

ASSEMBLY BILL NO. 109—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF ATTORNEY GENERAL)

FEBRUARY 4, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to trade practices. (BDR 52-292)

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 trade practices; prohibiting an informal merchant from selling new products that have certain defects; removing the purchasing and selling of used books from the definition of “junk dealer” and “secondhand dealer”; revising the definition of “secondhand dealer” to exclude certain persons who engage in the business of buying or selling secondhand firearms under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An informal merchant shall not offer for sale or knowingly allow the sale of any new product that he knows or reasonably should have known is stolen, has been recalled by the manufacturer, has been adulterated, has not been maintained at the proper temperature, has an expiration date that has passed, has been discarded by the manufacturer or a retailer, is an inferior product if he does not clearly indicate such inferiority, or has any other defect that makes the product ineffective for the use for which it is purchased or that makes the product below the quality expected by the consumer.

2. An informal merchant who violates the provisions of subsection 1 shall be punished:

(a) If the sale of the product does not cause substantial bodily harm to another person, for a gross misdemeanor.

1 *(b) If the sale of the product causes substantial bodily harm to another*
2 *person, for a category C felony as provided in NRS 193.130.*

3 *3. Upon request of a peace officer, an informal merchant shall*
4 *provide reliable evidence of the legal acquisition of a new product that*
5 *the merchant is offering for sale. If it is determined that the product was*
6 *stolen and the informal merchant fails to provide such evidence, an*
7 *inference is created that the informal merchant knew or should have*
8 *known that the product was stolen.*

9 *4. As used in this section:*

10 *(a) "Informal market" means:*

11 *(1) A gathering at which:*

12 *(I) Two or more persons offer personal property for sale or*
13 *exchange;*

14 *(II) A fee is charged for the sale or exchange of personal*
15 *property; or*

16 *(III) A fee is charged for admission to the area in which personal*
17 *property is offered for sale or exchange; or*

18 *(2) A place at which personal property is offered or displayed for*
19 *sale or exchange on more than six occasions in a period of 12 months,*
20 *whether held in a building, under cover or in the open air.*

21 *(b) "Informal merchant" means a person who does not have an*
22 *established retail store in the county and who transports an inventory of*
23 *goods to an informal market and displays the goods for sale, offers them*
24 *for sale at retail or sells them at retail.*

25 *(c) "New product" means any tangible good which has never been*
26 *used or which is in its original, unopened package or container.*

27 *(d) "Stolen" means taken unlawfully from or without the permission*
28 *of the owner, whether or not the person who took the item is or has been*
29 *prosecuted or convicted for the taking of the item.*

30 **Sec. 2.** NRS 598.281 is hereby amended to read as follows:

31 598.281 As used in NRS 598.281 to 598.289, inclusive, unless the
32 context otherwise requires:

33 1. "Buyer" means a natural person who is solicited to purchase or who
34 purchases the services of an organization which provides credit services.

35 2. "Commissioner" means the commissioner of consumer affairs.

36 3. "Division" means the consumer affairs division of the department of
37 business and industry.

38 4. "Extension of credit" means the right to defer payment of debt or to
39 incur debt and defer its payment, offered or granted primarily for personal,
40 family or household purposes.

41 5. "Organization":

42 (a) Means a person who, with respect to the extension of credit by
43 others, sells, provides or performs, or represents that he can or will sell,

1 provide or perform, any of the following services, in return for the payment
2 of money or other valuable consideration:

3 (1) Improving a buyer's credit record, history or rating.

4 (2) Obtaining an extension of credit for a buyer.

5 (3) Providing counseling or assistance to a person in establishing or
6 effecting a plan for the payment of his indebtedness, unless ~~[such]~~ *that*
7 counseling or assistance is provided by and is within the scope of the
8 authorized practice of a debt adjuster licensed pursuant to chapter 676 of
9 NRS.

10 (4) Providing advice or assistance to a buyer with regard to ~~[either]~~
11 subparagraph (1) or (2).

12 (b) Does not include : ~~[any of the following:]~~

13 (1) A person organized, chartered or holding a license or
14 authorization certificate to make loans or extensions of credit pursuant to
15 the laws of this state or the United States who is subject to regulation and
16 supervision by an officer or agency of this state or the United States.

17 (2) A bank, credit union or savings and loan institution whose
18 deposits or accounts are eligible for insurance by the Federal Deposit
19 Insurance Corporation, the National Credit Union Share Insurance Fund or
20 a private insurer approved pursuant to NRS 678.755.

21 ~~(3) [A nonprofit organization exempt from taxation under section~~
22 ~~501(c)(3) of the Internal Revenue Code.~~

23 ~~—(4)]~~ A person licensed as a real estate broker by this state where the
24 person is acting within the course and scope of that license ~~[-~~

25 ~~—(5)]~~ , *unless the person is rendering those services in the course and*
26 *scope of employment by or other affiliation with an organization.*

27 (4) A person licensed to practice law in this state where the person
28 renders services within the course and scope of his practice as an attorney
29 at law, unless the person is rendering ~~[such]~~ *those* services in the course
30 and scope of employment by or other affiliation with an organization.

31 ~~[(6)]~~ (5) A broker-dealer registered with the Securities and Exchange
32 Commission or the Commodity Futures Trading Commission where the
33 broker-dealer is acting within the course and scope of such regulation.

34 ~~[(7)]~~ (6) A person licensed as a debt adjuster pursuant to chapter 676
35 of NRS.

36 ~~[(8)]~~ (7) A reporting agency.

37 6. "Reporting agency" means a person who, for fees, dues or on a
38 cooperative nonprofit basis, regularly engages in whole or in part in the
39 business of assembling or evaluating information regarding the credit of or
40 other information regarding consumers to furnish consumer reports to third
41 parties, regardless of the means or facility of commerce used to prepare or
42 furnish the consumer reports. The term does not include:

1 (a) A person solely for the reason that he conveys a decision regarding
2 whether to guarantee a check in response to a request by a third party;

3 (b) A person who obtains or creates a consumer report and provides the
4 report or information contained in it to a subsidiary or affiliate; or

5 (c) A person licensed pursuant to chapter 463 of NRS.

6 **Sec. 3.** Chapter 647 of NRS is hereby amended by adding thereto a
7 new section to read as follows:

8 *A person who is described in subsection 2 of NRS 647.018:*

9 *1. Shall comply with the provisions of NRS 647.110, 647.120 and*
10 *647.130; and*

11 *2. Is subject to the provisions of NRS 647.140 and 647.145.*

12 **Sec. 4.** NRS 647.016 is hereby amended to read as follows:

13 647.016 "Junk dealer" means every person, firm or corporation
14 engaged in the business of purchasing or selling hides or junk ~~H~~, *other*
15 *than used books.*

16 **Sec. 5.** NRS 647.018 is hereby amended to read as follows:

17 647.018 *1. "Secondhand dealer" means any person engaged in whole*
18 *or in part in the business of buying and selling metal junk, melted metals or*
19 *secondhand personal property, other than used books, including, without*
20 *limitation, antiques and collectibles.*

21 *2. The term does not include a person who engages in the business of*
22 *buying or selling secondhand firearms or any antique parts, accessories*
23 *or other equipment relating to those firearms if:*

24 *(a) The person engages in that business at a show that:*

25 *(1) Is held at:*

26 *(I) A convention facility which is owned or operated by and*
27 *located on the premises of a resort hotel; or*

28 *(II) A recreational facility which is owned or operated by a*
29 *county fair and recreation board; and*

30 *(2) Is conducted for not more than 7 days during any 6-month*
31 *period; and*

32 *(b) The person has been issued a license as a manufacturer, importer,*
33 *dealer or collector pursuant to the provisions of 18 U.S.C. § 923.*

34 **Sec. 6.** The amendatory provisions of this act do not apply to offenses
35 that were committed before October 1, 1999.

36 **Sec. 7.** Section 2 of this act becomes effective at 12:01 a.m. on
37 October 1, 1999.