

Amendment No. 163

Senate Amendment to Senate Bill No. 109

(BDR 43-467)

Proposed by: Senate Committee on Transportation**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

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 underlining* is newly added transitory language.

EWR/JRS



Date: 4/8/2013

S.B. No. 109—Revises provisions relating to off-highway vehicles. (BDR 43-467)



SENATE BILL NO. 109—SENATORS SETTELMAYER,
GUSTAVSON; CEGAVSKE AND GOICOECHEA

FEBRUARY 12, 2013

Referred to Committee on Transportation

SUMMARY—Revises provisions relating to off-highway vehicles. (BDR 43-467)

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 operation of an off-highway vehicle for the purposes of display, demonstration, maintenance, sale or exchange under certain circumstances; requiring the Department of Motor Vehicles to furnish special plates for an off-highway vehicle under certain circumstances; revising provisions governing the registration and operation of an off-highway vehicle and the licensing of an off-highway dealer, long-term lessor, short-term lessor and manufacturer; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a manufacturer, distributor, dealer or rebuilder of motor vehicles to operate vehicles for the purposes of display, demonstration, maintenance, sale or exchange if the person attaches special plates to the motor vehicle. (NRS 482.320) The Department of Motor Vehicles provides those special plates to the person upon issuance of a license certificate. (NRS 482.330) **Sections 2 and 3** of this bill set forth similar provisions applicable to dealers, lessors and manufacturers of off-highway vehicles.

Existing law exempts certain off-highway vehicles from registration requirements. (NRS 490.082) **Section 4** of this bill exempts from registration any off-highway vehicle; (1) operated solely in an organized race, festival or other event conducted under the auspices of a sanctioning body or by permit; (2) operated or stored on privately owned or leased land; (3) operated while engaged in an approved search-and-rescue operation; or (4) that has a displacement of not more than 70 cubic centimeters.

Existing law requires that any off-highway vehicle operated on a highway must have at least one headlamp that illuminates objects at least 500 feet ahead of the vehicle and at least one tail lamp that is visible from at least 500 feet behind the vehicle. (NRS 490.120) **Section 5** of this bill exempts an off-highway vehicle from this requirement when operated during daylight hours on a highway designated by a county for the operation of the off-highway vehicle without having the headlamp or tail lamp.

Existing law requires that, in order to obtain a license as a dealer, long-term or short-term lessor or manufacturer of off-highway vehicles, an applicant must: (1) furnish a processing fee, a complete set of the applicant's fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and (2) file with the Department a bond of \$50,000 or make a deposit with the Department of

\$50,000. (NRS 490.210, 490.270, 490.280) **Section 7** of this bill exempts from the fingerprinting requirement any applicant who has previously met the same requirement as part of an application for a license to operate as a transporter, manufacturer, distributor, dealer, rebuilder, broker or salesperson of motor vehicles. (NRS 482.3163, 482.325, 482.333, 482.362) **Section 8** of this bill exempts from the bond or deposit requirement any applicant who has previously filed a bond of \$50,000 or more covering certain activities involving off-highway vehicles or made a deposit of \$50,000 or more with the Department as part of an application for a license to operate as a broker, manufacturer, distributor, dealer or rebuilder of motor vehicles. (NRS 482.3333, 482.345, 482.346)

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 the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *Except as otherwise provided in NRS 490.160, an off-highway vehicle dealer, long-term or short-term lessor or manufacturer who has an established place of business in this State and who owns or controls any new or used off-highway vehicle that is otherwise required to be registered pursuant to NRS 490.082, may operate that vehicle or allow it to be operated for purposes of display, demonstration, maintenance, sale or exchange if there is displayed thereon a special plate issued to the off-highway vehicle dealer, long-term or short-term lessor or manufacturer as provided in section 3 of this act. Owners or officers of the corporation, managers, heads of departments and salespersons may be temporarily assigned and operate an off-highway vehicle displaying the special plate.*

2. A special plate which is issued to an off-highway vehicle dealer, long-term or short-term lessor or manufacturer pursuant to section 3 of this act may be attached to an off-highway vehicle specified in subsection 1 by a secure means. The plate must not be displayed loosely in the window or by any other unsecured method in or on an off-highway vehicle.

3. The provisions of this section do not apply to:

(a) Work or service off-highway vehicles owned or controlled by an off-highway vehicle dealer, long-term or short-term lessor or manufacturer.

(b) Off-highway vehicles leased by off-highway vehicle dealers, long-term or short-term lessors or manufacturers, except off-highway vehicles rented or leased to off-highway vehicle salespersons in the course of their employment.

(c) Off-highway vehicles which are privately owned by the owners, officers or employees of the off-highway vehicle dealer, long-term or short-term lessor or manufacturer.

(d) Off-highway vehicles which are being used for personal reasons by a person who is not licensed by the Department or otherwise exempted in subsection 1.

(e) Off-highway vehicles which have been given or assigned to persons who work for an off-highway vehicle dealer, long-term or short-term lessor or manufacturer for services performed.

(f) Off-highway vehicles purchased by an off-highway vehicle dealer, long-term or short-term lessor or manufacturer for personal use which the off-highway vehicle dealer, long-term or short-term lessor or manufacturer is not licensed or authorized to resell.

Sec. 3. 1. *Upon issuance of an off-highway vehicle dealer's, long-term or short-term lessor's or manufacturer's license certificate pursuant to NRS 490.200*

1 *or upon the renewal of the license pursuant to NRS 490.210, the Department*
2 *shall furnish to the off-highway vehicle dealer, long-term or short-term lessor or*
3 *manufacturer one or more special plates for use on an off-highway vehicle*
4 *specified in subsection 1 of section 2 of this act. Each plate must have displayed*
5 *upon it the identification number assigned by the Department to the off-highway*
6 *vehicle dealer, long-term or short-term lessor or manufacturer, and may include*
7 *a different letter or symbol on the plate. The off-highway vehicle dealer's, long-*
8 *term or short-term lessor's or manufacturer's special plates may be used*
9 *interchangeably on that off-highway vehicle.*

10 *2. The Department shall issue to each off-highway vehicle dealer, long-term*
11 *or short-term lessor or manufacturer a reasonable number of special plates.*

12 **Sec. 4.** NRS 490.082 is hereby amended to read as follows:

13 490.082 1. An owner of an off-highway vehicle that is acquired:

14 (a) Before the effective date of this section:

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

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

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

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

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

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

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

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

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

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

37 (II) Of the unique vehicle identification number, serial number or
38 distinguishing number obtained pursuant to NRS 490.0835 for the off-highway
39 vehicle; or

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

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

46 (II) Proof prescribed by the Department that he or she is the owner of
47 the off-highway vehicle and of the unique vehicle identification number, serial
48 number or distinguishing number obtained pursuant to NRS 490.0835 for the off-
49 highway vehicle.

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

52 (a) Is owned and operated by:

53 (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 ~~HH~~ *and is affixed with a special plate provided to the off-highway vehicle dealer pursuant to section 3 of this act;*
- (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; ~~HH~~
- (f) Was manufactured before January 1, 1976 ~~HH~~;
- (g) Is operated solely in an organized race, festival or other event that is conducted:*
- (1) Under the auspices of a sanctioning body; or*
(2) By permit issued by a governmental entity having jurisdiction;
- (h) Except as otherwise provided in paragraph (d), is operated or stored on private land or on public land that is leased to the owner or operator of the off-highway vehicle, including when operated in an organized race, festival or other event;*
- (i) Is used in a search and rescue operation conducted by a governmental entity having jurisdiction; or*
- (j) Has a displacement of not more than 70 cubic centimeters.*
- As used in this subsection, "sanctioning body" means an organization that establishes a schedule of racing events, grants rights to conduct those events and establishes and administers rules and regulations governing the persons who conduct or participate in those events.*
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. 5.** NRS 490.120 is hereby amended to read as follows:
- 490.120 ~~HHH~~
- 1. Except as otherwise provided in subsection 2 and in* addition to the requirements set forth in NRS 490.070, a person shall not operate an off-highway vehicle on a highway pursuant to NRS 490.090 to 490.130, inclusive, unless the off-highway vehicle has:

~~11~~ ~~(a)~~ At least one headlamp that illuminates objects at least 500 feet ahead of the vehicle;

~~12~~ ~~(b)~~ At least one tail lamp that is visible from at least 500 feet behind the vehicle;

~~13~~ ~~(c)~~ At least one red reflector on the rear of the vehicle, unless the tail lamp is red and reflective;

~~14~~ ~~(d)~~ A stop lamp on the rear of the vehicle; and

~~15~~ ~~(e)~~ A muffler which is in working order and which is in constant operation when the vehicle is running.

2. The provisions of paragraphs (a) and (b) of subsection 1 do not apply to an off-highway vehicle which is operated during daylight hours on a highway designated by a county pursuant to NRS 490.100 for the operation of the off-highway vehicle without at least one headlamp specified in paragraph (a) of subsection 1 or without at least one tail lamp specified in paragraph (b) of that subsection.

Sec. 6. NRS 490.130 is hereby amended to read as follows:

490.130 The operator of an off-highway vehicle that is being driven on a highway in this State in accordance with NRS 490.090 to 490.130, inclusive, shall:

1. Comply with all traffic laws of this State;

2. Ensure that the registration of the off-highway vehicle is attached to the vehicle in accordance with NRS 490.083 ~~11~~ *or a special plate issued pursuant to section 3 of this act is attached to the vehicle;* and

3. Wear a helmet.

Sec. 7. NRS 490.210 is hereby amended to read as follows:

490.210 1. An application for a license for an off-highway vehicle dealer, long-term or short-term lessor or manufacturer must be filed upon forms supplied by the Department and include the social security number of the applicant. The forms must designate the persons whose names are required to appear thereon. The applicant must furnish:

(a) Such proof as the Department may deem necessary that the applicant is an off-highway vehicle dealer, long-term or short-term lessor or manufacturer.

(b) A fee of \$125.

(c) Unless the applicant has previously met the requirements of subsection 3 of NRS 482.3163, paragraphs (c) and (d) of subsection 1 of NRS 482.325, paragraph (d) of subsection 1 of NRS 482.333 or paragraph (e) of subsection 1 of NRS 482.362:

(1) A fee for the processing of fingerprints. The Department shall establish by regulation the fee for processing fingerprints. The fee must not exceed the sum of the amounts charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints.

~~11~~ ~~(2)~~ For initial licensure, a complete set of the applicant's fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

~~12~~ ~~(d)~~ If the applicant is a natural person, the statement required pursuant to NRS 490.330.

~~13~~ ~~(e)~~ A certificate of insurance for liability.

2. Upon receipt of the application and when satisfied that the applicant is entitled thereto, the Department shall issue to the applicant a license for an off-highway vehicle dealer, long-term or short-term lessor or manufacturer containing the name of the licensee and the address of his or her established place of business or the address of the main office of a manufacturer without an established place of business in this State.

3. Licenses issued pursuant to this section expire on December 31 of each year. Before December 31 of each year, a licensee must furnish the Department with an application for renewal of his or her license accompanied by an annual fee of \$50. If the applicant is a natural person, the application for renewal also must be accompanied by the statement required pursuant to NRS 490.330. The additional fee for the processing of fingerprints, established by regulation pursuant to paragraph (c) of subsection 1, must be submitted for each applicant whose name does not appear on the original application for the license. The renewal application must be provided by the Department and contain information required by the Department.

Sec. 8. NRS 490.270 is hereby amended to read as follows:

490.270 1. Except as otherwise provided in subsection 9 and NRS 490.280, before any off-highway vehicle dealer, long-term or short-term lessor or manufacturer ~~who has not met the requirements of NRS 482.3333, 482.345 or 482.346 with respect to a bond or deposit greater than or equal to the amount prescribed in this subsection~~ is issued a license pursuant to this chapter, the Department shall require that the applicant procure and file with the Department a good and sufficient bond with a corporate surety thereon, duly licensed to do business within the State of Nevada, approved as to form by the Attorney General and conditioned that the applicant or any employee who acts on the applicant's behalf within the scope of his or her employment shall conduct his or her business as an off-highway vehicle dealer, long-term or short-term lessor or manufacturer without breaching a consumer contract or engaging in a deceptive trade practice, fraud or fraudulent representation and without violation of the provisions of this chapter. The bond must be in the amount of \$50,000.

2. The Department may, pursuant to a written agreement with any off-highway vehicle dealer, long-term or short-term lessor or manufacturer who has been licensed to do business in this State for at least 5 years, allow a reduction in the amount of the bond of the off-highway vehicle dealer, lessor or manufacturer if such business has been conducted in a manner satisfactory to the Department for the preceding 5 years. No bond may be reduced to less than 50 percent of the bond required pursuant to subsection 1.

3. The bond must be continuous in form, and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

4. The undertaking on the bond includes any breach of a consumer contract, deceptive trade practice, fraud, fraudulent representation or violation of any of the provisions of this chapter by the representative or off-highway vehicle salesperson of any licensed off-highway vehicle dealer, long-term or short-term lessor or manufacturer who acts on behalf of the off-highway vehicle dealer, lessor or manufacturer and within the scope of the employment of the representative or off-highway vehicle salesperson.

5. The bond must provide that any person injured by the action of the off-highway vehicle dealer, long-term or short-term lessor, manufacturer, representative or off-highway vehicle salesperson in violation of any provision of this chapter may apply to the Director, for good cause shown, for compensation from the bond. The surety issuing the bond shall appoint the Secretary of State as its agent to accept service of notice or process for the surety in any action upon the bond brought in a court of competent jurisdiction or brought before the Director.

6. If a person is injured by the actions of an off-highway vehicle dealer, long-term or short-term lessor, manufacturer, representative or off-highway vehicle salesperson, the person may:

(a) Bring and maintain an action in any court of competent jurisdiction. If the court enters:

(1) A judgment on the merits against the off-highway vehicle dealer, lessor, manufacturer, representative or off-highway vehicle salesperson, the judgment is binding on the surety.

(2) A judgment other than on the merits against the off-highway vehicle dealer, lessor, manufacturer, representative or off-highway vehicle salesperson, including, without limitation, a default judgment, the judgment is binding on the surety only if the surety was given notice and an opportunity to defend at least 20 days before the date on which the judgment was entered against the off-highway vehicle dealer, lessor, manufacturer, representative or off-highway vehicle salesperson.

(b) Apply to the Director, for good cause shown, for compensation from the bond. The Director may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

(c) Settle the matter with the off-highway vehicle dealer, lessor, manufacturer, representative or off-highway vehicle salesperson. If such a settlement is made, the settlement must be reduced to writing, signed by both parties and acknowledged before any person authorized to take acknowledgments in this State and submitted to the Director with a request for compensation from the bond. If the Director determines that the settlement was reached in good faith and there is no evidence of collusion or fraud between the parties in reaching the settlement, the surety shall make the payment to the injured person in the amount agreed upon in the settlement.

7. Any judgment entered by a court against an off-highway vehicle dealer, long-term or short-term lessor, manufacturer, representative or off-highway vehicle salesperson may be executed through a writ of attachment, garnishment, execution or other legal process, or the person in whose favor the judgment was entered may apply to the Director for compensation from the bond of the off-highway vehicle dealer, lessor, manufacturer, representative or off-highway vehicle salesperson.

8. The Department shall not issue a license pursuant to subsection 1 to an off-highway vehicle dealer, long-term or short-term lessor or manufacturer who does not have and maintain an established place of business in this State.

9. The provisions of this section do not apply to any off-highway vehicle dealer, long-term or short-term lessor or manufacturer who has met the requirements of NRS 482.3333, 482.345 or 482.346 with respect to:

(a) A bond greater than or equal to the amount prescribed in subsection 1 if the undertaking on the bond includes the activities described in subsection 4; or

(b) A deposit greater than or equal to the amount of the bond that would otherwise be required by subsection 1.

Sec. 9. NRS 490.510 is hereby amended to read as follows:

490.510 1. The Department may impose an administrative fine, not to exceed \$2,500, for a violation of any provision of NRS 490.150 to 490.520, inclusive, *and sections 2 and 3 of this act* or any rule, regulation or order adopted or issued pursuant thereto. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. All administrative fines collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer to the credit of the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

3. In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of this chapter and any rule, regulation or order adopted or issued pursuant thereto by injunction or other appropriate remedy, and the Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

1 **Sec. 10.** This act becomes effective on July 1, 2013.