

SENATE BILL NO. 387—COMMITTEE ON TRANSPORTATION

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON PUBLIC LANDS)

MARCH 25, 2011

Referred to Committee on Transportation

SUMMARY—Revises certain provisions governing off-highway vehicles. (BDR 43-211)

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 off-highway vehicles; authorizing the Department of Motor Vehicles to assign a distinguishing number to any off-highway vehicle that does not have a unique vehicle identification number or serial number; providing for the imposition of a fee for the assignment of such a distinguishing number; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, the owner of an off-highway vehicle may be required to
2 register the vehicle with the Department of Motor Vehicles if the Interim Finance
3 Committee issues a notice to the Department that adequate money is available to
4 begin registering such vehicles on or before July 1, 2011. As part of that
5 registration, the owner of the off-highway vehicle will be required to notify the
6 Department of the unique vehicle identification number or serial number of the
7 vehicle. (NRS 490.082) This bill authorizes the Department to assign a
8 distinguishing number to an off-highway vehicle that does not have a unique
9 vehicle identification number or serial number, or to an off-highway vehicle on or
10 from which the unique vehicle identification number or serial number has been
11 removed, defaced, altered or obliterated. This bill also authorizes the Department to
12 charge a fee for the assignment of such a distinguishing number.



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

Section 1. Chapter 490 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department may assign a distinguishing number to any off-highway vehicle if:

(a) The off-highway vehicle does not have a unique vehicle identification number or serial number provided by the manufacturer of the vehicle;

(b) The unique vehicle identification number or serial number provided by the manufacturer of the off-highway vehicle has been removed, defaced, altered or obliterated; or

(c) The off-highway vehicle is homemade.

2. Any off-highway vehicle to which there is assigned a distinguishing number pursuant to subsection 1 must be registered, if required pursuant to NRS 490.082, under the distinguishing number.

3. The Department shall collect a fee of \$2 for the assignment and recording of each such distinguishing number.

4. The number by which an off-highway vehicle is registered pursuant to NRS 490.082 must be permanently stamped or attached to the vehicle. False attachment or willful removal, defacement, alteration or obliteration of such a number with intent to defraud is a gross misdemeanor.

Sec. 2. NRS 490.082 is hereby amended to read as follows:

490.082 1. An owner of an off-highway vehicle that is acquired:

(a) Before the effective date of this section:

(1) May apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, shall, within 1 year after the effective date of this section, apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, the registration of the off-highway vehicle.

(b) On or after the effective date of this section, shall, within 30 days after acquiring ownership of the off-highway vehicle:

(1) Apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, the registration of the off-highway vehicle.



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2. If an owner of an off-highway vehicle applies to the Department or to an authorized dealer for:

(a) A certificate of title for the off-highway vehicle, the owner shall submit to the Department or to the authorized dealer proof prescribed by the Department that he or she is the owner of the off-highway vehicle.

(b) The registration of the off-highway vehicle, the owner shall submit:

(1) If ownership of the off-highway vehicle was obtained before the effective date of this section, proof prescribed by the Department:

(I) That he or she is the owner of the off-highway vehicle; and

(II) Of the unique vehicle identification ~~for~~ **number, serial number or distinguishing number obtained pursuant to section 1 of this act** for the off-highway vehicle; or

(2) If ownership of the off-highway vehicle was obtained on or after the effective date of this section:

(I) Evidence satisfactory to the Department that he or she has paid all taxes applicable in this State relating to the purchase of the off-highway vehicle, or submit an affidavit indicating that he or she purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off-highway vehicle; and

(II) Proof prescribed by the Department that he or she is the owner of the off-highway vehicle and of the unique vehicle identification ~~for~~ **number, serial number or distinguishing number obtained pursuant to section 1 of this act** for the off-highway vehicle.

3. Registration of an off-highway vehicle is not required if the off-highway vehicle:

(a) Is owned and operated by:

(1) A federal agency;

(2) An agency of this State; or

(3) A county, incorporated city or unincorporated town in this State;

(b) Is part of the inventory of a dealer of off-highway vehicles;

(c) Is registered or certified in another state and is located in this State for not more than 60 days;

(d) Is used solely for husbandry on private land or on public land that is leased to or used under a permit issued to the owner or operator of the off-highway vehicle;

(e) Is used for work conducted by or at the direction of a public or private utility; or

(f) Was manufactured before January 1, 1976.



4. The registration of an off-highway vehicle expires 1 year after its issuance. If an owner of an off-highway vehicle fails to renew the registration of the off-highway vehicle before it expires, the registration may be reinstated upon the payment to the Department of the annual renewal fee and a late fee of \$25. Any late fee collected by the Department must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

5. If a certificate of title or registration for an off-highway vehicle is lost or destroyed, the owner of the off-highway vehicle may apply to the Department by mail, or to an authorized dealer, for a duplicate certificate of title or registration. The Department may collect a fee to replace a certificate of title or registration certificate, sticker or decal that is lost, damaged or destroyed. Any such fee collected by the Department must be:

(a) Set forth by the Department by regulation; and

(b) Deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

6. The provisions of subsections 1 to 5, inclusive, do not apply to an owner of an off-highway vehicle who is not a resident of this State.

Sec. 3. NRS 490.083 is hereby amended to read as follows:

490.083 Each registration of an off-highway vehicle must:

1. Be in the form of a sticker or decal, as prescribed by the Department.

2. Be approximately the size of a license plate for a motorcycle, as set forth by the Department.

3. Include ~~the~~ the unique vehicle identification ~~number~~ number, serial number *or distinguishing number obtained pursuant to section 1 of this act* for the off-highway vehicle.

4. Be displayed on the off-highway vehicle in the manner set forth by the Commission.

Sec. 4. NRS 490.150 is hereby amended to read as follows:

490.150 1. Before taking an off-highway vehicle on consignment, an off-highway vehicle dealer or lessor shall prepare a written consignment contract.

2. A consignment contract must include, without limitation:

(a) The names of the consignor and consignee;

(b) The date on which the consignment contract was entered into;

(c) A complete description of the off-highway vehicle subject to the consignment contract, including the unique vehicle identification ~~number~~ number, serial number *or distinguishing number obtained*



1 *pursuant to section 1 of this act*, and the year, make and model of
2 the off-highway vehicle;

3 (d) The term of the consignment contract;

4 (e) The name of each person or business entity holding any
5 security interest in the off-highway vehicle to be consigned;

6 (f) The minimum sales price for the off-highway vehicle and the
7 disposition of the proceeds therefrom, as agreed upon by the
8 consignor and consignee; and

9 (g) The signatures of the consignor and consignee
10 acknowledging all the terms and conditions set forth in the
11 consignment contract.

12 **Sec. 5.** NRS 490.160 is hereby amended to read as follows:

13 490.160 1. A consignee of an off-highway vehicle shall,
14 upon entering into a consignment contract or other form of
15 agreement to sell an off-highway vehicle owned by another person:

16 (a) Open and maintain a separate trust account in a federally
17 insured bank or savings and loan association that is located in this
18 State, into which the consignee shall deposit all money received
19 from a prospective buyer as a deposit, or as partial or full payment
20 of the purchase price agreed upon, toward the purchase or transfer
21 of interest in the off-highway vehicle. A consignee of an off-
22 highway vehicle shall not:

23 (1) Commingle the money in the trust account with any other
24 money that is not on deposit or otherwise maintained toward the
25 purchase of the off-highway vehicle subject to the consignment
26 contract or agreement; or

27 (2) Use any money in the trust account to pay his or her
28 operational expenses for any purpose that is not related to the
29 consignment contract or agreement.

30 (b) Obtain from the consignor, before receiving delivery of the
31 off-highway vehicle, a signed and dated disclosure statement that is
32 included in the consignment contract and provides in at least 10-
33 point bold type or font:

34
35 **IMPORTANT NOTICE TO OFF-HIGHWAY**
36 **VEHICLE OWNERS**
37

38 State law (NRS 490.160) requires that the operator of this
39 business file a Uniform Commercial Code 1 (UCC1) form
40 with the Office of the Secretary of State on your behalf to
41 protect your interest in your off-highway vehicle. The form is
42 required to protect your off-highway vehicle from forfeiture
43 in the event that the operator of this business fails to meet his
44 or her financial obligations to a third party holding a security
45 interest in his or her inventory. The form must be filed by the



operator of this business before the operator may take possession of your off-highway vehicle. If the form is not filed as required, YOU MAY LOSE YOUR VEHICLE THROUGH NO FAULT OF YOUR OWN. For a copy of the UCC1 form filed on your behalf or for more information, please contact:

The Office of the Secretary of State of Nevada
Uniform Commercial Code Division
(775) 684-5708

I understand and acknowledge the above disclosure.

.....	
Consignee Signature	Date

(c) Assist the consignor in completing, with respect to the consignor's purchase-money security interest in the off-highway vehicle, a ~~financial~~ **financing** statement of the type described in subsection 5 of NRS 104.9317 and shall file the ~~financial~~ **financing** statement with the Secretary of State on behalf of the consignor. If a consignee has previously granted to a third party a security interest with an after-acquired property clause in the consignee's inventory, the consignee additionally shall assist the consignor in sending an authenticated notification, as described in paragraph (b) of subsection 1 of NRS 104.9324, to each holder of a conflicting security interest. The consignee must not receive delivery of the off-highway vehicle until the consignee has:

(1) Filed the financing statement with the Secretary of State; and

(2) If applicable, assisted the consignor in sending an authenticated notification to each holder of a conflicting security interest.

2. Upon the sale or transfer of interest in the off-highway vehicle, the consignee shall forthwith:

(a) Satisfy or cause to be satisfied all outstanding security interests in the off-highway vehicle; and

(b) Satisfy the financial obligations due the consignor pursuant to the consignment contract.

3. Upon the receipt of money by delivery of cash, bank check or draft, or any other form of legal monetary exchange, or after any form of transfer of interest in an off-highway vehicle, the consignee shall notify the consignor that the money has been received or that a transfer of interest in the off-highway vehicle has occurred. Notification by the consignee to the consignor must be given in



1 person or, in the absence of the consignor, by registered or certified
2 mail addressed to the last address or residence of the consignor
3 known to the consignee. The notification must be made within 3
4 business days after the date on which the money is received or the
5 transfer of interest in the off-highway vehicle is made.

6 4. The provisions of this section do not apply to:

- 7 (a) An executor;
- 8 (b) An administrator;
- 9 (c) A sheriff; or

10 (d) Any other person who sells off-highway vehicles pursuant to
11 the powers or duties granted to or imposed on him or her by specific
12 statute.

13 5. Notwithstanding any provision of the Nevada Revised
14 Statutes to the contrary, an off-highway vehicle subject to a
15 consignment contract may not be operated by the consignee, an
16 employee or agent of the consignee, or a prospective buyer unless
17 the operation of the off-highway vehicle is authorized by the express
18 written consent of the consignor.

19 6. A consignee shall maintain a written log for each off-
20 highway vehicle for which he or she has entered into a consignment
21 contract. The written log must include:

22 (a) The name and address, or place of residence, of the
23 consignor;

24 (b) A description of the off-highway vehicle consigned,
25 including the year, make, model and unique vehicle identification
26 ~~for~~ **number**, serial number **or distinguishing number obtained**
27 **pursuant to section 1 of this act** of the off-highway vehicle;

28 (c) The date on which the consignment contract is entered into;

29 (d) The period that the off-highway vehicle is to be consigned;

30 (e) The minimum agreed upon sales price for the off-highway
31 vehicle;

32 (f) The approximate amount of money due any lienholder or
33 other person known to have an interest in the off-highway vehicle;

34 (g) If the off-highway vehicle is sold, the date on which the off-
35 highway vehicle is sold;

36 (h) The date that the money due the consignor and the lienholder
37 was paid;

38 (i) The name and address of the federally insured bank or
39 savings and loan association in which the consignee opened the trust
40 account required pursuant to subsection 1; and

41 (j) The signature of the consignor acknowledging that the terms
42 of the consignment contract were fulfilled or terminated, as
43 appropriate.

44 7. A person who:



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(a) Appropriates, diverts or otherwise converts to his or her own use money in a trust account opened pursuant to paragraph (a) of subsection 1 or otherwise subject to a consignment contract or agreement is guilty of embezzlement and shall be punished in accordance with NRS 205.300. The court shall, in addition to any other penalty, order the person to pay restitution.

(b) Violates paragraph (b) or (c) of subsection 1 is guilty of a misdemeanor. The court shall, in addition to any other penalty, order the person to pay restitution.

(c) Violates any other provision of this section is guilty of a misdemeanor.

Sec. 6. 1. This act becomes effective:

(a) Upon passage and approval for the purpose of adopting regulations.

(b) On July 1, 2012, or 30 days after the date on which 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 this act, whichever occurs first, for all other purposes.

2. This act expires by limitation on July 1, 2012, if the Interim Finance Committee has not issued a notice to the Department of Motor Vehicles pursuant to section 62.5 of chapter 504, Statutes of Nevada 2009, at page 3105, before that date.

