

ASSEMBLY BILL NO. 193—ASSEMBLYMEN SEGERBLOM, WILLIAMS,
BUCKLEY, NEIGHBORS, PARKS, MANENDO, ANDERSON, FREEMAN,
CHOWNING, ARBERRY, MCCLAIN, KOIVISTO, DE BRAGA, BERMAN,
COLLINS, EVANS, CEGAVSKE,
GOLDWATER, PRICE, GIUNCHIGLIANI, MORTENSON, CLABORN, NOLAN AND
LESLIE

FEBRUARY 10, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing use of device for automatic dialing and announcing on telephone. (BDR 52-84)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: 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 trade practices; revising the provisions governing the use of a device for automatic dialing and announcing on a telephone; prohibiting the use of such a device under certain circumstances; providing that the dissemination of an unsolicited prerecorded message is a deceptive trade practice 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:

- 1 **Section 1.** Chapter 597 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 5, inclusive, of this act.
3 **Sec. 2.** *As used in NRS 597.930 and sections 2 to 5, inclusive, of this*
4 *act, “device for automatic dialing and announcing” means any*
5 *equipment that:*
6 1. *Incorporates a storage capability of telephone numbers to be*
7 *called and utilizes a random or sequential number generator producing*
8 *telephone numbers to be called; and*
9 2. *Is used exclusively, working alone or in conjunction with other*
10 *equipment, to disseminate a prerecorded message to the telephone*

1 *number called to solicit a person at the telephone number called to*
2 *purchase goods or services.*

3 **Sec. 3.** *The provisions of NRS 597.930 do not prohibit the use of a*
4 *device for automatic dialing and announcing by any person exclusively*
5 *on behalf of:*

6 1. *A school or school district to contact the parents or guardians of a*
7 *pupil regarding the attendance of the pupil or regarding other business*
8 *of the school or school district.*

9 2. *A nonprofit organization to contact its members.*

10 3. *A company that provides cable television services to contact its*
11 *customers regarding a previously arranged installation of such services*
12 *at the premises of the customer.*

13 4. *A public utility to contact its customers regarding a previously*
14 *arranged installation of utility services at the premises of the customer.*

15 5. *A facility that processes or stores petroleum, volatile petroleum*
16 *products, natural gas, liquefied petroleum gas, combustible chemicals,*
17 *explosives, high-level radioactive waste or other dangerous substances to*
18 *advise local residents, public service agencies and news media of an*
19 *actual or potential life-threatening emergency.*

20 6. *A state or local governmental agency, or a private entity operating*
21 *under contract with and at the direction of such an agency, to provide:*

22 (a) *Information relating to public safety;*

23 (b) *Information relating to a police or fire emergency; or*

24 (c) *A warning of an impending or threatening emergency.*

25 **Sec. 4.** 1. *A person shall not connect a device for automatic dialing*
26 *and announcing to any telephone line in this state without first making a*
27 *written application to and receiving written authorization from the*
28 *consumer's advocate of the bureau of consumer protection in the office*
29 *of the attorney general.*

30 2. *An application for authorization to connect a device for automatic*
31 *dialing and announcing to a telephone line must include, without*
32 *limitation:*

33 (a) *A description of the type of device for automatic dialing and*
34 *announcing proposed to be connected to the telephone line;*

35 (b) *The period during which the telephone calls are proposed to be*
36 *placed using the device for automatic dialing and announcing, including,*
37 *without limitation, the days and times of such calls;*

38 (c) *The number of telephone calls proposed to be placed by the device*
39 *for automatic dialing and announcing during the specified period;*

40 (d) *The average length of a completed telephone call; and*

41 (e) *Such other information as the consumer's advocate of the bureau*
42 *of consumer protection may require.*

1 **3. Upon receiving an application for authorization to connect a**
2 **device for automatic dialing and announcing to a telephone line**
3 **pursuant to this section, the consumer's advocate of the bureau of**
4 **consumer protection shall review the application and shall:**

5 **(a) Approve the application; or**

6 **(b) Deny or modify the application if the consumer's advocate**
7 **determines that the proposed use of the device for automatic dialing and**
8 **announcing would:**

9 **(1) Overload telephone lines; or**

10 **(2) Otherwise detrimentally affect the provision of**
11 **telecommunication services.**

12 **Sec. 5. 1. A person who violates any provision of NRS 597.930 and**
13 **sections 2, 3 and 4 of this act is guilty of a misdemeanor.**

14 **2. If a person is found guilty of, or has pleaded guilty or nolo**
15 **contendere to, violating any provision of NRS 597.930 and sections 2, 3**
16 **and 4 of this act, his telephone service to which a device for automatic**
17 **dialing and announcing has been connected must be suspended for a**
18 **period determined by the court.**

19 **Sec. 6. NRS 597.930 is hereby amended to read as follows:**

20 597.930 1. Except as otherwise provided in subsection ~~[2,]~~ **3 and**
21 **section 3 of this act,** a person shall not use ~~[an automatic system to select~~
22 ~~and dial telephone numbers to play automatically a recorded message to:~~
23 ~~—(a) Solicit a person to purchase goods or services; or~~
24 ~~—(b) Request information for a survey if that information is to be used~~
25 ~~directly to solicit a person to purchase goods or services.]~~ **a device for**
26 **automatic dialing and announcing to disseminate a prerecorded message**
27 **in a telephone call unless, before the message is disseminated, a recorded**
28 **or unrecorded natural voice:**

29 **(a) Informs the person who answers the telephone call of the nature**
30 **of the call, including, without limitation, the fact that a device for**
31 **automatic dialing and announcing will be used to disseminate the**
32 **message if the person who answers the call remains on the line; and**

33 **(b) Provides to the person who answers the telephone call the name,**
34 **address and telephone number of the business or organization, if any,**
35 **being represented by the caller.**

36 **2. A person shall not operate a device for automatic dialing and**
37 **announcing to place:**

38 **(a) A call that is received by a telephone located in this state during**
39 **the period between 6 p.m. and 9 a.m.; or**

40 **(b) A call-back or second call to the same telephone number, if a**
41 **person at the telephone number terminated the original call.**

42 **3. This section does not prohibit the use of ~~[an automatic system]~~ a**
43 **device for automatic dialing and announcing to dial the number of and**

1 play a recorded message to a person with whom the ~~{system's owner}~~
2 *person using the device or another person affiliated with the person*
3 *using the device* has a preexisting business relationship.

4 ~~{3. A person who violates this section is guilty of a misdemeanor.}~~

5 **Sec. 7.** Chapter 598 of NRS is hereby amended by adding thereto a
6 new section to read as follows:

7 *A person engages in a "deceptive trade practice" when, in the course*
8 *of his business or occupation, he disseminates an unsolicited prerecorded*
9 *message to solicit a person to purchase goods or services by telephone*
10 *and he does not have a preexisting business relationship with the person*
11 *being called unless a recorded or unrecorded natural voice:*

12 1. *Informs the person who answers the telephone call of the nature*
13 *of the call; and*

14 2. *Provides to the person who answers the telephone call the name,*
15 *address and telephone number of the business or organization, if any,*
16 *represented by the caller.*

17 **Sec. 8.** NRS 598.0903 is hereby amended to read as follows:

18 598.0903 As used in NRS 598.0903 to 598.0999, inclusive, *and*
19 *section 7 of this act*, unless the context otherwise requires, the words and
20 terms defined in NRS 598.0905 to 598.0947, inclusive, *and section 7 of*
21 *this act*, have the meanings ascribed to them in those sections.

22 **Sec. 9.** NRS 598.0999 is hereby amended to read as follows:

23 598.0999 1. A person who violates ~~{any}~~ *a* court order or injunction
24 issued pursuant to NRS 598.0903 to 598.0997, inclusive, *and section 7 of*
25 *this act*, upon a complaint brought by the commissioner, the director, the
26 district attorney of any county of this state or the attorney general shall
27 forfeit and pay to the state general fund a civil penalty of not more than
28 \$10,000 for each violation. For the purpose of this section, the court issuing
29 ~~{any such}~~ *the* order or injunction retains jurisdiction over the action or
30 proceeding. Such civil penalties are in addition to any other penalty or
31 remedy available for the enforcement of the provisions of NRS 598.0903 to
32 598.0997, inclusive ~~{,}~~ *, and section 7 of this act.*

33 2. In any action brought pursuant to NRS 598.0979 to 598.099,
34 inclusive, if the court finds that a person has willfully engaged in a
35 deceptive trade practice, the commissioner, the director, the district
36 attorney of any county in this state or the attorney general bringing the
37 action may recover a civil penalty not to exceed \$2,500 for each violation.

38 3. A natural person, firm, or any officer or managing agent of any
39 corporation or association who knowingly and willfully engages in a
40 deceptive trade practice:

41 (a) For the first offense, is guilty of a misdemeanor.

42 (b) For the second offense, is guilty of a gross misdemeanor.

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

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

7 5. If a person violates any provision of NRS 598.0903 to 598.0999,
8 *inclusive, and section 7 of this act, NRS* 598.100 to 598.280, inclusive,
9 598.281 to 598.289, inclusive, or 598.840 to 598.966, inclusive, fails to
10 comply with a judgment or order of any court in this state concerning a
11 violation of such a provision, or fails to comply with an assurance of
12 discontinuance or other agreement concerning an alleged violation of such
13 a provision, the commissioner or the district attorney of any county may
14 bring an action in the name of the State of Nevada seeking:

15 (a) The suspension of the person's privilege to conduct business within
16 this state; or

17 (b) If the defendant is a corporation, dissolution of the corporation.
18 The court may grant or deny the relief sought or may order other
19 appropriate relief.

20 **Sec. 10.** The amendatory provisions of this act do not apply to
21 offenses that are committed before October 1, 1999.