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ASSEMBLY BILL NO. 343--ASSEMBLYMAN CARPENTER
(BY REQUEST)

MARCH 17, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes related to sellers of travel.
(BDR 52-881)

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

EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be
omitted.

Green numbers along left margin indicate location on the printed bill (e.g., 11 indicates page 5, line 15).

AN ACT relating to sellers of travel; requiring a seller of travel to include his registration number in his advertising; requiring a seller of travel to maintain a trust account for money received for the purchase of travel services; revising the definition of “seller of travel”; requiring the Division to mail to a seller of travel an application for the renewal of his certificate before the expiration of his current certificate; allowing a seller of travel to comply with certain financial security requirements by maintaining a specified policy of insurance; providing an exclusion from certain financial security requirements; 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. Chapter 598 of NRS is hereby amended by adding

R-10P 10

ASSEMBLY COMMERCE & LABOR
DATE: 4/1/03 ROOM: 4100 EXHIBIT R
SUBMITTED BY: LISA FOSTER

1-2 thereto the provisions set forth as sections 2 and 3 of this act.

1-3 **Sec. 2. A seller of travel shall include the registration**
1-4 **number from his or their certificate of registration in any**
1-5 **advertising**

1-5 **conducted by, or on the behalf of, the seller of travel.**

1-6 **Sec. 3. Instead of depositing the forms of security specified**
in Section 8 of this act, a seller of travel may satisfy the
security requirement by establishing a trust account for
payments for the purchase of travel services as follows:

1-7
1-8 **1. The A seller of travel shall maintain the trust account**
1-9 **in a bank, credit union or savings and loan association in this**
state for the purpose of depositing money paid to the seller of
travel by a person for the purchase of travel services.

2-1 **2. The seller of travel shall deposit all money received by the**
2-2 **seller of travel from a person for the purchase of travel services**
2-3 **into the trust account within 3 business days after receiving the**
2-4 **money.**

2-5 **3. The seller of travel shall pay out of the trust account the**
2-6 **money paid by a person for the purchase of travel services as**
2-7 **needed to complete the purchase of travel services purchased by**
2-8 **the person.**

2-9 **Sec. 4.** NRS 598.0999 is hereby amended to read as follows:

2-10 598.0999 1. A person who violates a court order or
2-11 injunction issued pursuant to the provisions of NRS 598.0903 to
2-12 598.0999, inclusive, upon a complaint brought by the
2-13 Commissioner, the Director, the district attorney of any county
2-14 of
2-15 this state or the Attorney General shall forfeit and pay to the
2-16 State
2-17 General Fund a civil penalty of not more than \$10,000 for each
2-18 violation. For the purpose of this section, the court issuing the
2-19 order
2-20 or injunction retains jurisdiction over the action or proceeding.
Such
2-21 civil penalties are in addition to any other penalty or remedy
2-22 available for the enforcement of the provisions of NRS 598.0903
2-23 to
2-24 598.0999, inclusive.

2-25 2. In any action brought pursuant to the provisions of NRS
2-26 598.0903 to 598.0999, inclusive, if the court finds that a person
has
2-27 willfully engaged in a deceptive trade practice, the
2-28 Commissioner,
2-29 the Director, the district attorney of any county in this state or
2-30 the
2-31 Attorney General bringing the action may recover a civil penalty
2-32 not
2-33 to exceed \$2,500 for each violation. The court in any such action

2-27 may, in addition to any other relief or reimbursement, award
2-28 reasonable attorney's fees and costs.

2-29 3. A natural person, firm, or any officer or managing agent of
2-30 any corporation or association who knowingly and willfully
engages

2-31 in a deceptive trade practice:

2-32 (a) For the first offense, is guilty of a misdemeanor.

2-33 (b) For the second offense, is guilty of a gross misdemeanor.

2-34 (c) For the third and all subsequent offenses, is guilty of a
2-35 category D felony and shall be punished as provided in
2-36 NRS 193.130.

2-37 4. Any offense which occurred within 10 years immediately
2-38 preceding the date of the principal offense or after the principal
2-39 offense constitutes a prior offense for the purposes of subsection
3

2-40 when evidenced by a conviction, without regard to the sequence
of

2-41 the offenses and convictions.

2-42 5. If a person violates any provision of NRS 598.0903 to
2-43 598.0999, inclusive, 598.100 to 598.2801, inclusive, 598.305
2-44 to 598.395, inclusive, *and sections 2 and 3 of this act*, 598.405
to

2-45 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to

3-1 598.966, inclusive, fails to comply with a judgment or order of
any

3-2 court in this state concerning a violation of such a provision, or
fails

3-3 to comply with an assurance of discontinuance or other
agreement

3-4 concerning an alleged violation of such a provision, the

3-5 Commissioner or the district attorney of any county may bring an
3-6 action in the name of the State of Nevada seeking:

3-7 (a) The suspension of the person's privilege to conduct business
3-8 within this state; or

3-9 (b) If the defendant is a corporation, dissolution of the
3-10 corporation.

3-11 The court may grant or deny the relief sought or may order other
3-12 appropriate relief.

3-13 **Sec. 5.** NRS 598.305 is hereby amended to read as follows:

3-14 598.305 As used in NRS 598.305 to 598.395, inclusive, *and*
3-15 *sections 2 and 3 of this act*, unless the context otherwise
requires,

3-16 the words and terms defined in NRS 598.315 to 598.356,
inclusive,

3-17 have the meanings ascribed to them in those sections.

3-18 **Sec. 6.** NRS 598.335 is hereby amended to read as follows:

3-19 598.335 "Seller of travel" means a natural person or,
including, without

3-20 *limitation, a business entity, who*~~that~~ offers for sale, directly or
3-21 indirectly, transportation by air, land, rail or water, travel
services,

3-22 vacation certificates or any combination thereof, to a person or
3-23 group of persons for a fee, commission or other valuable
3-24 consideration. The term:

3-25 1. Includes any person who offers membership in a travel
club

3-26 or any services related to travel for an advance fee ~~for payment.~~

3-27 *payment or deposit.*

3-28 2. Does not include:

3-29 (a) *A person who:*

3-30 (1) *Contracts with or is employed by a seller of travel to*
3-31 *sell travel services on*
3-32 *behalf of the seller of travel;*

3-33 (2) *Receives compensation for selling the travel services*
3-34 *only from the seller of travel; and*

3-35 (3) *Requires a purchaser of travel services to pay for the*
3-36 *travel services by transmitting payment directly to the provider*
3-37 *of*
3-38 *the travel services or the seller of travel;*

3-39 (b) *A hotel that provides or arranges travel services for its*
3-40 *patrons or guests;*

3-41 ~~[(b)]~~ (c) *A person who, for compensation, transports persons*
3-42 *or*

3-43 *property by air, land, rail or water; or*

3-44 ~~[(c)]~~ (d) *A tour broker or tour operator who is subject to the*
3-45 *provisions of NRS 598.405 to 598.525, inclusive.*

4-1 **Sec. 7.** NRS 598.365 is hereby amended to read as follows:

4-2 598.365 1. Before advertising its services or conducting
4-3 business in this state, a seller of travel must register with the
4-4 Division by:

4-5 (a) Submitting to the Division an application for registration on
4-6 a form prescribed by the Division;

4-7 (b) Paying to the Division a fee of \$25; and

4-8 (c) Depositing the security required pursuant to NRS 598.375, if
4-9 any, with the Division, or establishing a trust account meeting
4-10 the requirements of Section 3 of this act.

4-10 2. The Division shall issue a certificate of registration to the
4-11 seller of travel upon receipt of:

4-12 (a) The security in the proper form if the seller of travel is
4-13 required to deposit security pursuant to NRS 598.375; and

4-14 (b) The payment of the fee required by this section.

4-15 3. A certificate of registration:

4-16 (a) Is not transferable or assignable; and

4-17 (b) Expires 1 year after it is issued.

4-18 4. A seller of travel must renew a certificate of registration
4-19 issued pursuant to this section before the certificate expires by:

4-20 (a) Submitting to the Division an application for the renewal
4-21 of

4-21 the certificate on a form prescribed by the Division; and

4-22 (b) Paying to the Division a fee of \$25.

4-23 5. *The Division shall mail an application for the renewal of*
4-24 *a*

4-24 *certificate to the last known address of a seller of travel at least*
4-25 *30*

4-25 *days before the expiration of the certificate.*

4-26 6. *The provisions of this section do not require a person*
4-27 *described in paragraph (a) of subsection 2 of NRS 598.335 to*
4-28 *register with the Division.*

4-29 **Sec. 8.** NRS 598.375 is hereby amended to read as follows:

4-30 598.375 1. Except as otherwise provided in subsection 8,
4-31 each seller of travel shall deposit with the Division:

- 8
- 4-32 (a) A bond executed by a corporate surety approved by the
4-33 Commissioner and licensed to do business in this state;
- 4-34 (b) An irrevocable letter of credit for which the seller of travel
is
4-35 the obligor, issued by a bank whose deposits are federally
insured;
- 4-36 ~~or~~
- 4-37 (c) *Written proof that the seller of travel maintains a policy
of
4-38 insurance covering liability for errors and omissions of the
seller
4-39 of travel for activities relating to the provisions of NRS 598.305
to
4-40 598.395, inclusive, and sections 2 and 3 of this act; ~~or~~*
- 4-41 (d) A certificate of deposit in a financial institution which is
4-42 doing business in this state and which is federally insured or
insured
4-43 by a private insurer approved pursuant to NRS 678.755. The
4-44 certificate of deposit may be withdrawn only on the order of the

5-1 Commissioner, except that the interest may accrue to the seller of
5-2 travel; or

5-3 (e) Evidence of compliance with NRS 696A.080 by deposit and
maintenance of one of the forms of security in the amount of
\$100,000 required by the Division of Insurance under the Motor
Club Law.

5-3.1 _____

5-4 _____

5-3 2. The term of the bond, letter of credit, *policy of insurance*,
5-4 or certificate of deposit, or any renewal thereof, must be not less
5-5 than 1 year.

5-6 3. The amount of the bond, letter of credit, *policy of insurance*
5-7 or certificate of deposit, or any renewal thereof, must be
5-8 ~~[\$50,000.]~~
\$10,000.

5-9 4. If the seller of travel deposits a bond~~[-]~~ *or written proof of*
5-10 *maintaining a policy of insurance*, the seller of travel shall keep
5-11 accurate records of the bond *or policy of insurance* and the
5-12 payments made on the premium. The records must be open to
5-13 inspection by the Division during business hours. The seller of
5-14 travel shall notify the Division not later than 30 days before the
date
5-15 of expiration of the bond *or policy of insurance* and provide
written
5-16 proof of the renewal of the bond *or policy of insurance* to the
5-17 Division.

5-18 5. The Commissioner may reject any bond, letter of credit,
5-19 *policy of insurance* or certificate of deposit that fails to comply
with
5-20 the requirements of this chapter.

5-21 6. A seller of travel may change the form of security that he
5-22 has deposited with the Division. If the seller of travel changes
the
5-23 form of the security, the Commissioner may retain for not more
than

5-24 1 year any portion of the security previously deposited by the
seller

5-25 of travel as security for claims arising during the time the
previous

5-26 security was in effect.

5-27 7. If the amount of the deposited security falls below the
5-28 amount required by this chapter for that security, the seller of
travel

5-29 shall be deemed not to be registered as required by NRS 598.365
for

5-30 the purposes of this chapter.

5-31 8. The provisions of this section do not apply to a seller of
5-32 travel who ~~is~~ :

5-33 (a) *Is* accredited by and appointed as an agent of the Airlines
5-34 Reporting Corporation~~+~~ ; or

5-35 (b) *Has sold travel services in this state for 3 continuous
years, previously registered as a seller of travel*

5-36 *pursuant to the provisions of NRS 598.305 to 598.395,
inclusive,*

5-37 *and sections 2 and 3 of this act, and who has not been the
subject*

5-38 *of a complaint made to the Division concerning activities
governed*

5-39 *by NRS 598.305 to 598.395, inclusive, and sections 2 and 3 of
this*

5-40 *act.*

5-41 Sec. 9. This act becomes effective on July 1, 2003.