

Assembly Bill No. 152—Committee on Commerce and Labor

CHAPTER.....

AN ACT relating to trade practices; authorizing a court to award reasonable attorney's fees and costs in certain actions relating to deceptive trade practices; providing that certain monopolies and other trade practices are unlawful if they monopolize trade or commerce in this state; 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. NRS 598.0999 is hereby amended to read as follows:

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

2. In any action brought pursuant to NRS 598.0903 to 598.0999, inclusive, if the court finds that a person has willfully engaged in a deceptive trade practice, the commissioner, the director, the district attorney of any county in this state or the attorney general bringing the action may recover a civil penalty not to exceed \$2,500 for each violation. *The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.*

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice, other than a deceptive trade practice described in NRS 598.992:

- (a) For the first offense, is guilty of a misdemeanor.
- (b) For the second offense, is guilty of a gross misdemeanor.
- (c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

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

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, 598.100 to 598.2801, inclusive, 598.281 to 598.289, inclusive, 598.840 to 598.966, inclusive, or 598.992, fails to comply with a judgment or order of any court in this state concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:

- (a) The suspension of the person's privilege to conduct business within this state; or
- (b) If the defendant is a corporation, dissolution of the corporation.

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

Sec. 2. NRS 598A.060 is hereby amended to read as follows:

598A.060 **1.** Every activity enumerated ~~below~~ in this ~~section~~ **subsection** constitutes a contract, combination or conspiracy in restraint of trade, and it is unlawful to conduct any part of any such activity in this state:

~~(1)~~ **(a)** Price fixing, which consists of raising, depressing, fixing, pegging or stabilizing the price of any commodity or service, and which includes, but is not limited to:

~~(a)~~ **(1)** Agreements among competitors to depress prices at which they will buy essential raw material for the end product.

~~(b)~~ **(2)** Agreements to establish prices for commodities or services.

~~(c)~~ **(3)** Agreements to establish uniform discounts, or to eliminate discounts.

~~(d)~~ **(4)** Agreements between manufacturers to price a premium commodity a specified amount above inferior commodities.

~~(e)~~ **(5)** Agreements not to sell below cost.

~~(f)~~ **(6)** Agreements to establish uniform trade-in allowances.

~~(g)~~ **(7)** Establishment of uniform cost surveys.

~~(h)~~ **(8)** Establishment of minimum markup percentages.

~~(i)~~ **(9)** Establishment of single or multiple basing point systems for determining the delivered price of commodities.

~~(j)~~ **(10)** Agreements not to advertise prices.

~~(k)~~ **(11)** Agreements among competitors to fix uniform list prices as a place to start bargaining.

~~(l)~~ **(12)** Bid rigging, including the misuse of bid depositories, foreclosures of competitive activity for a period of time, rotation of jobs among competitors, submission of identical bids, and submission of complementary bids not intended to secure acceptance by the customer.

~~(m)~~ **(13)** Agreements to discontinue a product, or agreements with anyone engaged in the manufacture of competitive lines to limit size, styles or quantities of items comprising the lines.

~~(n)~~ **(14)** Agreements to restrict volume of production.

~~(2)~~ **(b)** Division of markets, consisting of agreements between competitors to divide territories and to refrain from soliciting or selling in certain areas.

~~(3)~~ **(c)** Allocation of customers, consisting of agreements not to sell to specified customers of a competitor.

~~(4)~~ **(d)** Tying arrangements, consisting of contracts in which the seller or lessor conditions the sale or lease of commodities or services on the purchase or leasing of another commodity or service.

(e) Monopolization of trade or commerce in this state, including, without limitation, attempting to monopolize or otherwise combining or conspiring to monopolize trade or commerce in this state.

(f) Except as otherwise provided in subsection 2, consolidation, conversion, merger, acquisition of shares of stock or other equity interest, directly or indirectly, of another person engaged in commerce in this state or the acquisition of any assets of another person engaged in commerce in this state that may:

(1) Result in the monopolization of trade or commerce in this state or would further any attempt to monopolize trade or commerce in this state; or

(2) Substantially lessen competition or be in restraint of trade.

2. The provisions of paragraph (f) of subsection 1 do not:

(a) Apply to a person who, solely for an investment purpose, purchases stock or other equity interest or assets of another person if the purchaser does not use his acquisition to bring about or attempt to bring about the substantial lessening of competition in this state.

(b) Prevent a person who is engaged in commerce in this state from forming a subsidiary corporation or other business organization and owning and holding all or part of the stock or equity interest of that corporation or organization.

Sec. 3. The amendatory provisions of this act do not apply to offenses committed before July 1, 2001.

Sec. 4. This act becomes effective on July 1, 2001.