

Amendment No. 554

Assembly Amendment to Assembly Bill No. 262	(BDR 52-937)
Proposed by: Assembly Committee on Commerce and Labor	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date		SENATE ACTION		Initial and Date			
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

DLJ/JRS



Date: 4/22/2017

A.B. No. 262—Revises provisions relating to contracts for the sale of vehicles.
(BDR 52-937)



ASSEMBLY BILL NO. 262--ASSEMBLYMAN CARRILLO

MARCH 7, 2017

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to contracts for the sale of vehicles. (BDR 52-937)

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

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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 contracts for the sale of vehicles; expanding the circumstances under which certain actions taken by a seller against a buyer of a vehicle are deceptive trade practices; ~~defining the term “knowingly” for the purposes of provisions governing deceptive trade practices;~~ revising provisions relating to sureties who issue bonds to brokers, dealers, special dealers, rebuilders, distributors and manufacturers of vehicles and dealers, lessors and manufacturers of off-highway vehicles; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law defines certain conduct by a person who is engaging in his or her business or
 2 occupation as a deceptive trade practice. (NRS 598.092) **Section 3** of this bill adds to the list
 3 of conduct that is considered a deceptive trade practice a person: ~~knowingly~~ (1)
 4 repossessing a vehicle from a debtor before default; or (2) committing any act against a
 5 consumer who contracted with the person for the sale of a vehicle which entitles the consumer
 6 to certain remedies provided in law pursuant to the Uniform Commercial Code. (NRS
 7 104.9625) ~~Section 1 of this bill defines “knowingly” for the purposes of the provisions~~
 8 ~~governing deceptive trade practices. Sections 2 and 4-6 of this bill make conforming changes.~~
 9 Existing law requires certain brokers, dealers, special dealers, rebuilders, distributors and
 10 manufacturers of vehicles and dealers, lessors and manufacturers of off-highway vehicles to
 11 procure and file with the Department of Motor Vehicles a bond, which is a prerequisite to
 12 licensure by the Department. The surety issuing the bond is required to appoint the Secretary
 13 of State as its agent to accept service of notice or process in any action upon the bond. (NRS
 14 482.3333, 482.345, 490.278) **Sections 7-9** of this bill instead require the surety to appoint the
 15 Commissioner of Insurance as its agent. **Sections 7-9** also add to the description of the uses of
 16 the bond by a consumer to include violations of the chapters of NRS governing: (1) particular
 17 cases concerning persons, including, without limitation, certain acts of fraud against a
 18 consumer; (2) retail installment sales of goods and services; (3) the Uniform Commercial
 19 Code, as adopted in NRS; and (4) deceptive trade practices. **Section 7 also adds to the list of**
 20 **the uses of the bond by a consumer against a broker to include conversion, negligent**
 21 **misrepresentation and abuse of process by the broker.**

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

1 **Section 1.** ~~[Chapter 598 of NRS is hereby amended by adding thereto a new~~
2 ~~section to read as follows:~~

3 ~~—“*Knowingly*” imports a knowledge that the facts exist which constitute the act~~
4 ~~or omission, and does not require knowledge of the prohibition against the act or~~
5 ~~omission. Knowledge of any particular fact may be inferred from the knowledge~~
6 ~~of such other facts as should put an ordinarily prudent person upon inquiry.]~~
7 **(Deleted by amendment.)**

8 **Sec. 2.** ~~[NRS 598.0903 is hereby amended to read as follows:~~

9 ~~—598.0903— As used in NRS 598.0903 to 598.0999, inclusive, and section 1 of~~
10 ~~this act, unless the context otherwise requires, the words and terms defined in NRS~~
11 ~~598.0905 to 598.0947, inclusive, and section 1 of this act have the meanings~~
12 ~~ascribed to them in those sections.]~~ **(Deleted by amendment.)**

13 **Sec. 3.** NRS 598.092 is hereby amended to read as follows:

14 598.092 A person engages in a “deceptive trade practice” when in the course
15 of his or her business or occupation he or she:

16 1. Knowingly fails to identify goods for sale or lease as being damaged by
17 water.

18 2. Solicits by telephone or door to door as a lessor or seller, unless the lessor
19 or seller identifies himself or herself, whom he or she represents and the purpose of
20 his or her call within 30 seconds after beginning the conversation.

21 3. Knowingly states that services, replacement parts or repairs are needed
22 when no such services, replacement parts or repairs are actually needed.

23 4. Fails to make delivery of goods or services for sale or lease within a
24 reasonable time or to make a refund for the goods or services, if he or she allows
25 refunds.

26 5. Advertises or offers an opportunity for investment and:

27 (a) Represents that the investment is guaranteed, secured or protected in a
28 manner which he or she knows or has reason to know is false or misleading;

29 (b) Represents that the investment will earn a rate of return which he or she
30 knows or has reason to know is false or misleading;

31 (c) Makes any untrue statement of a material fact or omits to state a material
32 fact which is necessary to make another statement, considering the circumstances
33 under which it is made, not misleading;

34 (d) Fails to maintain adequate records so that an investor may determine how
35 his or her money is invested;

36 (e) Fails to provide information to an investor after a reasonable request for
37 information concerning his or her investment;

38 (f) Fails to comply with any law or regulation for the marketing of securities or
39 other investments; or

40 (g) Represents that he or she is licensed by an agency of the State to sell or
41 offer for sale investments or services for investments if he or she is not so licensed.

42 6. Charges a fee for advice with respect to investment of money and fails to
43 disclose:

44 (a) That he or she is selling or offering to lease goods or services and, if he or
45 she is, their identity; or

46 (b) That he or she is licensed by an agency of any state or of the United States
47 to sell or to offer for sale investments or services for investments or holds any other
48 license related to the service he or she is providing.

7. Notifies any person, by any means, as a part of an advertising plan or scheme, that he or she has won a prize and that as a condition of receiving the prize he or she must purchase or lease goods or services.

8. Knowingly misrepresents the legal rights, obligations or remedies of a party to a transaction.

9. Fails, in a consumer transaction that is rescinded, cancelled or otherwise terminated in accordance with the terms of an agreement, advertisement, representation or provision of law, to promptly restore to a person entitled to it a deposit, down payment or other payment or, in the case of property traded in but not available, the agreed value of the property or fails to cancel within a specified time or an otherwise reasonable time an acquired security interest. This subsection does not apply to a person who is holding a deposit, down payment or other payment on behalf of another if all parties to the transaction have not agreed to the release of the deposit, down payment or other payment.

10. ~~Knowingly~~
~~(a) Repossesses a vehicle from a debtor pursuant to NRS 104.9609 before default by the debtor as defined in the form for the contract for the sale of the vehicle prescribed by the Commissioner of Financial Institutions pursuant to NRS 97.299. For~~

~~(b) 11. Commits an act against a consumer who entered into a contract for the sale of a vehicle with the person which entitles the consumer to any remedy available pursuant to NRS 104.9625.~~

~~12. Fails to inform customers, if he or she does not allow refunds or exchanges, that he or she does not allow refunds or exchanges by:~~

(a) Printing a statement on the face of the lease or sales receipt;

(b) Printing a statement on the face of the price tag; or

(c) Posting in an open and conspicuous place a sign at least 8 by 10 inches in size with boldface letters,

specifying that no refunds or exchanges are allowed.

~~11. 12. 13.~~ Knowingly and willfully violates NRS 597.7118 or 597.7125.

~~12. 13. 14.~~ Knowingly takes advantage of another person's inability reasonably to protect his or her own rights or interests in a consumer transaction when such an inability is due to illiteracy, or to a mental or physical infirmity or another similar condition which manifests itself as an incapability to understand the language or terms of any agreement.

Sec. 4. ~~NRS 598.0955 is hereby amended to read as follows:~~

~~598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, and section 1 of this act do not apply to:~~

~~(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency.~~

~~(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters or printers engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character.~~

~~(c) Actions or appeals pending on July 1, 1973.~~

~~2. The provisions of NRS 598.0903 to 598.0999, inclusive, and section 1 of this act do not apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name or other trade identification which was used and not abandoned prior to July 1, 1973, if the use was in good faith and is otherwise lawful except for the provisions of NRS 598.0903 to 598.0999, inclusive [], and section 1 of this act.] (Deleted by amendment.)~~

1 **Sec. 5.** ~~NRS 598.0971 is hereby amended to read as follows:~~

2 ~~598.0971 1. If, after an investigation, the Commissioner has reasonable~~
3 ~~cause to believe that any person has been engaged or is engaging in any deceptive~~
4 ~~trade practice in violation of NRS 598.0903 to 598.0999, inclusive, and section 1~~
5 ~~of this act, the Commissioner may issue an order directed to the person to show~~
6 ~~cause why the Director should not order the person to cease and desist from~~
7 ~~engaging in the practice and to pay an administrative fine. The order must contain a~~
8 ~~statement of the charges and a notice of a hearing to be held thereon. The order~~
9 ~~must be served upon the person directly or by certified or registered mail, return~~
10 ~~receipt requested.~~

11 ~~2. An administrative hearing on any action brought by the Commissioner~~
12 ~~must be conducted before the Director or his or her designee.~~

13 ~~3. If, after conducting a hearing pursuant to the provisions of subsection 2, the~~
14 ~~Director or his or her designee determines that the person has violated any of the~~
15 ~~provisions of NRS 598.0903 to 598.0999, inclusive, and section 1 of this act, or if~~
16 ~~the person fails to appear for the hearing after being properly served with the~~
17 ~~statement of charges and notice of hearing, the Director or his or her designee shall~~
18 ~~issue an order setting forth his or her findings of fact concerning the violation and~~
19 ~~cause to be served a copy thereof upon the person and any intervenor at the hearing.~~
20 ~~If the Director or his or her designee determines in the report that such a violation~~
21 ~~has occurred, he or she may order the violator to:~~

22 ~~(a) Cease and desist from engaging in the practice or other activity constituting~~
23 ~~the violation;~~

24 ~~(b) Pay the costs of conducting the investigation, costs of conducting the~~
25 ~~hearing, costs of reporting services, fees for experts and other witnesses, charges~~
26 ~~for the rental of a hearing room if such a room is not available to the Director or his~~
27 ~~or her designee free of charge, charges for providing an independent hearing~~
28 ~~officer, if any, and charges incurred for any service of process, if the violator is~~
29 ~~adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive~~
30 ~~[,], and section 1 of this act;~~

31 ~~(c) Provide restitution for any money or property improperly received or~~
32 ~~obtained as a result of the violation; and~~

33 ~~(d) Impose an administrative fine of \$1,000 or treble the amount of restitution~~
34 ~~ordered, whichever is greater.~~

35 ~~The order must be served upon the person directly or by certified or registered~~
36 ~~mail, return receipt requested. The order becomes effective upon service in the~~
37 ~~manner provided in this subsection.~~

38 ~~4. Any person whose pecuniary interests are directly and immediately~~
39 ~~affected by an order issued pursuant to subsection 3 or who is aggrieved by the~~
40 ~~order may petition for judicial review in the manner provided in chapter 233B of~~
41 ~~NRS. Such a petition must be filed within 30 days after the service of the order. The~~
42 ~~order becomes final upon the filing of the petition.~~

43 ~~5. If a person fails to comply with any provision of an order issued pursuant~~
44 ~~to subsection 3, the Commissioner or the Director may, through the Attorney~~
45 ~~General, at any time after 30 days after the service of the order, cause an action to~~
46 ~~be instituted in the district court of the county wherein the person resides or has his~~
47 ~~or her principal place of business requesting the court to enforce the provisions of~~
48 ~~the order or to provide any other appropriate injunctive relief.~~

49 ~~6. If the court finds that:~~

50 ~~(a) The violation complained of is a deceptive trade practice;~~

51 ~~(b) The proceedings by the Director or his or her designee concerning the~~
52 ~~written report and any order issued pursuant to subsection 3 are in the interest of the~~
53 ~~public; and~~

1 ~~— (c) The findings of the Director or his or her designee are supported by the~~
2 ~~weight of the evidence;~~

3 ~~— the court shall issue an order enforcing the provisions of the order of the Director~~
4 ~~or his or her designee.~~

5 ~~— 7. An order issued pursuant to subsection 6 may include:~~

6 ~~— (a) A provision requiring the payment to the Consumer Affairs Division of the~~
7 ~~Department of Business and Industry of a penalty of not more than \$5,000 for each~~
8 ~~act amounting to a failure to comply with the Director's or designee's order;~~

9 ~~— (b) An order that the person cease doing business within this State; and~~

10 ~~— (c) Such injunctive or other equitable or extraordinary relief as is determined~~
11 ~~appropriate by the court.~~

12 ~~— 8. Any aggrieved party may appeal from the final judgment, order or decree~~
13 ~~of the court in a like manner as provided for appeals in civil cases.~~

14 ~~— 9. Upon the violation of any judgment, order or decree issued pursuant to~~
15 ~~subsection 6 or 7, the Commissioner, after a hearing thereon, may proceed in~~
16 ~~accordance with the provisions of NRS 598.0999.] (Deleted by amendment.)~~

17 **Sec. 6.** ~~[NRS 598.0999 is hereby amended to read as follows:~~

18 ~~— 598.0999 1. Except as otherwise provided in NRS 598.0974, a person who~~
19 ~~violates a court order or injunction issued pursuant to the provisions of NRS~~
20 ~~598.0903 to 598.0999, inclusive, and section 1 of this act upon a complaint~~
21 ~~brought by the Commissioner, the Director, the district attorney of any county of~~
22 ~~this State or the Attorney General shall forfeit and pay to the State General Fund a~~
23 ~~civil penalty of not more than \$10,000 for each violation. For the purpose of this~~
24 ~~section, the court issuing the order or injunction retains jurisdiction over the action~~
25 ~~or proceeding. Such civil penalties are in addition to any other penalty or remedy~~
26 ~~available for the enforcement of the provisions of NRS 598.0903 to 598.0999,~~
27 ~~inclusive [,], and section 1 of this act.~~

28 ~~— 2. Except as otherwise provided in NRS 598.0974, in any action brought~~
29 ~~pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, and section 1~~
30 ~~of this act, if the court finds that a person has willfully engaged in a deceptive trade~~
31 ~~practice, the Commissioner, the Director, the district attorney of any county in this~~
32 ~~State or the Attorney General bringing the action may recover a civil penalty not to~~
33 ~~exceed \$5,000 for each violation. The court in any such action may, in addition to~~
34 ~~any other relief or reimbursement, award reasonable attorney's fees and costs.~~

35 ~~— 3. A natural person, firm, or any officer or managing agent of any corporation~~
36 ~~or association who knowingly and willfully engages in a deceptive trade practice:~~

37 ~~— (a) For the first offense, is guilty of a misdemeanor.~~

38 ~~— (b) For the second offense, is guilty of a gross misdemeanor.~~

39 ~~— (c) For the third and all subsequent offenses, is guilty of a category D felony~~
40 ~~and shall be punished as provided in NRS 193.130.~~

41 ~~— The court may require the natural person, firm, or officer or managing agent of~~
42 ~~the corporation or association to pay to the aggrieved party damages on all profits~~
43 ~~derived from the knowing and willful engagement in a deceptive trade practice and~~
44 ~~treble damages on all damages suffered by reason of the deceptive trade practice.~~

45 ~~— 4. Any offense which occurred within 10 years immediately preceding the~~
46 ~~date of the principal offense or after the principal offense constitutes a prior offense~~
47 ~~for the purposes of subsection 3 when evidenced by a conviction, without regard to~~
48 ~~the sequence of the offenses and convictions.~~

49 ~~— 5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive,~~
50 ~~and section 1 of this act, 598.100 to 598.2801, inclusive, 598.205 to 598.295,~~
51 ~~inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840~~
52 ~~to 598.966, inclusive, fails to comply with a judgment or order of any court in this~~
53 ~~State concerning a violation of such a provision, or fails to comply with an~~

~~assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:~~

~~(a) The suspension of the person's privilege to conduct business within this State; or~~

~~(b) If the defendant is a corporation, dissolution of the corporation.~~

~~The court may grant or deny the relief sought or may order other appropriate relief.~~

~~6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:~~

~~(a) The suspension of the person's privilege to conduct business within this State; or~~

~~(b) If the defendant is a corporation, dissolution of the corporation.~~

~~The court may grant or deny the relief sought or may order other appropriate relief. **(Deleted by amendment.)**~~

Sec. 7. NRS 482.3333 is hereby amended to read as follows:

482.3333 1. Before a person may be licensed as a broker, the person must procure and file with the Department a good and sufficient bond in the amount of \$100,000 with a corporate surety thereon licensed to do business within the State of Nevada, approved as to form by the Attorney General, and conditioned that the applicant shall conduct business as a broker 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.

2. The Department may allow a broker who provides services for more than one category of vehicle described in subsection 1 of NRS 482.345 at a principal place of business or at any branch location within the same county as the principal place of business to provide a good and sufficient bond for a single category of vehicle and may consider that single bond sufficient coverage to include all other categories of vehicles.

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 is for the use and benefit of the consumer and includes any breach of a consumer contract, deceptive trade practice, fraud, fraudulent representation, negligent misrepresentation, abuse of process, conversion or violation of any of the provisions of this chapter or chapter 41, 97, 104, 104A or 598 of NRS by any employee of the licensed broker who acts on behalf of the broker and within the scope of his or her employment.

5. The bond must provide that it is for the use and benefit of any consumer of the broker or an employee of the broker for any loss or damage established, including, without limitation:

- (a) Actual damages;
- (b) Consequential damages;
- (c) Incidental damages;
- (d) Statutory damages;
- (e) Damages for noneconomic loss; and
- (f) Attorney's fees and costs.

The surety issuing the bond shall appoint the ~~Secretary of State~~ **Commissioner of Insurance** as its agent to accept service of notice or process for the surety in any

1 action upon the bond brought in a court of competent jurisdiction or brought before
2 the Director.

3 6. If a consumer has a claim for relief against a broker or an employee of the
4 broker, the consumer may:

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

7 (1) A judgment on the merits against the broker or employee, the judgment
8 is binding on the surety.

9 (2) A judgment other than on the merits against the broker or employee,
10 including, without limitation, a default judgment, the judgment is binding on the
11 surety only if the surety was given notice and an opportunity to defend at least 20
12 days before the date on which the judgment was entered against the broker or
13 employee.

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

17 (c) Settle the matter with the broker or employee. If such a settlement is made,
18 the settlement must be reduced to writing, signed by both parties and acknowledged
19 before any person authorized to take acknowledgments in this State, and submitted
20 to the Director with a request for compensation from the bond. If the Director
21 determines that the settlement was reached in good faith and there is no evidence of
22 collusion or fraud between the parties in reaching the settlement, the surety shall
23 make the payment to the consumer in the amount agreed upon in the settlement.

24 7. Any judgment entered by a court in favor of a consumer and against a
25 broker or an employee of the broker may be executed through a writ of attachment,
26 garnishment, execution or other legal process, or the consumer in whose favor the
27 judgment was entered may apply to the Director for compensation from the bond of
28 the broker or employee.

29 8. As used in this section, "consumer" means any person who comes into
30 possession of a vehicle as a final user for any purpose other than offering it for sale.

31 **Sec. 8.** NRS 482.345 is hereby amended to read as follows:

32 482.345 1. Before any dealer's license, dealer's plate, special dealer's plate,
33 rebuilder's license or rebuilder's plate, distributor's license or distributor's plate or
34 manufacturer's license or manufacturer's plate is furnished to a manufacturer,
35 distributor, dealer or rebuilder as provided in this chapter, the Department shall
36 require that the applicant make an application for such a license and plate upon a
37 form to be furnished by the Department, and the applicant shall furnish such
38 information as the Department requires, including proof that the applicant has an
39 established place of business in this State, procure and file with the Department a
40 good and sufficient bond with a corporate surety thereon, duly licensed to do
41 business within the State of Nevada, approved as to form by the Attorney General,
42 and conditioned that the applicant or any employee who acts on behalf of the
43 applicant within the scope of his or her employment shall conduct business as a
44 dealer, distributor, manufacturer or rebuilder without breaching a consumer
45 contract or engaging in a deceptive trade practice, fraud or fraudulent
46 representation, and without violation of the provisions of this chapter. The bond
47 must be:

48 (a) For a manufacturer, distributor, rebuilder or dealer who manufactures,
49 distributes or sells motorcycles, \$50,000.

50 (b) For a manufacturer, distributor, rebuilder or dealer who sells vehicles other
51 than motorcycles, trailers or travel trailers, \$100,000.

52 (c) For a manufacturer, distributor, rebuilder or dealer who sells travel trailers
53 or other dual purpose trailers that include living quarters in their design, \$100,000.

1 (d) For a manufacturer, distributor, rebuilder or dealer who sells horse trailers
2 designed without living quarters or special purpose trailers with an unladen weight
3 of 3,501 pounds or more, \$50,000.

4 (e) For a manufacturer, distributor, rebuilder or dealer who sells utility trailers
5 or other special use trailers with an unladen weight of 3,500 pounds or less or
6 trailers designed to carry boats, \$10,000.

7 2. The Department may, pursuant to a written agreement with any
8 manufacturer, distributor, rebuilder or dealer who has been licensed to do business
9 in this State for at least 5 years, allow a reduction in the amount of the bond of the
10 manufacturer, distributor, rebuilder or dealer, if the business has been conducted in
11 a manner satisfactory to the Department for the preceding 5 years. No bond may be
12 reduced to less than 50 percent of the bond required pursuant to subsection 1.

13 3. The Department may allow a manufacturer, distributor, rebuilder or dealer
14 who sells more than one category of vehicle as described in subsection 1 at a
15 principal place of business or at any branch location within the same county as the
16 principal place of business to provide a good and sufficient bond for a single
17 category of vehicle and may consider that single bond sufficient coverage to
18 include all other categories of vehicles.

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

21 5. The undertaking on the bond is for the use and benefit of the consumer and
22 includes any breach of a consumer contract, deceptive trade practice, fraud,
23 fraudulent representation or violation of any of the provisions of this chapter *or*
24 *chapter 41, 97, 104, 104A or 598 of NRS* by the representative of any licensed
25 distributor or the salesperson of any licensed dealer, manufacturer or rebuilder who
26 acts for the dealer, distributor, manufacturer or rebuilder on his or her behalf and
27 within the scope of the employment of the representative or salesperson.

28 6. The bond must provide that it is for the use and benefit of any consumer of
29 the dealer, distributor, rebuilder, manufacturer, representative or salesperson for
30 any loss or damage established, including, without limitation:

- 31 (a) Actual damages;
- 32 (b) Consequential damages;
- 33 (c) Incidental damages;
- 34 (d) Statutory damages;
- 35 (e) Damages for noneconomic loss; and
- 36 (f) Attorney's fees and costs.

37 ↪ The surety issuing the bond shall appoint the ~~Secretary of State~~ *Commissioner*
38 *of Insurance* as its agent to accept service of notice or process for the surety in any
39 action upon the bond brought in a court of competent jurisdiction or brought before
40 the Director.

41 7. If a consumer has a claim for relief against a dealer, distributor, rebuilder,
42 manufacturer, representative or salesperson, the consumer may:

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

45 (1) A judgment on the merits against the dealer, distributor, rebuilder,
46 manufacturer, representative or salesperson, the judgment is binding on the surety.

47 (2) A judgment other than on the merits against the dealer, distributor,
48 rebuilder, manufacturer, representative or salesperson, including, without
49 limitation, a default judgment, the judgment is binding on the surety only if the
50 surety was given notice and an opportunity to defend at least 20 days before the
51 date on which the judgment was entered against the dealer, distributor, rebuilder,
52 manufacturer, representative or salesperson.

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

4 (c) Settle the matter with the dealer, distributor, rebuilder, manufacturer,
5 representative or salesperson. If such a settlement is made, the settlement must be
6 reduced to writing, signed by both parties and acknowledged before any person
7 authorized to take acknowledgments in this State, and submitted to the Director
8 with a request for compensation from the bond. If the Director determines that the
9 settlement was reached in good faith and there is no evidence of collusion or fraud
10 between the parties in reaching the settlement, the surety shall make the payment to
11 the consumer in the amount agreed upon in the settlement.

12 8. Any judgment entered by a court in favor of a consumer and against a
13 dealer, distributor, rebuilder, manufacturer, representative or salesperson may be
14 executed through a writ of attachment, garnishment, execution or other legal
15 process, or the consumer in whose favor the judgment was entered may apply to the
16 Director for compensation from the bond of the dealer, distributor, rebuilder,
17 manufacturer, representative or salesperson.

18 9. The Department shall not issue a license or plate pursuant to subsection 1
19 to a manufacturer, distributor, rebuilder or dealer who does not have and maintain
20 an established place of business in this State.

21 10. As used in this section, "consumer" means any person who comes into
22 possession of a vehicle as a final user for any purpose other than offering it for sale.

23 **Sec. 9.** NRS 490.270 is hereby amended to read as follows:

24 490.270 1. Except as otherwise provided in subsection 9 and NRS 490.280,
25 before any off-highway vehicle dealer, long-term or short-term lessor or
26 manufacturer is issued a license pursuant to this chapter, the Department shall
27 require that the applicant procure and file with the Department a good and
28 sufficient bond with a corporate surety thereon, duly licensed to do business within
29 the State of Nevada, approved as to form by the Attorney General and conditioned
30 that the applicant or any employee who acts on the applicant's behalf within the
31 scope of his or her employment shall conduct his or her business as an off-highway
32 vehicle dealer, long-term or short-term lessor or manufacturer without breaching a
33 consumer contract or engaging in a deceptive trade practice, fraud or fraudulent
34 representation and without violation of the provisions of this chapter. The bond
35 must be in the amount of \$50,000.

36 2. The Department may, pursuant to a written agreement with any off-
37 highway vehicle dealer, long-term or short-term lessor or manufacturer who has
38 been licensed to do business in this State for at least 5 years, allow a reduction in
39 the amount of the bond of the off-highway vehicle dealer, lessor or manufacturer if
40 such business has been conducted in a manner satisfactory to the Department for
41 the preceding 5 years. No bond may be reduced to less than 50 percent of the bond
42 required pursuant to subsection 1.

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

45 4. The undertaking on the bond includes any breach of a consumer contract,
46 deceptive trade practice, fraud, fraudulent representation or violation of any of the
47 provisions of this chapter *or chapter 41, 97, 104, 104A or 598 of NRS* by the
48 representative or off-highway vehicle salesperson of any licensed off-highway
49 vehicle dealer, long-term or short-term lessor or manufacturer who acts on behalf of
50 the off-highway vehicle dealer, lessor or manufacturer and within the scope of the
51 employment of the representative or off-highway vehicle salesperson.

52 5. The bond must provide that any person injured by the action of the off-
53 highway vehicle dealer, long-term or short-term lessor, manufacturer,

1 representative or off-highway vehicle salesperson in violation of any provision of
2 this chapter may apply to the Director, for good cause shown, for compensation
3 from the bond. The surety issuing the bond shall appoint the ~~Secretary of State~~
4 **Commissioner of Insurance** as its agent to accept service of notice or process for
5 the surety in any action upon the bond brought in a court of competent jurisdiction
6 or brought before the Director.

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

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

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

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

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

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

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

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

43 9. The provisions of this section do not apply to any off-highway vehicle
44 dealer, long-term or short-term lessor or manufacturer who has met the
45 requirements of NRS 482.3333, 482.345 or 482.346 with respect to:

46 (a) A bond greater than or equal to the amount prescribed in subsection 1 if the
47 undertaking on the bond includes the activities described in subsection 4; or

48 (b) A deposit greater than or equal to the amount of the bond that would
49 otherwise be required by subsection 1.