

Senate Bill No. 394–Committee on Energy,
Infrastructure and Transportation

CHAPTER.....

AN ACT relating to off-highway vehicles; requiring certain owners of off-highway vehicles to obtain certificates of title and registration for those vehicles; requiring the Department of Motor Vehicles to charge and collect certain fees; creating the Fund for Off-Highway Vehicles; creating the Commission on Off-Highway Vehicles; creating the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration as a special account in the Motor Vehicle Fund; eliminating the requirement that certain persons obtain certificates of operation before operating off-highway vehicles; providing for the licensing of dealers, manufacturers and lessors of off-highway vehicles and for the consignment of off-highway vehicles; making various other changes relating to off-highway vehicles; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prohibits a person from operating an off-highway vehicle on a highway in this State unless the person has obtained a certificate of operation for the off-highway vehicle and has attached the certificate of operation to the off-highway vehicle in the manner specified by the Department of Taxation. (NRS 490.080) The term “off-highway vehicle” means any motor vehicle that is designed primarily for off-highway and all-terrain use, including, without limitation, an all-terrain vehicle, an all-terrain motorcycle, a dune buggy, a snowmobile or any motor vehicle used for recreational purposes on public lands. (NRS 490.060)

Existing law requires an authorized dealer of off-highway vehicles to issue a certificate of operation for the off-highway vehicle upon the sale of the vehicle or upon request by a person who purchased the vehicle outside this State under certain circumstances. (NRS 490.070)

With limited exceptions, **section 12** of this bill requires a person who acquires ownership of an off-highway vehicle on or after the effective date of that section as provided in paragraph (b) of subsection 2 of **section 63** of this act to apply to the Department of Motor Vehicles for the titling and annual registration of the vehicle within 30 days after acquiring ownership of the vehicle. A person who acquired ownership of an off-highway vehicle before the effective date of **section 12** as provided in paragraph (b) of subsection 2 of **section 63** of this act may apply to the Department for the titling of the vehicle, but is required to apply to the Department for annual registration of the vehicle within 1 year after that date.

Section 15 of this bill creates the Fund for Off-Highway Vehicles in the State Treasury. A portion of the money received from the fees collected pursuant to **section 12** of this bill must be deposited into the Fund. All money deposited into the Fund must be used only for projects relating to off-highway vehicles as set forth in **section 15**.

Section 16 of this bill creates the Commission on Off-Highway Vehicles. The Commission consists of 11 members who are appointed by the Governor. Each member of the Commission serves for a term of 3 years and, if money is available



from the Fund for Off-Highway Vehicles, is entitled to receive the per diem allowance and travel expenses provided to state officers and employees.

Section 17 of this bill imposes various duties upon the Commission, including, without limitation, the duty to select nonvoting advisers to the Commission and to adopt regulations for awarding grants from the Fund for Off-Highway Vehicles.

Section 59 of this bill, in part, repeals the provisions of NRS 490.030, which define the term "Department" for purposes of chapter 490 of NRS to mean the Department of Taxation. Because NRS 481.015 defines the term "Department" for purposes of title 43 of NRS to mean the Department of Motor Vehicles, the effect of the repeal of NRS 490.030 and the amendment of NRS 481.015 set forth in **section 1** of this bill is to place the authority to administer the provisions of chapter 490 of NRS under the Department of Motor Vehicles.

Sections 20-52 of this bill provide for the licensing of manufacturers, dealers and lessors of off-highway vehicles and for the consignment of off-highway vehicles.

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

Section 1. NRS 481.015 is hereby amended to read as follows:
481.015 1. Except as otherwise provided in this subsection, as used in this title, unless the context otherwise requires, "certificate of title" means the document issued by the Department that identifies the legal owner of a vehicle and contains the information required pursuant to subsection 2 of NRS 482.245. The definition set forth in this subsection does not apply to chapters 488 and 489 of NRS.

2. Except as otherwise provided in chapter 480 of NRS, NRS 484.388 to 484.3888, inclusive, 486.363 to 486.377, inclusive, and chapters 486A ~~[488 and 490]~~ **and 488** of NRS, as used in this title, unless the context otherwise requires:

(a) "Department" means the Department of Motor Vehicles.

(b) "Director" means the Director of the Department ~~[of Motor Vehicles.]~~

Sec. 2. NRS 481.048 is hereby amended to read as follows:

481.048 1. The Director shall appoint, within the limits of legislative appropriations, investigators for the Division of Compliance Enforcement.

2. The duties of the investigators are to travel the State and:

(a) Act as investigators in the enforcement of the provisions of chapters 482, ~~[and]~~ **487 and 490** of NRS, NRS 108.265 to 108.367, inclusive, and 108.440 to 108.500, inclusive, as those sections pertain to motor vehicles, trailers, motorcycles, recreational vehicles and semitrailers, as defined in chapter 482 of NRS ~~[.]~~ **, and off-highway vehicles, as defined in NRS 490.060.**



(b) Act as advisers to any business licensed by the Department in connection with any problems arising under the provisions of chapters 108, 482, 483, ~~and~~ 487 *and* 490 of NRS.

(c) Advise and assist personnel of the Nevada Highway Patrol in the enforcement of traffic laws and motor vehicle registration laws as they pertain to any business licensed by the Department.

(d) Act as investigators in the enforcement of the provisions of NRS 483.700 to 483.780, inclusive, relating to the licensing of schools and instructors for training drivers.

(e) Exercise their police powers in the enforcement of the laws of this State to prevent acts of fraud or other abuses in connection with the provision of services offered to the public by the Department.

(f) Perform such other duties as may be imposed by the Director.

Sec. 3. Chapter 490 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 52, inclusive, of this act.

Sec. 4. *“Commission” means the Commission on Off-Highway Vehicles created by section 16 of this act.*

Sec. 5. *“Consignee” means any person licensed pursuant to this chapter to sell or lease off-highway vehicles or any person who holds himself out as being in the business of selling, leasing or consigning off-highway vehicles.*

Sec. 6. *“Consignment” means any transaction whereby the registered owner or lienholder of an off-highway vehicle subject to registration pursuant to this chapter agrees, entrusts or in any other manner authorizes a consignee to act as his agent to sell, exchange, negotiate or attempt to negotiate a sale or an exchange of the interest of the registered owner or lienholder in the off-highway vehicle, whether or not for compensation.*

Sec. 7. *“Consignment contract” means a written agreement between a registered owner or lienholder of an off-highway vehicle and a consignee to whom the off-highway vehicle has been entrusted by consignment for the purpose of sale that specifies the terms and conditions of the consignment and sale.*

Sec. 8. *“Fund” means the Fund for Off-Highway Vehicles created by section 15 of this act.*

Sec. 9. *For the purposes of regulation under this chapter and of imposing tort liability under NRS 41.440, and for no other purpose:*



1. *“Lease” means a contract by which the lienholder or owner of an off-highway vehicle transfers to another person, for compensation, the right to use such off-highway vehicle.*

2. *“Long-term lessee” means a person who has leased an off-highway vehicle from another person for a fixed period of more than 31 days.*

3. *“Long-term lessor” means a person who has leased an off-highway vehicle to another person for a fixed period of more than 31 days.*

4. *“Short-term lessee” means a person who has leased an off-highway vehicle from another person for a period of 31 days or less, or by the day, or by the trip.*

5. *“Short-term lessor” means a person who has leased an off-highway vehicle to another person for a period of 31 days or less, or by the day, or by the trip.*

Sec. 9.5. *“Manufacturer” means every person engaged in the business of manufacturing off-highway vehicles.*

Sec. 10. 1. *“Off-highway vehicle dealer” means any person who:*

(a) *For compensation, money or other thing of value sells, exchanges, buys, offers or displays for sale, negotiates or attempts to negotiate a sale or exchange of an interest in an off-highway vehicle;*

(b) *Represents himself as having the ability to sell, exchange, buy or negotiate the sale or exchange of an interest in an off-highway vehicle under this chapter or in any other state or territory of the United States;*

(c) *Receives or expects to receive a commission, money, brokerage fee, profit or any other thing of value from the seller or purchaser of an off-highway vehicle; or*

(d) *Is engaged wholly or in part in the business of selling off-highway vehicles or buying or taking in trade off-highway vehicles for the purpose of resale, selling or offering for sale or consignment to be sold or otherwise dealing in off-highway vehicles, whether or not he owns the off-highway vehicles.*

2. *“Off-highway vehicle dealer” does not include:*

(a) *An insurance company, bank, finance company, governmental agency or any other person coming into possession of an off-highway vehicle, acquiring a contractual right to an off-highway vehicle or incurring an obligation with respect to an off-highway vehicle in the performance of official duties or under the authority of any court of law, if the sale of the off-highway vehicle*



is to save the seller from loss or pursuant to the authority of a court of competent jurisdiction;

(b) A person, other than a long-term or short-term lessor, who is not engaged in the purchase or sale of off-highway vehicles as a business but is disposing of off-highway vehicles acquired by the owner for his use and not to avoid the provisions of this chapter, or a person who sells not more than three personally owned off-highway vehicles in any 12-month period;

(c) Persons regularly employed as salesmen by off-highway vehicle dealers, licensed under this chapter, while those persons are acting within the scope of their employment; or

(d) Persons who are incidentally engaged in the business of soliciting orders for the sale and delivery of off-highway vehicles outside the territorial limits of the United States if their sales of such vehicles produce less than 5 percent of their total gross revenue.

Sec. 11. *“Off-highway vehicle salesman” means:*

1. A person employed by an off-highway vehicle dealer, under any form of contract or arrangement to sell, exchange, buy, or offer for sale, or exchange an interest in an off-highway vehicle to any person, who receives or expects to receive a commission, fee or any other consideration from the seller or purchaser of the off-highway vehicle; or

2. A person who exercises managerial control within the business of an off-highway vehicle dealer or a long-term or short-term lessor, or who supervises salesmen employed by an off-highway vehicle dealer or a long-term or short-term lessor, whether compensated by salary or by commission, or who negotiates with or induces a customer to enter into a security agreement on behalf of an off-highway vehicle dealer or a long-term or short-term lessor of off-highway vehicles.

Sec. 12. *1. An owner of an off-highway vehicle that is acquired:*

(a) Before the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act:

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

(2) Except as otherwise provided in subsection 3, shall, within 1 year after the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act, apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, the registration of the off-highway vehicle.



(b) On or after the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act, shall within 30 days after acquiring ownership of the off-highway vehicle:

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

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

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

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

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

(1) If he obtained ownership of the off-highway vehicle before the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act, proof prescribed by the Department:

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

(II) Of the unique vehicle identification or serial number for the off-highway vehicle; or

(2) If he obtained ownership of the off-highway vehicle on or after the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act:

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

(II) Proof prescribed by the Department that he is the owner of the off-highway vehicle and of the unique vehicle identification or serial number for the off-highway vehicle.

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

(a) Is owned and operated by:

(1) A federal agency;

(2) An agency of this State; or

(3) A county, incorporated city or unincorporated town in this State;



- (b) *Is part of the inventory of a dealer of off-highway vehicles;*
- (c) *Is registered or certified in another state and is located in this State for not more than 60 days;*
- (d) *Is used solely for husbandry on private land or on public land that is leased to or used under a permit issued to the owner or operator of the off-highway vehicle;*
- (e) *Is used for work conducted by or at the direction of a public or private utility; or*
- (f) *Was manufactured before January 1, 1976.*

4. *The registration of an off-highway vehicle expires 1 year after its issuance. If an owner of an off-highway vehicle fails to renew the registration of the off-highway vehicle before it expires, the registration may be reinstated upon the payment to the Department of the annual renewal fee and a late fee of \$25. Any late fee collected by the Department must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.*

5. *If a certificate of title or registration for an off-highway vehicle is lost or destroyed, the owner of the off-highway vehicle may apply to the Department by mail, or to an authorized dealer, for a duplicate certificate of title or registration. The Department may collect a fee to replace a certificate of title or registration certificate, sticker or decal that is lost, damaged or destroyed. Any such fee collected by the Department must be:*

- (a) *Set forth by the Department by regulation; and*
- (b) *Deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.*

6. *The provisions of subsections 1 to 5, inclusive, do not apply to an owner of an off-highway vehicle who is not a resident of this State.*

Sec. 13. *Each registration of an off-highway vehicle must:*

- 1. *Be in the form of a sticker or decal, as prescribed by the Department.*
- 2. *Be approximately the size of a license plate for a motorcycle, as set forth by the Department.*
- 3. *Include a unique vehicle identification or serial number for the off-highway vehicle.*
- 4. *Be displayed on the off-highway vehicle in the manner set forth by the Commission.*

Sec. 14. 1. *The Department shall determine the fee for issuing a certificate of title for an off-highway vehicle, but such*



fee must not exceed the fee imposed for issuing a certificate of title pursuant to NRS 482.429. Money received from the payment of the fees described in this subsection must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

2. The Commission shall determine the fee for the annual registration of an off-highway vehicle, but such fee must not be less than \$20 or more than \$30. Money received from the payment of the fees described in this subsection must be distributed as follows:

(a) During the period beginning on the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act and ending 1 year after that date:

(1) Eighty-five percent must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

(2) To the extent that any portion of the fee for registration is not for the operation of the off-highway vehicle on a highway, 15 percent must be deposited into the Fund.

(b) On or after the expiration of the period specified in paragraph (a):

(1) Fifteen percent must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

(2) To the extent that any portion of the fee for registration is not for the operation of the off-highway vehicle on a highway, 85 percent must be deposited into the Fund.

Sec. 15. *1. The Fund for Off-Highway Vehicles is hereby created in the State Treasury as a revolving fund. The Commission shall administer the Fund. Any money remaining in the Fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Fund must be carried forward.*

2. During the period beginning on the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act and ending 1 year after that date, money in the Fund may only be used by the Commission for the reasonable administrative costs of the Commission and to inform the public of the requirements of this chapter.



3. *On or after the expiration of the period specified in subsection 2, money in the Fund may only be used by the Commission as follows:*

(a) *Not more than 5 percent of the money that is in the Fund as of January 1 of each year may be used for the reasonable administrative costs of the Fund.*

(b) *Except as otherwise provided in subsection 4, 20 percent of any money in the Fund as of January 1 of each year that is not used pursuant to paragraph (a) must be used for law enforcement, as recommended by the Office of Criminal Justice Assistance of the Department of Public Safety, or its successor, and any remaining portion of that money may be used as follows:*

(1) *Sixty percent of the money may be used for projects relating to:*

(I) *Studies or planning for trails and facilities for use by owners and operators of off-highway vehicles. Money received pursuant to this sub-subparagraph may be used to prepare environmental assessments and environmental impact studies that are required pursuant to 42 U.S.C. §§ 4321 et seq.*

(II) *The mapping and signing of those trails and facilities.*

(III) *The acquisition of land for those trails and facilities.*

(IV) *The enhancement and maintenance of those trails and facilities.*

(V) *The construction of those trails and facilities.*

(VI) *The restoration of areas that have been damaged by the use of off-highway vehicles.*

(2) *Fifteen percent of the money may be used for safety training and education relating to off-highway vehicles.*

4. *If money is used for the projects described in paragraph (b) of subsection 3, not more than 30 percent of such money may be allocated to any one category of projects described in subparagraph (1) of that paragraph.*

Sec. 16. 1. *The Commission on Off-Highway Vehicles is hereby created.*

2. *The Commission consists of 11 members as follows:*

(a) *One member who is an authorized dealer, appointed by the Governor;*

(b) *One member who is a sportsman, appointed by the Governor from a list of persons submitted to him by the Director of the Department of Wildlife;*



(c) *One member who is a rancher, appointed by the Governor from a list of persons submitted to him by the Director of the State Department of Agriculture;*

(d) *One member who is a representative of the Nevada Association of Counties, appointed by the Governor from a list of persons submitted to him by the Executive Director of the Association;*

(e) *One member who is a representative of law enforcement, appointed by the Governor from a list of persons submitted to him by the Nevada Sheriffs' and Chiefs' Association;*

(f) *One member, appointed by the Governor from a list of persons submitted to him by the Director of the State Department of Conservation and Natural Resources, who:*

(1) *Possesses a degree in soil science, rangeland ecosystems science or a related field;*

(2) *Has at least 5 years of experience working in one of the fields described in subparagraph (1); and*

(3) *Is knowledgeable about the ecosystems of the Great Basin Region of central Nevada or the Mojave Desert; and*

(g) *One member, appointed by the Governor, who is a representative of an organization that represents persons who use off-highway vehicles to access areas to participate in recreational activities that do not primarily involve off-highway vehicles;*

(h) *Four members, appointed by the Governor, who reside in the State of Nevada and have participated in recreational activities for off-highway vehicles for at least 5 years using the type of off-highway vehicle owned or operated by the persons they will represent, as follows:*

(1) *One member who represents persons who own or operate all-terrain vehicles;*

(2) *One member who represents persons who own or operate all-terrain motorcycles;*

(3) *One member who represents persons who own or operate snowmobiles; and*

(4) *One member who represents persons who own or operate, and participate in the racing of, off-highway motorcycles.*

3. *The Governor shall not appoint to the Commission any member described in paragraph (h) of subsection 2 unless the member has been recommended to the Governor by an off-highway vehicle organization. As used in this subsection, "off-highway vehicle organization" means a profit or nonprofit corporation, association or organization formed pursuant to the*



laws of this State and which promotes off-highway vehicle recreation or racing.

4. After the initial terms, each member of the Commission serves for a term of 3 years. A vacancy on the Commission must be filled in the same manner as the original appointment.

5. Except as otherwise provided in this subsection, a member of the Commission may not serve more than two consecutive terms on the Commission. A member who has served two consecutive terms on the Commission may be reappointed if the Governor does not receive any applications for that member's seat or if the Governor determines that no qualified applicants are available to fill that member's seat.

6. The Governor shall ensure that, insofar as practicable, the members whom he appoints reflect the geographical diversity of this State.

7. Each member of the Commission:

(a) Is entitled to receive, if money is available for that purpose from the fees collected pursuant to section 14 of this act, the per diem allowance and travel expenses provided for state officers and employees generally.

(b) Shall swear or affirm that he will work to create and promote responsible off-highway vehicle recreation in the State. The Governor may remove a member from the Commission if the member violates the oath described in this paragraph.

8. The Commission may employ an Executive Secretary, who must not be a member of the Commission, to assist in its daily operations and in administering the Fund.

9. The Commission may adopt regulations for the operation of the Commission. Upon request by the Commission, the nonvoting advisers solicited by the Commission pursuant to section 17 of this act may provide assistance to the Commission in adopting those regulations.

Sec. 17. 1. The Commission shall:

(a) Elect a Chairman, Vice Chairman, Secretary and Treasurer from among its members.

(b) Meet at the call of the Chairman.

(c) Meet at least four times each year.

(d) Solicit nine nonvoting advisers to the Commission to serve for terms of 2 years as follows:

(1) One adviser from the Bureau of Land Management.

(2) One adviser from the United States Forest Service.

(3) One adviser who is:



(I) From the Natural Resources Conservation Service of the United States Department of Agriculture; or

(II) A teacher, instructor or professor at an institution of the Nevada System of Higher Education and who provides instruction in environmental science or a related field.

(4) One adviser from the State Department of Conservation and Natural Resources.

(5) One adviser from the Department of Wildlife.

(6) One adviser from the Department of Motor Vehicles.

(7) One adviser from the Commission on Tourism.

(8) One adviser from the Nevada Indian Commission.

(9) One adviser from the United States Fish and Wildlife Service.

2. The Commission may award a grant of money from the Fund. Any such grant must comply with the requirements set forth in section 15 of this act. The Commission shall:

(a) Adopt regulations setting forth who may apply for a grant of money from the Fund and the manner in which such a person may submit the application to the Commission. The regulations adopted pursuant to this paragraph must include, without limitation, requirements that:

(1) Any person requesting a grant provide proof satisfactory to the Commission that the appropriate federal, state or local governmental agency has been consulted regarding the nature of the project to be funded by the grant and regarding the area affected by the project;

(2) The application for the grant address all applicable laws and regulations, including, without limitation, those concerning:

(I) Threatened and endangered species in the area affected by the project;

(II) Ecological, cultural and archaeological sites in the area affected by the project; and

(III) Existing land use authorizations and prohibitions, land use plans, special designations and local ordinances for the area affected by the project; and

(3) Any compliance information provided by an appropriate federal, state or local governmental agency, and any information or advice provided by any agency, group or individual be submitted with the application for the grant.

(b) Adopt regulations for awarding grants from the Fund.

(c) Adopt regulations for determining the acceptable performance of work on a project for which a grant is awarded.



(d) Approve the completion of, and payment of money for, work performed on a project for which a grant is awarded, if the Commission determines the work is acceptable.

(e) Monitor the accounting activities of the Fund.

3. The nonvoting advisers solicited by the Commission pursuant to paragraph (d) of subsection 1 shall assist the Commission in carrying out the duties set forth in this section and shall review for completeness and for compliance with the requirements of paragraph (a) of subsection 2 all applications for grants.

4. For each regular session of the Legislature, the Commission shall prepare a comprehensive report, including, without limitation, a summary of any grants that the Commission awarded and of the accounting activities of the Fund, and any recommendations of the Commission for proposed legislation. The report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than September 1 of each even-numbered year.

Sec. 18. (Deleted by amendment.)

Sec. 19. *1. The Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration is hereby created as a special account in the Motor Vehicle Fund.*

2. The Department shall use the money in the Account to pay the expenses of administering the provisions of this chapter relating to the titling and registration of off-highway vehicles.

3. Money in the Account must be used only for the purposes specified in subsection 2.

4. Any money remaining in the Account at the end of the fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

Sec. 19.5. *1. The Revolving Account for the Assistance of the Department is hereby created as a special account in the Motor Vehicle Fund.*

2. All money received by the Department from the Federal Government or any other source to assist the Department in carrying out the provisions of this chapter relating to the titling and registration of off-highway vehicles must be deposited into the Account.

3. Money in the Account must be used only for the purposes specified in subsection 2.

4. Any money remaining in the Account at the end of the fiscal year does not revert to the State General Fund, and the



balance in the Account must be carried forward to the next fiscal year.

Sec. 20. *The Department, all officers thereof and all peace officers in this State shall enforce the provisions of this chapter.*

Sec. 21. *The Director may adopt and enforce such administrative regulations as are necessary to carry out the provisions of this chapter.*

Sec. 22. *1. Before taking an off-highway vehicle on consignment, an off-highway vehicle dealer or lessor shall prepare a written consignment contract.*

2. A consignment contract must include, without limitation:

(a) The names of the consignor and consignee;

(b) The date on which the consignment contract was entered into;

(c) A complete description of the off-highway vehicle subject to the consignment contract, including the unique vehicle identification or serial number, and the year, make and model of the off-highway vehicle;

(d) The term of the consignment contract;

(e) The name of each person or business entity holding any security interest in the off-highway vehicle to be consigned;

(f) The minimum sales price for the off-highway vehicle and the disposition of the proceeds therefrom, as agreed upon by the consignor and consignee; and

(g) The signatures of the consignor and consignee acknowledging all the terms and conditions set forth in the consignment contract.

Sec. 23. *1. A consignee of an off-highway vehicle shall, upon entering into a consignment contract or other form of agreement to sell an off-highway vehicle owned by another person:*

(a) Open and maintain a separate trust account in a federally insured bank or savings and loan association that is located in this State, into which the consignee shall deposit all money received from a prospective buyer as a deposit, or as partial or full payment of the purchase price agreed upon, toward the purchase or transfer of interest in the off-highway vehicle. A consignee of an off-highway vehicle shall not:

(1) Commingle the money in the trust account with any other money that is not on deposit or otherwise maintained toward the purchase of the off-highway vehicle subject to the consignment contract or agreement; or



(2) Use any money in the trust account to pay his operational expenses for any purpose that is not related to the consignment contract or agreement.

(b) Obtain from the consignor, before receiving delivery of the off-highway vehicle, a signed and dated disclosure statement that is included in the consignment contract and provides in at least 10-point bold type or font:

**IMPORTANT NOTICE TO OFF-HIGHWAY
VEHICLE OWNERS**

State law (section 23 of this act) requires that the operator of this business file a Uniform Commercial Code 1 (UCCI) form with the Office of the Secretary of State on your behalf to protect your interest in your off-highway vehicle. The form is required to protect your off-highway vehicle from forfeiture in the event that the operator of this business fails to meet his financial obligations to a third party holding a security interest in his inventory. The form must be filed by the operator of this business before he may take possession of your off-highway vehicle. If the form is not filed as required, YOU MAY LOSE YOUR VEHICLE THROUGH NO FAULT OF YOUR OWN. For a copy of the UCCI form filed on your behalf or for more information, please contact:

*The Office of the Secretary of State of Nevada
Uniform Commercial Code Division
(775) 684-5708*

I understand and acknowledge the above disclosure.

..... Date
Consignee Signature

(c) Assist the consignor in completing, with respect to the consignor's purchase-money security interest in the off-highway vehicle, a financial statement of the type described in subsection 5 of NRS 104.9317 and shall file the financial statement with the Secretary of State on behalf of the consignor. If a consignee has previously granted to a third party a security interest with an after-acquired property clause in the consignee's inventory, the consignee additionally shall assist the consignor in sending an authenticated notification, as described in paragraph (b) of



subsection 1 of NRS 104.9324, to each holder of a conflicting security interest. The consignee must not receive delivery of the off-highway vehicle until the consignee has:

(1) Filed the financing statement with the Secretary of State; and

(2) If applicable, assisted the consignor in sending an authenticated notification to each holder of a conflicting security interest.

2. Upon the sale or transfer of interest in the off-highway vehicle, the consignee shall forthwith:

(a) Satisfy or cause to be satisfied all outstanding security interests in the off-highway vehicle; and

(b) Satisfy the financial obligations due the consignor pursuant to the consignment contract.

3. Upon the receipt of money by delivery of cash, bank check or draft, or any other form of legal monetary exchange, or after any form of transfer of interest in an off-highway vehicle, the consignee shall notify the consignor that the money has been received or that a transfer of interest in the off-highway vehicle has occurred. Notification by the consignee to the consignor must be given in person or, in the absence of the consignor, by registered or certified mail addressed to the last address or residence of the consignor known to the consignee. The notification must be made within 3 business days after the date on which the money is received or the transfer of interest in the off-highway vehicle is made.

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

(a) An executor;

(b) An administrator;

(c) A sheriff; or

(d) Any other person who sells off-highway vehicles pursuant to the powers or duties granted to or imposed on him by specific statute.

5. Notwithstanding any provision of the Nevada Revised Statutes to the contrary, an off-highway vehicle subject to a consignment contract may not be operated by the consignee, an employee or agent of the consignee, or a prospective buyer unless the operation of the off-highway vehicle is authorized by the express written consent of the consignor.

6. A consignee shall maintain a written log for each off-highway vehicle for which he has entered into a consignment contract. The written log must include:



- (a) *The name and address, or place of residence, of the consignor;*
- (b) *A description of the off-highway vehicle consigned, including the year, make, model and unique vehicle identification or serial number of the off-highway vehicle;*
- (c) *The date on which the consignment contract is entered into;*
- (d) *The period that the off-highway vehicle is to be consigned;*
- (e) *The minimum agreed upon sales price for the off-highway vehicle;*
- (f) *The approximate amount of money due any lienholder or other person known to have an interest in the off-highway vehicle;*
- (g) *If the off-highway vehicle is sold, the date on which the off-highway vehicle is sold;*
- (h) *The date that the money due the consignor and the lienholder was paid;*
- (i) *The name and address of the federally insured bank or savings and loan association in which the consignee opened the trust account required pursuant to subsection 1; and*
- (j) *The signature of the consignor acknowledging that the terms of the consignment contract were fulfilled or terminated, as appropriate.*

7. A person who:

- (a) *Appropriates, diverts or otherwise converts to his own use money in a trust account opened pursuant to paragraph (a) of subsection 1 or otherwise subject to a consignment contract or agreement is guilty of embezzlement and shall be punished in accordance with NRS 205.300. The court shall, in addition to any other penalty, order the person to pay restitution.*
- (b) *Violates paragraph (b) or (c) of subsection 1 is guilty of a misdemeanor. The court shall, in addition to any other penalty, order the person to pay restitution.*
- (c) *Violates any other provision of this section is guilty of a misdemeanor.*

Sec. 24. 1. *Except as otherwise provided in subsection 5, a natural person who applies for the issuance or renewal of a license issued pursuant to the provisions of sections 24 to 47, inclusive, of this act shall submit to the Department the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*



2. *The Department shall include the statement required pursuant to subsection 1 in:*

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Department.

3. *A license may not be issued or renewed by the Department pursuant to the provisions of sections 24 to 47, inclusive, of this act if the applicant is a natural person who:*

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. *If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Department shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

5. *If a licensee renews an existing license electronically, the licensee shall keep the original of the statement required pursuant to subsection 1 at his place of business for not less than 3 years after submitting the electronic renewal. The statement must be available during business hours for inspection by any authorized agent of the Director or the State of Nevada.*

Sec. 25. 1. *If the Department receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license issued pursuant to sections 24 to 47, inclusive, of this act, the Department shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Department receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*



2. *The Department shall reinstate an occupational license issued pursuant to the provisions of this chapter that has been suspended by a district court pursuant to NRS 425.540 if the Department receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

Sec. 26. *1. Except as otherwise provided in subsection 2, a person shall not engage in the activities of a new off-highway vehicle dealer, used off-highway vehicle dealer, long-term or short-term lessor or manufacturer in this State until he has been issued:*

(a) A license or permit to act as a new off-highway vehicle dealer, used off-highway vehicle dealer, long-term or short-term lessor or manufacturer, or a similar license or permit, by every city within whose corporate limits he maintains an established place of business and by every county in which he 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 has been issued all licenses and permits required by paragraph (a).

2. A person licensed as an off-highway vehicle dealer pursuant to this chapter shall not engage in the activities of a new off-highway vehicle dealer until he has provided the Department with satisfactory proof that he is authorized by a manufacturer to display and offer for sale the off-highway vehicles produced or distributed by that manufacturer.

3. A license for an off-highway vehicle dealer or manufacturer issued pursuant to this chapter does not permit a person to engage in the business of buying, selling or leasing or manufacturing motor vehicles or trailers governed pursuant to the laws and regulations established in chapter 482 of NRS.

4. The Department shall investigate any applicant for a license as an off-highway vehicle dealer, long-term or short-term lessor or manufacturer and shall 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. 27. 1. *Except as otherwise provided in subsections 2 and 3, every off-highway vehicle dealer, long-term or short-term lessor and manufacturer who is licensed by the Department to do business in this State shall maintain an established place of business in this State which:*

(a) Includes a permanent enclosed building, owned in fee or leased, with sufficient space to display one or more off-highway vehicles which the off-highway vehicle dealer, lessor or manufacturer is licensed to sell, lease or manufacture; and

(b) Is principally used by the licensee to conduct his business.

2. *Every new and used off-highway vehicle dealer, long-term or short-term lessor or manufacturer shall maintain an established place of business in this State which has:*

(a) In addition to sufficient customer and employee parking, adequate usable space to display one or more off-highway vehicles offered for sale or lease from his established place of business;

(b) Except for businesses licensed pursuant to this chapter or chapter 482 of NRS and owned by a single principal or group of principals, physical boundaries which are clearly marked that physically separate the licensee's established place of business from any other adjacent place of business; and

(c) A permanent enclosed building large enough to accommodate an office but not less than 100 square feet of usable floor space to accommodate his business office and provide a safe place to keep and store the books and other records of his business.

3. *A short-term off-highway vehicle lessor shall:*

(a) Designate his principal place of business as his established place of business and each other location where he conducts business as a branch that is operated pursuant to the license for the principal place of business.

(b) Notify the Department of each branch at which he conducts business by filing, on forms provided by the Department, such information pertaining to each branch as required by the Department.

Sec. 28. 1. *An application for a license for an off-highway vehicle dealer, long-term or short-term lessor or manufacturer must be filed upon forms supplied by the Department and include the social security number of the applicant. The forms must designate the persons whose names are required to appear thereon. The applicant must furnish:*



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

(b) *A fee of \$125.*

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

(d) *For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.*

(e) *If the applicant is a natural person, the statement required pursuant to section 24 of this act.*

(f) *A certificate of insurance for liability.*

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

3. *Licenses issued pursuant to this section expire on December 31 of each year. Before December 31 of each year, a licensee must furnish the Department with an application for renewal of his license accompanied by an annual fee of \$50. If the applicant is a natural person, the application for renewal also must be accompanied by the statement required pursuant to section 24 of this act. The additional fee for the processing of fingerprints, established by regulation pursuant to paragraph (c) of subsection 1, must be submitted for each applicant whose name does not appear on the original application for the license. The renewal application must be provided by the Department and contain information required by the Department.*

Sec. 29. *The Director shall, before renewing any occupational license issued pursuant to this chapter, consider:*

1. *The number and types of complaints received against an off-highway vehicle dealer, long-term or short-term lessor or manufacturer by the Department; and*



2. Any administrative fines imposed upon the off-highway vehicle dealer, lessor or manufacturer by the Department pursuant to this chapter,

↳ and may require the dealer, lessor or manufacturer to provide a good and sufficient bond in the amount set forth in subsection 1 of section 40 of this act for each category of off-highway vehicle sold at each place of business and in each county in which the dealer, lessor or manufacturer is licensed to do business.

Sec. 30. Evidence of unfitness of an applicant for or a licensee of an off-highway vehicle dealer, long-term or short-term lessor or manufacturer for the purposes of denial or revocation of a license may consist of, but is not limited to:

1. Failure to discharge a lienholder on an off-highway vehicle within 30 days after it is traded to his dealership.

2. Being the former holder of or being a partner, officer, director, owner or manager involved in management decisions of an off-highway vehicle dealership which held a license issued pursuant to section 28 of this act or of an occupational license issued pursuant to chapter 482 of NRS which was revoked for cause and never reissued or was suspended upon terms which were never fulfilled.

3. Defrauding or attempting to defraud the State or a political subdivision of any taxes or fees in connection with the sale or transfer of an off-highway vehicle.

4. Forging the signature of the registered or legal owner of an off-highway vehicle on a certificate of title.

5. Purchasing, selling, otherwise disposing of or having in his possession any off-highway vehicle which he knows, or a reasonable person should know, is stolen or otherwise illegally appropriated.

6. Willfully failing to deliver to a purchaser or his lienholder a certificate of title to an off-highway vehicle he has sold.

7. Refusing to allow an agent of the Department to inspect, during normal business hours, all books, records and files which are required to be maintained within the State.

8. Any fraud which includes, but is not limited to:

(a) Misrepresentation in any manner, whether intentional or grossly negligent, of a material fact.

(b) An intentional failure to disclose a material fact.

9. Willful failure to comply with any regulation adopted by the Department.

10. Knowingly submitting or causing to be submitted any false, forged or otherwise fraudulent document to the Department



to obtain a lien, title or certificate of ownership or any duplicate thereof for an off-highway vehicle.

11. Knowingly causing or allowing a false, forged or otherwise fraudulent document to be maintained as a record of his business.

12. Violating any provisions of this chapter which involve the sale or transfer of an interest in an off-highway vehicle.

Sec. 31. *An off-highway vehicle dealer, long-term or short-term lessor or manufacturer licensed under the provisions of this chapter shall post his license, and all licenses issued to persons in his employ who are licensed as off-highway vehicle salesmen pursuant to the provisions of this chapter, in a conspicuous place clearly visible to the general public at the location described in the license.*

Sec. 32. *Except as otherwise provided in subsection 2 of section 10 of this act, the following activities are prima facie evidence that a person is engaged in the activities of an off-highway vehicle dealer:*

1. A person displays for sale, sells or offers for sale any off-highway vehicle which he does not personally own;

2. A person demonstrates, or allows the demonstration or operation of, any off-highway vehicle for the purpose of sale or future sale or as an inducement to purchase the vehicle; or

3. A person engages in an activity specified by subsection 1 of section 10 of this act or any other act regarding an off-highway vehicle which would lead a reasonable person to believe that he may purchase that off-highway vehicle or a similar off-highway vehicle from the person.

Sec. 33. *1. An off-highway vehicle dealer shall inform the Department of the location of each place at which he conducts any business and the name under which he does business at each location.*

2. If an off-highway vehicle dealer does business at more than one location, he shall designate one location in each county in which he does business as his principal place of business for that county and one name as the principal name of his business. He shall designate all of his other business locations not otherwise designated as a principal place of business pursuant to this subsection as branches.

3. An off-highway vehicle dealer who maintains a principal place of business and one or more businesses designated as branches may operate those branches under the authority of the



license issued by the Department to the principal place of business under the following conditions:

(a) The principal and branch locations are owned and operated by the same principal or group of principals listed on the records of the Department for the principal place of business;

(b) The sales activities conducted at a branch location are the same as those authorized by the Department at the principal place of business;

(c) The principal place of business and each branch location are located within the same county;

(d) The principal place of business and each branch location maintain the appropriate city or county license;

(e) The closest boundary of a branch location is not more than 500 feet from the principal place of business;

(f) The business sign displayed at each branch location meets the requirements of section 39 of this act and is essentially the same in name, style and design as that of the principal place of business;

(g) Sales transactions originating at a branch location are culminated, and the records of the transaction maintained, at the principal place of business; and

(h) The off-highway vehicle dealer provides all documentation which the Department deems necessary to ensure that each business location is operated in accordance with the provisions of this chapter and all other applicable laws and regulations established for the operation of an off-highway vehicle sales business in this State.

4. If an off-highway vehicle dealer changes the name or location of any of his established places of business, he shall not conduct business as an off-highway vehicle dealer under the new name or at the new location until he has been issued a license for the new name or location from the Department.

Sec. 34. *1. An off-highway vehicle dealer, long-term or short-term lessor or manufacturer shall keep his books and records for all locations at which he does business within a county at his principal place of business in that county.*

2. Each off-highway vehicle dealer, lessor and manufacturer shall:

(a) Permit any authorized agent of the Director or the State of Nevada to inspect and copy the books and records during usual business hours; or

(b) Not later than 3 business days after receiving a request from such a person for the production of the books and records or



any other information, provide the requested books, records and other information to the person at the location specified in the request.

3. An off-highway vehicle dealer, lessor and manufacturer shall retain his books and records for 3 years after he ceases to be licensed as an off-highway vehicle dealer, lessor or manufacturer.

Sec. 35. *1. If an off-highway vehicle dealer or long-term lessor has one or more branches, he shall procure from the Department a license for each branch, in addition to the license issued for his principal place of business.*

2. The Department shall specify on each license it issues:

(a) The name of the licensee;

(b) The location for which the license is issued; and

(c) The name under which the licensee does business at that location.

3. Each off-highway vehicle dealer and lessor shall post each license issued to him by the Department in a conspicuous place clearly visible to the general public at the location described in the license.

4. The Department shall, by regulation, provide for the issuance of a temporary license for a licensed off-highway vehicle dealer to conduct business at a temporary location. Any such regulations must include the imposition of a reasonable fee for the issuance of the temporary license.

Sec. 36. *Except as otherwise provided in section 41 of this act, the Department or any other agency of this State shall not require that an off-highway vehicle dealer have his signature acknowledged before a notary public or any other person authorized to take acknowledgments in this State on any document the off-highway vehicle dealer is required to file with the Department or agency.*

Sec. 37. *Each off-highway vehicle dealer who advertises that the Spanish language is spoken at his place of business or who conducts business by communicating in Spanish with a purchaser or prospective purchaser regarding the potential purchase of an off-highway vehicle shall, upon the request of a purchaser or prospective purchaser of an off-highway vehicle with whom the off-highway vehicle dealer or his agent is communicating or has communicated in Spanish as a part of the preliminary discussions and negotiations regarding the purchase or potential purchase of the off-highway vehicle, allow the purchaser or prospective purchaser to view the version of the forms for the application for credit and contracts to be used in the sale of off-highway vehicles*



which have been translated into Spanish pursuant to subsection 3 of NRS 97.299.

Sec. 38. *If a licensed off-highway vehicle dealer takes an off-highway vehicle in trade on the purchase of another off-highway vehicle and there is an outstanding security interest, the licensed off-highway vehicle dealer shall satisfy the outstanding security interest within 30 days after the off-highway vehicle is taken in trade on the purchase of the other off-highway vehicle.*

Sec. 39. *1. Except as otherwise provided in subsection 2, at each of his established places of business, each off-highway vehicle dealer, long-term or short-term lessor or manufacturer shall permanently affix a sign containing the name of his business in lettering of sufficient size to be clearly legible from the center of the nearest street or roadway, except that the lettering must be at least 8 inches high and formed by lines that are at least 1 inch wide.*

2. Upon approval of the Director, and in accordance with all other city and county ordinances, an off-highway vehicle dealer or a long-term or short-term lessor may be exempted from the requirements of subsection 1 if:

(a) His established place of business or branch location is located within the confines of another business;

(b) The other place of business is the primary business at that location; and

(c) The primary business is not licensed pursuant to any provision of this chapter.

Sec. 40. *1. Before any off-highway vehicle dealer, long-term or short-term lessor or manufacturer is issued a license pursuant to this chapter, the Department shall require that the applicant procure and file with the Department a good and sufficient bond with a corporate surety thereon, duly licensed to do business within the State of Nevada, approved as to form by the Attorney General and conditioned that the applicant or any employee who acts on his behalf within the scope of his employment shall conduct his business as an off-highway vehicle dealer, lessor or manufacturer without breaching a consumer contract or engaging in a deceptive trade practice, fraud or fraudulent representation and without violation of the provisions of this chapter. The bond must be in the amount of \$50,000.*

2. The Department may, pursuant to a written agreement with any off-highway vehicle dealer, long-term or short-term lessor or manufacturer who has been licensed to do business in this State for at least 5 years, allow a reduction in the amount of



the bond of the off-highway vehicle dealer, lessor or manufacturer if his business has been conducted in a manner satisfactory to the Department for the preceding 5 years. No bond may be reduced to less than 50 percent of the bond required pursuant to subsection 1.

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

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

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

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

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

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

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

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



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

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

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

Sec. 41. 1. *In lieu of a bond, an applicant may deposit with the Department, under terms prescribed by the Department:*

(a) A like amount of lawful money of the United States or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank, credit union or savings and loan association situated in Nevada, which must indicate an account of an amount equal to the amount of the bond which would otherwise be required by NRS 482.345 and indicate that this amount is unavailable for withdrawal except upon order of the Department. Interest earned on the amount accrues to the account of the applicant.

2. A deposit made pursuant to subsection 1 may be disbursed by the Director, for good cause shown and after notice and opportunity for hearing, in an amount determined by him to compensate a person injured by an action of the licensee, or released upon receipt of:

(a) A court order requiring the Director to release all or a specified portion of the deposit; or



(b) A statement signed by the person or persons under whose name the deposit is made and acknowledged before any person authorized to take acknowledgments in this State requesting the Director to release the deposit, or a specified portion thereof, and stating the purpose for which the release is requested.

3. When a deposit is made pursuant to subsection 1, liability under the deposit is in the amount prescribed by the Department. If the amount of the deposit is reduced or there is an outstanding court judgment for which the licensee is liable under the deposit, the license is automatically suspended. The license must be reinstated if the licensee:

(a) Files an additional bond pursuant to subsection 1 of section 40 of this act;

(b) Restores the deposit with the Department to the original amount required under this section; or

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

4. A deposit made pursuant to subsection 1 may be refunded:

(a) By order of the Director, 3 years after the date the licensee ceases to be licensed by the Department, if the Director is satisfied that there are no outstanding claims against the deposit; or

(b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the Department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit.

5. Any money received by the Department pursuant to subsection 1 must be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

Sec. 42. *1. The bond required by section 40 of this act must cover the licensee's principal place of business and all branches operated by him, including, without limitation, any place of business operated in this State by the licensee that is located outside the county of the licensee's principal office or any place of business operated by the licensee under a different name.*

2. In addition to the coverage provided by the licensee's bond pursuant to subsection 1, the licensee shall procure a separate bond for:

(a) Each place of business operated in this State by the licensee that is located outside the county of the licensee's principal office; and

(b) Each place of business operated by the licensee under a different name.



Sec. 43. 1. *A new off-highway vehicle dealer's license must not be furnished to any off-highway vehicle dealer in new off-highway vehicles unless the off-highway vehicle dealer first furnishes the Department an instrument executed by or on behalf of the manufacturer certifying that he is an authorized franchised off-highway vehicle dealer for the make or makes of off-highway vehicles concerned. New off-highway vehicle dealers are authorized to sell at retail only those new off-highway vehicles for which they are certified as franchised off-highway vehicle dealers by the manufacturer.*

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

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

(b) Sell at wholesale a new off-highway vehicle through a wholesale vehicle auction if the wholesale vehicle auctioneer:

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

(2) Auctions the off-highway vehicle to an off-highway vehicle dealer who is licensed and authorized to sell that make of off-highway vehicle; or

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

Sec. 44. 1. *No off-highway vehicle dealer, long-term or short-term lessor or manufacturer may employ "bait and switch" advertising or otherwise intentionally publish, display or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products sold, leased, manufactured, handled or furnished to the public.*

2. The Director shall adopt such regulations as may be necessary for making the administration of this section effective.

3. As used in this section, "bait and switch" advertising consists of an offer to sell or lease goods or services which the seller or lessor in truth may not intend or desire to sell or lease, accompanied by one or more of the following practices:

(a) Refusal to show the goods advertised.

(b) Disparagement in any material respect of the advertised goods or services or the terms of sale or lease.



(c) Requiring other sales or leases or other undisclosed conditions to be met before selling or leasing the advertised goods or services.

(d) Refusal to take orders for the goods or services advertised for delivery within a reasonable time.

(e) Showing or demonstrating defective goods which are unusable or impractical for the purposes set forth in the advertisement.

(f) Accepting a deposit for the goods or services and subsequently switching the purchase order to higher-priced goods or services.

Sec. 45. 1. *The Department may deny the issuance of, suspend or revoke a license to engage in the activities of an off-highway vehicle dealer, long-term or short-term lessor or manufacturer in new or used off-highway vehicles in this State upon any of the following grounds:*

(a) Failure of the applicant to have an established place of business in this State.

(b) Conviction of a felony in the State of Nevada or any other state, territory or nation.

(c) Material misstatement in the application.

(d) Evidence of unfitness of the applicant or licensee.

(e) Willful failure to comply with any of the provisions of the laws of the State of Nevada or the directives of the Director. For the purpose of this paragraph, failure to comply with the directives of the Director advising the licensee of his noncompliance with any provision of the laws of this State or regulations of the Department, within 10 days after receipt of the directive, is prima facie evidence of willful failure to comply with the directive.

(f) Failure or refusal to furnish and keep in force any bond.

(g) Failure on the part of the licensee to maintain a fixed place of business in this State.

(h) Failure or refusal by a licensee to pay or otherwise discharge any final judgment against the licensee rendered and entered against him, arising out of the misrepresentation of any off-highway vehicle or out of any fraud committed in connection with the sale of any off-highway vehicle.

(i) Failure of the licensee to maintain any other license or bond required by any political subdivision of this State.

(j) Allowing an unlicensed off-highway vehicle salesman to sell or lease any off-highway vehicle or to act in the capacity of an off-highway vehicle salesman as defined in this chapter.



(k) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 3.

(l) Engaging in a deceptive trade practice relating to the purchase and sale or lease of an off-highway vehicle.

2. The Director may deny the issuance of a license to an applicant or revoke a license already issued if the Department is satisfied that the applicant or licensee is not entitled thereto.

3. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the activities of an off-highway vehicle dealer, long-term or short term lessor or manufacturer, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to the authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to the authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to sections 24 to 47, inclusive, of this act or to determine the suitability of an applicant or a licensee for such licensure.

4. The Department may adopt regulations establishing additional criteria that may be used to deny, suspend, revoke or refuse to renew a license issued pursuant to this chapter.

Sec. 46. *1. Except as otherwise provided in subsection 5, an applicant or licensee may, within 30 days after receipt of the notice of denial, suspension or revocation, petition the Director in writing for a hearing.*

2. Subject to the further requirements of subsection 3, the Director shall make written findings of fact and conclusions and grant or finally deny the application or revoke the license within 15 days after the hearing unless by interim order he extends the time to 30 days after the hearing. If the license has been temporarily suspended, the suspension expires not later than 15 days after the hearing.

3. If the Director finds that the action is necessary in the public interest, upon notice to the licensee, he may temporarily suspend or refuse to renew the license issued to an off-highway vehicle dealer, long-term or short-term lessor or manufacturer for a period not to exceed 30 days. A hearing must be held, and a final



decision rendered, within 30 days after notice of the temporary suspension.

4. The Director may issue subpoenas for the attendance of witnesses and the production of evidence.

5. The provisions of this section do not apply to an applicant for a temporary permit to engage in the activity of an off-highway vehicle salesman.

Sec. 47. 1. A person shall not engage in the activity of a salesman of off-highway vehicles or act in the capacity of an off-highway vehicle salesman as defined in this chapter in the State of Nevada without first having received a license or temporary permit from the Department.

2. A license to act as an off-highway vehicle salesman must be issued in accordance with the provisions for the licensing of vehicle salesmen as defined in chapter 482 of NRS.

3. A person who has received a license issued pursuant to the provisions of chapter 482 of NRS must be licensed to act as a salesman of vehicles defined in chapter 482 of NRS and as an off-highway vehicle salesman as defined in this chapter.

4. All requirements, restrictions and penalties applicable to a vehicle salesman licensed pursuant to the provisions of chapter 482 of NRS apply without exception to off-highway vehicle salesmen.

Sec. 48. 1. It is a gross misdemeanor for any person knowingly to falsify:

(a) An off-highway vehicle dealer's report of sale, as described in section 50 of this act; or

(b) An application or document to obtain any license, permit, certificate of title or registration issued under the provisions of this chapter.

2. Except as otherwise provided in subsection 3, it is a misdemeanor for any person to violate any of the provisions of this chapter unless the violation is by this section or other provision of this chapter or other law of this State declared to be a gross misdemeanor or a felony.

3. Any person who violates a provision of this chapter relating to the registration or operation of an off-highway vehicle is guilty of a misdemeanor and shall be punished by a fine not to exceed \$100.

Sec. 49. 1. The Department may impose an administrative fine, not to exceed \$2,500, for a violation of any provision of sections 22 to 52, inclusive, of this act or any rule, regulation or order adopted or issued pursuant thereto. The Department shall



afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. All administrative fines collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer to the credit of the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by section 19 of this act.

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

Sec. 50. *1. When a new or used off-highway vehicle is sold or leased in this State for the first time, the seller or lessor of the off-highway vehicle shall, unless a new off-highway vehicle is sold to an off-highway vehicle dealer who is licensed to sell the make of off-highway vehicle being sold, complete and execute an off-highway vehicle dealer's report of sale.*

2. The form, content and disposition of the off-highway vehicle dealer's report of sale must be prescribed by regulation adopted by the Department.

Sec. 51. *When a used off-highway vehicle is sold in this State by a person who is not an off-highway vehicle dealer, the seller or buyer or both of them shall, within 10 days after the sale:*

1. Submit to the Department:

(a) If a certificate of title has been issued in this State, the certificate properly endorsed.

(b) If a certificate of title or other document of title has been issued by a public authority of another state, territory or country:

(1) The certificate or document properly endorsed; and

(2) A statement containing, if not included in the endorsed certificate or document, the description of the off-highway vehicle, including the names and addresses of the buyer and seller and the name and address of any person who takes or retains a purchase money security interest. Any such statement must be signed and acknowledged by the seller and the buyer.

(c) If no document of title has been issued by any public authority, a statement containing all the information and signed and acknowledged in the manner required by subparagraph (2) of paragraph (b).



2. Remit to the Department any fee for the processing of an endorsed certificate of title or statement submitted to the Department pursuant to this section.

Sec. 52. *Any person is guilty of a gross misdemeanor who knowingly:*

1. Makes or causes to be made any false entry on any certificate of origin or certificate of title for an off-highway vehicle;

2. Furnishes or causes to be furnished false information to the Department concerning any security interest; or

3. Fails to submit or cause to not be submitted the original of the off-highway vehicle dealer's or long-term lessor's report of sale or lease, together with the certificate of title or certificate of ownership issued for a new or used off-highway vehicle to the Department within the time prescribed by regulation adopted by the Department.

Sec. 53. NRS 490.010 is hereby amended to read as follows:

490.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 490.020 to 490.060, inclusive, *and sections 4 to 11, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 54. NRS 490.020 is hereby amended to read as follows:

490.020 "Authorized dealer" means a dealer authorized by the Department to ~~issue~~ *receive and submit to the Department applications for the issuance of* certificates of ~~operation~~ *title* for *, and registrations of*, off-highway vehicles pursuant to NRS 490.070.

Sec. 55. NRS 490.060 is hereby amended to read as follows:

490.060 1. "Off-highway vehicle" means a motor vehicle that is designed primarily for off-highway and all-terrain use. The term includes, but is not limited to:

(a) An all-terrain vehicle;

(b) An all-terrain motorcycle;

(c) A dune buggy;

(d) A snowmobile; and

(e) Any motor vehicle used on public lands for the purpose of recreation.

2. The term does not include:

(a) A motor vehicle designed primarily for use in water;

(b) A motor vehicle that is registered by the Department ; ~~of Motor Vehicles; or~~

(c) A low-speed vehicle as defined in NRS 484.527 ~~]; or~~

(d) *Special mobile equipment, as defined in NRS 482.123.*



Sec. 56. NRS 490.070 is hereby amended to read as follows:

490.070 1. Upon the request of ~~[a dealer of]~~ *an* off-highway ~~[vehicles,]~~ *vehicle dealer*, the Department may authorize the *off-highway vehicle* dealer to ~~[issue]~~ *receive and submit to the Department applications for the:*

(a) *Issuance of* certificates of ~~[operation]~~ *title and registration* for off-highway vehicles ~~[pursuant to subsection 3.~~

~~— 2. Each certificate of operation for an off highway vehicle issued by an authorized dealer must be in the form of a sticker approved by the Department.~~

~~— 3.] ; and~~

(b) *Renewal of registration for off-highway vehicles.*

2. An authorized dealer shall:

(a) ~~[Upon the sale of an off highway vehicle, issue to the purchaser of the off highway vehicle a certificate of operation for the off highway vehicle;~~

~~— (b) Upon request, issue a certificate of operation to a person who purchased the off highway vehicle before January 1, 2006;~~

~~— (c) Issue a certificate of operation to the owner of an off-highway vehicle that was purchased outside this State on or after January 1, 2006, if the owner:~~

~~— (1) Requests the certificate of operation; and~~

~~— (2) Pays or submits evidence satisfactory to the authorized dealer that he has paid all taxes applicable in this State to the purchase of the off highway vehicle or submits an affidavit indicating that he purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off highway vehicle;]~~ *Except as otherwise provided in paragraph (b) and subsection 4, submit to the State Treasurer for allocation to the Department or to the Fund all fees collected by the authorized dealer from each applicant and properly account for those fees each month;*

(b) *Submit to the State Treasurer for deposit into the Fund all fees charged and collected and required to be deposited in the Fund pursuant to section 14 of this act;*

~~[(d)]~~ (c) Comply with the regulations adopted pursuant to subsection ~~[6;]~~ 5; and

~~[(e)]~~ (d) Bear any cost of equipment which is required to ~~[issue certificates of operation,]~~ *receive and submit to the Department the applications described in subsection 1*, including any computer software or hardware.



~~[4.—An]~~

3. *Except as otherwise provided in subsection 4, an authorized dealer is not entitled to receive compensation ~~[from the Department]~~ for the performance of ~~[those services.]~~ any services pursuant to this section.*

~~[5.]~~ 4. An authorized dealer ~~[shall not charge or]~~ *may charge and collect a fee of not more than \$2 for ~~[issuing]~~ each application for a certificate of ~~[operation.~~*

~~—6.]~~ *title or registration received by the authorized dealer pursuant to this section. An authorized dealer may retain any fee collected by the authorized dealer pursuant to this subsection.*

5. The Department shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation, provisions for:

(a) The expedient and secure issuance of :

(1) *Forms for applying for the issuance of certificates of ~~[operation]~~ title for, or registration of, off-highway vehicles;*

(2) *Certificates of title and registration by the Department to ~~[authorized dealers; and]~~ each applicant whose application is approved by the Department; and*

(3) *Renewal notices for registrations before the date of expiration of the registrations;*

(b) *The renewal of registrations by mail or Internet;*

(c) *The collection of a fee of not less than \$20 or more than \$30 for the renewal of a registration of an off-highway vehicle;*

(d) *The submission by mail or electronic transmission to the Department of an application for:*

(1) *The issuance of a certificate of title for, or registration of, an off-highway vehicle; or*

(2) *The renewal of registration of an off-highway vehicle;*

(e) *The replacement of a lost, damaged or destroyed certificate of title or registration certificate, sticker or decal; and*

(f) *The revocation of the authorization granted to a dealer pursuant to subsection 1 if the authorized dealer fails to comply with the regulations.*

Sec. 57. NRS 490.100 is hereby amended to read as follows:

490.100 1. Except as otherwise provided in subsection 2, a city or county may designate any portion of a highway within the city or county as permissible for the operation of off-highway vehicles for the purpose of allowing off-highway vehicles to reach a private or public area that is open for use by off-highway vehicles. If a city or county designates any portion a state highway as permissible for the operation of off-highway vehicles pursuant to



this subsection, the city or county must obtain approval for the designation from the Department . ~~{of Transportation.}~~ The Department ~~{of Transportation}~~ shall issue a timely decision concerning the request for approval and must not unreasonably deny the request.

2. The highway designated for operation of off-highway vehicles pursuant to subsection 1 may not consist of any portion of an interstate highway.

3. If a city or county designates a highway for the operation of off-highway vehicles, the city or county may adopt an ordinance requiring a person who is less than 16 years of age and who is operating the off-highway vehicle on a designated highway to be under the direct visual supervision of a person who is at least 18 years of age.

4. A person operating an off-highway vehicle on a highway designated for operation of off-highway vehicles pursuant to subsection 1 may not operate the off-highway vehicle on the highway for any purpose other than to travel to or from the private or public area as described in subsection 1.

Sec. 58. NRS 490.130 is hereby amended to read as follows:

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

1. Comply with all traffic laws of this State;
2. Ensure that the ~~{certificate of operation for}~~ *registration of* the off-highway vehicle is attached to the vehicle in accordance with ~~{NRS 490.080;}~~ *section 13 of this act;* and
3. Wear a helmet.

Sec. 58.3. NRS 41.440 is hereby amended to read as follows:

41.440 Any liability imposed upon a wife, husband, son, daughter, father, mother, brother, sister or other immediate member of a family arising out of his or her driving and operating a motor vehicle ~~{upon a highway}~~ with the permission, express or implied, of such owner is hereby imposed upon the owner of the motor vehicle, and such owner shall be jointly and severally liable with his or her wife, husband, son, daughter, father, mother, brother, sister or other immediate member of a family for any damages proximately resulting from such negligence or willful misconduct, and such negligent or willful misconduct shall be imputed to the owner of the motor vehicle for all purposes of civil damages.



Sec. 58.7. NRS 104A.2104 is hereby amended to read as follows:

104A.2104 1. A lease, although subject to this Article, is also subject to any applicable:

(a) Certificate of title statute of this State, including any applicable provision of chapters 482, 488 ~~and~~ 489 *and* 490 of NRS;

(b) Certificate of title statute of another jurisdiction (NRS 104A.2105); or

(c) Consumer protection statute of this State, including any applicable provision of NRS 97.297, 97.299, 97.301 and 100.095 to 100.175, inclusive, and a final decision of a court of this State concerning the protection of consumers rendered before January 1, 1990.

2. In case of conflict between this Article, other than NRS 104A.2105, subsection 3 of NRS 104A.2304 and subsection 3 of NRS 104A.2305, and a statute or decision referred to in subsection 1, the statute or decision controls.

3. Failure to comply with an applicable law has only the effect specified therein.

Sec. 59. NRS 490.030 and 490.080 are hereby repealed.

Sec. 60. An owner of an off-highway vehicle who obtained a certificate of operation for an off-highway vehicle before the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act shall, within 1 year after that date, register the off-highway vehicle pursuant to the provisions of section 12 of this act.

Sec. 61. 1. Any off-highway vehicle dealer who is an authorized dealer pursuant to NRS 490.070 before the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act shall be deemed to be an authorized dealer by the Department of Motor Vehicles pursuant to NRS 490.070, as amended by section 56 of this act.

2. The regulations adopted by the Department of Taxation pursuant to NRS 490.070 become the regulations of the Department of Motor Vehicles on the effective date of this section as provided in paragraph (b) of subsection 2 of section 63 of this act and, to the extent that the regulations are consistent with the amendatory provisions of this act, remain in effect until amended or repealed by the Department of Motor Vehicles.

Sec. 62. 1. As soon as practicable after passage and approval of this act, the Governor shall solicit applications for the



appointment of the members of the Commission on Off-Highway Vehicles created by section 16 of this act.

2. As soon as practicable after July 1, 2010, the Governor shall, after considering each application received pursuant to subsection 1, appoint the members of the Commission on Off-Highway Vehicles who are qualified pursuant to section 16 of this act to initial terms as follows:

- (a) Four members to terms that expire on January 1, 2012.
- (b) Four members to terms that expire on January 1, 2013.
- (c) Three members to terms that expire on January 1, 2014.

Sec. 62.5. As soon as practicable after determining that at least \$500,000 is available in the Revolving Account for the Assistance of the Department created by section 19.5 of this act to enable the Department of Motor Vehicles to administer the provisions of chapter 490 of NRS, as amended by this act, relating to the registration of off-highway vehicles, the Interim Finance Committee shall notify the Department of that fact. Upon receipt of the notice, the Department shall ensure that notice of the determination of the Interim Finance Committee is made available to the members of the public.

Sec. 63. 1. This section and sections 19.5 and 62.5 of this act become effective upon passage and approval.

2. Sections 1 to 19, inclusive, and 20 to 62, inclusive, of this act become effective:

(a) Upon passage and approval for purposes of:

(1) The appointment by the Governor of the members of the Commission on Off-Highway Vehicles created by section 16 of this act; and

(2) The adoption of regulations to carry out the provisions of this act.

(b) On July 1, 2011, or 1 year after the date the Interim Finance Committee issues a notice to the Department of Motor Vehicles pursuant to section 62.5 of this act, whichever occurs first, for all other purposes.

3. This section and sections 1 to 62.5, inclusive, of this act expire by limitation on July 1, 2011, if the Interim Finance Committee has not issued a notice to the Department of Motor Vehicles pursuant to section 62.5 of this act before that date.

4. Except as otherwise provided in subsection 3, sections 24 and 25 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or



suspend, or restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

→ are repealed by the Congress of the United States.

