

27 (1) The issuer is advised by an investment adviser that is a
28 depository institution exempt from registration under the Investment
29 Advisers Act of 1940 or that is currently registered as an investment
30 adviser, and has been registered, or is affiliated with an adviser that
31 has been registered, as an investment adviser under the Investment
32 Advisers Act of 1940 for at least 3 years next preceding an offer or
33 sale of a security claimed to be exempt pursuant to this paragraph,
34 and the issuer has acted, or is affiliated with an investment adviser
35 that has acted, as investment adviser to one or more registered
36 investment companies or unit investment trusts for at least 3 years
37 next preceding an offer or sale of a security claimed to be exempt
38 under this paragraph; or

39 (2) The issuer has a sponsor that has at all times throughout
40 the 3 years before an offer or sale of a security claimed to be exempt
41 pursuant to this paragraph sponsored one or more registered
42 investment companies or unit investment trusts the aggregate total
43 assets of which have exceeded \$100,000,000.



3. For the purpose of paragraph (n) of subsection 2, an investment adviser is affiliated with another investment adviser if it controls, is controlled by, or is under common control with the other investment adviser.

4. The exemption provided by paragraph (n) of subsection 2 is available only if the person claiming the exemption files with the Administrator a notice of intention to sell which sets forth the name and address of the issuer and the securities to be offered in this State and pays a fee:

(a) Of \$500 for the initial claim of exemption and the same amount at the beginning of each fiscal year thereafter in which securities are to be offered in this State, in the case of an open-end management company; or

(b) Of \$300 for the initial claim of exemption in the case of a unit investment trust.

5. An exemption provided by paragraph (c), (e), (f), (i) or (k) of subsection 2 is available only if, within the 12 months immediately preceding the use of the exemption, a notice of claim of exemption has been filed with the Administrator and a nonrefundable fee of \$300 has been paid.

Sec. 7. NRS 90.630 is hereby amended to read as follows:

90.630 1. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that:

(a) The sale of a security is subject to registration under this chapter and the security is being offered or has been offered or sold by the issuer or another person in violation of NRS 90.460; or

(b) A person is acting as a broker-dealer or investment adviser in violation of NRS 90.310 or 90.330,

➔ the Administrator, in addition to any specific power granted under this chapter and subject to compliance with the requirements of NRS 90.820, may issue, without a prior hearing, a summary order against the person engaged in the prohibited activities, directing him to desist and refrain from further activity until the security is registered or he is licensed under this chapter. The summary order to cease and desist must state the section of this chapter or regulation or order of the Administrator under this chapter which the Administrator reasonably believes has been or is being violated.

2. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that a person has violated this chapter or a regulation or order of the Administrator under this chapter, the Administrator, in addition to any specific power granted under this chapter, after giving notice by registered or certified mail and conducting a hearing in an



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administrative proceeding, unless the right to notice and hearing is waived by the person against whom the sanction is imposed, may:

(a) Issue an order against him to cease and desist;

(b) Censure him if he is a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser;

(c) Bar or suspend him from association with a licensed broker-dealer or investment adviser in this State;

(d) Issue an order against an applicant, licensed person or other person who willfully violates this chapter, imposing a civil penalty of not more than ~~[\$2,500]~~ **\$25,000** for ~~[a single]~~ **each** violation ; or ~~[\$100,000 for multiple violations in a single proceeding or a series of related proceedings; or]~~

(e) Initiate one or more of the actions specified in NRS 90.640.

3. If the person to whom the notice is addressed pursuant to subsection 2 does not request a hearing within 45 days after receipt of the notice, he waives his right to a hearing and the Administrator shall issue a permanent order. If a hearing is requested, the Administrator shall set the matter for hearing not less than 15 days nor more than 60 days after he receives the request for a hearing. The Administrator shall promptly notify the parties by registered or certified mail of the time and place set for the hearing.

4. Imposition of the sanctions under this section is limited as follows:

(a) If the Administrator revokes the license of a broker-dealer, sales representative, investment adviser or representative of an investment adviser or bars a person from association with a licensed broker-dealer or investment adviser under this section or NRS 90.420, the imposition of that sanction precludes imposition of a civil penalty under subsection 2; and

(b) The imposition by the Administrator of one or more sanctions under subsection 2 with respect to a specific violation precludes him from later imposing any other sanctions under paragraphs (a) to (d), inclusive, of subsection 2 with respect to the violation.

5. For the purposes of determining any sanction to be imposed pursuant to paragraphs (a) to (d), inclusive, of subsection 2, the Administrator shall consider, among other factors, the frequency and persistence of the conduct constituting a violation of this chapter, or a regulation or order of the Administrator under this chapter, the number of persons adversely affected by the conduct and the resources of the person committing the violation.

6. If a sanction is imposed pursuant to this section, **reimbursement for** the costs of the proceeding, including investigative costs and attorney's fees ~~H~~ **incurred**, may be **ordered**



1 *and recovered by the Administrator. Money recovered for*
2 *reimbursement of the investigative costs and attorney's fees must*
3 *be deposited in the State General Fund for credit to the Revolving*
4 *Account for Investigation, Enforcement and Education created by*
5 *NRS 90.851.*

6 **Sec. 7.5.** NRS 90.640 is hereby amended to read as follows:

7 90.640 1. Upon a showing by the Administrator that a person
8 has violated or is about to violate this chapter, or a regulation or
9 order of the Administrator under this chapter, the appropriate district
10 court may grant or impose one or more of the following appropriate
11 legal or equitable remedies:

12 (a) Upon a showing that a person has violated this chapter, or a
13 regulation or order of the Administrator under this chapter, the court
14 may singly or in combination:

15 (1) Issue a temporary restraining order, permanent or
16 temporary prohibitory or mandatory injunction or a writ of
17 prohibition or mandamus;

18 (2) Impose a civil penalty of not more than ~~[\$2,500]~~ **\$25,000**
19 ~~for [a single] each violation ; [or \$100,000 for multiple violations in~~
20 ~~a single proceeding or a series of related proceedings;]~~

21 (3) Issue a declaratory judgment;

22 (4) Order restitution to investors;

23 (5) Provide for the appointment of a receiver or conservator
24 for the defendant or the defendant's assets;

25 (6) Order payment of the Division's investigative costs; or

26 (7) Order such other relief as the court deems just.

27 (b) Upon a showing that a person is about to violate this chapter,
28 or a regulation or order of the Administrator under this chapter, a
29 court may issue:

30 (1) A temporary restraining order;

31 (2) A temporary or permanent injunction; or

32 (3) A writ of prohibition or mandamus.

33 2. In determining the appropriate relief to grant, the court shall
34 consider enforcement actions taken and sanctions imposed by the
35 Administrator under NRS 90.630 in connection with the
36 transactions constituting violations of this chapter or a regulation or
37 order of the Administrator under this chapter. If a remedial action is
38 imposed pursuant to this section, the costs of the proceeding,
39 including investigative costs and attorney's fees, may be recovered
40 by the Administrator.

41 3. The court shall not require the Administrator to post a bond
42 in an action under this section.

43 4. Upon a showing by the administrator or securities agency of
44 another state that a person has violated the securities act of that state
45 or a regulation or order of the administrator or securities agency of



1 that state, the appropriate district court may grant, in addition to any
2 other legal or equitable remedies, one or more of the following
3 remedies:

4 (a) Appointment of a receiver, conservator or ancillary receiver
5 or conservator for the defendant or the defendant's assets located in
6 this State; or

7 (b) Other relief as the court deems just.

8 **Sec. 8.** NRS 90.650 is hereby amended to read as follows:

9 90.650 1. A person who willfully violates:

10 (a) A provision of this chapter, except NRS 90.600, or who
11 violates NRS 90.600 knowing that the statement made is false or
12 misleading in any material respect;

13 (b) A regulation adopted pursuant to this chapter; or

14 (c) An order denying, suspending or revoking the effectiveness
15 of registration or an order to cease and desist issued by the
16 Administrator pursuant to this chapter,

17 ➡ is guilty of a category B felony and shall be punished by
18 imprisonment in the state prison for a minimum term of not less
19 than 1 year and a maximum term of not more than 20 years, or by a
20 fine of not more than \$500,000, or by both fine and imprisonment,
21 for each violation. In addition to any other penalty, the court shall
22 order the person to pay restitution ~~H~~ *and may order the person to*
23 *repay the costs of investigation and prosecution incurred by the*
24 *Division and the Office of the Attorney General. Money recovered*
25 *for reimbursement of the costs of investigation and prosecution*
26 *must be deposited in the State General Fund for credit to the*
27 *Revolving Account for Investigation, Enforcement and Education*
28 *created by NRS 90.851.*

29 2. A person convicted of violating a regulation or order under
30 this chapter may be fined, but must not be imprisoned, if the person
31 proves lack of knowledge of the regulation or order.

32 3. This chapter does not limit the power of the State to punish a
33 person for conduct which constitutes a crime under other law.

34 **Sec. 9.** NRS 239A.070 is hereby amended to read as follows:

35 239A.070 This chapter does not apply to any subpoena issued
36 pursuant to title 14 or chapters 616A to 617, inclusive, of NRS or
37 prohibit:

38 1. Dissemination of any financial information which is not
39 identified with or identifiable as being derived from the financial
40 records of a particular customer.

41 2. The Attorney General, district attorney, Department of
42 Taxation, Director of the Department of Health and Human
43 Services, *Administrator of the Securities Division of the Office of*
44 *the Secretary of State*, public administrator, sheriff or a police
45 department from requesting of a financial institution, and the



1 institution from responding to the request, as to whether a person
2 has an account or accounts with that financial institution and, if so,
3 any identifying numbers of the account or accounts.

4 3. A financial institution, in its discretion, from initiating
5 contact with and thereafter communicating with and disclosing the
6 financial records of a customer to appropriate governmental
7 agencies concerning a suspected violation of any law.

8 4. Disclosure of the financial records of a customer incidental
9 to a transaction in the normal course of business of the financial
10 institution if the director, officer, employee or agent of the financial
11 institution who makes or authorizes the disclosure has no reasonable
12 cause to believe that such records will be used by a governmental
13 agency in connection with an investigation of the customer.

14 5. A financial institution from notifying a customer of the
15 receipt of a subpoena or a search warrant to obtain his financial
16 records, except when ordered by a court to withhold such
17 notification.

18 6. The examination by or disclosure to any governmental
19 regulatory agency of financial records which relate solely to the
20 exercise of its regulatory function if the agency is specifically
21 authorized by law to examine, audit or require reports of financial
22 records of financial institutions.

23 7. The disclosure to any governmental agency of any financial
24 information or records whose disclosure to that particular agency is
25 required by the tax laws of this State.

26 8. The disclosure of any information pursuant to NRS 425.393,
27 425.400 or 425.460.

28 9. A governmental agency from obtaining a credit report or
29 consumer credit report from anyone other than a financial
30 institution.

31 **Sec. 9.5.** NRS 239A.100 is hereby amended to read as
32 follows:

33 239A.100 1. Except as provided in subsection 2, a subpoena
34 authorizing a governmental agency to obtain financial records may
35 be served upon a financial institution only if:

36 (a) A copy of the subpoena is served upon the customer in the
37 manner provided by law for the service of subpoenas, except that
38 the copy may be served by an employee of the governmental
39 agency;

40 (b) The subpoena includes the name of the agency in whose
41 name it is issued and the statutory purpose for which the information
42 is to be obtained; and

43 (c) The customer has not moved to quash the subpoena within
44 10 days after service of the copy of the subpoena upon the customer.



2. A governmental agency issuing or seeking a subpoena to obtain financial records may petition a court of competent jurisdiction to order that service upon the customer or the 10-day period provided in subsection 1 be waived or shortened. The court may issue the order upon a showing that the agency can reasonably infer from facts relevant to its investigation of the customer that a law subject to the agency's jurisdiction has been or is about to be violated. In granting a petition to waive service upon the customer, the court shall also order the agency to notify the customer in writing within a period determined by the court, but not to exceed ~~60~~ 120 days. The notice shall specify the name of the agency in whose name the subpoena was issued, the financial records which were examined under the subpoena and the statutory purpose for which the information was obtained. The time of notification may be extended for additional ~~30-day~~ 60-day periods upon petition and good cause shown.

3. A court may order a financial institution to withhold notification to a customer of the receipt of the subpoena when the court issues an order under subsection 2 and if it finds that the notification would impede the investigation.

4. If a customer files a motion to quash the subpoena, the proceedings on the motion shall be afforded priority on the court calendar and the matter shall be heard within 10 days after the filing of the motion.

Sec. 10. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive. The license must bear a unique number assigned to the licensee pursuant to NRS 483.345, the licensee's social security number, if he has one, unless he requests that it not appear on the license, the name, date of birth, mailing address and a brief description of the licensee, and a space upon which the licensee shall write his usual signature in ink immediately upon receipt of the license. A license is not valid until it has been so signed by the licensee.

2. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations, *criminal investigators employed by the Secretary of State while engaged in undercover investigations* and



1 agents of the State Gaming Control Board while engaged in
2 investigations pursuant to NRS 463.140. An application for such a
3 license must be made through the head of the police or sheriff's
4 department, the Chief of the Investigation Division of the
5 Department of Public Safety, the director of the appropriate federal
6 agency, the Attorney General , *the Secretary of State or his*
7 *designee* or the Chairman of the State Gaming Control Board. Such
8 a license is exempt from the fees required by NRS 483.410. The
9 Department, by regulation, shall provide for the cancellation of any
10 such driver's license upon the completion of the special
11 investigation for which it was issued.

12 3. Except as otherwise provided in NRS 239.0115, information
13 pertaining to the issuance of a driver's license pursuant to
14 subsection 2 is confidential.

15 4. It is unlawful for any person to use a driver's license issued
16 pursuant to subsection 2 for any purpose other than the special
17 investigation for which it was issued.

18 5. At the time of the issuance or renewal of the driver's license,
19 the Department shall:

20 (a) Give the holder the opportunity to have indicated on his
21 driver's license that he wishes to be a donor of all or part of his body
22 pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make
23 an anatomical gift of his body or part of his body.

24 (b) Give the holder the opportunity to have indicated whether he
25 wishes to donate \$1 or more to the Anatomical Gift Account created
26 by NRS 460.150.

27 (c) Provide to each holder who is interested in becoming a donor
28 information relating to anatomical gifts, including the procedure for
29 registering as a donor with the donor registry with which the
30 Department has entered into a contract pursuant to this paragraph.
31 To carry out this paragraph, the Department shall, on such terms as
32 it deems appropriate, enter into a contract with a donor registry that
33 is in compliance with the provisions of NRS 451.500 to 451.598,
34 inclusive.

35 (d) If the Department has established a program for imprinting a
36 symbol or other indicator of a medical condition on a driver's
37 license pursuant to NRS 483.3485, give the holder the opportunity
38 to have a symbol or other indicator of a medical condition imprinted
39 on his driver's license.

40 6. If the holder wishes to make a donation to the Anatomical
41 Gift Account, the Department shall collect the donation and deposit
42 the money collected in the State Treasury for credit to the
43 Anatomical Gift Account.

44 7. The Department shall submit to the donor registry with
45 which the Department has entered into a contract pursuant to



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paragraph (c) of subsection 5 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 11. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive.

2. The Department shall adopt regulations prescribing the information that must be contained on a driver's license.

3. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations , *criminal investigators employed by the Secretary of State while engaged in undercover investigations* and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General , *the Secretary of State or his designee* or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

4. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 3 is confidential.

5. It is unlawful for any person to use a driver's license issued pursuant to subsection 3 for any purpose other than the special investigation for which it was issued.

6. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his body.



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(b) Give the holder the opportunity to have indicated whether he wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.

(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his driver's license.

7. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

8. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 6 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 12. 1. This section and sections 1, 2, 3 and 5 to 10, inclusive, of this act become effective on July 1, 2009.

2. Section 4 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.

3. Section 11 of this act becomes effective upon the later of:

(a) The effective date of the regulations issued by the Secretary of Homeland Security to implement the provisions of the Real ID Act of 2005; or



* S B 1 0 1 R 2 *

- 1 (b) The expiration of any extension of time granted to this State
- 2 by the Secretary of Homeland Security to comply with the
- 3 provisions of the Real ID Act of 2005.



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