

ASSEMBLY BILL NO. 337—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF OFFICE OF THE ATTORNEY GENERAL)

MARCH 13, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to deceptive trade practices. (BDR 52-484)

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 deceptive trade practices; expanding the definition of “deceptive trade practice” to include a person who engages in certain acts during a solicitation by telephone or sales presentation; 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 598 of NRS is hereby amended by adding thereto a
2 new section to read as follows:
3 *A person engages in a “deceptive trade practice” if during a*
4 *solicitation by telephone or sales presentation, he:*
5 1. *Uses threatening, intimidating, profane or obscene language;*
6 2. *Repeatedly or continuously conducts the solicitation or*
7 *presentation in a manner that is considered by a reasonable person to be*
8 *annoying, abusive or harassing;*
9 3. *Makes or causes to be made an unsolicited telephone call to the*
10 *telephone number of any residential or mobile telephone or telephonic*
11 *device for paging if the telephone number is included on a list of persons*
12 *who do not wish to receive unsolicited telephone calls that is prepared*
13 *and maintained by the consumer affairs division of the department of*
14 *business and industry in accordance with regulations adopted by the*
15 *division;*
16 4. *Solicits a person by telephone at his residence between 9 p.m. and*
17 *9 a.m.; or*
18 5. *Blocks or otherwise circumvents any service used to identify the*
19 *caller when placing an unsolicited telephone call.*



1 **Sec. 2.** NRS 598.0903 is hereby amended to read as follows:
2 598.0903 As used in NRS 598.0903 to 598.0999, inclusive, *and*
3 *section 1 of this act*, unless the context otherwise requires, the words and
4 terms defined in NRS 598.0905 to 598.0947, inclusive, *and section 1 of*
5 *this act* have the meanings ascribed to them in those sections.

6 **Sec. 3.** NRS 598.0967 is hereby amended to read as follows:
7 598.0967 1. The commissioner and the director, in addition to *any*
8 other powers conferred upon them by NRS 598.0903 to 598.0999,
9 inclusive, may issue subpoenas to require the attendance of witnesses or
10 the production of documents, conduct hearings in aid of any investigation
11 or inquiry and prescribe such forms and , *except as otherwise provided in*
12 *subsection 3 of section 1 of this act*, adopt such regulations as may be
13 necessary to administer the provisions of NRS 598.0903 to 598.0999,
14 inclusive. ~~{Such}~~ *The* regulations may include, without limitation,
15 provisions concerning the applicability of the provisions of NRS 598.0903
16 to 598.0999, inclusive, to particular persons or circumstances.

17 2. Service of any notice or subpoena must be made as provided in
18 N.R.C.P. 45(c).

19 **Sec. 4.** NRS 598.0999 is hereby amended to read as follows:
20 598.0999 1. A person who violates a court order or injunction issued
21 pursuant to *the provisions of* NRS 598.0903 to ~~{598.0997}~~ *598.0999*,
22 inclusive, *and section 1 of this act* upon a complaint brought by the
23 commissioner, the director, the district attorney of any county of this state
24 or the attorney general shall forfeit and pay to the state general fund a civil
25 penalty of not more than \$10,000 for each violation. For the purpose of this
26 section, the court issuing the order or injunction retains jurisdiction over
27 the action or proceeding. Such civil penalties are in addition to any other
28 penalty or remedy available for the enforcement of the provisions of NRS
29 598.0903 to ~~{598.0997, inclusive}~~ *598.0999, inclusive, and section 1 of*
30 *this act*.

31 2. In any action brought pursuant to *the provisions of* NRS 598.0903
32 to 598.0999, inclusive, *and section 1 of this act*, if the court finds that a
33 person has willfully engaged in a deceptive trade practice, the
34 commissioner, the director, the district attorney of any county in this state
35 or the attorney general bringing the action may recover a civil penalty not
36 to exceed \$2,500 for each violation.

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

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

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



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- 1 5. If a person violates any provision of NRS 598.0903 to 598.0999,
2 inclusive, *and section 1 of this act*, 598.100 to 598.2801, inclusive,
3 598.281 to 598.289, inclusive, 598.840 to 598.966, inclusive, or 598.992,
4 fails to comply with a judgment or order of any court in this state
5 concerning a violation of such a provision, or fails to comply with an
6 assurance of discontinuance or other agreement concerning an alleged
7 violation of such a provision, the commissioner or the district attorney of
8 any county may bring an action in the name of the State of Nevada
9 seeking:
- 10 (a) The suspension of the person's privilege to conduct business within
11 this state; or
- 12 (b) If the defendant is a corporation, dissolution of the corporation.
- 13 The court may grant or deny the relief sought or may order other
14 appropriate relief.
- 15 **Sec. 5.** The administrator of the consumer affairs division of the
16 department of business and industry shall, on or before January 1, 2002,
17 adopt regulations to carry out the provisions of subsection 3 of section 1 of
18 this act.
- 19 **Sec. 6.** The provisions of this act do not apply to offenses committed
20 before July 1, 2001.
- 21 **Sec. 7.** This act becomes effective on July 1, 2001.

