

ASSEMBLY BILL NO. 204—COMMITTEE ON COMMERCE AND LABOR

FEBRUARY 20, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Provides that failure to comply with certain requirements regarding acceptance of application for credit relating to retail installment transaction is deceptive trade practice. (BDR 52-1091)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: 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; providing that the failure to comply with certain requirements regarding the acceptance of an application for credit relating to a retail installment transaction is a deceptive trade practice; authorizing the rescission of such a transaction for failing to comply with those requirements; 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 598 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2 and 3 of this act.
- 3 **Sec. 2.** *A person engages in a “deceptive trade practice” if, in the*
- 4 *course of his business or occupation, he accepts an application for credit*
- 5 *relating to a retail installment transaction, as defined in NRS 97.115,*
- 6 *which is signed by the applicant in the presence of the person or at any*
- 7 *place where the person conducts his business or occupation, unless:*
- 8 *1. The application:*
- 9 *(a) Includes, next to the space for the signature of the applicant, a*
- 10 *space to indicate the date and time of day when the signature is affixed;*
- 11 *and*
- 12 *(b) Is completed as to all essential provisions before the applicant*
- 13 *affixes his signature, in ink;*
- 14 *2. The information provided by the applicant is:*
- 15 *(a) Handwritten by the applicant;*
- 16 *(b) Typewritten by any person if the applicant affixes his initials next*
- 17 *to each item of information in spaces included on the application for that*
- 18 *purpose; or*
- 19 *(c) Written in any legible form by any person if:*



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1 (1) *The applicant is illiterate or otherwise unable to complete the*
2 *application as a result of any physical or mental impairment; and*

3 (2) *A statement, signed under penalty of perjury by the person who*
4 *completed the application, is included on or attached to the application*
5 *which specifies why the applicant is unable to complete the application*
6 *and attests that the information entered on the application accurately*
7 *reflects the information provided by the applicant; and*

8 3. *The person who accepts the application immediately provides the*
9 *applicant with a copy of the completed application.*

10 **Sec. 3.** 1. *If the recipient of an application for credit relating to a*
11 *retail installment transaction, as defined in NRS 97.115, engages in a*
12 *deceptive trade practice pursuant to section 2 of this act, the applicant*
13 *may, in lieu of any remedy to which he may be entitled pursuant to NRS*
14 *598.0977, commence a civil action pursuant to this section in which he is*
15 *entitled to rescind the transaction and recover:*

16 (a) *Restitution for any money or property obtained by the retail seller*
17 *pursuant to the transaction; and*

18 (b) *His costs in the action and reasonable attorney's fees.*

19 2. *The collection of any restitution awarded pursuant to this section*
20 *has a priority over the collection of any civil penalty imposed pursuant to*
21 *NRS 598.0973.*

22 **Sec. 4.** NRS 598.0903 is hereby amended to read as follows:
23 598.0903 As used in NRS 598.0903 to 598.0999, inclusive, *and*
24 *sections 2 and 3 of this act*, unless the context otherwise requires, the
25 words and terms defined in NRS 598.0905 to 598.0947, inclusive, *and*
26 *section 2 of this act* have the meanings ascribed to them in those sections.

27 **Sec. 5.** NRS 598.0953 is hereby amended to read as follows:

28 598.0953 1. Evidence that a person has engaged in a deceptive trade
29 practice is prima facie evidence of intent to injure competitors and to
30 destroy or substantially lessen competition.

31 2. The deceptive trade practices listed in NRS 598.0915 to 598.0925,
32 inclusive, *and section 2 of this act* are in addition to and do not limit the
33 types of unfair trade practices actionable at common law or defined as such
34 in other statutes of this state.

35 **Sec. 6.** NRS 598.0977 is hereby amended to read as follows:

36 598.0977 If an elderly or disabled person suffers damage or injury as a
37 result of a deceptive trade practice, he or his legal representative, if any,
38 may , *in lieu of any remedy to which he may be entitled pursuant to*
39 *section 3 of this act*, commence a civil action against any person who
40 engaged in the practice to recover the actual damages suffered by the
41 elderly or disabled person, punitive damages, if appropriate, and reasonable
42 attorney's fees. The collection of any restitution awarded pursuant to this
43 section has a priority over the collection of any civil penalty imposed
44 pursuant to NRS 598.0973.

45 **Sec. 7.** NRS 598.0989 is hereby amended to read as follows:

46 598.0989 Any action brought pursuant to NRS 598.0963 or 598.0977
47 to 598.099, inclusive, *and section 3 of this act* may be brought:

48 1. In a district court in the county in which the defendant resides or has
49 his principal place of business;



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- 1 2. In the district court in Carson City if the parties consent thereto; or
- 2 3. In the district court in any county where a deceptive trade practice
- 3 has occurred.

4 Any court in which an action is brought pursuant to those sections may
5 issue any temporary or permanent injunction in accordance with the
6 Nevada Rules of Civil Procedure to restrain and prevent any violation of
7 any provisions of NRS 598.0903 to 598.0999, inclusive, *and sections 2*
8 *and 3 of this act* and such injunctions must be issued without bond.

9 **Sec. 8.** NRS 97.285 is hereby amended to read as follows:
10 97.285 ~~The~~

11 *1. Except as otherwise provided in subsection 2, the* provisions of this
12 chapter governing retail installment transactions are exclusive, and the
13 provisions of any other statute do not apply to retail installment
14 transactions governed by this chapter. If there is a conflict between the
15 provisions of this chapter and any other statute, the provisions of this
16 chapter control.

17 *2. The provisions of sections 2 and 3 of this act apply to retail*
18 *installment transactions governed by this chapter.*

19 **Sec. 9.** NRS 97.299 is hereby amended to read as follows:

20 97.299 1. The commissioner of financial institutions shall prescribe,
21 by regulation, forms for the application for credit and contracts to be used
22 in the sale of vehicles if:

23 (a) The sale involves the taking of a security interest to secure all or a
24 part of the purchase price of the vehicle;

25 (b) The application for credit is made to or through the seller of the
26 vehicle;

27 (c) The seller is a dealer; and

28 (d) The sale is not a commercial transaction.

29 2. The forms prescribed pursuant to subsection 1 must meet the
30 requirements of NRS 97.165 ~~+~~ *and include any items required to avoid*
31 *the commission of a deceptive trade practice pursuant to section 2 of this*
32 *act*, must be accepted and acted upon by any lender to whom the
33 application for credit is made and, in addition to the information required
34 in NRS 97.185 and required to be disclosed in such a transaction by federal
35 law, must:

36 (a) Identify and itemize the items embodied in the cash sale price,
37 including the amount charged for a contract to service the vehicle after it is
38 purchased.

39 (b) In specifying the amount of the buyer's down payment, identify the
40 amounts paid in money and allowed for property given in trade and the
41 amount of any manufacturer's rebate applied to the down payment.

42 (c) Contain a description of any property given in trade as part of the
43 down payment.

44 (d) Contain a description of the method for calculating the unearned
45 portion of the finance charge upon prepayment in full of the unpaid total of
46 payments as prescribed in NRS 97.225.

47 (e) Include the following notice in at least 10-point bold type:



NOTICE TO BUYER

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2
3 Do not sign this agreement before you read it or if it contains any
4 blank spaces. You are entitled to a completed copy of this agreement.
5 If you pay the amount due before the scheduled date of maturity of the
6 indebtedness and you are not in default in the terms of the contract for
7 more than 2 months, you are entitled to a refund of the unearned
8 portion of the finance charge. If you fail to perform your obligations
9 under this agreement, the vehicle may be repossessed and you may be
10 liable for the unpaid indebtedness evidenced by this agreement.
11
12 3. If a change in state or federal law requires the commissioner to
13 amend the forms prescribed pursuant to subsection 1, the commissioner
14 need not comply with the provisions of chapter 233B of NRS when making
15 those amendments.
16 4. As used in this section:
17 (a) “Commercial transaction” means any sale of a vehicle to a buyer
18 who purchases the vehicle solely or primarily for commercial use or resale.
19 (b) “Dealer” has the meaning ascribed to it in NRS 482.020.

