

ASSEMBLY BILL NO. 627—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF DEPARTMENT OF BUSINESS AND
INDUSTRY—CONSUMER AFFAIRS)

MARCH 26, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to trade practices. (BDR 52-554)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: No.

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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; expanding the definition of “deceptive trade practice” to include certain advertising practices relating to goods or services; revising the provisions governing certificates of registration issued to certain registrants by the consumer affairs division of the department of business and industry; requiring the renewal of those certificates of registration; increasing the amount of the security that certain dance studios and health clubs are required to deposit with the consumer affairs division; 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 a
2 new section to read as follows:
3 ***1. In a county whose population is 400,000 or more, a person who:***
4 ***(a) Is a licensee, owner or employee of a business entity that is***
5 ***licensed to operate an adult cabaret, erotic dance establishment or adult***
6 ***night club; and***
7 ***(b) While performing duties associated with the business entity, pays***
8 ***or offers to pay remuneration of any kind, including, without limitation,***
9 ***cash or services, to the owner or driver of a taxicab, limousine or bus***
10 ***containing 21 or fewer passengers, or to an agent of the owner or driver,***
11 ***for taking or attempting to take a passenger to a location other than the***
12 ***destination requested by the passenger,***
13 ***is liable for a civil penalty as provided by subsection 2.***
14 ***2. In any action brought pursuant to this section, if the court finds***
15 ***that the licensee or owner of a business entity engaged in an act***



- 1 *described in subsection 1, or his employee engaged in an act described in*
2 *subsection 1, the licensee or owner is subject only to a civil penalty of:*
3 *(a) For the first violation, not less than \$500 and not more than*
4 *\$1,000;*
5 *(b) For the second violation, not less than \$1,000 and not more than*
6 *\$5,000; and*
7 *(c) For the third and subsequent violations, not less than \$5,000 and*
8 *not more than \$10,000.*
9 *3. If the violation of subsection 1 is the third or subsequent violation*
10 *and if:*
11 *(a) The violation was committed by the licensee or owner of the*
12 *business entity; or*
13 *(b) The violation was committed by an employee of the licensee or*
14 *owner, and the court determines that the licensee or owner knew or*
15 *should have known that the employee engaged in the act constituting the*
16 *violation,*
17 *the court may order, in writing, all applicable licensing authorities to*
18 *suspend the license of the business entity for a period of not more than 6*
19 *months.*
20 *4. Upon receiving an order from the court pursuant to subsection 3,*
21 *a licensing authority shall suspend the license of the licensee for the*
22 *period specified in the order.*
23 *5. An action for the enforcement of a civil penalty pursuant to this*
24 *section may be brought in any court of competent jurisdiction by the*
25 *district attorney of any county whose population is 400,000 or more, or*
26 *the attorney general.*
27 *6. As used in this section:*
28 *(a) "License" means a business license to operate an adult cabaret,*
29 *erotic dance establishment or adult night club.*
30 *(b) "Licensee" means the person to whom a license is issued.*
31 *(c) "Licensing authority" means a local government that licenses*
32 *adult cabarets, erotic dance establishments or adult night clubs.*
33 **Sec. 2.** NRS 598.0915 is hereby amended to read as follows:
34 598.0915 A person engages in a "deceptive trade practice" if, in the
35 course of his business or occupation, he:
36 1. Knowingly passes off goods or services for sale or lease as those of
37 another ~~§~~ *person.*
38 2. Knowingly makes a false representation as to the source,
39 sponsorship, approval or certification of goods or services for sale or lease.
40 3. Knowingly makes a false representation as to affiliation, connection,
41 association with or certification by another ~~§~~ *person.*
42 4. Uses deceptive representations or designations of geographic origin
43 in connection with goods or services for sale or lease.
44 5. Knowingly makes a false representation as to the characteristics,
45 ingredients, uses, benefits, alterations or quantities of goods or services for
46 sale or lease or a false representation as to the sponsorship, approval,
47 status, affiliation or connection of a person therewith.



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- 1 6. Represents that goods for sale or lease are original or new if he
2 knows or should know that they are deteriorated, altered, reconditioned,
3 reclaimed, used or secondhand.
- 4 7. Represents that goods or services for sale or lease are of a particular
5 standard, quality or grade, or that such goods are of a particular style or
6 model, if he knows or should know that they are of another ~~+~~ *standard,*
7 *quality, grade, style or model.*
- 8 8. Disparages the goods, services or business of another *person* by
9 false or misleading representation of fact.
- 10 9. Advertises goods or services with intent not to sell or lease them as
11 advertised.
- 12 10. Advertises goods or services for sale or lease with intent not to
13 supply reasonably expectable public demand, unless the advertisement
14 discloses a limitation of quantity.
- 15 11. *Advertises goods or services for sale or lease at wholesale prices*
16 *with intent to sell or lease the goods or services to the general public.*
- 17 12. *Advertises goods or services as being available free of charge*
18 *with intent to require payment of undisclosed costs as a condition of*
19 *receiving the goods or services.*
- 20 13. Advertises under the guise of obtaining sales personnel when ~~the~~
21 ~~fact~~ the purpose is to first sell or lease goods or services to the sales
22 personnel applicant.
- 23 ~~12.~~ 14. Makes false or misleading statements of fact concerning the
24 price of goods or services for sale or lease, or the reasons for, existence of
25 or amounts of price reductions.
- 26 ~~13.~~ 15. Fraudulently alters any contract, written estimate of repair,
27 written statement of charges or other document in connection with the sale
28 or lease of goods or services.
- 29 ~~14.~~ 16. Knowingly makes any other false representation in a
30 transaction.
- 31 **Sec. 3.** NRS 598.0999 is hereby amended to read as follows:
32 598.0999 1. A person who violates a court order or injunction issued
33 pursuant to NRS 598.0903 to ~~598.0997~~ *598.0999*, inclusive, upon a
34 complaint brought by the commissioner, the director, the district attorney
35 of any county of this state or the attorney general shall forfeit and pay to
36 the state general fund a civil penalty of not more than \$10,000 for each
37 violation. For the purpose of this section, the court issuing the order or
38 injunction retains jurisdiction over the action or proceeding. Such civil
39 penalties are in addition to any other penalty or remedy available for the
40 enforcement of the provisions of NRS 598.0903 to ~~598.0997~~ *598.0999*,
41 inclusive.
- 42 2. In any action brought pursuant to NRS 598.0903 to 598.0999,
43 inclusive, if the court finds that a person has willfully engaged in a
44 deceptive trade practice, the commissioner, the director, the district
45 attorney of any county in this state or the attorney general bringing the
46 action may recover a civil penalty not to exceed \$2,500 for each violation.
- 47 3. A natural person, firm, or any officer or managing agent of any
48 corporation or association who knowingly and willfully engages in a



1 deceptive trade practice : ~~for other than a deceptive trade practice described~~
2 ~~in NRS 598.992.~~

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

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

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

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

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

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

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

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

25 **Sec. 4.** NRS 598.2806 is hereby amended to read as follows:

26 598.2806 1. Each credit service organization, organization for
27 buying goods or services at a discount, dance studio and health club
28 regulated by the provisions of this chapter shall apply for registration on
29 the form prescribed by the division.

30 2. At the time of application for registration, the applicant ~~shall~~ **must**
31 pay to the division an administrative fee of \$25 and deposit the required
32 security with the division.

33 3. Upon receipt of the security in the proper form and the payment of
34 the administrative fee required by this section, the division shall issue a
35 certificate of registration to the applicant. A certificate of registration ~~is~~ :

36 (a) **Is** not transferable or assignable ~~is~~ ; and

37 (b) **Expires 1 year after it is issued.**

38 4. ***A registrant must renew a certificate of registration issued***
39 ***pursuant to this section before the certificate expires by submitting to the***
40 ***division an application for the renewal of the certificate on a form***
41 ***prescribed by the division.***

42 **Sec. 5.** NRS 598.2808 is hereby amended to read as follows:

43 598.2808 1. The security required to be deposited by a registrant
44 pursuant to NRS 598.2807 must be held in trust for consumers injured by
45 the bankruptcy of the registrant or the registrant's breach of any agreement
46 entered into in his capacity as a registrant.

47 2. A consumer so injured may bring and maintain an action in any
48 court of competent jurisdiction to recover against the security.



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1 3. The division may bring an action for interpleader against all
2 claimants upon the security. If the division brings such an action, the
3 division shall publish notice of the action at least once each week for 2
4 weeks in a newspaper of general circulation in the county in which the
5 organization has its principal place of business. The division may deduct its
6 costs of the action, including the costs of the publication of the notice, from
7 the amount of the security. All claims against the security have equal
8 priority. If the security is insufficient to pay all the claims in full, the
9 claims must be paid pro rata. If the registrant has posted a bond with the
10 division, the surety is then relieved of all liability under the bond.

11 4. The division may, in lieu of bringing an action for interpleader
12 pursuant to subsection 3, conduct a hearing to determine the distribution of
13 the security to claimants. The division shall adopt regulations to provide
14 for adequate notice and the conduct of the hearing. If the registrant has
15 posted a bond with the division, distribution pursuant to this subsection
16 relieves the surety of all liability under the bond.

17 *5. If the security is sufficient to pay all claims against the security in*
18 *full, the division may deduct from the amount of the security, the cost of*
19 *any investigation or hearing it conducted to determine the distribution of*
20 *the security.*

21 **Sec. 6.** NRS 598.946 is hereby amended to read as follows:

22 598.946 1. ~~Except as otherwise provided in subsection 5, before~~
23 *Before* advertising its services or conducting business in this state, the
24 owner of a dance studio or a health club must register pursuant to NRS
25 598.2806 and 598.944 and deposit security with the division pursuant to
26 NRS 598.2807. The security must be conditioned on compliance by the
27 owner with the provisions of NRS 598.940 to 598.966, inclusive, and the
28 terms of the contract with a buyer.

29 2. Except as otherwise provided in subsection 3, the amount of the
30 security to be deposited must be:

31 (a) Ten thousand dollars, if the dance studio or health club has less than
32 400 members;

33 (b) Fifteen thousand dollars, if the dance studio or health club has 400
34 members or more but less than 800 members;

35 (c) Twenty thousand dollars, if the dance studio or health club has 800
36 members or more but less than 1,200 members;

37 (d) Twenty-five thousand dollars, if the dance studio or health club has
38 1,200 members or more but less than 1,500 members;

39 (e) Thirty-five thousand dollars, if the dance studio or health club has
40 1,500 members or more but less than 4,000 members; ~~and~~

41 (f) Fifty thousand dollars, if the dance studio or health club has 4,000
42 *members* or more *but less than 25,000* members ~~+~~; *and*

43 *(g) Two hundred and fifty thousand dollars, if the dance studio or*
44 *health club has 25,000 or more members.*

45 3. If a dance studio or health club conducts any pre-sale of dance
46 lessons, the use of facilities or other services, the amount of the security
47 required by this section is \$100,000 ~~+~~ *unless a greater amount is*
48 *required pursuant to paragraph (g) of subsection 2.*



- 1 4. A dance studio or health club shall report to the division on a
2 quarterly basis the size of its membership and shall, on the basis of any
3 change in the size of that membership, adjust accordingly the amount of
4 the security deposited with the division.
- 5 5. If , *on July 1, 2001*, a dance studio or health club has actively
6 conducted business for not less than 4 consecutive years and has not
7 changed ownership or, in the case of a corporation, not more than 25
8 percent of its authorized shares have been transferred, it is not required to
9 deposit security with the division pursuant to NRS 598.2807. If a dance
10 studio or health club does not deposit such security, it shall obtain a written
11 acknowledgment from each member and prominently post a notice on its
12 premises stating that no security for refunds or reimbursement has been
13 deposited with the State of Nevada.
- 14 **Sec. 7.** NRS 598.992 is hereby repealed.
- 15 **Sec. 8.** 1. Notwithstanding the provisions of section 4 of this act, a
16 registrant that:
- 17 (a) Is doing business in this state; and
18 (b) Has a certificate of registration that was issued by the division
19 pursuant to NRS 598.2806 before October 1, 2000,
20 must submit to the division an application for the renewal of the certificate
21 of registration on a form prescribed by the division not later than
22 October 1, 2001.
- 23 2. A registrant that:
- 24 (a) Is doing business in this state; and
25 (b) Has a certificate of registration that was issued by the division
26 pursuant to NRS 598.2806 on or after October 1, 2000,
27 must submit to the division an application for the renewal of the certificate
28 of registration on a form prescribed by the division not later than 1 year
29 after the certificate of registration was issued by the division.
- 30 3. As used in this section, "registrant" has the meaning ascribed to it in
31 NRS 598.2805.
- 32 **Sec. 9.** This act becomes effective on July 1, 2001.

TEXT OF REPEALED SECTION

598.992 Adult cabarets, erotic dance establishments and adult night clubs in certain counties: Attempting to divert specified passengers to unrequested destination constitutes deceptive trade practice; penalties; suspension of license.

1. In a county whose population is 400,000 or more, a person who:
- (a) Is a licensee, owner or employee of a business entity that is licensed to operate an adult cabaret, erotic dance establishment or adult night club; and
- (b) While performing duties associated with the business entity, pays or offers to pay remuneration of any kind, including, without limitation, cash or services, to the owner or driver of a taxicab, limousine or bus containing



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

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

- (a) For the first violation, not less than \$500 and not more than \$1,000;
- (b) For the second violation, not less than \$1,000 and not more than \$5,000; and
- (c) For the third and subsequent violations, not less than \$5,000 and not more than \$10,000.

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

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

(b) The violation was committed by an employee of the licensee or owner, and the director determines that the licensee or owner knew or should have known that the employee engaged in the act constituting the violation,

the director shall order, in writing, all applicable licensing authorities to suspend the license of the business entity for a period of not more than 6 months.

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

5. As used in this section:

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

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

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

