

Amendment No. CA4

Conference Committee Amendment to Senate Bill No. 101 Second Reprint	(BDR 7-416)
Proposed by: Conference Committee	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) green bold italic underlining is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold dashed underlining is newly added transitory language.

BAW



Date: 5/28/2009

S.B. No. 101—Makes various changes relating to securities. (BDR 7-416)



SENATE BILL NO. 101—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE SECRETARY OF STATE)

PREFILED DECEMBER 15, 2008

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to securities. (BDR 7-416)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to securities; revising the provisions governing the examination of certain records by the Administrator of the Securities Division of the Office of the Secretary of State; increasing the amount of certain civil penalties for certain violations relating to securities; revising the provisions governing recovery of the costs of investigation and prosecution of certain violations; authorizing the Department of Motor Vehicles to issue a driver's license to a criminal investigator employed by the Secretary of State who is engaged in an undercover investigation; making various other changes relating to securities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 2** of this bill: (1) changes the name of the entity that administers examinations for
2 a sales representative from the National Association of Securities Dealers to the Financial
3 Industry Regulatory Authority; and (2) requires a sales representative to pass either the
4 Uniform Investment Adviser Law Examination or the Uniform Combined State Law
5 Examination and the General Securities Registered Representative Examination.
6 (NRS 90.340)

7 **Sections 3 and 4** of this bill make technical changes to include references to the
8 Investment Adviser Registration Depository and the Financial Industry Regulatory Authority.
9 (NRS 90.350)

10 **Section 5** of this bill removes the requirement in existing law that the Administrator of
11 the Securities Division of the Office of the Secretary of State must obtain authorization from
12 the Attorney General or his designee to examine the records of a person issuing securities who
13 is not licensed but is required to be licensed. (NRS 90.410)

14 **Section 7** of this bill increases the civil penalty that the Administrator may impose for a
15 willful violation of chapter 90 of NRS from \$2,500 for a single violation and \$100,000 for
16 multiple violations to \$25,000 for each violation. (NRS 90.630) **Section 7** also authorizes the
17 Administrator to order reimbursement for the costs of a proceeding to impose sanctions,
18 including investigative costs and attorney's fees, rather than applying to a court for an order
19 for reimbursement of such costs.

20 **Section 7.5** of this bill increases the civil penalty that a district court may impose for a
21 violation of chapter 90 of NRS from \$2,500 for a single violation and \$100,000 for multiple
22 violations to \$25,000 for each violation. (NRS 90.640)

23 **Section 8** of this bill provides that a court may order a person who is convicted of a
24 willful violation of a statute, a regulation or an order of the Administrator to pay the costs of
25 investigation and prosecution incurred by the Division and the Office of the Attorney General.
26 (NRS 90.650)

27 **Section 9** of this bill provides that chapter 239A of NRS, which contains provisions
28 regarding disclosure of financial records to governmental agencies, does not prohibit the
29 Administrator from requesting of a financial institution, and the institution from responding to
30 the request, as to whether a person has an account or accounts with that financial institution
31 and, if so, any identifying numbers of the account or accounts. (NRS 239A.070)

32 **Section 9.5** of this bill increases: (1) the period that the court may delay the notification
33 of a customer that a subpoena for the financial records of the customer has been issued from
34 60 days to ~~120~~ 90 days; and (2) the period for any additional extension of such a delayed
35 notification from 30 days to ~~60~~ 45 days. (NRS 239A.100)

36 **Sections 10 and 11** of this bill authorize the Department of Motor Vehicles to issue a
37 driver's license for purposes of identification only to a criminal investigator employed by the
38 Secretary of State who is engaged in an undercover investigation. (NRS 483.340)

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

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 2.** NRS 90.340 is hereby amended to read as follows:

3 90.340 1. The following persons are exempt from licensing under
4 NRS 90.330:

5 (a) An investment adviser who is registered or is not required to be registered
6 as an investment adviser under the Investment Advisers Act of 1940 if:

7 (1) Its only clients in this State are other investment advisers, broker-
8 dealers or financial or institutional investors;

9 (2) The investment adviser has no place of business in this State and
10 directs business communications in this State to a person who is an existing client
11 of the investment adviser and whose principal place of residence is not in this State;
12 or

13 (3) The investment adviser has no place of business in this State and during
14 any 12 consecutive months it does not direct business communications in this State
15 to more than five present or prospective clients other than those specified in
16 subparagraph (1), whether or not the person or client to whom the communication
17 is directed is present in this State;

18 (b) A representative of an investment adviser who is employed by an
19 investment adviser who is exempt from licensing pursuant to paragraph (a);

20 (c) A sales representative licensed pursuant to NRS 90.310 who:

21 (1) Has passed ~~one of~~ the following examinations administered by the
22 ~~National Association of Securities Dealers, Inc.;~~ *Financial Industry Regulatory*
23 *Authority*:

24 (I) The Uniform Investment Adviser Law Examination, designated as
25 the Series 65 examination; or

26 (II) The ~~examination~~ *Uniform Combined State Law Examination*
27 designated as the Series 66 examination ~~and the General Securities Registered~~
28 *Representative Examination, designated as the Series 7 examination*; or

1 (2) On January 1, 1996, has been continuously licensed in this State as a
2 sales representative for 5 years or more; and

3 (d) Other investment advisers and representatives of investment advisers the
4 Administrator by regulation or order exempts.

5 2. The Administrator may, by order or rule, waive the ~~examination~~
6 *examinations* required by subparagraph (1) of paragraph (c) of subsection 1 for an
7 applicant or a class of applicants if the Administrator determines that the
8 examination is not necessary for the protection of investors because of the training
9 and experience of the applicant or class of applicants.

10 **Sec. 3.** NRS 90.350 is hereby amended to read as follows:

11 90.350 1. Except as otherwise provided in subsection 3, an applicant for
12 licensing as a broker-dealer, sales representative, investment adviser, representative
13 of an investment adviser or transfer agent must file with the Administrator an
14 application for licensing and a consent to service of process pursuant to NRS
15 90.770 and pay the fee required by NRS 90.360. The application for licensing must
16 contain the social security number of the applicant and any other information the
17 Administrator determines by regulation to be necessary and appropriate to facilitate
18 the administration of this chapter.

19 2. The requirements of subsection 1 are satisfied by an applicant who has
20 filed and maintains a completed and current registration with the Securities and
21 Exchange Commission or a self-regulatory organization if the information
22 contained in that registration is readily available to the Administrator through the
23 *Investment Adviser Registration Depository, the* Central Registration Depository
24 or another depository for registrations that has been approved by the Administrator
25 by regulation or order. Except as otherwise provided in subsection 3, such an
26 applicant must also file a notice with the Administrator in the form and content
27 determined by the Administrator by regulation and a consent to service of process
28 pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator,
29 by order, may require the submission of additional information by an applicant.

30 3. An applicant for licensing as a transfer agent is not required to pay the fee
31 required by NRS 90.360.

32 4. As used in this section ~~§~~:

33 (a) “Central Registration Depository” means the Central Registration
34 Depository of the ~~National Association of Securities Dealers, Inc.~~ *Financial*
35 *Industry Regulatory Authority*, or its successor, and the North American Securities
36 Administrators Association or its successor.

37 (b) “*Investment Adviser Registration Depository*” means the *Investment*
38 *Adviser Registration Depository of the Financial Industry Regulatory Authority,*
39 *or its successor, and the North American Securities Administrators Association*
40 *or its successor.*

41 **Sec. 4.** NRS 90.350 is hereby amended to read as follows:

42 90.350 1. Except as otherwise provided in subsection 3, an applicant for
43 licensing as a broker-dealer, sales representative, investment adviser, representative
44 of an investment adviser or transfer agent must file with the Administrator an
45 application for licensing and a consent to service of process pursuant to NRS
46 90.770 and pay the fee required by NRS 90.360. The application for licensing must
47 contain the information the Administrator determines by regulation to be necessary
48 and appropriate to facilitate the administration of this chapter.

49 2. The requirements of subsection 1 are satisfied by an applicant who has
50 filed and maintains a completed and current registration with the Securities and
51 Exchange Commission or a self-regulatory organization if the information
52 contained in that registration is readily available to the Administrator through the

1 *Investment Adviser Registration Depository, the* Central Registration Depository
2 or another depository for registrations that has been approved by the Administrator
3 by regulation or order. Except as otherwise provided in subsection 3, such an
4 applicant must also file a notice with the Administrator in the form and content
5 determined by the Administrator by regulation and a consent to service of process
6 pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator,
7 by order, may require the submission of additional information by an applicant.

8 3. An applicant for licensing as a transfer agent is not required to pay the fee
9 required by NRS 90.360.

10 4. As used in this section ~~{3}~~:

11 (a) "Central Registration Depository" means the Central Registration
12 Depository of the ~~{National Association of Securities Dealers, Inc.}~~ *Financial*
13 *Industry Regulatory Authority*, or its successor, and the North American Securities
14 Administrators Association or its successor.

15 (b) "*Investment Adviser Registration Depository*" means the *Investment*
16 *Adviser Registration Depository of the Financial Industry Regulatory Authority,*
17 *or its successor, and the North American Securities Administrators Association*
18 *or its successor.*

19 **Sec. 5.** NRS 90.410 is hereby amended to read as follows:

20 90.410 1. The Administrator, without previous notice, may examine in a
21 manner reasonable under the circumstances the records, within or without this
22 State, of a licensed broker-dealer, sales representative, investment adviser or
23 representative of an investment adviser ~~for any person issuing securities who would~~
24 ~~otherwise be required to be licensed pursuant to NRS 90.310 upon authorization by~~
25 ~~the Attorney General or his designee, in order~~ to determine compliance with this
26 chapter. ~~{Broker-dealers,}~~ *Licensed broker-dealers*, sales representatives,
27 investment advisers and representatives of investment advisers shall make their
28 records available to the Administrator in legible form.

29 2. *The Administrator, without previous notice, may examine, in a manner*
30 *reasonable under the circumstances and as the Administrator considers*
31 *necessary or appropriate in the public interest and for the protection of investors,*
32 *the records, within or without this State, of any person who would otherwise be*
33 *required to be licensed pursuant to NRS 90.310 or 90.330. Such persons shall*
34 *make their records available to the Administrator in legible form.*

35 3. Except as otherwise provided in subsection ~~{3}~~ 4, the Administrator may
36 copy records or require a licensed person to copy records and provide the copies to
37 the Administrator to the extent and in a manner reasonable under the circumstances.

38 ~~{3}~~ 4. The Administrator may inspect and copy records or require a transfer
39 agent to copy records and provide the copies to the Administrator to the extent such
40 records relate to information concerning principals, corporate officers or
41 stockholders of any publicly traded company based in this State.

42 ~~{4}~~ 5. The Administrator by regulation may impose a reasonable fee for the
43 expense of conducting an examination under this section.

44 **Sec. 6.** NRS 90.520 is hereby amended to read as follows:

45 90.520 1. As used in this section:

46 (a) "Guaranteed" means guaranteed as to payment of all or substantially all of
47 principal and interest or dividends.

48 (b) "Insured" means insured as to payment of all or substantially all of
49 principal and interest or dividends.

50 2. Except as otherwise provided in subsections 4 and 5, the following
51 securities are exempt from NRS 90.460 and 90.560:

1 (a) A security, including a revenue obligation, issued, insured or guaranteed by
2 the United States, an agency or corporate or other instrumentality of the United
3 States, an international agency or corporate or other instrumentality of which the
4 United States and one or more foreign governments are members, a state, a political
5 subdivision of a state, or an agency or corporate or other instrumentality of one or
6 more states or their political subdivisions, or a certificate of deposit ~~+~~ for any of
7 the foregoing, but this exemption does not include a security payable solely from
8 revenues to be received from an enterprise unless the:

9 (1) Payments are insured or guaranteed by the United States, an agency or
10 corporate or other instrumentality of the United States, an international agency or
11 corporate or other instrumentality of which the United States and one or more
12 foreign governments are members, a state, a political subdivision of a state, or an
13 agency or corporate or other instrumentality of one or more states or their political
14 subdivisions, or by a person whose securities are exempt from registration pursuant
15 to paragraphs (b) to (e), inclusive, or (g), or the revenues from which the payments
16 are to be made are a direct obligation of such a person;

17 (2) Security is issued by this State or an agency, instrumentality or political
18 subdivision of this State; or

19 (3) Payments are insured or guaranteed by a person who, within the 12
20 months next preceding the date on which the securities are issued, has received a
21 rating within one of the top four rating categories of either Moody's Investors
22 Service, Inc., or Standard and Poor's Ratings Services.

23 (b) A security issued, insured or guaranteed by Canada, a Canadian province or
24 territory, a political subdivision of Canada or of a Canadian province or territory, an
25 agency or corporate or other instrumentality of one or more of the foregoing, or any
26 other foreign government or governmental combination or entity with which the
27 United States maintains diplomatic relations, if the security is recognized as a valid
28 obligation by the issuer, insurer or guarantor.

29 (c) A security issued by and representing an interest in or a direct obligation of
30 a depository institution if the deposit or share accounts of the depository institution
31 are insured by the Federal Deposit Insurance Corporation, the National Credit
32 Union Share Insurance Fund or a successor to an applicable agency authorized by
33 federal law.

34 (d) A security issued by and representing an interest in or a direct obligation of,
35 or insured or guaranteed by, an insurance company organized under the laws of any
36 state and authorized to do business in this State.

37 (e) A security issued or guaranteed by a railroad, other common carrier, public
38 utility or holding company that is:

39 (1) Subject to the jurisdiction of the Surface Transportation Board;

40 (2) A registered holding company under the Public Utility Holding
41 Company Act of 1935 or a subsidiary of a registered holding company within the
42 meaning of that act;

43 (3) Regulated in respect to its rates and charges by a governmental
44 authority of the United States or a state; or

45 (4) Regulated in respect to the issuance or guarantee of the security by a
46 governmental authority of the United States, a state, Canada, or a Canadian
47 province or territory.

48 (f) Equipment trust certificates in respect to equipment leased or conditionally
49 sold to a person, if securities issued by the person would be exempt pursuant to this
50 section.

51 (g) A security listed or approved for listing upon notice of issuance on the New
52 York Stock Exchange, the American Stock Exchange, the Chicago Stock

1 Exchange, the Pacific Stock Exchange or other exchange designated by the
2 Administrator, any other security of the same issuer which is of senior or
3 substantially equal rank, a security called for by subscription right or warrant so
4 listed or approved, or a warrant or right to purchase or subscribe to any of the
5 foregoing.

6 (h) A security designated or approved for designation upon issuance or notice
7 of issuance for inclusion in the national market system by the ~~[National Association
8 of Securities Dealers, Inc.]~~ **Financial Industry Regulatory Authority**, any other
9 security of the same issuer which is of senior or substantially equal rank, a security
10 called for by subscription right or warrant so designated, or a warrant or a right to
11 purchase or subscribe to any of the foregoing.

12 (i) An option issued by a clearing agency registered under the Securities
13 Exchange Act of 1934, other than an off-exchange futures contract or substantially
14 similar arrangement, if the security, currency, commodity or other interest
15 underlying the option is:

16 (1) Registered under NRS 90.470, 90.480 or 90.490;

17 (2) Exempt pursuant to this section; or

18 (3) Not otherwise required to be registered under this chapter.

19 (j) A security issued by a person organized and operated not for private profit
20 but exclusively for a religious, educational, benevolent, charitable, fraternal, social,
21 athletic or reformatory purpose, or as a chamber of commerce, or trade or
22 professional association if at least 10 days before the sale of the security the issuer
23 has filed with the Administrator a notice setting forth the material terms of the
24 proposed sale and copies of any sales and advertising literature to be used and the
25 Administrator by order does not disallow the exemption within the next 5 full
26 business days.

27 (k) A promissory note, draft, bill of exchange or banker's acceptance that
28 evidences an obligation to pay cash within 9 months after the date of issuance,
29 exclusive of days of grace, is issued in denominations of at least \$50,000 and
30 receives a rating in one of the three highest rating categories from a nationally
31 recognized statistical rating organization, or a renewal of such an obligation that is
32 likewise limited, or a guarantee of such an obligation or of a renewal.

33 (l) A security issued in connection with an employees' stock purchase, savings,
34 option, profit-sharing, pension or similar employees' benefit plan.

35 (m) A membership or equity interest in, or a retention certificate or like
36 security given in lieu of a cash patronage dividend issued by, a cooperative
37 organized and operated as a nonprofit membership cooperative under the
38 cooperative laws of any state if not traded to the general public.

39 (n) A security issued by an issuer registered as an open-end management
40 investment company or unit investment trust under section 8 of the Investment
41 Company Act of 1940 if:

42 (1) The issuer is advised by an investment adviser that is a depository
43 institution exempt from registration under the Investment Advisers Act of 1940 or
44 that is currently registered as an investment adviser, and has been registered, or is
45 affiliated with an adviser that has been registered, as an investment adviser under
46 the Investment Advisers Act of 1940 for at least 3 years next preceding an offer or
47 sale of a security claimed to be exempt pursuant to this paragraph, and the issuer
48 has acted, or is affiliated with an investment adviser that has acted, as investment
49 adviser to one or more registered investment companies or unit investment trusts
50 for at least 3 years next preceding an offer or sale of a security claimed to be
51 exempt under this paragraph; or

1 (2) The issuer has a sponsor that has at all times throughout the 3 years
2 before an offer or sale of a security claimed to be exempt pursuant to this paragraph
3 sponsored one or more registered investment companies or unit investment trusts
4 the aggregate total assets of which have exceeded \$100,000,000.

5 3. For the purpose of paragraph (n) of subsection 2, an investment adviser is
6 affiliated with another investment adviser if it controls, is controlled by, or is under
7 common control with the other investment adviser.

8 4. The exemption provided by paragraph (n) of subsection 2 is available only
9 if the person claiming the exemption files with the Administrator a notice of
10 intention to sell which sets forth the name and address of the issuer and the
11 securities to be offered in this State and pays a fee:

12 (a) Of \$500 for the initial claim of exemption and the same amount at the
13 beginning of each fiscal year thereafter in which securities are to be offered in this
14 State, in the case of an open-end management company; or

15 (b) Of \$300 for the initial claim of exemption in the case of a unit investment
16 trust.

17 5. An exemption provided by paragraph (c), (e), (f), (i) or (k) of subsection 2
18 is available only if, within the 12 months immediately preceding the use of the
19 exemption, a notice of claim of exemption has been filed with the Administrator
20 and a nonrefundable fee of \$300 has been paid.

21 **Sec. 7.** NRS 90.630 is hereby amended to read as follows:

22 90.630 1. If the Administrator reasonably believes, whether or not based
23 upon an investigation conducted under NRS 90.620, that:

24 (a) The sale of a security is subject to registration under this chapter and the
25 security is being offered or has been offered or sold by the issuer or another person
26 in violation of NRS 90.460; or

27 (b) A person is acting as a broker-dealer or investment adviser in violation of
28 NRS 90.310 or 90.330,

29 the Administrator, in addition to any specific power granted under this chapter
30 and subject to compliance with the requirements of NRS 90.820, may issue,
31 without a prior hearing, a summary order against the person engaged in the
32 prohibited activities, directing him to desist and refrain from further activity until
33 the security is registered or he is licensed under this chapter. The summary order to
34 cease and desist must state the section of this chapter or regulation or order of the
35 Administrator under this chapter which the Administrator reasonably believes has
36 been or is being violated.

37 2. If the Administrator reasonably believes, whether or not based upon an
38 investigation conducted under NRS 90.620, that a person has violated this chapter
39 or a regulation or order of the Administrator under this chapter, the Administrator,
40 in addition to any specific power granted under this chapter, after giving notice by
41 registered or certified mail and conducting a hearing in an administrative
42 proceeding, unless the right to notice and hearing is waived by the person against
43 whom the sanction is imposed, may:

44 (a) Issue an order against him to cease and desist;

45 (b) Censure him if he is a licensed broker-dealer, sales representative,
46 investment adviser or representative of an investment adviser;

47 (c) Bar or suspend him from association with a licensed broker-dealer or
48 investment adviser in this State;

49 (d) Issue an order against an applicant, licensed person or other person who
50 willfully violates this chapter, imposing a civil penalty of not more than ~~[\$2,500]~~
51 ~~\$25,000~~ for ~~[a single] each~~ violation ; or ~~[\$100,000 for multiple violations in a~~
52 ~~single proceeding or a series of related proceedings; or]~~

1 (e) Initiate one or more of the actions specified in NRS 90.640.

2 3. If the person to whom the notice is addressed pursuant to subsection 2 does
3 not request a hearing within 45 days after receipt of the notice, he waives his right
4 to a hearing and the Administrator shall issue a permanent order. If a hearing is
5 requested, the Administrator shall set the matter for hearing not less than 15 days
6 nor more than 60 days after he receives the request for a hearing. The Administrator
7 shall promptly notify the parties by registered or certified mail of the time and place
8 set for the hearing.

9 4. Imposition of the sanctions under this section is limited as follows:

10 (a) If the Administrator revokes the license of a broker-dealer, sales
11 representative, investment adviser or representative of an investment adviser or bars
12 a person from association with a licensed broker-dealer or investment adviser under
13 this section or NRS 90.420, the imposition of that sanction precludes imposition of
14 a civil penalty under subsection 2; and

15 (b) The imposition by the Administrator of one or more sanctions under
16 subsection 2 with respect to a specific violation precludes him from later imposing
17 any other sanctions under paragraphs (a) to (d), inclusive, of subsection 2 with
18 respect to the violation.

19 5. For the purposes of determining any sanction to be imposed pursuant to
20 paragraphs (a) to (d), inclusive, of subsection 2, the Administrator shall consider,
21 among other factors, the frequency and persistence of the conduct constituting a
22 violation of this chapter, or a regulation or order of the Administrator under this
23 chapter, the number of persons adversely affected by the conduct and the resources
24 of the person committing the violation.

25 6. If a sanction is imposed pursuant to this section, *reimbursement for* the
26 costs of the proceeding, including investigative costs and attorney's fees ~~is~~
27 *incurred*, may be *ordered and* recovered by the Administrator. *Money recovered*
28 *for reimbursement of the investigative costs and attorney's fees must be deposited*
29 *in the State General Fund for credit to the Revolving Account for Investigation,*
30 *Enforcement and Education created by NRS 90.851.*

31 **Sec. 7.5.** NRS 90.640 is hereby amended to read as follows:

32 90.640 1. Upon a showing by the Administrator that a person has violated
33 or is about to violate this chapter, or a regulation or order of the Administrator
34 under this chapter, the appropriate district court may grant or impose one or more
35 of the following appropriate legal or equitable remedies:

36 (a) Upon a showing that a person has violated this chapter, or a regulation or
37 order of the Administrator under this chapter, the court may singly or in
38 combination:

39 (1) Issue a temporary restraining order, permanent or temporary
40 prohibitory or mandatory injunction or a writ of prohibition or mandamus;

41 (2) Impose a civil penalty of not more than ~~[\$2,500]~~ *\$25,000* for ~~[a single]~~
42 *each* violation ; ~~[or \$100,000 for multiple violations in a single proceeding or a~~
43 ~~series of related proceedings;]~~

44 (3) Issue a declaratory judgment;

45 (4) Order restitution to investors;

46 (5) Provide for the appointment of a receiver or conservator for the
47 defendant or the defendant's assets;

48 (6) Order payment of the Division's investigative costs; or

49 (7) Order such other relief as the court deems just.

50 (b) Upon a showing that a person is about to violate this chapter, or a
51 regulation or order of the Administrator under this chapter, a court may issue:

52 (1) A temporary restraining order;

1 (2) A temporary or permanent injunction; or

2 (3) A writ of prohibition or mandamus.

3 2. In determining the appropriate relief to grant, the court shall consider
4 enforcement actions taken and sanctions imposed by the Administrator under NRS
5 90.630 in connection with the transactions constituting violations of this chapter or
6 a regulation or order of the Administrator under this chapter. If a remedial action is
7 imposed pursuant to this section, the costs of the proceeding, including
8 investigative costs and attorney's fees, may be recovered by the Administrator.

9 3. The court shall not require the Administrator to post a bond in an action
10 under this section.

11 4. Upon a showing by the administrator or securities agency of another state
12 that a person has violated the securities act of that state or a regulation or order of
13 the administrator or securities agency of that state, the appropriate district court
14 may grant, in addition to any other legal or equitable remedies, one or more of the
15 following remedies:

16 (a) Appointment of a receiver, conservator or ancillary receiver or conservator
17 for the defendant or the defendant's assets located in this State; or

18 (b) Other relief as the court deems just.

19 **Sec. 8.** NRS 90.650 is hereby amended to read as follows:

20 90.650 1. A person who willfully violates:

21 (a) A provision of this chapter, except NRS 90.600, or who violates NRS
22 90.600 knowing that the statement made is false or misleading in any material
23 respect;

24 (b) A regulation adopted pursuant to this chapter; or

25 (c) An order denying, suspending or revoking the effectiveness of registration
26 or an order to cease and desist issued by the Administrator pursuant to this chapter,
27 is guilty of a category B felony and shall be punished by imprisonment in the
28 state prison for a minimum term of not less than 1 year and a maximum term of not
29 more than 20 years, or by a fine of not more than \$500,000, or by both fine and
30 imprisonment, for each violation. In addition to any other penalty, the court shall
31 order the person to pay restitution ~~and~~ *and may order the person to repay the costs
32 of investigation and prosecution incurred by the Division and the Office of the
33 Attorney General. Money recovered for reimbursement of the costs of
34 investigation and prosecution must be deposited in the State General Fund for
35 credit to the Revolving Account for Investigation, Enforcement and Education
36 created by NRS 90.851.*

37 2. A person convicted of violating a regulation or order under this chapter
38 may be fined, but must not be imprisoned, if the person proves lack of knowledge
39 of the regulation or order.

40 3. This chapter does not limit the power of the State to punish a person for
41 conduct which constitutes a crime under other law.

42 **Sec. 9.** NRS 239A.070 is hereby amended to read as follows:

43 239A.070 This chapter does not apply to any subpoena issued pursuant to title
44 14 or chapters 616A to 617, inclusive, of NRS or prohibit:

45 1. Dissemination of any financial information which is not identified with or
46 identifiable as being derived from the financial records of a particular customer.

47 2. The Attorney General, district attorney, Department of Taxation, Director
48 of the Department of Health and Human Services, *Administrator of the Securities
49 Division of the Office of the Secretary of State*, public administrator, sheriff or a
50 police department from requesting of a financial institution, and the institution from
51 responding to the request, as to whether a person has an account or accounts with

1 that financial institution and, if so, any identifying numbers of the account or
2 accounts.

3 3. A financial institution, in its discretion, from initiating contact with and
4 thereafter communicating with and disclosing the financial records of a customer to
5 appropriate governmental agencies concerning a suspected violation of any law.

6 4. Disclosure of the financial records of a customer incidental to a transaction
7 in the normal course of business of the financial institution if the director, officer,
8 employee or agent of the financial institution who makes or authorizes the
9 disclosure has no reasonable cause to believe that such records will be used by a
10 governmental agency in connection with an investigation of the customer.

11 5. A financial institution from notifying a customer of the receipt of a
12 subpoena or a search warrant to obtain his financial records, except when ordered
13 by a court to withhold such notification.

14 6. The examination by or disclosure to any governmental regulatory agency
15 of financial records which relate solely to the exercise of its regulatory function if
16 the agency is specifically authorized by law to examine, audit or require reports of
17 financial records of financial institutions.

18 7. The disclosure to any governmental agency of any financial information or
19 records whose disclosure to that particular agency is required by the tax laws of this
20 State.

21 8. The disclosure of any information pursuant to NRS 425.393, 425.400 or
22 425.460.

23 9. A governmental agency from obtaining a credit report or consumer credit
24 report from anyone other than a financial institution.

25 **Sec. 9.5.** NRS 239A.100 is hereby amended to read as follows:

26 239A.100 1. Except as provided in subsection 2, a subpoena authorizing a
27 governmental agency to obtain financial records may be served upon a financial
28 institution only if:

29 (a) A copy of the subpoena is served upon the customer in the manner provided
30 by law for the service of subpoenas, except that the copy may be served by an
31 employee of the governmental agency;

32 (b) The subpoena includes the name of the agency in whose name it is issued
33 and the statutory purpose for which the information is to be obtained; and

34 (c) The customer has not moved to quash the subpoena within 10 days after
35 service of the copy of the subpoena upon the customer.

36 2. A governmental agency issuing or seeking a subpoena to obtain financial
37 records may petition a court of competent jurisdiction to order that service upon the
38 customer or the 10-day period provided in subsection 1 be waived or shortened.
39 The court may issue the order upon a showing that the agency can reasonably infer
40 from facts relevant to its investigation of the customer that a law subject to the
41 agency's jurisdiction has been or is about to be violated. In granting a petition to
42 waive service upon the customer, the court shall also order the agency to notify the
43 customer in writing within a period determined by the court, but not to exceed ~~[60]~~
44 ~~[120]~~ 90 days. The notice shall specify the name of the agency in whose name the
45 subpoena was issued, the financial records which were examined under the
46 subpoena and the statutory purpose for which the information was obtained. The
47 time of notification may be extended for additional ~~[30-day]~~ ~~[60-day]~~ 45-day
48 periods upon petition and good cause shown.

49 3. A court may order a financial institution to withhold notification to a
50 customer of the receipt of the subpoena when the court issues an order under
51 subsection 2 and if it finds that the notification would impede the investigation.

1 4. If a customer files a motion to quash the subpoena, the proceedings on the
2 motion shall be afforded priority on the court calendar and the matter shall be heard
3 within 10 days after the filing of the motion.

4 **Sec. 10.** NRS 483.340 is hereby amended to read as follows:

5 483.340 1. The Department shall, upon payment of the required fee, issue to
6 every qualified applicant a driver's license indicating the type or class of vehicles
7 the licensee may drive. The license must bear a unique number assigned to the
8 licensee pursuant to NRS 483.345, the licensee's social security number, if he has
9 one, unless he requests that it not appear on the license, the name, date of birth,
10 mailing address and a brief description of the licensee, and a space upon which the
11 licensee shall write his usual signature in ink immediately upon receipt of the
12 license. A license is not valid until it has been so signed by the licensee.

13 2. The Department may issue a driver's license for purposes of identification
14 only for use by officers of local police and sheriffs' departments, agents of the
15 Investigation Division of the Department of Public Safety while engaged in special
16 undercover investigations relating to narcotics or prostitution or for other
17 undercover investigations requiring the establishment of a fictitious identity, federal
18 agents while engaged in undercover investigations, investigators employed by the
19 Attorney General while engaged in undercover investigations , *criminal*
20 *investigators employed by the Secretary of State while engaged in undercover*
21 *investigations* and agents of the State Gaming Control Board while engaged in
22 investigations pursuant to NRS 463.140. An application for such a license must be
23 made through the head of the police or sheriff's department, the Chief of the
24 Investigation Division of the Department of Public Safety, the director of the
25 appropriate federal agency, the Attorney General , *the Secretary of State or his*
26 *designee* or the Chairman of the State Gaming Control Board. Such a license is
27 exempt from the fees required by NRS 483.410. The Department, by regulation,
28 shall provide for the cancellation of any such driver's license upon the completion
29 of the special investigation for which it was issued.

30 3. Except as otherwise provided in NRS 239.0115, information pertaining to
31 the issuance of a driver's license pursuant to subsection 2 is confidential.

32 4. It is unlawful for any person to use a driver's license issued pursuant to
33 subsection 2 for any purpose other than the special investigation for which it was
34 issued.

35 5. At the time of the issuance or renewal of the driver's license, the
36 Department shall:

37 (a) Give the holder the opportunity to have indicated on his driver's license
38 that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to
39 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his
40 body.

41 (b) Give the holder the opportunity to have indicated whether he wishes to
42 donate \$1 or more to the Anatomical Gift Account created by NRS 460.150.

43 (c) Provide to each holder who is interested in becoming a donor information
44 relating to anatomical gifts, including the procedure for registering as a donor with
45 the donor registry with which the Department has entered into a contract pursuant
46 to this paragraph. To carry out this paragraph, the Department shall, on such terms
47 as it deems appropriate, enter into a contract with a donor registry that is in
48 compliance with the provisions of NRS 451.500 to 451.598, inclusive.

49 (d) If the Department has established a program for imprinting a symbol or
50 other indicator of a medical condition on a driver's license pursuant to NRS
51 483.3485, give the holder the opportunity to have a symbol or other indicator of a
52 medical condition imprinted on his driver's license.

1 6. If the holder wishes to make a donation to the Anatomical Gift Account,
2 the Department shall collect the donation and deposit the money collected in the
3 State Treasury for credit to the Anatomical Gift Account.

4 7. The Department shall submit to the donor registry with which the
5 Department has entered into a contract pursuant to paragraph (c) of subsection 5
6 information from the records of the Department relating to persons who have
7 drivers' licenses that indicate the intention of those persons to make an anatomical
8 gift. The Department shall adopt regulations to carry out the provisions of this
9 subsection.

10 **Sec. 11.** NRS 483.340 is hereby amended to read as follows:

11 483.340 1. The Department shall, upon payment of the required fee, issue to
12 every qualified applicant a driver's license indicating the type or class of vehicles
13 the licensee may drive.

14 2. The Department shall adopt regulations prescribing the information that
15 must be contained on a driver's license.

16 3. The Department may issue a driver's license for purposes of identification
17 only for use by officers of local police and sheriffs' departments, agents of the
18 Investigation Division of the Department of Public Safety while engaged in special
19 undercover investigations relating to narcotics or prostitution or for other
20 undercover investigations requiring the establishment of a fictitious identity, federal
21 agents while engaged in undercover investigations, investigators employed by the
22 Attorney General while engaged in undercover investigations, *criminal*
23 *investigators employed by the Secretary of State while engaged in undercover*
24 *investigations* and agents of the State Gaming Control Board while engaged in
25 investigations pursuant to NRS 463.140. An application for such a license must be
26 made through the head of the police or sheriff's department, the Chief of the
27 Investigation Division of the Department of Public Safety, the director of the
28 appropriate federal agency, the Attorney General, *the Secretary of State or his*
29 *designee* or the Chairman of the State Gaming Control Board. Such a license is
30 exempt from the fees required by NRS 483.410. The Department, by regulation,
31 shall provide for the cancellation of any such driver's license upon the completion
32 of the special investigation for which it was issued.

33 4. Except as otherwise provided in NRS 239.0115, information pertaining to
34 the issuance of a driver's license pursuant to subsection 3 is confidential.

35 5. It is unlawful for any person to use a driver's license issued pursuant to
36 subsection 3 for any purpose other than the special investigation for which it was
37 issued.

38 6. At the time of the issuance or renewal of the driver's license, the
39 Department shall:

40 (a) Give the holder the opportunity to have indicated on his driver's license
41 that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to
42 451.598, inclusive, or to refuse to make an anatomical gift of his body or part of his
43 body.

44 (b) Give the holder the opportunity to have indicated whether he wishes to
45 donate \$1 or more to the Anatomical Gift Account created by NRS 460.150.

46 (c) Provide to each holder who is interested in becoming a donor information
47 relating to anatomical gifts, including the procedure for registering as a donor with
48 the donor registry with which the Department has entered into a contract pursuant
49 to this paragraph. To carry out this paragraph, the Department shall, on such terms
50 as it deems appropriate, enter into a contract with a donor registry that is in
51 compliance with the provisions of NRS 451.500 to 451.598, inclusive.

1 (d) If the Department has established a program for imprinting a symbol or
2 other indicator of a medical condition on a driver's license pursuant to NRS
3 483.3485, give the holder the opportunity to have a symbol or other indicator of a
4 medical condition imprinted on his driver's license.

5 7. If the holder wishes to make a donation to the Anatomical Gift Account,
6 the Department shall collect the donation and deposit the money collected in the
7 State Treasury for credit to the Anatomical Gift Account.

8 8. The Department shall submit to the donor registry with which the
9 Department has entered into a contract pursuant to paragraph (c) of subsection 6
10 information from the records of the Department relating to persons who have
11 drivers' licenses that indicate the intention of those persons to make an anatomical
12 gift. The Department shall adopt regulations to carry out the provisions of this
13 subsection.

14 **Sec. 12.** 1. This section and sections 1, 2, 3 and 5 to 10, inclusive, of this
15 act become effective on July 1, 2009.

16 2. Section 4 of this act becomes effective on the date on which the provisions
17 of 42 U.S.C. § 666 requiring each state to establish procedures under which the
18 state has authority to withhold or suspend, or to restrict the use of professional,
19 occupational and recreational licenses of persons who:

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

23 (b) Are in arrears in the payment for the support of one or more children,
24 ↪ are repealed by the Congress of the United States.

25 3. Section 11 of this act becomes effective upon the later of:

26 (a) The effective date of the regulations issued by the Secretary of Homeland
27 Security to implement the provisions of the Real ID Act of 2005; or

28 (b) The expiration of any extension of time granted to this State by the
29 Secretary of Homeland Security to comply with the provisions of the Real ID Act
30 of 2005.