

Assembly Bill No. 2—Committee of the Whole

CHAPTER.....

AN ACT relating to commerce; exempting certain manufacturers of electric passenger cars from the requirements relating to franchises for the sale of motor vehicles and repairs or maintenance on motor vehicles owned by private persons; requiring the exempted manufacturers to be licensed and regulated as new vehicle dealers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally requires a manufacturer of new vehicles that wishes to sell its vehicles in this State to establish a franchise with a new vehicle dealer for the sale of those vehicles. (NRS 482.078, 482.36385) Existing law also restricts a manufacturer's ownership or operation of a facility for the repair or maintenance of vehicles. (NRS 482.36387) **Section 1** of this bill exempts a manufacturer of new vehicles from these franchise and repair provisions if the manufacturer: (1) only manufactures passenger cars that are powered solely by one or more electric motors; (2) only sells at retail new or new and used passenger cars that it manufactures; and (3) was selling such passenger cars at retail in this State on or before January 1, 2016. For the purposes of these provisions, the term "passenger car" is defined by existing law to mean a motor vehicle designed for carrying 10 persons or less, except a motorcycle or motor-driven cycle. (NRS 482.087)

Existing law provides for the licensure and regulation of "new vehicle dealers," defined as a person who is licensed "as a new vehicle dealer who has a franchise from a manufacturer of vehicles to sell new vehicles and who acquires new or new and used vehicles for resale." (NRS 482.078) **Section 2** of this bill adds manufacturers who are exempt pursuant to **section 1** from the franchise and repairs or maintenance provisions to the definition of "new vehicle dealer" so that such manufacturers are regulated and licensed in the same manner as other new vehicle dealers. **Sections 3-7** of this bill make conforming changes.

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

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

A manufacturer is not subject to the provisions of NRS 482.36311 to 482.36425, inclusive, if the manufacturer:

- 1. Only manufactures passenger cars powered solely by one or more electric motors;*
- 2. Only sells at retail new or new and used passenger cars that it manufactures; and*
- 3. Was selling such passenger cars at retail in this State on or before January 1, 2016.*



Sec. 2. NRS 482.078 is hereby amended to read as follows:
482.078 “New vehicle dealer” means any ~~vehicle~~ :

1. Vehicle dealer licensed under the provisions of this chapter as a new vehicle dealer who has a franchise from a manufacturer of vehicles to sell new vehicles and who acquires new or new and used vehicles for resale ~~H~~; **or**

2. Manufacturer described in section 1 of this act that is licensed under the provisions of this chapter as a new vehicle dealer.

Sec. 3. NRS 482.322 is hereby amended to read as follows:

482.322 1. Except as otherwise provided in subsection 2 and NRS 482.3225, a person shall not engage in the activities of a new vehicle dealer, used vehicle dealer, manufacturer, distributor or rebuilder in this State until the person has been issued:

(a) A new vehicle dealer’s, used vehicle dealer’s, manufacturer’s, distributor’s, rebuilder’s or lessor’s license certificate or similar license or permit by every city within whose corporate limits the person maintains an established place of business and by every county in which the person maintains an established place of business outside the corporate limits of a city; and

(b) A license by the Department. The Department shall not issue a license to the person until he or she has been issued all certificates, licenses and permits required by paragraph (a).

2. ~~H~~ **Except for a manufacturer described in subsection 2 of NRS 482.078,** a person licensed as a dealer pursuant to this chapter shall not engage in the activities of a new vehicle dealer until he or she has provided the Department with satisfactory proof that the person is authorized by a manufacturer to display and offer for sale vehicles produced or distributed by that manufacturer.

3. A vehicle dealer’s, manufacturer’s or rebuilder’s license issued pursuant to this chapter does not permit a person to engage in the business of a new or used mobile home dealer, manufacturer or rebuilder.

4. The Department shall investigate any applicant for a dealer’s, manufacturer’s, distributor’s, rebuilder’s or lessor’s license certificate or license and complete an investigation report on a form provided by the Department.

5. A person who violates subsection 1 or 2 is guilty of:

(a) For a first offense, a misdemeanor.

(b) For a second offense, a gross misdemeanor.

(c) For a third and any subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.



Sec. 4. NRS 482.350 is hereby amended to read as follows:

482.350 1. *Except for a manufacturer described in subsection 2 of NRS 482.078:*

(a) A new vehicle dealer's license shall not be furnished to any dealer in new vehicles, trailers or semitrailers unless the dealer first furnishes the Department an instrument executed by or on behalf of the manufacturer certifying that the dealer is an authorized franchised dealer for the make or makes of vehicle concerned.

(b) New vehicle dealers are authorized to sell at retail only those new vehicles for which they are certified as franchised dealers by the manufacturer.

2. In addition to selling used vehicles, a used vehicle dealer may:

(a) Sell at wholesale a new vehicle taken in trade or acquired as a result of a sales contract to a new vehicle dealer who is licensed and authorized to sell that make of vehicle;

(b) Sell at wholesale a new vehicle through a wholesale vehicle auction provided that the wholesale vehicle auctioneer:

(1) Does not take an ownership interest in the vehicle; and

(2) Auctions the vehicle to a vehicle dealer who is licensed and authorized to sell that make of vehicle or to an automobile wrecker who is licensed in this State or any other state; or

(c) Sell a new vehicle on consignment from a person not licensed as a vehicle dealer, rebuilder or a long-term or short-term lessor.

Sec. 5. NRS 482.36311 is hereby amended to read as follows:

482.36311 As used in NRS 482.36311 to 482.36425, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 482.36318 to 482.36348, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 482.36423 is hereby amended to read as follows:

482.36423 1. Whenever it appears that a person has violated, is violating or is threatening to violate any provision of NRS 482.36311 to 482.36425, inclusive, *and section 1 of this act*, any person aggrieved thereby may apply to the district court in the county where the defendant resides, or in the county where the violation or threat of violation occurs, for injunctive relief to restrain the person from continuing the violation or threat of violation.

2. In addition to any other judicial relief, any dealer or person who assumes the operation of a franchise pursuant to NRS 482.36396 to 482.36414, inclusive, who is injured in his or her business or property by reason of a violation of NRS 482.36311 to 482.36425, inclusive, *and section 1 of this act* may bring an action



in the district court in which the dealership is located, and may recover three times the pecuniary loss sustained by the dealer or person, and the cost of suit, including a reasonable attorney's fee. The amount of pecuniary loss sustained by a dealer, pursuant to subsection 7 of NRS 482.3638, is the fair market value of the franchised dealership at the time of notification of termination, refusal to continue or unilateral modification of a franchise.

3. Any artificial person created and existing under the laws of any other state, territory, foreign government or the government of the United States, or any person residing outside the State, who grants a franchise to any dealer in this State may be served with any legal process in any action for injunctive relief or civil damages in the following manner:

(a) By delivering a copy of the process to the Director; and

(b) By mailing to the last known address of the manufacturer or distributor, by certified mail, return receipt requested, a copy of the summons and a copy of the complaint, together with copies of any petition or order for injunctive relief.

4. The defendant has 30 days, exclusive of the day of service, within which to answer or plead.

5. The method of service provided in this section is cumulative and may be utilized with, after or independently of all other methods of service.

Sec. 7. NRS 482.36425 is hereby amended to read as follows:

482.36425 1. Any manufacturer or distributor who willfully violates any provision of NRS 482.36311 to 482.36425, inclusive, *and section 1 of this act* is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each day of violation and for each act of violation. All civil penalties recovered must be paid to the State of Nevada.

2. Whenever it appears that a manufacturer or distributor has violated, is violating or is threatening to violate any provision of NRS 482.36311 to 482.36425, inclusive, *and section 1 of this act*, the Attorney General may institute a civil suit in any district court of this State for injunctive relief to restrain the violation or threat of violation or, if the violation or threat is willful, for the assessment and recovery of the civil penalty, or both.

Sec. 8. This act becomes effective upon passage and approval.

