

ASSEMBLY BILL NO. 439—ASSEMBLYMAN BROWER

MARCH 19, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to solicitation by telephone. (BDR 52-1263)

FISCAL NOTE: Effect on Local Government: No.
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 solicitation by telephone; requiring the establishment of a registry of consumers who do not wish to receive unsolicited telephone calls for the sale of goods or services; 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 599B 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. 1.** *The commissioner shall establish and maintain or cause*
4 *to be established and maintained, a registry that includes the names of*
5 *consumers in this state who do not wish to receive unsolicited telephone*
6 *calls for the sale of goods or services. The commissioner may contract for*
7 *the establishment and maintenance of the registry. The registry must be*
8 *revised at least quarterly and be available to a seller for a fee established*
9 *by the commissioner.*
- 10 2. *The commissioner shall provide to the consumers in this state*
11 *information concerning the establishment of the registry, including*
12 *information concerning the procedure for requesting inclusion in the*
13 *registry.*
- 14 3. *A consumer who wishes to be included in the registry may notify*
15 *the commissioner by a toll-free telephone number provided by the*
16 *commissioner or any other method authorized by the commissioner. A*
17 *consumer who wishes to have his name removed from the registry must*
18 *submit a written request to the commissioner.*
- 19 **Sec. 3.** *A person who publishes telephone directories for distribution*
20 *to the general public in this state shall ensure that each telephone*
21 *directory includes a statement of the provisions of sections 2, 3 and 4 of*
22 *this act.*



1 **Sec. 4. 1.** *Except as otherwise provided in subsection 2, a seller*
2 *shall not make an unsolicited telephone call for the sale of goods or*
3 *services to a consumer whose name has been included in the registry for*
4 *30 days or more.*

5 **2.** *The attorney general shall not institute a legal proceeding against*
6 *a seller who violates the provisions of subsection 1 if the seller provides*
7 *proof that the telephone call was made in error and that the seller:*

8 *(a) Obtained a copy of the registry and established written policies and*
9 *procedures concerning the provisions of sections 2, 3 and 4 of this act;*

10 *(b) Provided training to his employees concerning the provisions of*
11 *sections 2, 3 and 4 of this act; and*

12 *(c) Maintained records evidencing compliance with the provisions of*
13 *paragraphs (a) and (b).*

14 **Sec. 5.** NRS 599B.025 is hereby amended to read as follows:

15 599B.025 1. The attorney general may adopt regulations establishing
16 standards of conduct for registrants and any other regulations necessary to
17 exercise the powers and carry out the duties of the attorney general as set
18 forth in this chapter.

19 2. The commissioner and the attorney general shall jointly adopt rules
20 of practice establishing a procedure for processing complaints received
21 concerning sellers and salesmen, whether or not the sellers and salesmen
22 are registered pursuant to this chapter. The rules of practice:

23 (a) Must provide for the sharing of information and for the initial review
24 of complaints by the attorney general before mediation by the
25 commissioner; and

26 (b) May provide procedures for mediation by the commissioner after
27 initial review by the attorney general.

28 3. The commissioner may adopt ~~rules~~ :

29 **(a)** *Regulations to carry out the provisions of sections 2, 3 and 4 of*
30 *this act; and*

31 **(b)** *Rules* of practice necessary to administer and carry out the
32 provisions of this chapter pertaining to the registration of sellers and
33 salesmen. The rules of practice must not restrict the powers and duties of
34 the attorney general as set forth in this chapter.

35 **Sec. 6.** NRS 599B.255 is hereby amended to read as follows:

36 599B.255 1. Except as otherwise provided in NRS 599B.213, the
37 attorney general or the district attorney of any county in this state may
38 prosecute a person who willfully violates, either directly or indirectly, the
39 provisions of this chapter ~~§~~, *except sections 2, 3 and 4 of this act.* Except
40 as otherwise provided in subsection 3, such a person:

41 (a) For the first offense within 10 years, is guilty of a misdemeanor.

42 (b) For the second offense within 10 years, is guilty of a gross
43 misdemeanor.

44 (c) For the third and all subsequent offenses within 10 years, is guilty of
45 a category D felony and shall be punished as provided in NRS 193.130, or
46 by a fine of not more than \$50,000, or by both fine and the punishment
47 provided in NRS 193.130.

48 2. Any offense which occurs within 10 years immediately preceding
49 the date of the principal offense or after the principal offense constitutes a



1 prior offense for the purposes of subsection 1 when evidenced by a
2 conviction, without regard to the sequence of the offenses and convictions.

3 3. A person who violates any provision of NRS 599B.080 is guilty of a
4 category D felony and shall be punished as provided in NRS 193.130, or
5 by a fine of not more than \$50,000, or by both fine and the punishment
6 provided in NRS 193.130.

7 4. Property or proceeds attributable to any violation pursuant to the
8 provisions of this section are subject to forfeiture in the manner provided
9 by NRS 179.1156 to 179.121, inclusive.

10 **Sec. 7.** This act becomes effective upon passage and approval for the
11 purpose of adopting regulations and on October 1, 2001, for all other
12 purposes.

