

# PROPOSED REGULATION OF THE DIRECTOR OF THE DEPARTMENT OF MOTOR VEHICLES

## LCB File No. R130-11

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

AUTHORITY: NRS 490.066.

A REGULATION relating to off-highway vehicles; providing for the issuance of forms by the Department; requiring certain information for the issuance of a registration decal; requiring an inspection prior to the first registration in the State, requiring the Nevada Department of Taxation to collect any sales tax due; requiring certain information for the issuance of a certificate of title, providing for the renewal of a registration decal, providing for fees related to certificates of title and registration decals; requiring dealers to submit off-highway vehicle dealers report of sale documents to the Department; providing for the issuance of a certificate of title; providing for the transfer of ownership; providing regulation of dealers of off-highway vehicles; providing for repossession; and providing other matters properly relating thereto.

**Section 1.** Chapter 490 of NAC is hereby amended by adding thereto the provisions set forth as sections 1 to **95**, inclusive, of this regulation.

### GENERAL PROVISIONS

**Sec. 2.** *“Branch” defined. “Branch” means an established place of business of an off-highway vehicle dealer or long-term or short-term lessor at which he conducts business simultaneously with, and physically separated from, his principal established place of business.*

**Sec. 3.** *“Distributor” defined; exception. “Distributor” means a person, other than a manufacturer, who is engaged in the business of selling new off-highway vehicles to off-highway vehicle dealers.*

**Sec. 4.** *“Franchise” defined. “Franchise” means a written agreement between a manufacturer or distributor and an off-highway vehicle dealer by which:*

*1. A commercial relationship of definite duration or continuing indefinite duration is established.*

*2. The off-highway vehicle dealer is granted the right to offer and sell at retail new off-highway vehicles.*

*3. The off-highway vehicle dealer constitutes a component of a distribution system for new off-highway vehicles.*

*4. The operation of the off-highway vehicle dealer's business is substantially associated with the trademark, trade name, advertising or other commercial symbol designating a manufacturer or distributor.*

*5. The operation of a portion of the off-highway vehicle dealer's business is substantially reliant on the manufacturer or distributor for a continued supply of new off-highway vehicles, parts and accessories.*

**Sec. 5.** *“Identification number” defined. “Identification number” means the number placed on one or more of the essential parts of an off-highway vehicle by the manufacturer or assigned by the Department.*

**Sec. 6.** *“Lienholder” defined. “Lienholder” means a person who holds a security interest in an off-highway vehicle and whose name appears on the certificate of title as legal owner.*

**Sec. 7.** *“Owner” defined. “Owner” means a person who holds the legal title of an off-highway vehicle and whose name appears on the certificate of title, and any lienholder whose name appears on the certificate of title. If an off-highway vehicle is the subject of an agreement for the conditional sale or lease thereof with or without the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of an off-highway vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter.*

**Sec. 8.** *“Purchase price” defined. “Purchase price” means:*

*1. If no security interest is taken, retained, created or in existence by virtue of a sale of an off-highway vehicle in this State, the price of the off-highway vehicle plus any additional included amounts for taxes, official fees, registration decal fees, transfer of title fees, delivery charges, installation charges, servicing charges, repair charges, alteration charges and improvement charges, or any of them.*

*2. If a security interest is taken, retained, created or in existence by virtue of a sale of an off-highway vehicle in this State, the amounts specified in subsection 1 plus any time price differential included in the security agreement or the obligation which it secures.*

**Sec. 9** *“Registered owner” defined. “Registered owner” means a natural person, firm, corporation or association whose name appears in the files of the Department as the person to whom the off-highway vehicle registration decal is issued.*

**Sec. 10** *“Resident” defined.*

*1. “Resident” includes, but is not limited to, a person:*

*(a) Whose legal residence is in the State of Nevada.*

*(b) Who physically resides in this State and engages in a trade, profession, occupation or accepts gainful employment in this State.*

*(c) Who declares himself to be a resident of Nevada for purposes of obtaining privileges not ordinarily extended to nonresidents of this State.*

*2. The term does not include a person who is an actual tourist, an out-of-state student, a border state employee or a seasonal resident.*

**Sec. 11.** *“Security interest” defined. “Security interest” means an interest in an off-highway vehicle reserved or created by agreement, which secures payment or performance of an obligation. “Security interest” includes the interest of a lessor under a lease intended as security. Whether a lease is intended as security is to be determined by the facts of each case, but:*

*1. The inclusion of an option to purchase does not of itself make the lease one intended for security; and*

*2. An agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the off-highway vehicle for no additional consideration does make the lease one intended for security.*

**Sec. 12.** *“Specially constructed off-highway vehicle” defined. “Specially constructed off-highway vehicle” means any off-highway vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of off-highway vehicles.*

## ADMINISTRATION

**Sec. 13.** *Records of Department concerning registration decals and licensing.*

*Except as otherwise provided in NRS 239.0115, 481.063 and 485.316, all personal information in the records of registration decals and licensing in the offices of the Department is confidential and must not knowingly be disclosed by the Department.*

**Sec. 14.** *Schedule for retention and disposition of certain records of Department.*

*1. Notwithstanding the provisions of any schedule for the retention and disposition of official state records to the contrary, the Director shall ensure that the Department retains the originals of certificates of title that are submitted to the Department for the registration of an off-highway vehicle which has been sold or transferred for at least 1 year after the date on which such documents are received by the Department.*

*2. Notwithstanding the provisions of NRS 239.080, the Director may order the destruction of certificates of title and forms for a power of attorney which are retained pursuant to subsection 1 after the expiration of the 1-year period set forth in that subsection.*

*3. The Department shall keep a record showing when certificates of title and forms for a power of attorney are destroyed.*

**Sec. 15.** *Validity of registration decal: Powers and duties of Department and registered dealers.*

*The Department and the officers and deputies thereof and registered dealers shall examine, and to the best of their ability determine the genuineness and regularity of, every registration decal of an off-highway vehicle as provided in this chapter, in order to prevent any person not entitled thereto from obtaining a registration decal for an off-highway vehicle. The Department or a registered dealer may require any applicant to furnish such information in addition to that contained in the application as may be necessary to satisfy the Department of the truth and regularity of the application.*

## REGISTRATION DECALS AND TITLING

### **Sec. 16. Forms.**

*The Department shall furnish forms for applying for the issuance of certificates of title for, or registration decals of, off-highway vehicles with no fee in a method approved by the Department.*

### **Sec. 17. Application for registration decal.**

- 1. All applications for registration decal must be made as provided in this section.*
- 2. Applications for all registration decals, except renewals of registration decals, must be made to the Department by mail or to a registered dealer.*
- 3. Renewals of registration decals must be made to the Department by mail, to a registered dealer or electronically via the Department's internet website.*
- 4. Each application must be made upon the appropriate form furnished by the Department and contain:*
  - (a) The signature of the owner.*
  - (b) His residential address.*
  - (c) His mailing address, if different than residential address.*
  - (d) A brief description of the off-highway vehicle to be registered, including the name of the maker and identification or serial number.*
- 5. The application must contain such other information as is required by the Department or registered dealer.*

**Sec. 18.**

*1. If the off-highway vehicle to be registered was not previously registered in the state, the application for registration decal must be accompanied by an off-highway vehicle inspection certificate signed by:*

*(a) A peace officer; or*

*(b) A dealer;*

*2. A dealer is entitled to charge \$1 for inspection of an off-highway vehicle described in subsection 1.*

*3. For the purposes of this section, “peace officer” means any employee, volunteer or designee of a law enforcement agency acting in an official capacity.*

**Sec. 19.** *Collection of sales or use tax upon application for registration of certain off-highway vehicles purchased outside this State; payment of all applicable taxes and fees required for registration.*

*1. When application is made to the Department for registration of an off-highway vehicle purchased outside this State and not previously registered within this State where the registrant or owner at the time of purchase was not a resident of or employed in this State, the Department of Taxation shall determine and collect any sales or use tax due.*

*2. If the registrant or owner of the off-highway vehicle was a resident of the State, or employed within the State, at the time of the purchase of that off-highway vehicle, it is presumed that the off-highway vehicle was purchased for use within the State and the Department of Taxation shall collect the tax.*

*3. Until all applicable taxes and fees are collected, the Department shall refuse to register the off-highway vehicle.*

**Sec. 20.** *Grounds requiring refusal of registration decal.*

*The Department shall not grant an application for the issuance of a registration decal of an off-highway vehicle in any of the following events:*

*1. When the applicant therefor is not entitled thereto pursuant to the provisions of chapter 490 of NRS.*

*2. When the applicant has neglected or refused to furnish the Department with the information required in the appropriate official form or reasonable additional information required by the Department.*

*3. When the fees required therefor by law have not been paid.*

**Sec. 21.** *Unlawful use of registration decal; cancellation of certificate of title or registration decals improperly issued or obtained.*

*1. The Department shall cancel the registration decal of an off-highway vehicle whenever the person to whom the registration decal therefor have been issued makes or permits to be made any unlawful use of the decal or permits the use thereof by a person not entitled thereto.*

*2. The Department shall cancel a certificate of title or registration decal which has been issued erroneously or improperly, or obtained illegally.*

*3. Upon rescission, revocation or cancellation of the certificate of title or of the registration decal, the affected certificate or decal must be returned to the Department upon receipt of notice of rescission, revocation or cancellation.*

**Sec. 22.** *Registration indexes and records.*

*The Department shall file each application received and register the off-highway vehicle therein described and the owner thereof in a suitable database as follows:*

*1. Under a distinctive registration decal number assigned to the off-highway vehicle and to the owner thereof, referred to in this chapter as the registration decal number.*

*2. Numerically under the serial or off-highway vehicle identification number of the off-highway vehicle or a permanent identifying number, as may be determined by the Department.*

**Sec. 23.**

*Certificates or other documents or statements and fees required by NRS 490.450 must be submitted to the Department by mail or to a registered dealer.*

**Sec. 24.** *Contents of certificate of title.*

*The certificate of title must contain upon the face thereof the date issued, the name and address of the registered owner and the owner or lienholder, if any, a description of the off-highway vehicle, any entries required by NAC 490 Section 35 to 490 Section 40, inclusive, the information required pursuant to subsection 4 of NAC 490 Section 25 if the certificate of title is a certificate of title in beneficiary form pursuant to NAC 490 Section 25 and such other statement of facts as may be determined by the Department. The reverse side of the certificate of title must contain forms for notice to the Department of a transfer of the title or interest of the owner or lienholder and application for registration decal by the transferee. If a new certificate of title is issued for an off-highway vehicle, it must contain the same information as the replaced certificate, except to the extent that the information has changed after the issuance of the replaced certificate.*

**Sec. 25. *Certificate of title in beneficiary form: Request; application; fee; restriction upon issuance; contents; signatures and transactions; interest; duties of Department.***

*1. The owner or joint owners of an off-highway vehicle may request the Department to issue a certificate of title in beneficiary form for the off-highway vehicle, which includes a directive to the Department to transfer the certificate of title upon the death of the owner or upon the death of all joint owners to a beneficiary named on the face of the certificate of title.*

*2. A request made pursuant to subsection 1 must be submitted on an application made available by the Department and accompanied by the fee for the issuance of a certificate of title*

*3. A certificate of title in beneficiary form may not be issued to a person who holds his interest in an off-highway vehicle as a tenant in common with another person.*

*4. A certificate of title in beneficiary form must include after the name of the owner or after the names of joint owners the words “transfer on death to” or the abbreviation “TOD” followed by the name of the beneficiary.*

*5. During the lifetime of a sole owner or before the death of the last surviving joint owner:*

*(a) The signature or consent of the beneficiary is not required for any transaction relating to an off-highway vehicle for which a certificate of title in beneficiary form has been issued; and*

*(b) The certificate of title in beneficiary form may be revoked or the beneficiary changed at any time by:*

*(1) Sale of the off-highway vehicle with proper assignment and delivery of the certificate of title to another person; or*

*(2) Filing an application with, and paying a fee to, the Department to reissue the certificate of title with no designation of a beneficiary or with the designation of a different beneficiary.*

*6. The interest of the beneficiary in an off-highway vehicle on the death of the sole owner or on the death of the last surviving joint owner is subject to any contract of sale, assignment or ownership or security interest to which the owner or owners of the off-highway vehicle were subject during their lifetime.*

*7. Except as otherwise provided in paragraph (b) of subsection 5, the designation of a beneficiary in a certificate of title in beneficiary form may not be changed or revoked by will, any other instrument or a change in circumstances, or otherwise changed or revoked.*

*8. The Department shall, upon:*

*(a) Proof of death of one of the owners, of two or more joint owners or of a sole owner;*

*(b) Surrender of the outstanding certificate of title in beneficiary form; and*

*(c) Application and payment of the fee for a certificate of title,*

*□ issue a new certificate of title for the off-highway vehicle to the surviving owner or owners or, if none, to the beneficiary, subject to any security interest.*

*9. For the purposes of complying with the provisions of subsection 8, the Department may rely on a death certificate, record or report that constitutes prima facie evidence of death.*

*10. The transfer on death of an off-highway vehicle pursuant to this section is not considered as testamentary and is not subject to administration pursuant to the provisions of title 12 of NRS.*

*11. As used in this section:*

*(a) “Beneficiary” means a person or persons designated to become the owner or owners of an off-highway vehicle on the death of the preceding owner or owners.*

*(b) “Certificate of title in beneficiary form” means a certificate of title of an off-highway vehicle that indicates the present owner or owners of the off-highway vehicle and designates a beneficiary.*

**Sec. 26. *Expiration and renewal of registration decal.***

*1. The registration decal of every off-highway vehicle expires at midnight on the day specified on the registration decal, unless the day specified falls on a Saturday, Sunday, legal holiday or other day the Department is scheduled for closure. If the day specified on the registration decal is a Saturday, Sunday, legal holiday or other day the Department is scheduled for closure, the registration decal of the off-highway vehicle expires at midnight on the next judicial day. The Department shall mail to each holder of a registration decal an application for renewal of registration decal for the following period of registration. The applications must be mailed by the Department in sufficient time to allow all applicants to mail the applications to the Department and to receive a new registration decal by mail before the expiration of their current registration decal. An applicant may present the application to any dealer authorized by the Department to submit for an application for a registration decal renewal, submit the application by regular mail to 555 Wright Way, Attention OHV Section, Carson City, NV 89711-0700 or submit an application electronically on the Department's internet website.*

*2. An owner who has made proper application for renewal of registration decal before the expiration of the current registration decal but who has not received the registration decal for the ensuing period of registration is entitled to operate or permit the operation of that off-highway vehicle upon displaying thereon the registration decal issued for the preceding period of registration for such a time as may be prescribed by the Department as it may find necessary for the issuance of the new registration decal.*

**Sec. 27. *Change of name or place of residence: Notice to Department required; timing and contents of notice.***

*Each holder of a valid registration decal, upon changing his name or place of residence, shall notify the Department of the change within 30 days after the change and shall include in the notice both the old and new names and residence addresses.*

**Sec. 28.**

*A customer who wishes to submit for the issuance of an application for the replacement of a lost, damaged or destroyed certificate of title or registration certificate, sticker or decal shall provide information as determined by the Department on a form provided by the Department by mail or electronic transmission.*

**Sec. 29. Duties of Department upon presentation of an off-highway vehicle for the assignment of a unique off-highway vehicle identification number.**

*At the time the owner of an off-highway vehicle presents his off-highway vehicle to obtain a unique off-highway vehicle identification number, the Department will:*

*1. Assign as the unique off-highway vehicle identification number:*

*(a) The off-highway vehicle identification number placed on the frame of the off-highway vehicle by the manufacturer, or previously by the Department, if the frame of the off-highway vehicle is not replaced;*

*(b) The off-highway vehicle identification number for the off-highway vehicle if the off-highway vehicle has had its frame replaced with a frame that:*

*(1) Is manufactured for or by the original manufacturer of that off-highway vehicle;*

*(2) Is supplied by the manufacturer; and*

*(3) Does not have an off-highway vehicle identification number placed on it by the manufacturer; or*

*(c) A new number established by the Department if the off-highway vehicle:*

*(1) Is a specially constructed off-highway vehicle; or*

*(2) Has had its frame replaced with a frame other than a frame described in paragraph (b).*

*2. Record the unique off-highway vehicle identification number in the records of the Department as set forth in NAC 490 Section 22.*

*3. Permanently stamp or attach the unique off-highway vehicle identification number, or confirm that the unique off-highway vehicle identification number is permanently stamped or attached, to:*

*(a) The frame in an area prescribed by the Department; or*

*(b) If the vehicle is a motorcycle, the frame, as near as possible to the right-side down tube.*

**Sec. 30. Certificate of Title Fees.**

*For its services under chapter 490 of NRS, the Department shall charge and collect the following fees:*

*For each certificate of title issued for an off-highway vehicle present or registered in this State. \$20.00*

*For each duplicate certificate of title issued. 20.00*

*For each certificate of title issued for an off-highway vehicle not present in or registered in this State. 35.00*

*For the processing of each off-highway vehicle dealer's report of sale submitted to the Department 8.25*

*For the processing of each long-term lessor's report of lease submitted to the Department 8.25*

*For the processing of each endorsed certificate of title or statement submitted to the Department upon the sale of a used vehicle in this State by a person who is not a dealer or rebuilder 8.25*

**Sec. 31. Registration Decal Fees.**

*For its services under chapter 490 of NRS, the Department shall charge and collect the following fees:*

*1. For each original registration decal or renewal of a registration decal issued for an off-highway vehicle, a fee of not less than \$20 or not more than \$30 as determined by the Commission on Off-Highway Vehicles.*

*2. For each duplicate registration decal issued for an off-highway vehicle 5.00*

**DEALERS TO SUBMIT FOR OFF-HIGHWAY VEHICLE TITLE & REGISTRATION DECAL**

**Sec. 32. "Authorized representative" defined. As used in NAC 490 Section 47 and 490 Section 48, "authorized representative" means a person designated by a principal owner or officer of a business at which the sale or lease of the off-highway vehicle for which the**

*documentation and fees required to be submitted pursuant to NAC 490 Section 35, 490 Section 36, 490 Section 37 or 490 Section 38 occurs.*

*Sec. 33. "Document" defined. As used in this section, unless the context otherwise requires, "document" means an application, notice, report, statement or other record relating to the issuance or renewal of a registration decal, or the issuance of a certificate of title, pursuant to this chapter.*

*Sec. 34. Termination of participation: Authority of Department.*

*The Department may terminate the participation of an off-highway vehicle dealer in the program. The grounds for termination include, without limitation:*

- 1. The failure of the off-highway vehicle dealer to engage in the business of a dealer;*
- 2. The failure of the off-highway vehicle dealer to comply with the applicable provisions of this chapter, chapter 598 of NAC or chapter 490 or 598 of NRS;*
- 3. The failure of the off-highway vehicle dealer to maintain the surety bond or deposit required by NAC 482.678;*
- 4. The receipt by the Department of complaints against the off-highway vehicle dealer;*  
*and*
- 5. The imposition of any administrative fine or the taking of any other administrative action against the off-highway vehicle dealer by the Department for a violation of this chapter, chapter 598 of NAC or chapter 490 or 598 of NRS.*

## **SECURITY INTEREST IN AN OFF-HIGHWAY VEHICLE**

*Sec. 35. Sale of new off-highway vehicle: Duties of seller; information concerning secured party or assignee; dealer to execute and furnish copy of off-highway vehicle dealer's report of sale; applicability of section.*

- 1. When a new off-highway vehicle is sold in this State for the first time, the seller shall complete and execute a manufacturer's certificate of origin or a manufacturer's statement of origin and, unless the off-highway vehicle is sold to a dealer who is licensed to sell the off-*

*highway vehicle, an off-highway vehicle dealer's report of sale. The off-highway vehicle dealer's report of sale must be in a form prescribed by the Department and must include:*

- (a) A description of the off-highway vehicle;*
- (b) The name and address of the seller;*
- (c) The business license number of the seller; and*
- (d) The name and address of the buyer.*

*2. If, in connection with the sale, a security interest is taken or retained by the seller to secure all or part of the purchase price, or a security interest is taken by a person who gives value to enable the buyer to acquire rights in the off-highway vehicle, the name and address of the secured party or his assignee must be entered on the dealer's report of sale and on the manufacturer's certificate or statement of origin.*

*3. Unless an extension of time is granted by the Department, the seller shall:*

*(a) Collect the fees for:*

*(1) A certificate of title for an off-highway vehicle registered in this State as set forth in NAC 490 Section 30; and*

*(2) The processing of the off-highway vehicle dealer's report of sale as set forth in NAC 490 Section 30; and*

*(b) Within 30 days after the execution of the dealer's report of sale:*

*(1) Submit to the Department by mail the original of the dealer's report of sale and the manufacturer's certificate or statement of origin; and*

*(2) Remit to the Department by mail the fees collected pursuant to paragraph (a).*

*4. For the purposes of establishing compliance with the period required by paragraph (b) of subsection 3, the Department shall use the date imprinted or otherwise indicated on the off-highway vehicle dealer's report of sale as the beginning date of the 30-day period.*

*5. Upon execution of all the documents necessary to complete the sale of an off-highway vehicle, including, without limitation, the financial documents, the dealer shall execute the off-highway vehicle dealer's report of sale and furnish a copy of the report to the buyer not more than 10 days after the date imprinted or otherwise indicated on the off-highway vehicle dealer's report of sale.*

**Sec. 36. *Lease of new off-highway vehicle pursuant to long-term lease: Duties of long-term lessor; execution and furnishing of copy of long-term lessor's report of lease.***

*1. If a new off-highway vehicle is leased in this State by a long-term lessor, the long-term lessor shall complete and execute a manufacturer's certificate of origin or a manufacturer's statement of origin, and a long-term lessor's report of lease. Such a report must be in a form prescribed by the Department and must include:*

*(a) A description of the off-highway vehicle; and*

*(b) The names and addresses of the long-term lessor, long-term lessee and any person having a security interest in the off-highway vehicle.*

*(c) The business license number of the seller.*

*2. Unless an extension of time is granted by the Department, the long-term lessor shall, within 30 days after the execution of the long-term lessor's report of lease:*

*(a) Submit to the Department by mail the original of the long-term lessor's report of lease and the manufacturer's certificate of origin or manufacturer's statement of origin; and*

*(b) Collect and remit to the Department by mail the fee set forth in NAC 490 Section 31 for the registration decal for an off-highway vehicle registered in this state; and*

*(c) Collect and remit to the Department by mail the fee set forth in NAC 490 Section 30 for the processing of the long-term lessor's report of lease.*

*3. For the purposes of establishing compliance with the period required by subsection 2, the Department shall use the date imprinted or otherwise indicated on the long-term lessor's report of lease as the beginning date of the 30-day period.*

*4. Upon executing all the documents necessary to complete the lease of the off-highway vehicle, including, without limitation, the financial documents, the long-term lessor shall execute the long-term lessor's report of lease and furnish a copy of the report to the long-term lessee not more than 10 days after the date imprinted or otherwise indicated on the off-highway vehicle dealer's report of sale.*

**Sec. 37. *Sale of used off-highway vehicle: Duties of seller; exception; information concerning secured party; execution and furnishing of copy of off-highway vehicle dealer's report of sale.***

*1. When a used off-highway vehicle is sold in this State to any person, except a licensed dealer, by a dealer, long-term lessor or short-term lessor, the seller shall complete and execute an off-highway vehicle dealer's report of sale. The off-highway vehicle dealer's report of sale must be in a form prescribed by the Department and must include:*

- (a) A description of the off-highway vehicle;*
- (b) The name and address of the seller; and*
- (c) The business license number of the seller; and*
- (d) The name and address of the buyer.*

*2. If a security interest exists at the time of the sale, or if in connection with the sale a security interest is taken or retained by the seller to secure all or part of the purchase price, or a security interest is taken by a person who gives value to enable the buyer to acquire rights in the off-highway vehicle, the name and address of the secured party must be entered on the off-highway vehicle dealer's or rebuilder's report of sale.*

*3. Unless an extension of time is granted by the Department, the seller shall:*

*(a) Collect the fees for:*

*(1) A certificate of title for an off-highway vehicle registered in this State as set forth in NAC 490 Section 29; and*

*(2) The processing of the dealer's report of sale as set forth in NAC 490 Section 29; and*

*(b) Within 30 days after the execution of the off-highway vehicle dealer's report of sale:*

*(1) Submit to the Department by mail the original of the off-highway vehicle dealer's report of sale and the properly endorsed certificate of title previously issued for the off-highway vehicle; and*

*(2) Remit to the Department by mail the fees collected pursuant to paragraph (a).*

*4. To establish compliance with the period required by paragraph (b) of subsection 3, the Department shall use the date imprinted or otherwise indicated on the off-highway vehicle dealer's report of sale as the beginning date of the 30-day period.*

*5. Upon executing all the documents necessary to complete the sale of the off-highway vehicle, including, without limitation, the financial documents, the seller shall execute the off-highway vehicle dealer's report of sale and furnish a copy of the report to the buyer not more*

*than 10 days after the date imprinted or otherwise indicated on the off-highway vehicle dealer's report of sale.*

**Sec. 38.** *Lease of used off-highway vehicle pursuant to long-term lease: Duties of long-term lessor; execution and furnishing of copy of long-term lessor's report of lease.*

*1. If a used off-highway vehicle is leased in this State by a long-term lessor, the long-term lessor shall complete and execute a long-term lessor's report of lease. Such a report must be in a form prescribed by the Department and must include:*

*(a) A description of the off-highway vehicle; and*

*(b) The names and addresses of the long-term lessor, long-term lessee and any person having a security interest in the off-highway vehicle.*

*(c) The business license number of the seller; and*

*2. Unless an extension of time is granted by the Department, the long-term lessor shall, within 30 days after the execution of the long-term lessor's report of lease:*

*(a) Submit to the Department by mail the original of the long-term lessor's report of lease and the properly endorsed certificate of title previously issued for the off-highway vehicle; and*

*(b) Collect and remit to the Department by mail the fee set forth in NAC 490 Section 30 for the registration decal for an off-highway vehicle registered in this state; and*

*(c) Collect and remit to the Department by mail the fee set forth in NAC 490 Section 29 for the processing of the long-term lessor's report of lease.*

*3. To establish compliance with the period required by subsection 2, the Department shall use the date imprinted or otherwise indicated on the long-term lessor's report of lease as the beginning date of the 30-day period.*

*4. Upon executing all the documents necessary to complete the lease of the off-highway vehicle, including, without limitation, the financial documents, the long-term lessor shall execute the long-term lessor's report of lease and furnish a copy of the report to the long-term lessee not less than 10 days after the date imprinted or otherwise indicated on the off-highway vehicle dealer's report of sale.*

**Sec. 39.** *Issuance of certificate of title to buyer, secured party or assignee.*

*1. Upon receipt of the documents required respectively by NAC Chapter 490 Section 22, 490 Section 34 and NAC 490 Section 36) to be submitted to it, and the payment of all required fees, the Department shall issue a certificate of title.*

*2. If no security interest is created or exists in connection with the sale, the certificate of title must be issued to the buyer.*

*3. If a security interest is created by the sale, the certificate of title must be issued to the secured party or to his assignee.*

**Sec. 40. Issuance of certificates of title to certain secured parties.**

*1. Whenever a security interest is created in an off-highway vehicle, other than a security interest required to be entered pursuant to NAC Chapter 490 Section 34, 490 Section 36 or NRS 490.450, the certificate of title of the off-highway vehicle must be delivered to the Department with a statement signed by the debtor showing the date of the security agreement, the name and address of the debtor and the name and address of the secured party.*

*2. The Department shall issue and deliver to the secured party a certificate of title with the name and address of the secured party noted thereon.*

**Sec. 41. Issuance of registration decal to buyer or assignee.**

*Upon receipt of the documents required respectively by NAC Chapter 490 Section 34 to Section 37 and NRS 490.450 to be submitted to it, and the payment of all required fees, the Department shall issue a registration decal.*

**Sec. 42. Delivery of certificate of title following performance of terms of contract or security agreement; complaint; investigation; administrative fine; opportunity for hearing; deposit of fines.**

*1. Within 15 days after the terms of the contract or security agreement have been fully performed, the seller or other secured party who holds a certificate of title shall deliver the certificate of title to the person or persons legally entitled thereto, with proper evidence of the termination or release of the security interest.*

*2. Upon receipt of a written complaint alleging a violation of subsection 1, the Department shall conduct an investigation of the alleged violation.*

*3. If the Department determines that the seller or other secured party has violated the provisions of subsection 1, the Department shall impose an administrative fine of \$25 for each day that the seller or other secured party is in violation of the provisions of subsection 1. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.*

*4. All administrative fines collected by the Department pursuant to subsection 3 must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration.*

**Sec. 43. Applicable statutory provisions for perfection and release of security interest.** *Compliance with the applicable provisions of NAC 490 Section 34 to 490 Section 41, inclusive, is sufficient for the perfection and release of a security interest in an off-highway vehicle and for exemption from the requirement of filing of a financing statement under the provisions of NRS 104.9311. In all other respects the rights and duties of the debtor and secured party are governed by the Uniform Commercial Code—Secured Transactions and chapter 97 of NRS to the extent applicable.*

**Sec. 44. Inapplicability of certain provisions to security interests in certain off-highway vehicles.**

*NAC 490 Section 34 to Section 42, inclusive, do not apply to a security interest in:*

- 1. Any off-highway vehicle which constitutes inventory held for sale; or*
- 2. Any off-highway vehicle not required to be registered under this chapter.*

*↪ Security interests in all such vehicles are governed by NRS 104.9101 to 104.9708, inclusive.*

**Sec. 45. Effect of action or failure to act by Department or its officers or employees.** *No right of action exists in favor of any person by reason of any action or failure to act on the part of the Department or any officer or employee thereof in carrying out the provisions of NAC 490 Section 34 to 490 Section 39, inclusive, or in giving or failing to give any information concerning the legal ownership of an off-highway vehicle or the existence of a security interest therein.*

**Sec. 46. *Obtaining duplicate certificate of title to use as security with intent to defraud prohibited; penalties.***

*1. It is unlawful for an off-highway vehicle dealer or any other person, with the intent to defraud, to obtain a duplicate certificate of title for any off-highway vehicle in which he grants a security interest to secure a present or future debt, obligation or liability of any nature arising from a loan or other extension of credit made in connection with the financing of the inventory of the off-highway vehicles of the off-highway vehicle dealer, or to engage in any other similar practice commonly known as “flooring.”*

*2. A person who violates the provisions of subsection 1 shall be punished in accordance with the provisions of NRS 205.380.*

*3. In addition to any penalty imposed pursuant to subsection 2, the court shall order the person to pay restitution.*

**Sec. 47. *Request for extension of time to submit certain documents and fees; granting of request.***

*1. A seller or a long-term lessor who wishes to obtain an extension of time to submit to the Department the documents and fees that he is required to submit pursuant to NAC 490 Section 34, 490 Section 35, 490 Section 36 or 490 Section 37 must submit or have an authorized representative submit a request for an extension of time to the Department before the expiration of the period for submitting the required documents and fees set forth in NAC 490 Section 34, 490 Section 35, 490 Section 36 or 490 Section 37, as applicable. The request must be submitted on a form prescribed by the Department and must include:*

*(a) The name under which the seller or the long-term lessor does business for the location at which the sale or lease of the off-highway vehicle for which the documentation and fees are required occurred;*

*(b) The mailing address of that location;*

*(c) The number of the license issued by the Department to the licensee of the business for that location;*

*(d) A description of the off-highway vehicle that was sold or leased, including, without limitation, the year, make and off-highway vehicle identification number;*

*(e) A copy of the off-highway vehicle dealer's report of sale or the off-highway vehicle long-term lessor's report of lease, as applicable;*

*(f) An explanation of the reason that the extension is required, including, without limitation, the reason that the seller or the long-term lessor is unable to obtain the original manufacturer's certificate of origin or manufacturer's statement of origin, or the properly endorsed certificate of title or certificate of ownership previously issued for the off-highway vehicle; and*

*2. A request for an extension of time shall be submitted by mail to the Department of Motor Vehicles, Division of Compliance Enforcement, Business Programs Section, 555 Wright Way, Carson City, Nevada 89711. A request that is mailed shall be deemed to be submitted on the date of the postmark that appears on the envelope in which the request was mailed, if postage is prepaid and the envelope is properly addressed to the Department.*

*3. A seller, a long-term lessor or an authorized representative may submit more than one request for an extension of time to submit the same documents and fees. Except as otherwise provided in subsection 4, the Department will approve a second or subsequent request for an extension of time if the Department determines that such a request is justified.*

*4. If a seller, a long-term lessor or an authorized representative submits three or more requests for an extension of time related to the submission of the same documents and fees, the third request, or any request subsequent to the third request, is forwarded to the Division of Compliance Enforcement of the Department for review by that Division. The Department will not approve the third request or any request subsequent to the third request unless the Division of Compliance Enforcement of the Department first approves the request.*

*5. If the Department grants a request for an extension of time pursuant to this section, the seller or the long-term lessor will have 30 days after the date on which the Department approves the request to submit the documents and fees he is required to submit pursuant to NAC 490 Section 34, 490 Section 35, 490 Section 36 or 490 Section 37.*

**Sec. 48.** *Denial of request for extension of time to submit certain documents and fees; resubmission of request; return and resubmission of certain documents.*

*1. The Department will deny a request for an extension of time submitted to the Department pursuant to NAC 490 Section 46 if:*

*(a) For an initial request, the seller, the long-term lessor or the authorized representative submits the request to the Department after the expiration of the period for submitting the required documents and fees set forth in NAC 490 Section 34, 490 Section 35, 490 Section 36 or 490 Section 37, as applicable, unless the request is made after the Department has returned a document to the seller or the long-term lessor pursuant to subsection 3;*

*(b) For the second request or any request subsequent to the second request, the seller, the long-term lessor or the authorized representative submits the request to the Department after the expiration of the 30-day period granted by the Department pursuant to a previously approved extension of time;*

*(c) The request is incomplete or contains inaccurate information; or*

*(d) The request is not completed on a form prescribed by the Department.*

*2. If the Department denies a request for an extension of time pursuant to paragraph (c) or (d) of subsection 1, the Department will return the request to the seller, the long-term lessor or the authorized representative. The seller, the long-term lessor or the authorized representative may resubmit a request for an extension of time that has been returned to him if he resubmits the request before the expiration of the later of:*

*(a) The period for submitting the required documents and fees set forth in NAC 490 Section 34, 490 Section 35, 490 Section 36 or 490 Section 37, as applicable; or*

*(b) The 30-day period described in subsection 3 if the Department has returned a document described in that subsection to the seller or the long-term lessor.*

*3. The Department will return a dealer's report of sale, a long-term lessor's report of lease or any other document submitted to the Department pursuant to NAC 490 Section 34, 490 Section 35, 490 Section 36 or 490 Section 37, to the seller or the long-term lessor, as applicable, if the document is incomplete or contains inaccurate information. The seller or the long-term lessor may resubmit any such document that has been returned to him if he resubmits the document within 30 days after the date on which the Department returned the document to him. A seller or a long-term lessor who fails to resubmit a document that has been returned to him pursuant to this subsection within the 30-day period described in this subsection shall be deemed to be in violation of NAC 490 Section 34, 490 Section 35, 490 Section 36 or 490 Section 37, as applicable, unless he requests an extension of time pursuant to NAC 490 Section 46 before the expiration of the 30-day period.*

## TRANSFER OF TITLE OR INTEREST

**Sec. 49.** *Expiration of registration decal on transfer of ownership or destruction of vehicle; transfer of registration decal to another vehicle.*

1. *Upon the transfer of the ownership of or interest in any off-highway vehicle by any holder of a valid registration decal, or upon destruction of the off-highway vehicle, the registration decal expires.*

2. *The holder of the original registration decal may not transfer the registration decal to another vehicle.*

**Sec. 50.** *Endorsement of certificate of title upon transfer; form for transfer of ownership for use by dealer; registration by transferee; exceptions.*

1. *Except as otherwise provided in this subsection and subsections 4 and 5, and NAC 490 Section 24, upon a transfer of the title to, or the interest of an owner in, an off-highway vehicle registered or issued a certificate of title under the provisions of this chapter or NRS 490, the person or persons whose title or interest is to be transferred and the transferee shall write their signatures with pen and ink upon the certificate of title issued for the off-highway vehicle, together with the residence address of the transferee, in the appropriate spaces provided upon the certificate.*

2. *Except as otherwise provided in subsections 3, 4 and 5, the transferee shall immediately apply for registration decal as provided in NAC 490 Section 16.*

3. *If the transferee is a dealer who intends to resell the off-highway vehicle, he is not required to register, pay a transfer or registration decal fee for the off-highway vehicle. When the off-highway vehicle is resold, the purchaser shall apply for registration decal as provided in NAC 490 Section 16.*

4. *If the transferee consigns the off-highway vehicle to a wholesale off-highway vehicle auctioneer:*

(a) *The transferee shall, within 30 days after that consignment, provide the wholesale off-highway vehicle auctioneer with the certificate of title for the off-highway vehicle, executed as required by subsection 1, and any other documents necessary to obtain another certificate of title for the off-highway vehicle.*

*(b) The wholesale off-highway vehicle auctioneer shall be deemed a transferee of the off-highway vehicle for the purposes of subsection 4. The wholesale off-highway vehicle auctioneer is not required to comply with subsection 1 if he:*

*(1) Does not take an ownership interest in the off-highway vehicle;*

*(2) Auctions the off-highway vehicle to an off-highway vehicle dealer; and*

*(3) Stamps his name, his identification number as an off-highway vehicle dealer and the date of the auction on the certificate of title and the bill of sale and any other documents of transfer for the off-highway vehicle.*

*5. A charitable organization which intends to sell an off-highway vehicle which has been donated to the organization must not be required to register or pay a registration decal fee for the off-highway vehicle. When the off-highway vehicle is sold by the charitable organization, the purchaser shall apply for registration decal as provided in NAC 490 Section 16.*

*6. As used in this section, “wholesale off-highway vehicle auctioneer” means a dealer who:*

*(a) Is engaged in the business of auctioning consigned off-highway vehicles to off-highway vehicle dealers who are licensed as such in this or any other state; and*

*(b) Does not in the ordinary course of his business buy, sell or own the off-highway vehicles he auctions.*

**Sec. 51.** *Registration if transferee unable to produce registration decal or title. Whenever application is made to the Department for registration of an off-highway vehicle previously registered pursuant to this chapter and the applicant is unable to present the registration decal or certificate of title previously issued for the off-highway vehicle because the registration decal or certificate of title is lost, unlawfully detained by one in possession or otherwise not available, the Department may receive the application, investigate the circumstances of the case and require the filing of affidavits or other information. When the Department is satisfied that the applicant is entitled to a new registration decal and certificate of title, it may register the applicant’s off-highway vehicle and issue new registration decal and certificate of title to the person or persons entitled thereto.*

**Sec. 52.** *Transfer other than voluntary transfer: Expiration of registration decal; operation of off-highway vehicle.*

*In the event of the transfer by operation of law of the title or interest of an owner in and to an off-highway vehicle as upon inheritance, devise or bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in performing the terms of a lease or executory sales contract, transfer on death pursuant to NAC 490 Section 24, or otherwise, the registration decal thereof expires and the off-highway vehicle must not be operated until and unless the person entitled thereto shall apply for and obtain the registration decal thereof.*

## **REGULATION OF DEALERS**

### **Temporary Licenses for Temporary Locations**

**Sec. 53.** *Definitions.*

*As used in NAC 490 Section 52 to Section 59, inclusive, unless the context otherwise requires, the words and terms defined in NAC 490 Section 53 and Section 54 have the meanings ascribed to them in those sections.*

**Sec. 54.** *“Display an off-highway vehicle for sale” defined.*

*“Display an off-highway vehicle for sale” means to display one or more off-highway vehicles owned or controlled by a licensed dealer at a temporary location and at which:*

- 1. A salesman or representative of the licensed dealer is present; or*
- 2. A telephone or any other device for communication with a salesman or representative of the licensed dealer is provided.*

**Sec. 55.** *“Exhibit off-highway vehicles” defined.*

*“Exhibit off-highway vehicles” means to display three or more off-highway vehicles owned or controlled by a licensed dealer at a single temporary location and at which:*

- 1. The licensed dealer’s name is displayed on or about each off-highway vehicle;*
- 2. Any solicitation or sale is prohibited;*
- 3. A salesman or representative of the licensed dealer is not present; and*
- 4. A telephone or any other device for communication with a salesman or representative of the licensed dealer is not provided.*

**Sec. 56. *Circumstances under which required.***

*A licensed dealer shall not exhibit, display for sale or sell an off-highway vehicle at a temporary location without first obtaining a temporary license issued by the Department pursuant to subsection 4 of NRS 490.240 for each temporary location at which he intends to exhibit, display for sale or sell an off-highway vehicle.*

**Sec. 57. *Application.***

*1. In accordance with the provisions of this section and subsection 4 of NRS 490.240, the Department will issue a temporary license to:*

- (a) Exhibit off-highway vehicles; or*
- (b) Display an off-highway vehicle for sale,*

*to a licensed dealer who applies to conduct such a business at a temporary location.*

*2. At least 3 days before the commencement of a business at a temporary location, an applicant must submit to the Department an application for a temporary license on forms supplied by the Department.*

*3. The applicant must indicate in his application whether he is applying for a temporary license to exhibit off-highway vehicles or display an off-highway vehicle for sale.*

*4. The Department may require an applicant to submit additional information as it deems necessary to evaluate the application.*

*5. The applicant must submit to the Department with his application:*

*(a) A fee of:*

*(1) Twenty-five dollars for each temporary license to exhibit off-highway vehicles; or*

*(2) Seventy-five dollars for each temporary license to display an off-highway vehicle for sale; and*

*(b) Evidence that he has complied with any applicable zoning restrictions and any applicable requirements for obtaining a business license.*

**Sec. 58. *Period of validity; contents; limitation on number issued; nontransferability.***

*1. A temporary license to:*

*(a) Exhibit off-highway vehicles is valid for a period not to exceed 21 days after the date on which it was issued.*

*(b) Display an off-highway vehicle for sale is valid for a period not to exceed 7 days after the date on which it was issued.*

*2. A temporary license to exhibit off-highway vehicles will state that a licensed dealer is prohibited from:*

*(a) Making any solicitation or sale;*

*(b) Having his salesman or representative present; or*

*(c) Providing a telephone or any other device for communication with his salesman or representative,*

*at the temporary location.*

*3. The Department will issue not more than six temporary licenses to display an off-highway vehicle for sale to a licensed dealer during a calendar year.*

*4. A temporary license is not transferable by the licensed dealer and is valid only for the particular temporary location and person named in the license.*

**Sec. 59. Grounds for refusal to issue.**

*The Department will not issue a temporary license if:*

*1. The applicant is not in compliance with this chapter or chapter 490 of NRS.*

*2. The temporary location requested in the application violates any applicable zoning restrictions and any applicable requirements for obtaining a business license.*

**Sec. 60. Posting; additional requirements.**

*1. A licensed dealer shall post his temporary license in a conspicuous place at the temporary location so that it is visible to the public.*

*2. In addition to the requirements set forth in subsection 1, if a licensed dealer is issued a temporary license to display an off-highway vehicle for sale, he shall display a sign at the temporary location which:*

*(a) Is at least 2 square feet in size; and*

*(b) States the name of the licensed dealer.*

## Dealer Licensing

**Sec. 61. Lessors and certain employees: Licensing; renewal; fees; denial, suspension, revocation or transfer of license; applicability of provisions.** [Effective until the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

*1. Except as otherwise provided in subsection 7, a person who engages in the leasing of off-highway vehicles in this State as a long-term or short-term lessor shall:*

*(a) Secure a license from the Department to conduct the leasing business;*

*(b) Post a bond;*

*(c) Furnish the Department with any other information as may be required;*

*(d) Comply with the terms and conditions of NRS 490 and this chapter which apply to off-highway vehicle dealers;*

*(e) If the applicant is a natural person, submit the statement required pursuant to NRS 490.330; and*

*(f) Pay a license fee of \$125.*

*2. Except as otherwise provided in subsection 7, a short-term lessor shall, in addition to the license fee specified in subsection 1, pay a fee of \$125 for each branch to be operated pursuant to the license.*

*3. Any person employed by a long-term lessor licensed under the provisions of subsection 1 who engages in the practice of arranging or selling such services, and any person employed by a short-term lessor who sells, offers or displays for sale or exchange off-highway vehicles which are owned by the short-term lessor shall, before commencing operations, and annually thereafter:*

*(a) Secure from the Department a license to act as a salesman of such services; and*

*(b) Comply with the terms and conditions which apply to salesmen of off-highway vehicles as specified in NRS 490.420.*

*4. An application for the issuance of a license pursuant to this section must include the social security number of the applicant.*

5. Licenses issued pursuant to subsection 1 expire on December 31 of each year. Before December 31 of each year, licensees shall furnish the Department with an application for renewal of the license accompanied by an annual renewal fee of \$50. Except as otherwise provided in subsection 7, a short-term lessor shall, in addition to the annual renewal fee, pay an annual fee of \$50 for each branch to be operated pursuant to the license. 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 renewal application must be provided by the Department and must contain information required by the Department.

6. The provisions of NRS 490.310, relating to the denial, revocation or suspension of licenses, apply to licenses issued pursuant to the provisions of subsection 1. The provisions of NRS 490.420, relating to the denial, revocation, suspension and transfer of off-highway vehicle salesmen's licenses, apply to licenses issued pursuant to the provisions of subsection 3.

7. The provisions of subsections 1, 2 and 5 which relate to the licensing of lessors of off-highway vehicles do not apply to an off-highway vehicle dealer licensed pursuant to the provisions of NRS 490.210 who engages in the leasing of off-highway vehicles in this State as a long-term lessor.

**Sec. 61. Lessors and certain employees: Licensing; renewal; fees; denial, suspension, revocation or transfer of license; applicability of provisions.** [Effective on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. Except as otherwise provided in subsection 6, a person who engages in the leasing of off-highway vehicles in this State as a long-term or short-term lessor shall:

- (a) Secure a license from the Department to conduct the leasing business;
- (b) Post a bond;
- (c) Furnish the Department with any other information as may be required;
- (d) Comply with the terms and conditions of this chapter which apply to off-highway vehicle dealers; and
- (e) Pay a license fee of \$125.

2. *Except as otherwise provided in subsection 6, a short-term lessor shall, in addition to the license fee specified in subsection 1, pay a fee of \$125 for each branch to be operated pursuant to the license.*

3. *Any person employed by a long-term lessor licensed under the provisions of subsection 1 who engages in the practice of arranging or selling such services, and any person employed by a short-term lessor who sells, offers or displays for sale or exchange off-highway vehicles which are owned by such short-term lessor shall, before commencing operations, and annually thereafter:*

*(a) Secure from the Department a license to act as a salesman of such services; and*

*(b) Comply with the terms and conditions which apply to salesmen of off-highway vehicles as specified in NRS 490.420.*

4. *Licenses issued pursuant to subsection 1 expire on December 31 of each year. Before December 31 of each year, licensees shall furnish the Department with an application for renewal of the license accompanied by an annual renewal fee of \$50. Except as otherwise provided in subsection 6, a short-term lessor shall, in addition to the annual renewal fee, pay an annual fee of \$50 for each branch to be operated pursuant to the license. The renewal application must be provided by the Department and must contain information required by the Department.*

5. *The provisions of NRS 490.310, relating to the denial, revocation or suspension of licenses, apply to licenses issued pursuant to the provisions of subsection 1. The provisions of NRS 490.420, relating to the denial, revocation, suspension and transfer of off-highway vehicle salesmen's licenses, apply to licenses issued pursuant to the provisions of subsection 3.*

6. *The provisions of subsections 1, 2 and 4 which relate to the licensing of lessors of vehicles do not apply to an off-highway vehicle dealer licensed pursuant to the provisions of NRS 490.210 who engages in the leasing of off-highway vehicles in this State as a long-term lessor.*

**Sec. 62.** *Long-term lessors also holding licenses as off-highway vehicle dealers: Authorized acts.*

*A licensed long-term lessor who also holds a license as an off-highway vehicle dealer may, for the period those licenses remain in effect, sell, exchange, buy, offer or display for*

*sale, negotiate or attempt to negotiate the sale or exchange of, or induce or attempt to induce any person to buy or exchange an interest in, an off-highway vehicle that has been registered with the Department, or has been registered with the appropriate agency of authority of any other state, the District of Columbia, any territory or possession of the United States or foreign state, province or country, if the long-term lessor:*

*1. Maintains an established place of business in this State which:*

*(a) Is in a location that is zoned for such activities;*

*(b) Includes an office and lot facilities with sufficient space to meet the needs of his customers; and*

*(c) Includes a facility for repairing and performing maintenance work on off-highway vehicles;*

*2. Maintains all other state and local licenses and permits required for such activities; and*

*3. Forwards to the registered owner of an off-highway vehicle sold by him any notice received from the manufacturer of the off-highway vehicle regarding a defect in the off-highway vehicle.*

**Sec. 63.** *Fee for processing fingerprints of applicant for license as manufacturer, distributor, dealer or rebuilder.*

*The amount of the fee required pursuant to NRS 490.210 for the processing of an applicant's fingerprints will equal the sum of the amounts charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for their reports on the applicant's fingerprints.*

#### **Disclosure of Financial records (Dealers)**

**Sec. 64.** *Manufacturers, distributors, dealers and rebuilders: Form for authorization of disclosure.*

*1. An authorization for the disclosure of financial records required by the Department pursuant to subsection 3 of NRS 490.310 must be on a form provided by the Department.*

2. *In addition to the requirements of NRS 239A.090, the form must include, without limitation, a statement that the financial records and any information concerning the financial records:*

*(a) Will only be used to assist the Division of Compliance Enforcement of the Department to determine the suitability of an applicant or licensee for initial or continued licensure pursuant to NRS 490.200 to 490.440, inclusive; and*

*(b) Will not be disclosed or disseminated to any person other than an employee of the Department who is authorized to issue a license to an applicant pursuant to NRS 490.200 to 490.440, inclusive, or to determine the suitability of an applicant or a licensee for such licensure.*

## **Advertising (Dealers)**

### **Sec. 65. Definitions.**

*As used in NAC 490 Section 64 to 490 Section 83, inclusive, unless the context otherwise requires:*

1. *“Advertisement” means any oral or printed statement disseminated by the seller or lessor of an off-highway vehicle for the purpose of inducing, or which is likely to induce, the purchase or lease of the off-highway vehicle, including, but not limited to, statements:*

*(a) Made in a newspaper or other publication or on radio or television;*

*(b) Contained in any notice, handbill, sign, catalog or letter; or*

*(c) Printed on any tag or label attached to or accompanying the off-highway vehicle.*

2. *“Discount” means any deduction made from the gross sales price of an off-highway vehicle by the seller.*

3. *“Down payment” means an amount a seller receives in cash or trade from the purchaser of an off-highway vehicle that is used to reduce the cash price of the off-highway vehicle.*

4. *“Invoice” means a written itemized statement received by a dealer from the manufacturer of an off-highway vehicle listing the price of the off-highway vehicle, the price of the optional equipment included with the off-highway vehicle, if applicable, and the additional charges imposed by the manufacturer, if applicable.*

**Sec. 66. Exemptions; copy of regulations provided by dealer.**

*1. NAC 490 Section 64 to 490 Section 83, inclusive, do not apply to:*

*(a) Any radio or television broadcasting station or broadcaster; or*

*(b) Any publisher, printer, distributor or owner, any newspaper or magazine, billboard or other advertising medium, or any owner, operator, agent or employee of any advertising agency or other business engaged in preparing or disseminating advertising for public consumption on behalf of any other person when the advertising is in good faith and he is without knowledge of its untrue, deceptive or misleading character.*

*2. A dealer shall provide a copy of NAC 490 Section 64 to 490 Section 83, inclusive, to:*

*(a) Any advertising agent or agency or other business engaged in preparing or disseminating advertisements for the dealer; and*

*(b) Each employee assigned to preparing or disseminating advertisements for the dealer.*

**Sec. 67. False, deceptive or misleading advertising prohibited.**

*No person licensed under the provisions of chapter 490 of NRS, or any agent or employee of that person, may publish, disseminate, display or cause directly or indirectly to be used, published, disseminated, displayed or made in any newspaper, magazine or other publication, by any radio, television, or other advertising medium or any other advertising device, or by public outcry, proclamation or declaration, or any other manner or means or method, but not limited to solicitation or dissemination by mail, telephone or door-to-door contacts, any statement which is known, or through the exercise of reasonable care, should be known to be false, deceptive or misleading, in order to:*

*1. Induce any person to purchase, sell, lease, dispose of, utilize or acquire any ownership, title or interest in any off-highway vehicle or to enter into any obligation or transaction relating thereto; or*

*2. Include such a statement as a part of a plan or scheme which intentionally misstates the cost or price of an off-highway vehicle for the purposes of producing an erroneous belief by any person that the actual cost or price is the same as stated in the advertisement.*

**Sec. 68. Accuracy of advertising.**

1. Any advertised statements and offer for the sale or lease of a specific off-highway vehicle indicating the condition, equipment and price of the off-highway vehicle and the terms of the sale or lease must be clearly set forth and based upon facts. Such an advertisement must clearly indicate that only one off-highway vehicle is being offered for sale or lease. The off-highway vehicle must be identified by the year and make of the off-highway vehicle and by no less than the last six digits of the vehicle identification number or by stock number.

2. An advertisement for off-highway vehicles which have the same make, model, year and price and are similarly equipped is not required to list a stock number or the last six digits of the vehicle identification number for each off-highway vehicle if the advertisement includes the make, model, year and price of the off-highway vehicles. If the number of off-highway vehicles which are advertised is limited, the advertisement must state the number of off-highway vehicles which are available at the advertised price.

3. An advertisement must not present information that is erroneous or misleading regarding which off-highway vehicle or off-highway vehicles are being offered for sale at the price or prices indicated in the advertisement.

4. If an advertisement includes the terms of the sale of an off-highway vehicle:

(a) The terms of the sale must not be presented in a misleading or inaccurate manner; and

(b) Any provision which qualifies the terms of the sale must be:

(1) If the advertisement is a printed advertisement, printed in at least 8-point type in a type face that can be read without extra effort; and

(2) Except as otherwise provided in this subsubparagraph, located in close proximity to the terms of the sale that are qualified. If the qualifying provision is not so located, the advertisement must clearly indicate that part of the advertisement that contains the qualifying provisions.

5. The price and terms of the sale included in an advertisement must remain available until the off-highway vehicle is sold, unless a date of expiration is included in the advertisement.

**Sec. 69. “Bait and switch” advertising and selling practices prohibited.**

1. *“Bait and switch” advertising and selling practices must not be used. Off-highway vehicles advertised for sale must, unless otherwise stated, be in the possession of the dealer, owner or advertiser as advertised at the address given. Unless otherwise stated, the off-highway vehicles must be in a condition to be demonstrated and be willingly shown and sold at advertised prices and terms. The advertiser shall, upon request, present evidence to the prospective purchaser that the advertised off-highway vehicles have been sold.*

2. *As used in this section, “bait and switch” means to offer an off-highway vehicle at a low price to attract a prospective purchaser in order to induce him to purchase an off-highway vehicle with a higher price by disparaging the advertised off-highway vehicle.*

**Sec. 70. Price of off-highway vehicle advertised.**

1. *If the price of an off-highway vehicle is advertised, the price must include all charges known to the dealer, including, but not limited to:*

*(a) Delivery charges imposed by the manufacturer or distributor of the off-highway vehicle; and*

*(b) Charges for servicing the off-highway vehicle imposed by the dealer.*

□ *The price may exclude charges for the preparation of documents related to the sale of the off-highway vehicle imposed by the dealer, if the charges are separately identified in the advertisement and the amount of the charges is indicated.*

2. *Except as otherwise provided in this subsection, any advertisement which includes the term “manufacturer’s suggested retail price,” “MSRP,” “factory price” or a similar term must include the price of the off-highway vehicle which includes any fee charged by the dealer and any manufacturer’s discounts included on the off-highway vehicle. The price may exclude charges for the preparation of documents related to the sale of the off-highway vehicle imposed by the dealer, taxes and fees for licenses.*

3. *A dealer shall not advertise a new off-highway vehicle at a price which does not include the standard equipment and any additional equipment which is listed on the invoice.*

4. *Statements such as “at cost,” “below cost” or “below invoice,” must be construed literally. “Cost” is the actual cash or invoice price paid by the dealer for the off-highway vehicle or off-highway vehicles offered. If an advertisement contains a statement such as “at*

*cost,” “below cost” or “below invoice,” the dealer must, upon request, present to the prospective purchaser the actual invoice.*

*5. If specific claims of savings are used in an advertisement, the dealer must, upon request, explain to the prospective purchaser the manner in which the savings are calculated. The term “wholesale” must not be used in the business firm’s name, signs or display signs.*

*6. If the term “wholesale price” or “low book price” is used in an advertisement, the price must correspond to the appropriate value set forth for the off-highway vehicle in a recognized reference publication.*

*7. As used in this section:*

*(a) “Manufacturer’s suggested retail price” or “MSRP” means the total price of the off-highway vehicle.*

*(b) “Recognized reference publication” includes the National Automobile Dealer’s Association Used Car Guide and any other publication of similar scope and reputation.*

**Sec. 71. Loan advertised.**

*If a dealer advertises a loan for the purchase of an off-highway vehicle and includes in the advertisement:*

- 1. The amount of the down payment;*
- 2. The amount of the periodic payment;*
- 3. The number of payments or the period over which payments must be made; or*
- 4. The amount of the finance charge,*

*he shall include in the advertisement any other terms of the loan related to the cost of the loan, including the annual percentage rate.*

**Sec. 72. Payments and down payments advertised.**

*1. The amount of payments and down payments must not be stated in a manner that gives the impression that it is the selling price of the off-highway vehicle.*

*2. The statement “no money down” or others of similar import mean that the advertiser will deliver the off-highway vehicle described to the purchaser without payment of any nature or without a trade-in.*

3. Unless the advertiser clearly indicates that there is a down payment, the amount quoted as the weekly, monthly or other periods of installment payments must be understood to include the down payment.

**Sec. 73. *Line of credit advertised.***

1. *If a dealer advertises a line of credit for the purchase of off-highway vehicles and includes in the advertisement:*

- (a) The periodic rate used to compute the annual percentage rate;*
- (b) The date the finance charge begins to accrue;*
- (c) The method of determining the balance upon which the finance charge is imposed;*
- (d) The method of determining the finance charge; or*
- (e) The amount of any fee included in the line of credit,*

*he shall include in the advertisement all fees that will be charged for the line of credit, including any membership or participation fees, and the annual percentage rate.*

2. *If an advertisement includes the annual percentage rate for a line of credit, it must be identified using the term “annual percentage rate” or “APR.” If the rate included in the advertisement is a variable periodic rate, that fact must be disclosed in the advertisement.*

**Sec. 74. *Trade-in allowances advertised.***

*No specific amount or range of amounts may be stated in an advertisement as an offer for a trade-in if the amount or range of amounts stated is contingent upon the condition, model or age of the prospective purchaser’s off-highway vehicle, unless those conditions are stated in the advertisement. The use of phrases such as “up to,” “as much as” or those of similar meaning, are not considered to be adequate explanation.*

**Sec. 75. *Lease advertised.***

*If a dealer offers an off-highway vehicle for lease, an advertisement for that off-highway vehicle must include a statement that the off-highway vehicle is being offered for lease. If a dealer includes a term of the lease in the advertisement, he shall include in the advertisement:*

- 1. *The total amount required before the off-highway vehicle is delivered;*
- 2. *The number, period and amount of payments;*

3. *If an option to buy the off-highway vehicle is included in the lease, the price of the option or the method of determining the price of the option;*

4. *If an option to buy the off-highway vehicle is not included in the lease, a statement indicating that fact; and*

5. *The amount or method of determining the amount of any charges imposed at the termination of the lease.*

**Sec. 76. *Financing advertised.***

1. *The phrases “no finance charge,” “no carrying charge” or similar expressions may not be used when there is a charge for placing the transaction on a time-payment basis.*

2. *Terms featuring weekly, semimonthly or other periodic payments must not be used unless purchasers are given contracts payable in accordance with those terms; for example, weekly or semimonthly payments may not be featured unless actually available.*

3. *Advertised claims such as “everybody financed,” “no credit rejected,” “we finance anyone” and other similar statements, are not permitted since no dealer can be assured that financing will be extended or obtained due to adverse credit background, length or lack of employment, or bankruptcy.*

4. *Advertised terms based upon payments extending beyond 36 months must clearly state the number of months and any other special considerations required to obtain these terms.*

**Sec. 77. *Rebate advertised.***

1. *If a dealer advertises a rebate on an off-highway vehicle, an advertisement for the sale of that off-highway vehicle must include:*

*(a) The amount of the rebate; and*

*(b) If the dealer is required to make a contribution toward the rebate, the statement “Dealer participation may affect price of off-highway vehicle.”*

2. *As used in this section, “rebate” means a monetary incentive offered by a manufacturer to a prospective purchaser to induce him to purchase an off-highway vehicle.*

**Sec. 78. *Trade styles and signs.***

1. *The words “finance,” “loan,” “discount” or similar expressions may not be used in the firm name, signs or trade style of a company offering off-highway vehicles for sale unless*

*the firm is actually engaged in the finance business and offering only bona fide repossessed off-highway vehicles.*

*2. The words “repo,” “repossessed” or “repossession” may not be used in the business firm’s name or trade style, signs or display signs. The words “repo,” “repossessed” or “repossession” may be used through other means of advertising; for example, radio, television, newspapers, magazines only when that firm identifies that particular off-highway vehicle by vehicle identification number, the off-highway vehicle is identifiable as a repossessed off-highway vehicle and will be sold for the unpaid balance and actual repossession costs incurred.*

**Sec. 79. *Repossessions; unpaid balance.***

*The term “repossessed” may be used only to describe off-highway vehicles presently and directly taken back from the purchaser. Advertisers offering repossessed off-highway vehicles for sale shall provide written proof of repossessions. The amount quoted as the unpaid balance and actual repossession costs incurred must be the full selling price.*

**Sec. 80. *Used off-highway vehicles of current year models; demonstrators.***

*1. If a used off-highway vehicle of a current year model is advertised, the first line of the advertisement must contain the word “used” or the text must clearly indicate that the off-highway vehicle offered is used.*

*2. The term “demonstrator,” if used in advertising, refers to an off-highway vehicle which has never been registered. The terms include off-highway vehicles used by new off-highway vehicle dealers or their salesmen for demonstrating performance ability, but not off-highway vehicles purchased by dealers or salesmen and used as their personal off-highway vehicle.*

**Sec. 81. *Executive or official off-highway vehicles.***

*1. Executive or official off-highway vehicles, when referred to in advertising, must have been used by executives, personnel of an off-highway vehicle manufacturer or a dealer. These off-highway vehicles must not have been registered.*

*2. Off-highway vehicles owned by state, federal, city, county and political subdivisions must be identified as such in their advertising. The word “commercial” or a similar ambiguous term may not be used to describe these off-highway vehicles.*

**Sec. 82. *Off-highway vehicles advertised as offered by private parties.***

*1. An off-highway vehicle owned or in the possession of a dealer or a salesman must not be advertised to convey the impression the off-highway vehicle is being offered by a private party. Clarification must be made by adding the term “dealer” or “dlr” and the license number of the dealer or salesman to the advertisement.*

*2. Phrases such as “take over payments,” “can be purchased by paying storage bill and taking over payments” and similar phrases conveying an appeal made by a private party or distress appeals, must not be used by dealers.*

*3. Descriptions of ownership made by a dealer advertising consigned off-highway vehicles must be based on facts.*

**Sec. 83. *Use of various selling techniques.***

*1. Unsupported claims of underselling are not in the public interest and must not be used since it is obvious that no dealer can be fully informed about every competitor’s prices at all times.*

*2. Use of cards, circulars or other advertising with offers such as “would you take \$...,” or “if I could get you \$... for your off-highway vehicle” must not be used. These are deceptive and detrimental to the public’s interest.*

*3. No equipment, accessories or other merchandise may be described as “free” if the advertised off-highway vehicle can be purchased at a discount or lesser price without the articles. “Free” offers which require the purchase of something else, or a contractual obligation, or the performance of a service, must describe the conditions under which the “free” offer may be obtained.*

*4. When words such as “guaranteed,” “warranty” or other terms implying protection are used in advertising one or more specified off-highway vehicles by radio, television, newspaper, magazines, display signs or any other type of advertising and the warranty referred to does not apply to all off-highway vehicles advertised, explanation must be given in clear and concise*

*language, specifying each off-highway vehicle to which the warranty or guarantee does apply. The time and coverage of this guarantee or warranty must be clearly stated in the advertising. The purchaser of an off-highway vehicle covered by a guarantee or warranty must be provided with a written document stating the specific terms and coverage.*

*5. Statements such as “write your own deal,” “name your own price,” “name your own monthly payments,” “appraise your own car” and similar phrases are obviously untrue and must not be used.*

**Sec. 84. *Violations.***

*1. Violations of NAC 490 Section 64 to Section 83, inclusive, may constitute grounds for the suspension or revocation of the off-highway vehicle dealer’s, rebuilder’s or leasing company’s license or the imposition of administrative fines by the Director of the Department pursuant to the provisions of NRS 490.310, 490.320 and 490.510.*

*2. It is sufficient in bringing any action pursuant to NAC 490 Section 64 to Section 83, inclusive, that any statement referred to in NAC 490 Section 66 has a tendency to deceive or mislead the public because of its false, deceptive or misleading character, even though no member of the public is actually deceived or misled by the statement.*

**REPOSSESSION OF OFF-HIGHWAY VEHICLES**

**Sec. 85. *Sale or lease of repossessed off-highway vehicle: Persons liable on security agreement to be given written notice of intent in advance; required manner of provision and contents of notice; rights of persons liable on security agreement.***

*1. Any provision in any security agreement for the sale or lease of an off-highway vehicle to the contrary notwithstanding, at least 10 days’ written notice of intent to sell or again lease a repossessed off-highway vehicle must be given to all persons liable on the security agreement. The notice must be given in person or sent by mail directed to the address of the persons shown on the security agreement, unless such persons have notified the holder in writing of a different address.*

*2. The notice:*

*(a) Must set forth that there is a right to redeem the off-highway vehicle and the total amount required as of the date of the notice to redeem;*

*(b) May inform such persons of their privilege of reinstatement of the security agreement, if the holder extends such a privilege;*

*(c) Must give notice of the holder's intent to resell or again lease the off-highway vehicle at the expiration of 10 days from the date of giving or mailing the notice;*

*(d) Must disclose the place at which the off-highway vehicle will be returned to the buyer or lessee upon redemption or reinstatement; and*

*(e) Must designate the name and address of the person to whom payment must be made.*

*3. During the period provided under the notice, the person or persons liable on the security agreement may pay in full the indebtedness evidenced by the security agreement. Such persons are liable for any deficiency after sale or lease of the repossessed off-highway vehicle only if the notice prescribed by this section is given within 60 days after repossession and includes an itemization of the balance and of any costs or fees for delinquency, collection or repossession. In addition, the notice must either set forth the computation or estimate of the amount of any credit for unearned finance charges as of the date of the notice or state that such a credit may be available against the amount due.*

**Sec. 86. Sale of repossessed off-highway vehicle in commercially reasonable manner; application of proceeds; injunctive relief; damages.**

*1. Every repossessed off-highway vehicle shall be sold in a commercially reasonable manner. The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the secured party is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the secured party either sells the off-highway vehicle in the usual manner in any recognized market for such an off-highway vehicle or if he sells at the price current in such market at the time of his sale or if he has otherwise sold in conformity with reasonable commercial practices among off-highway vehicle dealers in the type of off-highway vehicle sold he has sold in a commercially reasonable manner. A disposition which has been approved in any judicial proceeding shall conclusively be deemed to be commercially reasonable, but this sentence does not indicate that any such approval must be obtained in any case nor does it indicate that any disposition not so approved is not commercially reasonable.*

*2. The proceeds of disposition shall be applied in the order following to:*

*(a) The reasonable expenses of retaking, holding, preparing for sale and selling, and, to the extent provided for in the agreement, the reasonable attorneys' fees and legal expenses incurred by the secured party.*

*(b) The satisfaction of indebtedness secured by the security interest under which the disposition is made.*

*(c) The satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the secured party, the holder of a subordinate security interest must seasonably furnish reasonable proof of his interest, and unless he does so, the secured party need not comply with his demand.*

*(d) The payment of any surplus to the debtor.*

*3. If it is established that the secured party is not proceeding in accordance with the provisions of this section and NAC 490 Section 84 disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred, the debtor or any person entitled to notification or whose security interest has been made known to the secured party prior to the disposition has a right to recover from the secured party any loss caused by failure to comply with the provisions of this section. If the disposition was not commercially reasonable, as specified in subsection 1, the debtor has a right to recover double his actual damages.*

**Sec. 87. Reports of repossession to peace officer and Department.**

*Any person, firm or corporation who repossesses an off-highway vehicle without the knowledge of the registered owner thereof shall immediately report such repossession by oral communication to the police of the city or to the sheriff's office of the county where such repossession is made. The officer to whom the repossession report is made shall forward a copy of such report to the Department.*

**SPECIAL ANTITHEFT LAWS**

**Sec. 88. Action by Department on reports of stolen, embezzled and recovered off-highway vehicles.**

*Whenever the owner of any off-highway vehicle which is stolen or embezzled files an affidavit alleging such fact with the Department, it shall immediately suspend the registration of and refuse to reregister such off-highway vehicle until such time as it is notified that the owner has recovered the off-highway vehicle, but notices given as herein provided shall be effective only during the current registration year in which given. If during such year the off-highway vehicle is not recovered a new affidavit may be filed with like effect during the ensuing year. Every owner who has filed an affidavit of theft or embezzlement must immediately notify the Department of the recovery of such off-highway vehicle.*

**Sec. 89.** *Authority of police officer, without warrant, to seize and take possession of certain off-highway vehicles; inspection and written report concerning certain falsely attached, removed, defaced, altered or obliterated numbers and marks; authority of court to declare off-highway vehicle forfeited under certain circumstances; charging of criminal act must not precede completion of report.*

*1. Any police officer, without a warrant, may seize and take possession of any off-highway vehicle:*

*(a) Which is being operated with improper registration decal;*

*(b) Which the officer has probable cause to believe has been stolen;*

*(c) On which any motor number, manufacturer's number or identification mark has been falsely attached, removed, defaced, altered or obliterated; or*

*2. A law enforcement agency or an employee of the Department whose primary responsibility is to conduct investigations involving the theft of off-highway vehicles shall inspect any off-highway vehicle seized pursuant to paragraph (c) of subsection 1 to determine whether the number or mark in question on the off-highway vehicle has been falsely attached, removed, defaced, altered or obliterated and whether any person has presented satisfactory evidence of ownership of the off-highway vehicle. The agency or employee shall prepare a written report which sets forth the results of the inspection within 30 days after the off-highway vehicle is seized.*

*3. If the results of the report conclude that the number or mark in question has been falsely attached, removed, defaced, altered or obliterated and that there is no satisfactory*

*evidence of ownership, the court shall declare the off-highway vehicle forfeited and proceed in the manner set forth in NAC 490 Section 89.*

*4. A person must not be charged with any criminal act which caused an off-highway vehicle to be seized pursuant to paragraph (c) of subsection 1 until the report is completed pursuant to subsection 2.*

*5. As used in this section, "police officer" means:*

*(a) Any peace officer of the Department;*

*(b) Sheriffs of counties and officers of metropolitan police departments and their deputies; and*

*(c) Marshals and policemen of cities and towns.*

**Sec. 90. Disposition of seized off-highway vehicle.**

*1. Any off-highway vehicle seized pursuant to NAC 490 Section 88 may be removed by the Department to:*

*(a) A place designated for the storage of seized property.*

*(b) An appropriate place for disposal if that disposal is specifically authorized by statute.*

*2. If disposal of the off-highway vehicle is not specifically authorized by statute, the off-highway vehicle is subject to forfeiture if it appears to the court having jurisdiction over the proceedings that the rightful owner of the off-highway vehicle cannot after due diligence be found.*

*3. If a court declares that an off-highway vehicle seized pursuant to NAC 490 Section 88 is forfeited, the Department may:*

*(a) Retain it for official use;*

*(b) Sell it; or*

*(c) Remove it for disposal.*

*4. If at any time after an off-highway vehicle is seized pursuant to NAC 490 Section 88 the rightful owner of the off-highway vehicle demands its return, the Department shall:*

*(a) Return the off-highway vehicle to him; or*

*(b) If the off-highway vehicle was declared forfeited by a court and subsequently sold or removed for disposal, pay to him the fair market value of the off-highway vehicle at the time of forfeiture.*

**OFFENSES CONCERNING DELIVERY, DISPLAY, OPERATION, POSSESSION,  
REGISTRATION OR SALE OF CERTAIN OFF-HIGHWAY VEHICLES;  
IDENTIFICATION NUMBERS AND MARKS; DECEPTIVE TRADE PRACTICES**

**Sec. 91. *Certain unlawful acts.***

*It is unlawful for any person to commit any of the following acts:*

*1. To operate, or for the owner thereof knowingly to permit the operation of any off-highway vehicle which is not registered or which does not have attached thereto and displayed thereon the registration decal assigned thereto by the Department for the current period of registration or calendar year, subject to the exemption allowed in NRS 490.082.*

*2. To display, cause or permit to be displayed or to have in possession any registration decal, certificate of title or other document of title knowing it to be fictitious or to have been cancelled, revoked, suspended or altered.*

*3. To fail or to refuse to surrender to the Department, upon demand, any registration decal which has been suspended, cancelled or revoked.*

*4. To use a false or fictitious name or address in any application for the registration of any off-highway vehicle or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in an application. A violation of this subsection is a gross misdemeanor.*

*5. Knowingly to operate an off-highway vehicle which:*

*(a) Has an identification number or mark which has been falsely attached, removed, defaced, altered or obliterated; or*

*(b) Contains a part which has an identification number or mark which has been falsely attached, removed, defaced, altered or obliterated.*

**Sec. 92. *Unlawful sale, offer of sale or display for sale of off-highway vehicle; penalty.***

*1. It is unlawful for a person to sell, offer to sell or display for sale any off-highway vehicle unless the person is:*

*(a) The lienholder, owner or registered owner of the off-highway vehicle;*

*(b) A reposessor of the off-highway vehicle, or holder of a statutory lien on the off-highway vehicle, selling the off-highway vehicle on a bid basis; or*

*(c) A manufacturer, distributor, lessor or dealer licensed under the provisions of chapter 490 of NRS.*

*2. The provisions of this section do not apply to any executor, administrator, sheriff or other person who sells an off-highway vehicle pursuant to powers or duties granted or imposed by law.*

*3. A person who violates any of the provisions of this section shall be punished:*

*(a) If the value of the vehicle sold, offered or displayed is \$250 or more, for a category D felony as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.*

*(b) If the value of the off-highway vehicle is less than \$250, for a misdemeanor.*

**Sec. 93.** *Unlawful removal, defacement, alteration or obliteration of identification number or mark of off-highway vehicle; restoration of number or mark.*

*1. A person shall not intentionally remove, deface, alter or obliterate the identification number or mark of an off-highway vehicle without written authorization from the Department, nor shall any person attach to or place or stamp upon an off-highway vehicle any serial, motor or other number or mark except one assigned thereto by the Department.*

*2. This section does not prohibit the restoration by an owner of the original off-highway vehicle identification number or mark when the restoration is authorized by the Department, nor prevent any manufacturer from placing in the ordinary course of business numbers or marks upon new off-highway vehicles or new parts thereof.*

**Sec. 94.** *Unlawful failure of certain persons to notify Department or local law enforcement agency within certain period of discovery of off-highway vehicle having identification number or mark that has been falsely attached, removed, defaced, altered or obliterated; penalty.*

*1. A vehicle dealer and the employee of any such establishment who discovers during the course of business that an off-highway vehicle has an identification number or mark that has been falsely attached, removed, defaced, altered or obliterated shall notify the Department or a local law enforcement agency within 24 hours after discovery.*

*2. A person who fails to provide notification pursuant to subsection 1 is guilty of a misdemeanor.*

**Sec. 95.** *Deceptive trade practices: Acts constituting; administrative fines; certain disclosures required; certain duplicative fines prohibited; remedy not exclusive.*

*1. The Department may impose an administrative fine of not more than \$10,000 against any person who engages in a deceptive trade practice. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.*

*2. For the purposes of this section, a person shall be deemed to be engaged in a “deceptive trade practice” if, in the course of his business or occupation, he:*

*(a) Enters into a contract for the sale of an off-highway vehicle on credit with a customer, exercises a valid option to cancel the off-highway vehicle sale and then, after the customer returns the off-highway vehicle with no damage other than reasonable wear and tear, the seller:*

*(1) Fails to return any down payment or other consideration in full, including, returning an off-highway vehicle accepted in trade;*

*(2) Knowingly makes a false representation to the customer that the customer must sign another contract for the sale of the off-highway vehicle on less favorable terms; or*

*(3) Fails to use the disclosure as required in subsection 3.*

*(b) Uses a contract for the sale of the off-highway vehicle or a security agreement that materially differs from the form prescribed by law.*

*(c) Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the purchase and sale or lease of an off-highway vehicle.*

*(d) Engages in any other acts prescribed by the Department by regulation as a deceptive trade practice.*

*3. If, in the course of his business or occupation, a seller of an off-highway vehicle exercises a valid option to cancel the sale of an off-highway vehicle to a customer, before the seller and customer may enter into a new agreement for the sale of the same vehicle on different terms or for the sale of a different vehicle, the seller must provide a disclosure, and the customer must sign that disclosure. The must be on a form provided by the Department.*

*4. All administrative fines collected by the Department pursuant to this section must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration.*

*5. Except as otherwise provided in this subsection, the administrative remedy provided in this section is not exclusive and is intended to supplement existing law. The Department may not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person pursuant to NRS 598.0903 to 598.0999, inclusive, for the same act. The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.*

Chapter 490 of NAC is hereby amended by revising thereto the provisions set forth in sections 96 to 98 of this regulation.

**Sec. 96.** NAC 490.010 is hereby amended to read as follows:  
**NAC 490.010 Definitions.** (~~NRS 360.090~~) As used in this chapter, unless the context otherwise requires, the words and terms defined in ~~NAC 490.020 to 490.050~~ **NAC 490 Section 2 to 490 Section 12**, inclusive, have the meanings ascribed to them in those sections.

**Sec. 97.** NAC 490.040 is hereby amended to read as follows:  
**NAC 490.040 “Department” defined.** (~~NRS 360.090~~) “Department” means the Department of ~~Taxation~~ **Motor Vehicles**.

**Sec. 98.** NAC 490.020, 490.030 and 490.050 to 490.110 are hereby repealed.

#### TEXT OF REPEALED SECTIONS

**NAC 490.020 “Authorized dealer” defined.** “Authorized dealer” has the meaning ascribed to it in NRS 490.020.

**NAC 490.030 “Certificate of operation” defined.** “Certificate of operation” means a certificate of operation issued for an off-highway vehicle by an authorized dealer pursuant to this chapter and NRS 490.070.

**NAC 490.050 “Off-highway vehicle” defined.** “Off-highway vehicle” has the meaning ascribed to it in NRS 490.060.

**NAC 490.060 Authorized dealer: Application and qualifications for authorization; responsibilities.**

1. Each application for authorization to become an authorized dealer must be submitted in writing to the Department. A person may qualify for such authorization if he:
  - (a) Complies with all applicable statutes and regulations in this State relating to taxation;
  - (b) Maintains his place of business in this State or holds a valid permit to collect sales taxes or a certificate of authority issued by the Department; and
  - (c) Receives written approval of his application from the Department.
2. Each authorized dealer shall:
  - (a) Cooperate with the Department relating to the issuance of certificates of operation and the administration of this chapter and chapter 490 of NRS;
  - (b) Make reasonable efforts to provide satisfactory service to each person who requests the issuance of or is issued a certificate of operation or a duplicate certificate of operation;
  - (c) On or before the last day of the month occurring after each calendar quarter, submit a report to the Department relating to each certificate of operation issued by the authorized dealer during that calendar quarter on a form furnished by the Department; and
  - (d) Maintain a record of each certificate of operation issued by the authorized dealer for at least 5 years.

**NAC 490.070 Authorized dealer: Revocation of authority.**

1. The Department may revoke the authority of an authorized dealer to issue certificates of operation upon any of the following grounds:
  - (a) Failure by the authorized dealer to maintain a record of each certificate of operation in the form required by the Department for at least 5 years;
  - (b) Failure by the authorized dealer to issue a certificate of operation pursuant to NRS 490.070 after receiving the evidence required pursuant to NAC 490.080;
  - (c) Failure by the authorized dealer to submit to the Department a report relating to the issuance of certificates of operation within the period required for the submission of the report;
  - (d) Failure by the authorized dealer to allow the Department to inspect the records of the authorized dealer relating to the issuance of certificates of operation;
  - (e) Failure by the authorized dealer to maintain and report accurate and complete information required pursuant to this chapter;
  - (f) Failure by the authorized dealer to issue certificates of operation in compliance with any applicable statute or regulation; or
  - (g) A repeated violation by the authorized dealer of any applicable statute or regulation relating to the sale or use of off-highway vehicles.
2. Before revoking the authority of an authorized dealer to issue certificates of operation, the Department shall notify the authorized dealer in writing of its intent to revoke the authorization. The notice must be sent by certified mail and addressed to the authorized dealer at the last known address of the authorized dealer as indicated in the records maintained by the Department.
3. An authorized dealer may, within 30 days after receiving a written notice pursuant to subsection 2, file a written objection with the Department. As soon as practicable after receiving a written objection pursuant to this subsection, the Department shall refer the matter to a hearing officer for a hearing.
4. A final decision of a hearing officer in a matter referred to him pursuant to this section may be appealed to the Nevada Tax Commission within 30 days after the entry of the final decision.

**NAC 490.080 Prerequisites to issuance of certificate of operation; determination and dispute of amount of required taxes.**

1. Except as otherwise provided in this section, if an off-highway vehicle is purchased from a person other than an authorized dealer or private party, the authorized dealer that issues a certificate of operation for the off-highway vehicle shall, before issuing the certificate of operation, collect all taxes applicable in this State to the purchase of the off-highway vehicle or require the submission of evidence satisfactory to the authorized dealer that those taxes have been paid. Such evidence may include, without limitation:

(a) A purchase agreement or sales contract indicating that all applicable sales or use taxes have been paid in another jurisdiction; and

(b) Any other proof satisfactory to the authorized dealer indicating that the taxes have been paid directly in another jurisdiction.

2. In determining the amount of any taxes that must be paid pursuant to subsection 1, the authorized dealer shall credit the amount of any taxes paid in another jurisdiction against the amount of taxes, if any, that must be paid in this State. If the amount of any taxes paid in another jurisdiction is less than the amount that must be paid in this State, the authorized dealer shall collect the difference from the owner of the off-highway vehicle.

3. If a person disputes the amount of any taxes that an authorized dealer requires him to pay pursuant to subsection 1, he may contact the Department for further consideration of the amount of taxes owed.

4. An authorized dealer shall not issue a certificate of operation for an off-highway vehicle unless the owner of the off-highway vehicle submits proof of ownership satisfactory to the authorized dealer, including, without limitation:

(a) A purchase agreement or sales contract for the off-highway vehicle;

(b) A manufacturer's certificate of origin for the off-highway vehicle;

(c) A certificate of registration or other evidence indicating that the off-highway vehicle has been registered in another jurisdiction;

(d) A certificate of title for the off-highway vehicle; or

(e) Any other proof of ownership specified by the authorized dealer.

5. If the owner of an off-highway vehicle requests a certificate of operation for the off-highway vehicle and wishes to submit an affidavit to the authorized dealer indicating that the person purchased the off-highway vehicle through a private party sale and no tax is due relating to the purchase of the off-highway vehicle, the owner shall ensure that the affidavit is submitted on a form approved by the Department and includes:

(a) The name and address of the owner of the off-highway vehicle;

(b) The name and address of the seller of the off-highway vehicle;

(c) Proof of ownership by the seller of the off-highway vehicle;

(d) A description of the off-highway vehicle which includes, without limitation, the vehicle identification number for the off-highway vehicle, if any;

(e) The date of purchase of the off-highway vehicle from the private party; and

(f) The purchase price of the off-highway vehicle.

6. As used in this section, "private party" does not include a retailer of off-highway vehicles.

**NAC 490.090 Certificate of operation: Display; assigned number.**

1. Each owner of an off-highway vehicle for which an authorized dealer issues a certificate of operation shall:

(a) Ensure that the certificate of operation:

(1) Is affixed to and displayed on the off-highway vehicle in a manner in which the position, size and color of the certificate of operation is plainly visible during daylight from a distance of at least 50 feet; and

(2) Is maintained in a condition that is free of foreign materials and clearly legible; and

(b) Ensure that the certificate of operation is placed on the left side of the off-highway vehicle as follows:

(1) On the rear guard, fender or metal frame and visible from the left, if the off-highway vehicle is an all-terrain motorcycle;

(2) On the left vertical fork leg and visible from the left, if the off-highway vehicle is an all-terrain motorcycle that is not registered by the Department of Motor Vehicles pursuant to chapter 482 of NRS;

(3) On the rear guard, fender or metal frame and visible from the left, if the off-highway vehicle is a sand rail or dune buggy;

(4) On the left back tunnel and visible from the left, if the off-highway vehicle is a snowmobile; or

(5) In any manner that is plainly visible on the left side pursuant to subparagraph (1) of paragraph (a) of subsection 1, if the off-highway vehicle is a motor vehicle that is used on public land for purposes of recreation.

2. Each number assigned to a certificate of operation for an off-highway vehicle:

(a) Must uniquely identify the off-highway vehicle using numbers or letters or a combination of numbers and letters; and

(b) Is valid for the useful life of the off-highway vehicle.

**NAC 490.100 Certificate of operation: Application for duplicate.**

1. If a certificate of operation becomes illegible or is lost, stolen or destroyed, the owner of the off-highway vehicle shall, immediately upon becoming aware of the loss, theft, destruction or illegibility of the certificate of operation, apply for the issuance of a duplicate certificate of operation from an authorized dealer.

2. If an owner of an off-highway vehicle applies for the issuance of a duplicate certificate of operation pursuant to subsection 1, the owner must provide evidence satisfactory to the authorized dealer that a certificate of operation has previously been issued for the off-highway vehicle.

**NAC 490.110 Prohibited acts.** A person or authorized dealer shall not:

1. Knowingly falsify an application for a certificate of operation, affidavit of ownership or bill of sale for an off-highway vehicle;

2. Alter, deface or remove a manufacturer's serial number or vehicle identification number that is placed on an off-highway vehicle;

3. Use or display or allow the use or display of a certificate of operation on an off-highway vehicle or in the operation of an off-highway vehicle other than the off-highway vehicle for which the certificate of operation is issued or assigned; or

4. Alter or deface a certificate of operation.