

SENATE BILL NO. 60—SENATOR CEGAVSKE

FEBRUARY 6, 2003

JOINT SPONSOR: ASSEMBLYWOMAN GIUNCHIGLIANI

Referred to Committee on Commerce and Labor

SUMMARY—Provides for damages under certain circumstances against retail seller who fails to deliver merchandise reserved for purchase by retail buyer pursuant to agreement for layaway. (BDR 52-589)

FISCAL NOTE: Effect on Local Government: No.
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; providing for damages under certain circumstances against a retail seller who fails to deliver merchandise reserved for purchase by a retail buyer pursuant to an agreement for layaway; 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
2 thereto a new section to read as follows:
3 1. *Except as otherwise provided in this section, if a retail seller*
4 *allows a retail buyer to reserve an item of merchandise for purchase at a*
5 *later date pursuant to an agreement for layaway and the retail buyer*
6 *complies with the provisions of the agreement for layaway to purchase*
7 *the item of merchandise, the retail seller shall deliver to the retail buyer,*
8 *on demand:*
9 (a) *The exact item of merchandise reserved by the retail buyer; or*
10 (b) *If the item of merchandise is fungible, an identical item of*
11 *merchandise.*



- 1 2. If the retail seller is unable to deliver the appropriate item of
2 merchandise to the retail buyer pursuant to subsection 1, the retail seller
3 shall, on demand:
- 4 (a) If the retail buyer accepts a comparable item of merchandise
5 offered by the retail seller in substitution for the item of merchandise
6 reserved by the retail buyer, deliver the comparable item of merchandise
7 to the retail buyer; or
- 8 (b) If the retail buyer does not accept a comparable item of
9 merchandise offered by the retail seller in substitution for the item of
10 merchandise reserved by the retail buyer:
- 11 (1) Return to the retail buyer all money paid by the retail buyer
12 pursuant to the agreement for layaway; and
- 13 (2) Pay to the retail buyer liquidated damages in an amount equal
14 to three times the amount of money paid by the retail buyer to the retail
15 seller pursuant to the agreement for layaway.
- 16 3. If the retail seller fails to comply with the provisions of
17 subsections 1 and 2, the retail buyer may bring a civil action to recover:
- 18 (a) All money paid by the retail buyer pursuant to the agreement for
19 layaway;
- 20 (b) Liquidated damages in an amount equal to three times the
21 amount of money paid by the retail buyer to the retail seller pursuant to
22 the agreement for layaway; and
- 23 (c) Reasonable attorney's fees and costs.
- 24 4. The provisions of subsections 1, 2 and 3 do not apply to a retail
25 seller if the retail seller is unable to deliver the appropriate item of
26 merchandise to the retail buyer because the item of merchandise was
27 stolen, damaged, destroyed or rendered undeliverable by any act, event or
28 condition that was beyond the control of the retail seller and his
29 employees.
- 30 5. Before a retail seller may execute an agreement for layaway with
31 a retail buyer, the retail seller must:
- 32 (a) Include the provisions of subsections 1 and 2 in the agreement
33 for layaway; and
- 34 (b) Conspicuously display in the area where the agreement for
35 layaway is executed a sign that sets forth the provisions of subsections 1
36 and 2.
- 37 6. A retail seller and a retail buyer may not agree to alter or waive
38 the provisions of this section. Any agreement that violates the provisions
39 of this section is void and must not be given effect to the extent that it
40 violates the provisions of this section.
- 41 7. The provisions of this section do not abrogate or limit any other
42 action or remedy that is available to a retail buyer pursuant to any other
43 statute or the common law.
- 44 8. As used in this section, "agreement for layaway" means any
45 agreement by which a retail buyer pays a deposit or one or more
46 payments to a retail seller and the retail seller agrees to reserve or hold
47 an item of merchandise for the retail buyer until the price for the item of
48 merchandise is paid in full by the retail buyer.



1 **Sec. 2.** The provisions of this act apply to an agreement for
2 layaway that is executed on or after October 1, 2003.

