

SENATE BILL NO. 130—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON PUBLIC LANDS)

PREFILED FEBRUARY 4, 2011

Referred to Committee on Transportation

SUMMARY—Revises certain provisions governing off-highway vehicles. (BDR S-210)

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

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

AN ACT relating to off-highway vehicles; authorizing the Department of Motor Vehicles to release certain personal information relating to off-highway vehicles; revising the prospective terms of the members of the Commission on Off-Highway Vehicles; revising the effective date of certain other provisions governing the titling and registration of off-highway vehicles; repealing the prospective transfer of authority to approve the designation of portions of state highways for off-highway vehicle use from the Department of Transportation to the Department of Motor Vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Department of Motor Vehicles to release certain personal information relating to the driver's license, identification card, or title or registration of a vehicle of a person and to charge and collect a fee from a person who makes use of files and records of the Department or its various divisions for a private purpose. (NRS 481.063) **Section 1** of this bill authorizes the Department to release such personal information relating to off-highway vehicles by clarifying that for purposes of those actions, the term "vehicle" includes an off-highway vehicle.

In 2009, the provisions of Senate Bill No. 394 were enacted, which provide for the issuance of a certificate of title and registration for an off-highway vehicle by the Department. (Chapter 504, Statutes of Nevada 2009, pp. 3076-3106) Those provisions also: (1) create the Revolving Account for the Assistance of the Department, into which must be deposited all money received by the Department



from the Federal Government or any other source to assist the Department in carrying out the provisions of that bill relating to the titling and registration of off-highway vehicles; (2) create the Commission on Off-Highway Vehicles, consisting of 11 members appointed by the Governor; (3) transfer responsibility from the Department of Transportation to the Department of Motor Vehicles to approve the designation of any portion of a state highway as permissible for off-highway vehicle use; and (4) require the Interim Finance Committee, after determining that at least \$500,000 is available in the Revolving Account for the Assistance of the Department, to notify the Department of that fact. (Chapter 504, Statutes of Nevada 2009, pp. 3082-85, 3105) The following provisions of that bill became effective upon passage and approval: (1) the provisions creating the Revolving Account for the Assistance of the Department; (2) the provisions governing the appointment of the members of the Commission on Off-Highway Vehicles by the Governor; and (3) the provisions authorizing the Department to adopt regulations to carry out that bill. The remaining provisions of that bill will become effective on July 1, 2011, or 1 year after the date the Interim Finance Committee issues the notice concerning the Revolving Account for the Assistance of the Department, whichever occurs first. If the Interim Finance Committee fails to issue that notice before July 1, 2011, the provisions of that bill expire by limitation on that date. (Chapter 504, Statutes of Nevada 2009, p. 3105)

Section 2 of this bill requires the Governor, as soon as practicable after July 1, 2011, to appoint: (1) four members of the Commission on Off-Highway Vehicles to terms that expire on January 1, 2013; (2) four members of the Commission to terms that expire on January 1, 2014; and (3) three members of the Commission to terms that expire on January 1, 2015. **Section 3** of this bill extends the effective date for most of the remaining provisions of Senate Bill No. 394 by making those provisions effective on July 1, 2012, or 30 days after the Department of Motor Vehicles publishes on its website a statement indicating that it has completed the preparatory administrative tasks that are necessary to carry out the provisions of that bill, whichever occurs first.

Section 4 of this bill repeals the provision transferring authority to approve designation of any portion of a state highway as permissible for off-highway vehicle use from the Department of Transportation to the Department of Motor Vehicles, and thus returns the authority to approve such designations to the Department of Transportation.

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

Section 1. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 5, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is



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1 requested which is dated not more than 90 days before the date of
2 the request. The written release must be in a form required by the
3 Director.

4 3. Except as otherwise provided in subsection 2, the Director
5 shall not release to any person who is not a representative of the
6 Division of Welfare and Supportive Services of the Department of
7 Health and Human Services or an officer, employee or agent of a
8 law enforcement agency, an agent of the public defender's office or
9 an agency of a local government which collects fines imposed for
10 parking violations, who is not conducting an investigation pursuant
11 to NRS 253.0415 or 253.220, who is not authorized to transact
12 insurance pursuant to chapter 680A of NRS or who is not licensed
13 as a private investigator pursuant to chapter 648 of NRS and
14 conducting an investigation of an insurance claim:

15 (a) A list which includes license plate numbers combined with
16 any other information in the records or files of the Department;

17 (b) The social security number of any person, if it is requested to
18 facilitate the solicitation of that person to purchase a product or
19 service; or

20 (c) The name, address, telephone number or any other
21 personally identifiable information if the information is requested by
22 the presentation of a license plate number.

23 ➤ When such personally identifiable information is requested of a
24 law enforcement agency by the presentation of a license plate
25 number, the law enforcement agency shall conduct an investigation
26 regarding the person about whom information is being requested or,
27 as soon as practicable, provide the requester with the requested
28 information if the requester officially reports that the motor vehicle
29 bearing that license plate was used in a violation of NRS 205.240,
30 205.345, 205.380 or 205.445.

31 4. Except as otherwise provided in subsections 2 and 5 and
32 NRS 483.294, 483.855 and 483.937, the Director shall not release
33 any personal information from a file or record relating to a driver's
34 license, identification card, or title or registration of a vehicle.

35 5. Except as otherwise provided in paragraph (a) and
36 subsection 6, if a person or governmental entity provides a
37 description of the information requested and its proposed use and
38 signs an affidavit to that effect, the Director may release any
39 personal information, except a photograph, from a file or record
40 relating to a driver's license, identification card, or title or
41 registration of a vehicle for use:

42 (a) By any governmental entity, including, but not limited to,
43 any court or law enforcement agency, in carrying out its functions,
44 or any person acting on behalf of a federal, state or local
45 governmental agency in carrying out its functions. The personal



1 information may include a photograph from a file or record relating
2 to a driver's license, identification card, or title or registration of a
3 vehicle.

4 (b) In connection with any civil, criminal, administrative or
5 arbitration proceeding before any federal or state court, regulatory
6 body, board, commission or agency, including, but not limited to,
7 use for service of process, investigation in anticipation of litigation,
8 and execution or enforcement of judgments and orders, or pursuant
9 to an order of a federal or state court.

10 (c) In connection with matters relating to:

- 11 (1) The safety of drivers of motor vehicles;
- 12 (2) Safety and thefts of motor vehicles;
- 13 (3) Emissions from motor vehicles;
- 14 (4) Alterations of products related to motor vehicles;
- 15 (5) An advisory notice relating to a motor vehicle or the
16 recall of a motor vehicle;
- 17 (6) Monitoring the performance of motor vehicles;
- 18 (7) Parts or accessories of motor vehicles;
- 19 (8) Dealers of motor vehicles; or
- 20 (9) Removal of nonowner records from the original records
21 of motor vehicle manufacturers.

22 (d) By any insurer, self-insurer or organization that provides
23 assistance or support to an insurer or self-insurer or its agents,
24 employees or contractors, in connection with activities relating to
25 the rating, underwriting or investigation of claims or the prevention
26 of fraud.

27 (e) In providing notice to the owners of vehicles that have been
28 towed, repossessed or impounded.

29 (f) By an employer or its agent or insurer to obtain or verify
30 information relating to a holder of a commercial driver's license
31 who is employed by or has applied for employment with the
32 employer.

33 (g) By a private investigator, private patrol officer or security
34 consultant who is licensed pursuant to chapter 648 of NRS, for any
35 use permitted pursuant to this section.

36 (h) By a reporter or editorial employee who is employed by or
37 affiliated with any newspaper, press association or commercially
38 operated, federally licensed radio or television station for a
39 journalistic purpose. The Department may not make any inquiries
40 regarding the use of or reason for the information requested other
41 than whether the information will be used for a journalistic purpose.

42 (i) In connection with an investigation conducted pursuant to
43 NRS 253.0415 or 253.220.



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(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

(1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;

(2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

6. Except as otherwise provided in paragraph (j) of subsection 5, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 5. Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

➔ The record must be made available for examination by the Department at all reasonable times upon request.

7. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if the Director reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

8. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the system created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that system.

9. The Director shall adopt such regulations as the Director deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate the person's ability to request information electronically or by written request if the person has submitted to the Department proof of employment or licensure, as applicable, and a signed and notarized affidavit acknowledging that the person:

(a) Has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;



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(b) Understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) Understands that a record will be maintained by the Department of any information he or she requests; and

(d) Understands that a violation of the provisions of this section is a criminal offense.

10. It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

11. As used in this section ~~["personal"]~~:

(a) ***"Personal"*** information means information that reveals the identity of a person, including, without limitation, his or her photograph, social security number, driver's license number, identification card number, name, address, telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his or her full address, information regarding vehicular accidents or driving violations in which he or she has been involved or other information otherwise affecting his or her status as a driver.

(b) ***"Vehicle"*** includes, without limitation, an off-highway vehicle as defined in NRS 490.060.

Sec. 2. Section 62 of chapter 504, Statutes of Nevada 2009, at page 3105, is hereby amended to read as follows:

Sec. 62. 1. As soon as practicable after passage and approval of this act, the Governor shall solicit applications for the appointment of the members of the Commission on Off-Highway Vehicles created by section 16 of this act.

2. As soon as practicable after July 1, ~~2010~~ **2011**, the Governor shall, after considering each application received pursuant to subsection 1, appoint the members of the Commission on Off-Highway Vehicles who are qualified pursuant to section 16 of this act to initial terms as follows:

(a) Four members to terms that expire on January 1, ~~2012~~ **2013**.

(b) Four members to terms that expire on January 1, ~~2013~~ **2014**.

(c) Three members to terms that expire on January 1, ~~2014~~ **2015**.

Sec. 3. Section 63 of chapter 504, Statutes of Nevada 2009, at page 3105, is hereby amended to read as follows:

Sec. 63. 1. This section and sections 19.5 and 62.5 of this act become effective upon passage and approval.



2. Sections 1 to 19, inclusive, and 20 to *56, inclusive, and 58 to* 62, inclusive, of this act become effective:

(a) Upon passage and approval for purposes of:

(1) The appointment by the Governor of the members of the Commission on Off-Highway Vehicles created by section 16 of this act; and

(2) The adoption of regulations to carry out the provisions of this act.

(b) On July 1, ~~[2011,]~~ *2012*, or ~~[1-year]~~ *30 days* after the date *on which* the ~~[Interim Finance Committee issues a notice to the]~~ Department of Motor Vehicles ~~[pursuant to section 62.5 of this act,]~~ *publishes on its website a statement indicating that it has completed the preparatory administrative tasks that are necessary to carry out the provisions of this act,* whichever occurs first, for all other purposes.

3. This section and sections 1 to *56, inclusive, and 58 to* 62.5, inclusive, of this act expire by limitation on July 1, ~~[2011,]~~ *2012*, if the Interim Finance Committee has not issued a notice to the Department of Motor Vehicles pursuant to section 62.5 of this act before that date.

4. Except as otherwise provided in subsection 3, sections 24 and 25 of this act expire 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 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.

Sec. 4. Section 57 of chapter 504, Statutes of Nevada 2009, at page 3103, is hereby repealed.

Sec. 5. This act becomes effective upon passage and approval.



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TEXT OF REPEALED SECTION

Section 57 of chapter 504, Statutes of Nevada 2009:

Sec. 57. NRS 490.100 is hereby amended to read as follows:

490.100 1. Except as otherwise provided in subsection 2, a city or county may designate any portion of a highway within the city or county as permissible for the operation of off-highway vehicles for the purpose of allowing off-highway vehicles to reach a private or public area that is open for use by off-highway vehicles. If a city or county designates any portion a state highway as permissible for the operation of off-highway vehicles pursuant to this subsection, the city or county must obtain approval for the designation from the Department . ~~{of Transportation.}~~ The Department ~~{of Transportation}~~ shall issue a timely decision concerning the request for approval and must not unreasonably deny the request.

2. The highway designated for operation of off-highway vehicles pursuant to subsection 1 may not consist of any portion of an interstate highway.

3. If a city or county designates a highway for the operation of off-highway vehicles, the city or county may adopt an ordinance requiring a person who is less than 16 years of age and who is operating the off-highway vehicle on a designated highway to be under the direct visual supervision of a person who is at least 18 years of age.

4. A person operating an off-highway vehicle on a highway designated for operation of off-highway vehicles pursuant to subsection 1 may not operate the off-highway vehicle on the highway for any purpose other than to travel to or from the private or public area as described in subsection 1.

