

ASSEMBLY BILL NO. 228—COMMITTEE
ON COMMERCE AND LABOR

MARCH 5, 2015

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing trade regulations.
(BDR 52-999)

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

~

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

AN ACT relating to trade regulations; authorizing a financier of a motor vehicle to install certain devices in the motor vehicle which he or she finances; revising provisions relating to retail installment contracts; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Section 1** of this bill authorizes a financier (a person who finances the sale of a
2 motor vehicle or a lessor who leases a motor vehicle to a lessee) to install under
3 certain circumstances devices in the motor vehicle which the financier finances or
4 leases, which devices are used to remotely locate or disable a motor vehicle upon
5 breach or default of the financing contract by the debtor or lessee.
6 Existing law requires certain retail installment contracts to be contained in a
7 single document which must contain the entire agreement of the parties. (NRS
8 97.165) **Section 2** of this bill amends that requirement, commonly known as the
9 “single document rule,” to provide that it does not apply to the sale of a motor
10 vehicle in which the secured party and a debtor enter into an agreement authorizing
11 the secured party to install and use a device which is able to remotely disable the
12 motor vehicle upon breach or default by the debtor.

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

1 **Section 1.** Chapter 597 of NRS is hereby amended by adding
2 thereto a new section to read as follows:
3 *1. A financier of a motor vehicle shall not install or use*
4 *electronic repossession technology in a motor vehicle which he or*



1 she finances to take possession of the motor vehicle, or without
2 removal, to render the motor vehicle unusable, unless:

3 (a) After executing the financing contract, the parties to the
4 contract enter into an agreement which:

5 (1) Is contained in a separate document;

6 (2) Is not a condition of the financing contract; and

7 (3) Provides that:

8 (I) Electronic tracking technology may be used by the
9 financier only to ensure that the electronic tracking technology is
10 operating properly, to repossess the motor vehicle, to locate the
11 motor vehicle for the purpose of servicing the financing contract
12 or to keep the financing contract current;

13 (II) The debtor or lessee, as applicable, may cancel the
14 agreement authorizing the use of electronic tracking technology at
15 any time during the term of the financing contract without
16 affecting the sale or lease of the motor vehicle or any term or
17 condition of the financing contract; and

18 (III) After providing proper notice to the debtor or
19 lessee, as applicable, pursuant to subsection 2, a financier may use
20 starter interrupt technology to disable the motor vehicle following
21 certain defaults or breaches of the financing contract; and

22 (b) At the time of the sale or lease of the motor vehicle, the
23 financier provides the debtor or lessee, as applicable, with a written
24 disclosure that the vehicle is equipped with electronic repossession
25 technology and which includes, without limitation:

26 (1) The nature of the defaults or breaches following which
27 the financier may use the electronic repossession technology;

28 (2) The prohibitions on the use of electronic repossession
29 technology as provided in subsection 3;

30 (3) The name, address and toll-free telephone number of
31 the financier for the purposes of communicating directly with the
32 financier concerning the security interest in the motor vehicle and
33 the extension of credit; and

34 (4) That in the event of an emergency, the debtor or lessee,
35 as applicable, will be able to start a disabled vehicle for a
36 minimum of 24 hours.

37 2. A financier of a motor vehicle shall provide written notice
38 to the debtor or lessee, as applicable, before using the electronic
39 repossession technology installed in a motor vehicle to disable the
40 motor vehicle. The written notice must be delivered by registered
41 or certified mail, return receipt requested, a minimum of 2 days,
42 excluding Saturdays, Sundays and holidays, before the financier
43 disables the motor vehicle. The notice must include:

44 (a) The name, address and telephone number of the financier;



1 (b) The amount required to be paid by the debtor or lessee, as
2 applicable, to cure the breach or default; and

3 (c) Notice that in the event of an emergency the debtor or
4 lessee, as applicable, will be provided the ability to start the
5 disabled motor vehicle for a period of not less than 24 hours.

6 3. The use of electronic repossession technology in a motor
7 vehicle which is financed by a financier is prohibited if:

8 (a) Disablement of the motor vehicle will occur while the
9 engine of the motor vehicle is running;

10 (b) The electronic repossession technology causes an audible
11 warning which lasts longer than 20 seconds upon starting or
12 shutting off the engine of the motor vehicle;

13 (c) The financier has reason to know that the use of the vehicle
14 repossession technology will result in substantial injury or harm to
15 the debtor or lessee, as applicable, the public health, safety or
16 welfare, or will in any way adversely affect any third party; or

17 (d) Less than 10 days have lapsed since the default or breach
18 of contract by the debtor or lessee.

19 4. A debtor or lessee, as applicable, may not waive any of the
20 provisions of this section.

21 5. The failure by a financier to comply with any provision of
22 this section constitutes a deceptive trade practice in violation of
23 NRS 598.0923, and a debtor or lessee, as applicable, may file a
24 claim for relief. In addition to any other remedy available
25 pursuant to NRS 41.600, chapter 598 of NRS or any other
26 provision of law, a debtor or lessee, as applicable, who prevails in
27 an action pursuant to this subsection must be awarded a minimum
28 of \$1,000 as statutory damages, or damages pursuant to
29 subsection 3 of NRS 104.9625, if applicable, whichever is greater.

30 6. The Commissioner of Financial Institutions shall
31 prescribe, by regulation, forms for contracts for the use of
32 electronic repossession technology.

33 7. As used in this section, unless the context otherwise
34 requires:

35 (a) "Electronic repossession technology" means a device that
36 has electrical, digital, magnetic or wireless optical electromagnetic
37 properties or similar capabilities, including, without limitation,
38 electronic tracking technology and starter interrupt technology.

39 (b) "Electronic tracking technology" means global positioning
40 satellite or similar technology used to obtain or record the location
41 of a motor vehicle.

42 (c) "Financier" means a secured party who finances the sale of
43 a motor vehicle, a lessor who leases a motor vehicle to a lessee or
44 any successor in interest to such a secured party or lessor.



1 (d) *“Financing contract” means a retail installment contract*
2 *or lease agreement between a financier and a debtor or lessee, as*
3 *applicable, for financing the purchase or lease of a motor vehicle.*

4 (e) *“Retail installment contract” has the meaning ascribed to it*
5 *in NRS 97.105.*

6 (f) *“Secured party” has the meaning ascribed to it in*
7 *NRS 104.9102.*

8 (g) *“Starter interrupt technology” means technology used to*
9 *remotely disable the starter of a motor vehicle.*

10 **Sec. 2.** NRS 97.165 is hereby amended to read as follows:

11 97.165 1. Every retail installment contract must be contained
12 in a single document which must contain the entire agreement of the
13 parties, including any promissory notes or other evidences of
14 indebtedness between the parties relating to the transaction, except
15 as otherwise provided in NRS 97.205 and 97.235, *and section 1 of*
16 *this act*, but:

17 (a) If the buyer’s obligation to pay the total of payments is
18 represented by a promissory note secured by a chattel mortgage or
19 other security agreement, the promissory note may be a separate
20 instrument if the mortgage or security agreement recites the amount
21 and terms of payment of that note and the promissory note recites
22 that it is secured by a mortgage or security agreement.

23 (b) In a transaction involving the repair, alteration or
24 improvement upon or in connection with real property, the contract
25 may be secured by a mortgage or deed of trust on the real property
26 contained in a separate document. Retail sales transactions for home
27 improvements which are financed or insured by the Federal Housing
28 Administration are not subject to the provisions of this chapter.

29 (c) *In a transaction involving the purchase of a motor vehicle,*
30 *the parties may enter into an agreement contained in a separate*
31 *document authorizing the use of electronic repossession*
32 *technology in accordance with the provisions of section 1 of this*
33 *act.*

34 2. The contract must be dated, signed by the retail buyer and
35 completed as to all essential provisions, except as otherwise
36 provided in NRS 97.205, 97.215 and 97.235. The printed or typed
37 portion of the contract, other than instructions for completion, must
38 be in a size equal to at least 8-point type.

39 3. Any fee charged to the retail buyer for his or her cancellation
40 of a retail installment contract within 72 hours after its execution is
41 prohibited unless notice of the fee is clearly set forth in the printed
42 or typed portion of the contract.

43 4. *As used in this section, “electronic repossession*
44 *technology” has the meaning ascribed to it in paragraph (a) of*
45 *subsection 7 of section 1 of this act.*



1 **Sec. 3.** This act becomes effective upon passage and approval
2 for the purposes of adopting any regulations or performing any
3 preparatory administrative tasks that are necessary to carry out the
4 provisions of this act, and on October 1, 2015, for all other
5 purposes.

③



* A B 2 2 8 *

