

LCB File No. R074-01

**PROPOSED REGULATION OF THE
DEPARTMENT OF MOTOR VEHICLES AND PUBLIC SAFETY**

June 25, 2001

Proposed NAC related to Senate Bill 524 that adds sections to Chapter 482 of the Nevada Revised Statutes.

Provisions Regarding Licensed Nevada Vehicle Dealers and Financial Institutions to process vehicle registrations as an agent of the Department of Motor Vehicles and Public Safety.

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

AUTHORITY - NRS 482

Section 1. *Definitions:*

1. Vehicle Registration Program Partnership means, the Department's authorized program for vehicle dealers and financial institutions to process applications for registration, renewal and transfer of registration

Section 2. *NAC 482. The department may establish a pilot program to allow a vehicle dealer to participate in the Vehicle Registration Program Partnership as defined in NRS 482.216.*

- 1. The pilot program shall not exceed six months*
- 2. The department shall choose the vehicle dealers who may participate in the program*
 - (1) The department shall choose a maximum of:*
 - (1) Two dealerships in southern Nevada, and*
 - (2) Two dealerships in northern Nevada*

Section 3. *NAC 482.XXX Duties and restrictions of participants*

- 1. The participating vehicle dealer shall:*
 - (a) Maintain the records relating to the Vehicle Dealer Registration Program for all transactions processed for a period of three years, and*

(1) Authorize the department or any person designated by the department to conduct audits of its records relating to the program:

(1) Within three months after the vehicle dealer begins issuing registration certificates, and should the program be continued;

(2) At least once every 12 months after the completion of the initial audit and at any other time requested by the department

(2) Maintain a separate bank or savings and loan trust account into which the dealer shall deposit and hold all funds collected in conjunction with the registration of vehicles in this program.

(1) Fees shall be maintained in the separate trust account until such time as they are to be deposited with the department as designated and required.

(2) funds must not be co-mingled with other business funds or used to pay other business operating expenses.

(3) Make deposits of monies collected for the Vehicle Registration Program Partnership to the DMV & PS location or designated bank account at the time of application:

(1) not less than one time per week or,

(2) On any day when the money accumulated for deposit is \$10,000 or more, a deposit must be made not later than the end of the next banking business day.

2. The vehicle dealer may not process a vehicle registration;

(4) Using any type of governmental services tax exemption, to include but not be limited to; veteran's exemption, widows exemption, etc.;

(5) Process a vehicle registration which includes a name change.

3. The vehicle dealer or authorized representative may not process a vehicle registration until:

(1) They have satisfactorily completed a course of training provided by the department; and

(2) Have been issued a certificate of successful completion of such training.

4. Not use or permit it's employees to use:

(a) False, deceptive or misleading advertising to induce a person to register his motor vehicle purchased from the vehicle dealer or

(b) The name of the department or the state seal in any advertisement involving the sale or processing of a vehicle registration, unless authorized by the department.

Section 4 NAC 482.XXX Eligibility. *To be eligible to participate in the Vehicle Registration Program Partnership a vehicle dealer must:*

- 1. Make application to the department on the form prescribed by the department.*
- 2. Have been continuously licensed by the department for not less than one year immediately preceding the date of application;*
- 3. Never had an occupational license issued by the department suspended or revoked.*
- 4. Have satisfactorily conducted business in accordance with the provisions of Chapter 482 of the NRS for not less than one year preceding application, and;*
- 5. Not been subject to an administrative sanction for which an administrative fine had been assessed within one year preceding application;*
- 6. Not have knowingly issued a check to the department that has been returned for insufficient funds within one year preceding application;*
- 5. Maintain a secure area on the dealership premises for the secure storage of department issued supplies and restrict the unauthorized access of those supplies;*
- 6. Agree to enter into a contract with the department for the purpose of the program*
- 7. The vehicle dealer shall not:*
 - (a) have committed any violation of any chapter of NRS or NAC which resulted in an administrative fine or suspension action being imposed against them within one year preceding application, or a second violation of any chapter of NRS or NAC which resulted in a second level administrative fine being imposed against them within three years preceding application.*

(1) For the purposes of this regulation, a “Cease and Desist Order” or “Order to Cease From Further Actions” will not be considered as criteria to deny an application to participate in this program.

(b) Be owned in whole or in part by, or employ any person who has been convicted of a felony or gross misdemeanor or misdemeanor crime within the last four years preceding application to include, but not be limited to the following violations:

- (1) Embezzlement*

- (2) Any violent act committed on a person*
- (3) Fraud*
- (4) Racketeering*
- (5) Theft by deception*
- (6) Robbery*
- (7) Possession for sale of any dangerous drug or narcotic*
- (8) Trafficking in dangerous drugs or narcotics*
- (9) Deceptive trade practice(s)*
- (10) Conspiracy to commit any of the above.*

Section 5. NAC 482.XXX

- 1. Application. A vehicle dealer must:*
 - (a) Submit an application to the department on a form provided by the department.*
 - (b) Provide any additional information that the department may require to evaluate the application.*
- 2. Contract*
 - (a) Before a vehicle dealer may participate in the program, the dealer must enter into a contract with the department. The contract will set forth the:*
 - (1) Procedure for processing a vehicle registration, and transfer of credits*

Section 6. Bond or deposit. (NRS 482.XXX)

- 1. Except as otherwise provided in subsection X, before a vehicle dealer may be approved to participate in the program, it shall obtain and file with the department a good and sufficient bond in an amount of \$10,000 subject to the condition that the vehicle dealer conduct its business without fraud or fraudulent representation and without violating any of the provisions of chapters 482 and 598 of NRS or NAC 482.XXX to 482.XXX, inclusive. Each bond must have a corporate surety thereon that is licensed to do business within this state and must be approved as to form by the attorney general.*
- 2. Pursuant to NRS 482.346, In lieu of filing a surety bond, the vehicle dealer may place on deposit with the department an amount equal to \$10,000 the form of:*
 - (a) Cash;*

(b) A bond issued by the United States; or

(c) A savings certificate.

3. A deposit placed with the department pursuant to subsection 2 must be:

(a) Subject to the condition that the vehicle dealer conduct its business without fraud or fraudulent representation and without violating any of the provisions of chapters 482 and 598 of NRS or NAC 482.XXX to 482.XXX, inclusive; and

(b) Available for withdrawal only upon the order of the department.

4. The department will require an increase in the amount of the bond or deposit if the department deems it to be necessary and in the public interest.

(1) The increased amount shall not exceed twice the value of the original bond

5. The undertaking in the bond or deposit must include, without limitation, any fraud or fraudulent act or representation, or any violation of any provisions of chapters 482 or 598 of the NRS or NAC, inclusive, by any owner, principal, employee or agent of the vehicle dealer.

6. The bond or deposit must provide that any person, to include the department, injured by an action of the vehicle dealer, or an employee or agent of such a dealer, in violation of any of the provisions of chapters 482 or 598 of NRS or NAC 482.XXX to 482.XXX, inclusive, may bring an action on the bond.

7. Any money received by the department pursuant to this section will be deposited with the state treasurer for credit to the motor vehicle fund in accordance with Nevada Law and department policy.

Section 7. *NAC 482.XXX Amount of liability; suspension and reinstatement of participation.*
(NRS 482.XXX)

1. Liability under a bond which is filed or a deposit which is made with the department pursuant to NAC 482.XXX will be in an amount prescribed by the department.

2. The department will suspend or revoke the authority of a licensee to participate in the program if:

(a) The amount of the bond filed or the deposit made is reduced below the amount required by the department pursuant to NAC 482.XXX; or

(b) There is an outstanding judgment of a court ordered award resulting from the sale, transfer of interest or registration of a vehicle for which the vehicle dealer is liable.

(3) Any provision of NRS 482.352.

(4) Any reason determined by the Director to be in the best interest of the public.

3. A vehicle dealer whose participation in the program was suspended pursuant to subsection 2 will be reinstated if the dealer:

(a) Files an additional bond pursuant to NAC 482.XXX;

(b) Restores the deposit to its original amount; or

(c) Satisfies the outstanding judgment for which he is liable.

4. A vehicle dealer whose participation in the program was revoked pursuant to subsection 2 may not be reinstated for one year from the date of revocation.

Section 8. *NAC 482.XXX Bond or deposit: Disbursement; release; refund. A bond which is filed or a deposit which is made with the department pursuant to NAC 482.XXX may be:*

1. Disbursed by the director, for good cause shown and after notice and hearing, in an amount determined by the director to compensate a person injured by an action of the vehicle dealer, or an employee or agent of such business

2. Released by the director upon the receipt by the department of a statement that:

(a) Is signed by a person under whose name the bond or deposit is made;

(b) Is acknowledged before any person authorized to take acknowledgments in this state;

(c) Requests the director to release the bond or deposit, or a specified portion thereof;

and

(d) Sets forth the purpose for which the release of the bond or deposit is requested.

3. Refunded by the director:

a) One year after the date the participation of the program terminates if the director determines that there are no outstanding claims against the bond or deposit; or

(b) Pursuant to an order of a court of competent jurisdiction.