

**PROPOSED REGULATION OF THE
NEVADA TAX COMMISSION**

LCB File No. R190-05

January 5, 2006

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

AUTHORITY: §§1-12, NRS 360.090 and section 7 of Senate Bill No. 400 of the 73rd Session of the Nevada Legislature, chapter 441, Statutes of Nevada 2005, at page 2026 (NRS 490.070).

A REGULATION relating to off-highway vehicles; requiring each owner of an off-highway vehicle to ensure that the certificate of operation issued for the off-highway vehicle is affixed to the off-highway vehicle in a certain manner; requiring an authorized dealer of off-highway vehicles to collect all taxes applicable in this State to the purchase of an off-highway vehicle under certain circumstances; prohibiting an authorized dealer from issuing a certificate of operation for an off-highway vehicle unless the owner of the off-highway vehicle submits certain proof of ownership to the authorized dealer; establishing the qualifications to become an authorized dealer; authorizing the Department of Taxation to revoke the authority of an authorized dealer to issue certificates of operation under certain circumstances; requiring the owner of an off-highway vehicle to apply for a duplicate certificate of operation if the certificate of operation becomes illegible or is lost, stolen or destroyed; prohibiting a person or authorized dealer from engaging in certain activities relating to off-highway vehicles; 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 2 to 12, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Authorized dealer” has the meaning ascribed to it in section 3 of Senate Bill No. 400 of the 73rd Session of the Nevada Legislature, chapter 441, Statutes of Nevada 2005, at page 2025 (NRS 490.020).*

Sec. 4. *“Certificate of operation” means a certificate of operation issued for an off-highway vehicle by an authorized dealer pursuant to section 7 of Senate Bill No. 400 of the 73rd Session of the Nevada Legislature, chapter 441, Statutes of Nevada 2005, at page 2026 (NRS 490.070) and sections 2 to 12, inclusive, of this regulation.*

Sec. 5. *“Department” means the Department of Taxation.*

Sec. 6. *“Off-highway vehicle” has the meaning ascribed to it in section 6 of Senate Bill No. 400 of the 73rd Session of the Nevada Legislature, chapter 441, Statutes of Nevada 2005, at page 2025 (NRS 490.060).*

Sec. 7. 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.

Sec. 8. 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.

Sec. 9. 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.

Sec. 10. 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 section 7 of Senate Bill No. 400 of the 73rd Session of the Nevada Legislature, chapter 441, Statutes of Nevada 2005, at page 2026 (NRS 490.070) after receiving the evidence required pursuant to section 8 of this regulation;

(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.

Sec. 11. *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.

Sec. 12. *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.*