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Thank you Senator Townsend for scheduling a hearing on this proposed legislation. And thank you committee members for your consideration.

Although this is somewhat of a small matter in the overall responsibilities that are confronting you legislators this session, it is, however, a progressive step in enacting consumer protection statutes that will be of significant benefit for Nevadans.

Maybe the best way to explain why this bill is needed is to describe what occurred to myself and, unfortunately, to others.

I responded to an ad in the newspaper for a camping trailer for sale. The individual who owned the trailer is a high-level, high-profile person in Clark County's fire department. Although I do not believe it would be of any benefit or of any meaningful dialogue to reveal his identity, let me say that those on this committee from southern Nevada would most likely recognize his name.

I arrived at his home in a very up-scale, gated housing development. There was a security guard who I had to identify myself to and who then called the seller to see if I had permission to be admitted.

After inspecting the trailer I made an offer, which he accepted. We agreed that I would give him a deposit to hold the trailer until I could go to my bank the following day for the balance of the funds. We drafted a bill of sale that described the terms and the amount of the deposit.

The following day after I had withdrawn the funds and was about to go pick up what I believed was now my property, I received a call from him telling me that he had sold the trailer to someone else.

To make a long story short, I told the seller he had no right to sell what was now supposed to be my property. I said his acceptance of my deposit made the trailer mine. I also told him that I had driven quite a long way to his home and that I had lost part of a day's work.

In addition, I told him that I had wasted more time the following day going to the bank withdrawing funds and arranging with my brother to help haul the trailer home.

His response startled me again. It was fairly brief and, I suppose, to the point. It amounted to something to the effect of: Tough, where do I send your deposit?

I researched Nevada's statutes for any recourse that I might have. There was none. Since there is no protection in the statutes against this type of abuse, I asked my senator, Barbara Cegavske, if a bill could be drafted that might protect Nevada consumers.

The only concern I have about the current bill is that it only addresses "retail sellers." It appears that this reference means a licensed business. I strongly believe the legislation ought to include not only sales by businesses, but also private parties where a deposit has been offered and accepted for merchandise or service.

I believe that most Nevadans think that when they leave a deposit, their merchandise is protected. However, as it now exists in Nevada, a deposit for merchandise or service is virtually worthless. It has no legal standing or effect. In actually, consumers are left without any legal recourse if a disreputable business or private party reneges and sells to someone else what the consumer rightfully believes was his or her merchandise.

It has been said that Nevada's consumer protection laws are fairly lax. I do not know if this is accurate or not. I suspect, however, that there might be some truth to this. Although this matter might seem fairly small compared to the issues that confront the Legislature, especially this session, it will go a long way in adding fairness and protection to Nevada consumers.

SB 47

Bad bill.

Interestingly, it does not specifically mention telemarketing or telephone solicitation, and it is included as a revision to the Deceptive Trade Practices Statute (Sec 598), and not the Telemarketing statute (Sec 599B). Accordingly, it would appear to apply to both telephone solicitations giving rise to a contract as well as other written contracts. From our members prospective, this is essentially a "written confirmation" requirement for certain types of telemarketing that our members currently engage in.

SB 47 effectively prohibits the selling of goods or services over the phone under a program that results in the customer's credit card being charged on "continuity", of recurring basis (unless the customer "opts out"), unless:

- A) The customer signs a written contract agreeing to the terms of the agreement reached over the telephone.
- B) The customer specifically initials the "opt out" provision requirement in the written agreement.
- C) The written notice is in "plain English" and is in easy to read typeface.
- D) A notice is sent to the customer at least 20 days prior to the 1st credit card charge that reiterates the above requirements. (It is not clear whether this notice is sent after the seller has first obtained the written contract.)

Penalties for violation include:

- A) Rescission of the contract & refund of money charged to the credit card; and
- B) 3 times the monies charged to the credit card or \$10K (whichever is greater); and
- C) Attorney's fees and costs
- D) Also considered to be a separate violation of Nevada Deceptive Trade Practices Law.

If this bill passes, our members will be required to obtain written, signed (and initialed) confirmatory contracts for all recurring-charge products/services sold in Nevada before we are permitted to charge the customer's credit card.

To preserve the manner in which our members currently market several of its insurance products, and various clubs and services, we cannot support this bill.