

**ADOPTED REGULATION OF THE
DEPARTMENT OF MOTOR VEHICLES**

LCB File No. R125-09

Effective June 30, 2010

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

AUTHORITY: §§1-8, NRS 487.505.

A REGULATION relating to vehicles; establishing procedures for a person other than an automobile wrecker, dealer of new or used motor vehicles or rebuilder to obtain a private bidder identifying card to bid for the purchase of vehicles from an operator of a salvage pool; requiring the Department of Motor Vehicles to establish a website to track private bidders and private bidder identifying cards; requiring an operator of a salvage pool to report certain information to the Department regarding sales of vehicles to private bidders; providing for the cancellation of a private bidder identifying card under certain circumstances; and providing other matters properly relating thereto.

Section 1. Chapter 487 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this regulation.

Sec. 2. *“Private bidder” means a person who holds a private bidder identifying card.*

Sec. 3. *“Private bidder identifying card” means an identifying card which is issued by the Department in accordance with NRS 487.477, and which authorizes a person other than an automobile wrecker, dealer or rebuilder to bid to purchase a vehicle other than a nonrepairable vehicle from an operator of a salvage pool.*

Sec. 4. 1. *The Department will create and maintain a website on the Internet for the purpose of tracking private bidders and private bidder identifying cards.*

2. *The website must include, without limitation:*

(a) *The name of each private bidder;*

- (b) The identifying number of each private bidder's private bidder identifying card; and*
- (c) The current status of each private bidder identifying card.*

Sec. 5. 1. Before accepting a bid for the purchase of a vehicle from a private bidder:

- (a) The private bidder shall present to the operator of a salvage pool the private bidder's private bidder identifying card; and*
- (b) The operator shall consult the Internet website established by the Department pursuant to section 4 of this regulation to determine the status of the private bidder's private bidder identifying card.*

2. If the status of the private bidder identifying card is invalid, the operator shall not accept a bid from the person for any vehicle until the person's private bidder card status is listed as valid on the Internet website established by the Department pursuant to section 4 of this regulation.

3. If the status of the private bidder identifying card is valid, before completing the sale of the vehicle, the operator shall review the records maintained by the operator to ascertain the number of vehicles that the operator has sold to the private bidder within the current calendar year. If the operator has sold to the private bidder within the current calendar year:

- (a) Three vehicles, the operator shall not complete the sale of the vehicle.*
- (b) Less than three vehicles, the operator may complete the sale of the vehicle.*

4. At the time of completing the sale of the vehicle, the operator shall collect from the private bidder the appropriate fee for issuance of a salvage title. Not later than 30 days after the date on which the sale is completed, the operator shall submit to the Department the fee collected from the private bidder for issuance of the salvage title, together with the application

and other documents required for issuance of the salvage title in the name of the private bidder.

5. Each operator shall, not later than the 10th day of each month, submit to the Department a report, in electronic format and on a form approved by the Department, listing all sales of vehicles made to private bidders during the previous month.

Sec. 6. If a private bidder purchases three vehicles using the private bidder's private bidder identifying card within a calendar year, the private bidder identifying card shall be deemed to be invalid for the remainder of the calendar year.

Sec. 7. The Department may cancel the private bidder identifying card of any private bidder who violates any provision of any statute or regulation governing the use of the private bidder identifying card. The Department may refuse to review a subsequent application for a private bidder identifying card submitted by any person whose private bidder identifying card was canceled by the Department pursuant to this section.

Sec. 8. NAC 487.001 is hereby amended to read as follows:

487.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 487.002 to 487.009, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

**NOTICE OF ADOPTION OF REGULATION
LCB FILE R125-09**

The Department of Motor Vehicles adopted regulations assigned LCB File No. R125-09, which pertain to Chapter 487 of the Nevada Administrative Code on May 1, 2010. A copy of the regulations as adopted is attached hereto.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
AS REQUIRED BY NRS 233B.066**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 487.

1. A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.

Copies of the proposed regulation, notices of Public Workshop and Hearing and notices of intent to act upon the regulation were sent by U.S. mail and email to all interested persons who have requested notification of proposed regulation amendments. The documents relating to the proposed regulation amendments were made available on the Department of Motor Vehicles website at: www.dmvnv.com/publicmeetings.htm. The proposed regulation amendment documents were posted at all county libraries in Nevada where there is not a Department of Motor Vehicles Office and at the following Department locations:

Department of Motor Vehicles
555 Wright Way
Carson City, Nevada 89701

Department of Motor Vehicles
305 Galletti Way
Reno, Nevada 89520

Department of Motor Vehicles
3920 East Idaho Street
Elko, Nevada 89801

Department of Motor Vehicles
178 N Avenue F
Ely, Nevada 89301

Department of Motor Vehicles
973 West Williams Street
Fallon, Nevada 89406

Department of Motor Vehicles
1085 Highway 95
Hawthorne, Nevada 89415

Department of Motor Vehicles
1399 American Pacific Drive
Las Vegas, Nevada 89074

Department of Motor Vehicles
8250 West Flamingo Road
Las Vegas, Nevada 89147

Department of Motor Vehicles
2701 East Sahara Avenue
Las Vegas, Nevada 89104

Department of Motor Vehicles
7170 North Decatur Blvd
Las Vegas, Nevada 89131

Department of Motor Vehicles
3030 South Needles Highway
Laughlin, Nevada 89028

Department of Motor Vehicles
330 North Sandhill Road
Mesquite, Nevada 89027

Department of Motor Vehicles
1780 East Basin Avenue 1137
Pahrump, Nevada 89060

Department of Motor Vehicles
South Main Street #C-8
Tonopah, Nevada 89049

Department of Motor Vehicles
3505 Construction Way
Winnemucca, Nevada 89445

Department of Motor Vehicles
215 West Bridge Street #9
Yerington, Nevada 89447

A Public Workshop was noticed on October 27, 2009 and held on December 11, 2009 to discuss the proposed amendments to the regulations pertaining to the process for obtaining a private bidder card. No member of the general public provided comment or testimony during the Public Workshop. One representative of the Department of Motor Vehicles Compliance Enforcement Division (government agency) provided comment at the Public Workshop. Three individuals representing the affected business industry provided comment during the Public Workshop. The Department did not receive written comment from any member of the public, government agency or affected business industry.

A Public Hearing was noticed on January 5, 2010 and held on March 12, 2010 to obtain comment and testimony regarding the proposed amendments to the regulations pertaining to the private individual bidder card process. No member of the general public or government agency provided any comment or testimony during the Public Hearing. Five individuals representing the affected business industry provided testimony during the Public Hearing. The Department did receive written comment from one member of the affected business industry. The Department did not receive written comment from any member of the public or government agency.

A copy of the minutes for the Public Workshop held on December 11, 2009 and Public Hearing held on March 12, 2010 may be obtained by contacting the Department of Motor Vehicles Compliance Enforcement Division, 555 Wright Way, Carson City Nevada 89701, (775) 684-4805, or email to iharper@dmv.nv.gov

2. The number persons who:

- (a) Attended the December 11, 2009 workshop: 16**
- (b) Provided comment at the December 11, 2009 workshop: 3**
- (c) Attended the March 12, 2010 hearing: 16**
- (d) Provided testimony at the March 12, 2010 hearing: 5**

3. A description of how comment was solicited from affected businesses, a summary of their response and an explanation how other interested persons may obtain a copy of the summary:

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in the response to question #1.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The testimony and written comment received from the affected industry addressed the following areas of concern:

- 1) One company which operates auctions of vehicles on the Internet expressed concern that a bidder card can only be obtained by appearing at a Department business office. The Internet business model allows the company to have a large customer base outside of Nevada. The company requested that the Department of Motor Vehicles consider options where customers outside of Nevada could obtain the bidder card through the Internet or other alternative sources.

While the Department will consider alternative methods of obtaining a bidder card, at this time the only viable means of obtaining a bidder card is at a Department business office. The bidder cards are produced using the same equipment used to produce a driver license. The driver license equipment is used for the applicant's photo which is required to be displayed on the bidder card. The Department will consider alternative means of obtaining bidder cards if an acceptable level of security can be validated. The current business model does allow out of state individuals to apply for a bidder card at a Department of Motor Vehicles Occupational Licensing office.

- 2) Several representatives of the affected business industry expressed concern that the proposed regulations do not provide adequate oversight and title branding requirements to prevent a vehicle purchased by a private bidder from being offered for resale at a later date.

The Department of Motor Vehicles Compliance Enforcement Division employs the personnel with the ability to conduct the necessary oversight to protect the integrity of the NRS and NAC requirements pertaining to issuance of and maintenance of private individual bidder cards. The Compliance Enforcement Division believes that the current titling regulations are adequate and no amendments to regulations will need to be pursued. However, the DMV computer application can be enhanced to provide staff with notification that a specific vehicle was obtained by an individual who utilized the private bidder process. The Department of Motor Vehicles Compliance Enforcement Division will work with other Divisions within the Department, to develop such enhancements, as current workload allows.

- 3) One representative of the affected business industry expressed concern with regards to the impact sales of salvage vehicles to private individuals may pose, should the individual not adhere to proper environmental requirements to dispose of hazardous materials such as anti freeze, oils and micro switches.

Environmental requirements do not fall under the authority of the Department of Motor Vehicles. The Department will contact all state and county environmental agencies and advise of the recently passed legislation and regulations, in an effort to have environmental issues addressed by the agencies tasked with environmental oversight.

- 4) One representative of the affected business industry expressed concern with regards to how safe a salvage vehicle sold to a private bidder would be.

Salvage vehicles are not safe and therefore have been designated as salvage. Prior to a salvage vehicle being titled as a “rebuilt” vehicle, it must go through a safety inspection. A Department provided safety inspection form (VP64) is required to be completed by a licensed garage before the vehicle will be issued a standard title branded as Rebuilt.

- 5) A representative of the affected business industry requested that the regulations require Salvage Pools to maintain copies of all documents reflecting sales to private bidders for two (2) years, and make such records available to the Department of Motor Vehicles or any authorized law enforcement agency.

NRS 487.500 currently requires salvage pool operators to maintain records for any vehicle sold, and all documents must be made available for inspection to any peace officer or investigator of the Department of Motor Vehicles. NRS 487.500 does not contain provisions to dispose of such documentation, effectively making current requirements more stringent than those submitted by the affected business representative.

- 6) A representative of the affected business industry asked if only salvage vehicles can be sold to a private bidder, or if other vehicles can be offered for sale by the salvage pool.

As required by Senate Bill 360, a private bidder may not purchase a non-repairable vehicle. Any other type of vehicle qualified to be sold by a salvage pool operator, within the scope of authority their licensing allows, may be purchased by a private bidder.

- 7) One company operating an online auction of vehicles commented that the Department of Motor Vehicles is attempting to exceed their authority by requiring salvage pool operators to use a website provided by the Department to validate whether or not a private bidder has met the three vehicle purchase limit each calendar year.

The Internet is a very useful and cost effective tool for the Department. A paper based Private Bidder program would be more expensive for the Department to maintain. The Department of Motor Vehicles does not agree there is an abuse of authority by requiring salvage pool operators to utilize a Department provided website.

- 8) One company operating an online auction of vehicles commented that the proposed language in Section 5 was too restrictive and could lead to having to re-bid a vehicle.

The proposed language in Section 5 has been revised to address the concerns of the company which holds online auctions.

- 9) A Department of Motor Vehicles representative requested that the word “cancel” be used instead of “revoke” in Section 7 of the adopted regulation.

The proposed language in Section 7 has been revised to address the concerns of the Department representative.

The permanent regulation was adopted on May 1, 2010 with minor amendments to the proposed language. The minor amendments are intended to fulfill two of the requests noted above, and can be found in Sections 5 & 7.

5. List the estimated economic effect of the adopted regulation on the businesses that it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and**
(b) Both immediate and long-term effects.

- (a) Both adverse and beneficial effects

The regulation amendments shall have no adverse or beneficial economic effect.

- (b) Both immediate and long-term effects

The regulation amendments shall have no immediate or long-term economic effect.

6. List the estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of this regulation.

7. List a description of any regulations of other state or government agencies that the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, list the name of the regulating federal agency.

There are no other state or federal government agency regulations that the proposed amendments duplicates.

8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

There are no federal regulations that regulate the same activity as addressed in the adopted regulation.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

Chapter 487 of the Nevada Revised Statute does provide a new \$50.00 fee for each Private Bidder Card. The Department of Motor Vehicles expects a low volume of Private Bidder Cards issued each year. At this time the annual dollar amount collected annually is expected to be less than \$1,000.00. The fees will be processed by the Department in the established manner for all licenses and placed into the proper account.

10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business, or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

The Department of Motor Vehicles has determined that the proposed regulation does not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business.