

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

LCB File No. R116-05

Effective December 29, 2005

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

AUTHORITY: §§1-10, section 28.3 of Assembly Bill No. 249 of the 73rd Session of the Nevada Legislature, chapter 340, Statutes of Nevada 2005, at page 1246 (NRS 108.26797); §11, section 28.7 of Assembly Bill No. 249 of the 73rd Session of the Nevada Legislature, chapter 340, Statutes of Nevada 2005, at page 1246 (NRS 108.357).

A REGULATION relating to vehicles; requiring certain lien claimants to perform certain tasks before conducting the lien sale of a vehicle; requiring certain lien claimants to submit certain documents to the Department of Motor Vehicles after the lien sale of a vehicle; establishing administrative fines; and providing other matters properly relating thereto.

Section 1. Chapter 108 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Department” means the Department of Motor Vehicles.*

Sec. 4. *“Lien claimant” means any person who is entitled to a lien pursuant to NRS 108.270 and who meets any of the following definitions:*

- 1. An automobile wrecker as defined in NAC 487.010;*
- 2. A body shop as defined in NRS 487.600;*
- 3. A dealer as defined in NRS 482.020;*

4. *A garage as defined in NRS 487.540;*
5. *A salvage pool as defined in NRS 487.400; or*
6. *An operator of a tow car as defined in NAC 706.4024.*

Sec. 5. *“Recreational vehicle” has the meaning ascribed to it in NRS 108.26775.*

Sec. 6. *“Trailer” has the meaning ascribed to it in NRS 108.26795.*

Sec. 7. *“Vehicle” means a motor vehicle, motorcycle, trailer or recreational vehicle.*

Sec. 8. 1. *At least 7 business days before any lien sale of a vehicle, a lien claimant shall submit a request to the Department for information on whether the vehicle has been reported stolen. The request must be made in the manner and on a form prescribed by the Department.*

2. If the vehicle has been reported as stolen, the lien claimant shall cooperate with the Department and provide any information or documentation regarding the vehicle that the Department requests.

Sec. 9. 1. *Except for a lien sale to a licensed wrecker, when a vehicle is sold as a result of a lien, the lien claimant shall:*

(a) Collect from the buyer of the vehicle:

(1) The fee set forth in NRS 482.429 for a certificate of title for a vehicle registered in this State;

(2) Any fees associated with a lien sale affidavit; and

(3) Any applicable taxes pursuant to NRS 372.105 to 372.180, inclusive;

(b) Give to the buyer of the vehicle a lien sale registration certificate to be submitted by the buyer at the time of the registration of the vehicle; and

(c) Within 30 days after the lien sale of the vehicle, submit to the Department:

(1) A completed lien sale affidavit;

- (2) *A copy of the notice of a lien required pursuant to NRS 108.272;*
 - (3) *The fees and taxes collected pursuant to paragraph (a); and*
 - (4) *Any other required documents relating to the lien sale of the vehicle.*
- 2. *A lien sale affidavit and lien sale registration certificate must be on a form prescribed by the Department and must include, without limitation:*
 - (a) *A description of the vehicle, including, without limitation:*
 - (1) *Whether the vehicle meets any of the definitions set forth in NRS 482.098, 482.100, 487.740, 487.760, 487.770 or 487.790; and*
 - (2) *Whether the vehicle has sustained damage to more than 50 percent of the vehicle's exterior due to accident, flood or fire;*
 - (b) *The name and address of the lien claimant;*
 - (c) *The name and address of the buyer of the vehicle; and*
 - (d) *The name and address of any party with a security interest in the vehicle at the time of the lien sale.*

Sec. 10. *1. The Department will return to a lien claimant any document submitted by the lien claimant pursuant to section 9 of this regulation that is incomplete or contains inaccurate information. The lien claimant may resubmit any document that has been returned to him if he resubmits the document within 30 days after the date on which the Department returned the document to him. A lien claimant who fails to resubmit a document that has been returned to him within the 30-day period shall be deemed to be in violation of this section, unless he requests an extension of time pursuant to this section.*

2. A lien claimant who wishes to obtain an extension of time to submit or resubmit any documents, fees or taxes required pursuant to this section must submit a request for an

extension of time to the Department before the expiration of the period for submitting or resubmitting the documents, fees or taxes.

3. A request for an extension of time must be submitted on a form prescribed by the Department and must include, without limitation:

(a) The name under which the lien claimant does business at the location where the sale or lease of the vehicle occurred;

(b) The mailing address of the location described in paragraph (a);

(c) A description of the vehicle, including, without limitation, the year, make and vehicle identification number of the vehicle;

(d) A copy of the lien sale affidavit and a copy of the lien sale registration certificate; and

(e) An explanation of why the extension is necessary.

4. The request for an extension of time must be submitted in person or sent by mail to any branch office of the Department that issues licenses for occupations and businesses regulated by the Department. A request that is mailed shall be deemed to be submitted on the date of the postmark that appears on the envelope in which the request was mailed, if the envelope is properly addressed to an office of the Department.

5. The Department may grant an extension of time to submit or resubmit any documents, fees or taxes for a period of not more than 90 days from the date the application for an extension of time is approved.

6. A lien claimant may submit more than one request for an extension of time to submit or resubmit the same documents, fees or taxes. Except as otherwise provided in subsection 7, the Department will approve a second or subsequent request for an extension of time if the Department determines that the request is justified.

7. If a lien claimant submits three or more requests for an extension of time to submit or resubmit the same documents, fees or taxes, the Department will forward the third or any subsequent request to the Division of Compliance Enforcement of the Department for review. The Department will not approve the third or subsequent request unless the Division of Compliance Enforcement first approves the request.

8. The Department will deny a request for an extension of time to submit or resubmit any documents, fees or taxes if:

(a) For an initial request, the lien claimant submits the request to the Department after the expiration of the initial 30-day period for submitting any required documents, fees or taxes, unless the request is made after the Department has returned a document to the lien claimant pursuant to subsection 1;

(b) For the second or a subsequent request, the lien claimant submits the request to the Department after the expiration of the extension period granted by the Department;

(c) The request is incomplete or contains inaccurate information; or

(d) The request is not submitted on a form prescribed by the Department.

9. If the Department denies a request for an extension of time due to incompleteness or inaccuracy, the Department will return the request to the lien claimant. A lien claimant who wishes to resubmit a request for an extension of time that has been denied due to incompleteness or inaccuracy must do so before the expiration of the period for submitting or resubmitting any documents, fees or taxes.

Sec. 11. 1. *Except as otherwise provided in subsection 2, any administrative fine imposed pursuant to section 28.7 of Assembly Bill No. 249 of the 73rd Session of the Nevada*

Legislature, chapter 340, Statutes of Nevada 2005, at page 1246 (NRS 108.357) must be made as follows:

(a) For a first offense within a 3-year period, a fine of at least \$100 but not more than \$500, unless a consumer suffers substantial personal or financial harm, in which case the fine must be at least \$1,500 but not more than \$2,500;

(b) For a second offense within a 3-year period, a fine of at least \$500 but not more than \$1,000, unless a consumer suffers substantial personal or financial harm, in which case the fine must be at least \$1,500 but not more than \$2,500;

(c) For a third offense within a 3-year period, a fine of at least \$1,000 but not more than \$1,500, unless a consumer suffers substantial personal or financial harm, in which case the fine must be at least \$1,500 but not more than \$2,500; and

(d) For a fourth or subsequent offense within a 3-year period, a fine of at least \$1,500 but not more than \$2,500.

2. For purposes of subsection 1, a cease and desist order issued by the Department constitutes evidence of a first offense.

3. Any person who has been fined pursuant to the provisions of section 28.7 of Assembly Bill No. 249 of the 73rd Session of the Nevada Legislature, chapter 340, Statutes of Nevada 2005, at page 1246 (NRS 108.357) shall make payment of the fine to the Department by the date specified in the notice of the violation, unless the person has requested a hearing pursuant to section 28.7 of Assembly Bill No. 249 of the 73rd Session of the Nevada Legislature, chapter 340, Statutes of Nevada 2005, at page 1246 (NRS 108.357).

4. If a person fails to pay a fine imposed pursuant to the provisions of this section, the Department may suspend, revoke or refuse to issue any license or registration, grant any

privilege, process any documents or provide any service to that person until the fine has been paid in full, unless the person has requested a hearing pursuant to section 28.7 of Assembly Bill No. 249 of the 73rd Session of the Nevada Legislature, chapter 340, Statutes of Nevada 2005, at page 1246 (NRS 108.357).

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R116-05

The Department of Motor Vehicles adopted regulations assigned LCB File No. R116-05 which pertain to chapter 108 of the Nevada Administrative Code on October 18, 2005.

Notice date: 8/24/2005

Date of adoption by agency: 10/18/2005

Hearing date: 9/29/2005; 9/30/2005

Filing date: 12/29/2005

INFORMATIONAL STATEMENT

The Department of Motor Vehicles noticed and held public workshops in Reno on Tuesday, September 20, 2005 and Las Vegas on Friday, September 23, 2005. Public hearings were held in Reno on Thursday, September 29, 2005 and Las Vegas on Friday, September 30, 2005, to solicit comments and opinion on proposed regulation changes related to processing lien sales. Copies of the proposed regulations were available by contacting the Department at (775) 684-4783 or through the mail, 555 Wright Way, Carson City, Nevada 89711.

The notice of public workshops and hearings and complete copies of the proposed regulations were posted on August 24, 2005, at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. In each county where the Department does not maintain an office, the notice was posted at the main office of the public library.

A total of 23 people attended the Public Workshops, with 3 people providing testimony and 21 people attended the Public Hearing, 2 providing testimony. No written comments were received.

Colin McDonald of Quality Tow stated the proposed 30 day period for resubmitting title documents was not always a sufficient amount of time. He suggested the 30 days be extended to 60. Curt Bruner, representing United Road Towing concurred.

The regulations have been adopted allowing for an extension of the 30-day period for resubmitting documents to 60 upon approval of a Request for Extension made by the lien claimant. The Department will adopt the proposed regulations with the change as noted.

In addition to the testimony provided, the Department determined that it is not feasible at this time to provide research for each potential lien sale submitted by the industry. Therefore, Section 2.1, 2.2 and 2.3 have been removed.

There are no adverse economic effects of this regulation to the Department, local authorities or the public.

There are no other state or government regulations that the proposed regulations duplicate.