

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 and establishing certain actions as deceptive trade practices. (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 that payment of remuneration to certain drivers of taxicabs, limousines and buses under certain circumstances constitutes a deceptive trade practice; 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, 3 and 4 of this act.

3 **Sec. 2.** *As used in NRS 597.930 and sections 2, 3 and 4 of this act,*
4 *“device for automatic dialing and announcing” means any equipment*
5 *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*

2. Is used exclusively, working alone or in conjunction with other equipment, to disseminate a prerecorded message to the telephone number called to solicit a person at the telephone number called to purchase goods or services.

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

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

2. A nonprofit organization.

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

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

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

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

(a) Information relating to public safety;

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

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

7. A candidate for public office, committee advocating the passage or defeat of a ballot question, political party, committee sponsored by a political party or a committee for political action.

Sec. 4. 1. A person who violates any provision of NRS 597.930 is guilty of a misdemeanor.

2. If a person is found guilty of, or has pleaded guilty or nolo contendere to, violating any provision of NRS 597.930, his telephone service to which a device for automatic dialing and announcing has been connected must be suspended for a period determined by the court.

Sec. 5. NRS 597.930 is hereby amended to read as follows:

597.930 1. Except as otherwise provided in subsection ~~[2,]~~ **3 and section 3 of this act**, a person shall not use ~~[an automatic system to select and dial telephone numbers to play automatically a recorded message to:~~

~~—(a) Solicit a person to purchase goods or services; or~~

~~—(b) Request information for a survey if that information is to be used~~

~~directly to solicit a person to purchase goods or services.] a device for~~

1 *automatic dialing and announcing to disseminate a prerecorded message*
2 *in a telephone call unless, before the message is disseminated, a recorded*
3 *or unrecorded natural voice:*

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

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

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

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

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

17 3. This section does not prohibit the use of ~~an automatic system~~ *a*
18 *device for automatic dialing and announcing* to dial the number of and
19 play a recorded message to a person with whom the ~~system's owner~~
20 *person using the device or another person affiliated with the person*
21 *using the device* has a preexisting business relationship.

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

23 Sec. 6. Chapter 598 of NRS is hereby amended by adding thereto the
24 provisions set forth as sections 7 and 8 of this act.

25 Sec. 7. *A person engages in a “deceptive trade practice” when, in*
26 *the course of his business or occupation, he disseminates an unsolicited*
27 *prerecorded message to solicit a person to purchase goods or services by*
28 *telephone and he does not have a preexisting business relationship with*
29 *the person being called unless a recorded or unrecorded natural voice:*

30 1. *Informs the person who answers the telephone call of the nature*
31 *of the call; and*

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

35 Sec. 8. 1. *In a county whose population is 400,000 or more, a*
36 *person who:*

37 *(a) Is a licensee, owner or employee of a business entity that is*
38 *licensed to operate an adult cabaret, erotic dance establishment or adult*
39 *night club; and*

40 *(b) While performing duties associated with the business entity, pays*
41 *or offers to pay remuneration of any kind, including, without limitation,*
42 *cash or services, to the owner or driver of a taxicab, limousine or bus*

1 *containing 21 or fewer passengers, or to an agent of the owner or driver,*
2 *for taking or attempting to take a passenger to a location other than the*
3 *destination requested by the passenger,*
4 *commits a deceptive trade practice for purposes of NRS 598.0903 to*
5 *598.0999, inclusive.*

6 2. *In any action brought pursuant to NRS 598.0903 to 598.0999,*
7 *inclusive, if the court finds the licensee or owner of a business entity*
8 *engaged in a deceptive trade practice described in subsection 1, or his*
9 *employee engaged in a deceptive trade practice described in subsection 1,*
10 *the licensee or owner is subject only to a civil penalty of:*

11 (a) *For the first violation, not less than \$500 and not more than*
12 *\$1,000;*

13 (b) *For the second violation, not less than \$1,000 and not more than*
14 *\$5,000; and*

15 (c) *For the third and subsequent violations, not less than \$5,000 and*
16 *not more than \$10,000.*

17 3. *If the violation of subsection 1 is the third or greater violation and*
18 *if:*

19 (a) *The violation was committed by the licensee or owner of the*
20 *business entity; or*

21 (b) *The violation was committed by an employee of the licensee or*
22 *owner, and the director determines that the licensee or owner knew or*
23 *should have known that the employee engaged in the act constituting the*
24 *violation,*
25 *the director shall order, in writing, all applicable licensing authorities to*
26 *suspend the license of the business entity for a period of not more than 6*
27 *months.*

28 4. *Upon receiving an order from the director pursuant to subsection*
29 *3, a licensing authority shall suspend the license of the licensee for the*
30 *period specified in the order.*

31 5. *As used in this section:*

32 (a) *“License” means a business license to operate an adult cabaret,*
33 *erotic dance establishment or adult night club.*

34 (b) *“Licensee” means the person to whom a license is issued.*

35 (c) *“Licensing authority” means a local government that licenses*
36 *adult cabarets, erotic dance establishments or adult night clubs.*

37 **Sec. 9.** NRS 598.0903 is hereby amended to read as follows:

38 598.0903 As used in NRS 598.0903 to 598.0999, inclusive, *and*
39 *section 7 of this act,* unless the context otherwise requires, the words and
40 terms defined in NRS 598.0905 to 598.0947, inclusive, *and section 7 of*
41 *this act,* have the meanings ascribed to them in those sections.

1 **Sec. 10.** NRS 598.0999 is hereby amended to read as follows:

2 598.0999 1. A person who violates ~~any~~ a court order or injunction
3 issued pursuant to NRS 598.0903 to 598.0997, inclusive, **and section 7 of**
4 **this act**, upon a complaint brought by the commissioner, the director, the
5 district attorney of any county of this state or the attorney general shall
6 forfeit and pay to the state general fund a civil penalty of not more than
7 \$10,000 for each violation. For the purpose of this section, the court issuing
8 ~~any such~~ the order or injunction retains jurisdiction over the action or
9 proceeding. Such civil penalties are in addition to any other penalty or
10 remedy available for the enforcement of the provisions of NRS 598.0903 to
11 598.0997, inclusive ~~and~~, **and section 7 of this act.**

12 2. In any action brought pursuant to NRS ~~598.0979 to 598.099,~~
13 ~~inclusive,~~ **598.0903 to 598.0999, inclusive, and section 7 of this act**, if the
14 court finds that a person has willfully engaged in a deceptive trade practice,
15 the commissioner, the director, the district attorney of any county in this
16 state or the attorney general bringing the action may recover a civil penalty
17 not to exceed \$2,500 for each violation.

18 3. A natural person, firm, or any officer or managing agent of any
19 corporation or association who knowingly and willfully engages in a
20 deceptive trade ~~practice;~~ **practice, other than a deceptive trade practice**
21 **described in section 8 of this act:**

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

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

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

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

30 5. If a person violates any provision of NRS 598.0903 to 598.0999,
31 **inclusive, and section 7 of this act, NRS** 598.100 to 598.280, inclusive,
32 598.281 to 598.289, inclusive, or 598.840 to 598.966, inclusive, **and**
33 **section 8 of this act**, fails to comply with a judgment or order of any court
34 in this state concerning a violation of such a provision, or fails to comply
35 with an assurance of discontinuance or other agreement concerning an
36 alleged violation of such a provision, the commissioner or the district
37 attorney of any county may bring an action in the name of the State of
38 Nevada seeking:

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

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

42 The court may grant or deny the relief sought or may order other
43 appropriate

relief.

1 **Sec. 11.** The amendatory provisions of this act do not apply to
2 offenses that are committed before October 1, 1999.

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