

ASSEMBLY BILL NO. 108—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF ATTORNEY GENERAL)

FEBRUARY 4, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes regarding civil actions relating to unfair trade practices.
(BDR 52-290)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to unfair trade practices; clarifying the persons on whose behalf the attorney general may bring a civil action for unfair trade practices; clarifying the persons who may bring a civil action for unfair trade practices; increasing the percentage of money collected for unfair trade practices that must be credited to the attorney general's special fund; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 598A.160 is hereby amended to read as follows:
2 598A.160 1. The attorney general may bring a civil action for any
3 violation of the provisions of this chapter in the name of the State of
4 Nevada and is entitled to recover damages and secure other relief provided
5 by ***the provisions of*** this chapter:
6 (a) As parens patriae of the persons residing in ~~the~~ ***this*** state, with
7 respect to damages sustained ***directly or indirectly*** by such persons, or,
8 alternatively, if the court finds in its discretion that the interests of justice
9 so require, as a representative of a class or classes consisting of persons
10 residing in ~~the state,~~ ***this state*** who have been damaged ~~by~~ ***directly or***
11 ***indirectly***; or
12 (b) As parens patriae, with respect to ***direct or indirect*** damages to the
13 general economy of the State of Nevada or any political subdivision
14 thereof.

1 2. In any action under this section, ~~{the}~~ **this** state:

2 (a) May recover the aggregate damage sustained by the persons on
3 whose behalf ~~{the}~~ **this** state sues, without separately proving the
4 individual claims of each such person. Proof of such damages ~~{shall}~~ **must**
5 be based on : ~~{any or all of the following:}~~

6 (1) Statistical or sampling methods;

7 (2) The pro rata allocation of illegal overcharges of sales occurring
8 within the State of Nevada; or

9 (3) Such other reasonable system of estimating aggregate damages as
10 the court ~~{in its discretion}~~ may permit.

11 (b) Shall distribute, allocate or otherwise pay the amounts so recovered
12 ~~{either}~~ in accordance with state law, or in the absence of any applicable
13 state law, as the district court may ~~{in its discretion}~~ authorize, subject to
14 the requirement that any distribution procedure adopted afford each person
15 on whose behalf ~~{the}~~ **this** state sues a reasonable opportunity individually
16 to secure the pro rata portion of such recovery attributable to his or its
17 respective claims for damages, less litigation and administrative costs,
18 including attorney fees, before any of ~~{such}~~ **the** recovery is escheated.

19 **Sec. 2.** NRS 598A.210 is hereby amended to read as follows:

20 598A.210 1. Any person threatened with injury or damage to his
21 business or property by reason of a violation of any provision of this
22 chapter, may institute ~~{an}~~ **a civil** action or proceeding for injunctive relief.
23 If the court issues a permanent injunction, the plaintiff shall recover
24 reasonable attorney fees, together with costs, as determined by the court.

25 2. Any person injured **or damaged directly or indirectly** in his
26 business or property by reason of a violation of the provisions of this
27 chapter may ~~{sue therefor}~~ **institute a civil action** and shall recover treble
28 damages, together with reasonable attorney fees and costs.

29 3. Any person commencing an action for any violation of the
30 provisions of this chapter shall, simultaneously with the filing of the
31 complaint with the court, mail a copy of the complaint to the attorney
32 general.

33 **Sec. 3.** NRS 598A.260 is hereby amended to read as follows:

34 598A.260 1. All money obtained as awards, damages or civil
35 penalties for the State of Nevada and its agencies by the attorney general as
36 a result of enforcement of statutes pertaining to unfair trade practices,
37 whether by final judgment, settlement or otherwise must be deposited in
38 the state treasury as follows:

39 (a) All attorney's fees and costs and ~~{40}~~ **50** percent of all recoveries for
40 credit to the attorney general's special fund.

41 (b) The balance of the recoveries for credit to the state general fund.

1 2. Money deposited in the state treasury for credit to the attorney
2 general's special fund pursuant to subsection 1 must be used for payment
3 of the expenses of enforcing the statutes pertaining to unfair trade
4 practices. Those expenses which are in excess of the amount available in
5 the fund must be paid out of the legislative appropriation for the support of
6 the office of attorney general.
7 ~~[3.—On June 30 of each fiscal year, any amount in excess of \$30,000 in~~
8 ~~the attorney general's special fund of the money collected pursuant to~~
9 ~~subsection 1 reverts to the state general fund.]~~

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