

Amendment No. 15

Senate Amendment to Senate Bill No. 44

(BDR 52-763)

Proposed by: Committee on Commerce and Labor**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend section 1, page 3, line 7, by deleting “**436.2.**” and inserting:

“436.2, as amended or substituted in revision by the Federal Trade Commission.”.

Amend section 1, page 3, line 16, by deleting “**25**” and inserting “**15**”.

Amend section 1, page 3, line 18, by deleting “**10**” and inserting “**5**”.

Amend sec. 2, page 3, by deleting line 31 and inserting:

“~~section, and~~ the terms of the **buyer’s** contract **for membership in the organization and the terms of any contract** with the buyer ~~[-]~~ **for the purchase of goods or services.**”.

Amend sec. 3, page 4, line 21, by deleting “**aggregate**”.

Amend sec. 3, page 4, by deleting lines 25 through 28 and inserting:

“(b) Must be conditioned on compliance by such an affiliate organization with the provisions of NRS 598.840 to 598.930, inclusive, the terms of the buyer’s contract for membership in the

KP

Date: 2/28/2005

S.B. No. 44—Revises provisions regulating organizations for buying goods or services at discount.

affiliate organization and the terms of any contract with the buyer for the purchase of goods or services; and”.

Amend sec. 5, page 5, line 20, by deleting “and” and inserting “[and]”.

Amend sec. 5, page 5, line 22, by deleting “598.885.” and inserting:

“598.885 ~~[-]~~;

8. Clearly specify the buyer’s right to rescind the contract and to be given a refund pro rata pursuant to NRS 598.910 and the conditions and limitations on that right;

9. Clearly specify the buyer’s right to a refund on the purchase of goods pursuant to NRS 598.895 and the conditions and limitations on that right; and

10. Clearly specify whether or not the buyer is given any other rights to a refund on the purchase of goods or services and, if so, any conditions and limitations on those rights.”.

Amend sec. 6, page 6, by deleting line 5 and inserting:

“organization moves its place of business; and”.

Amend sec. 6, page 6, by deleting lines 7 and 8 and inserting:

“ordering service are shipped, at the election of the buyer, to either the buyer’s residence, as indicated in the contract, or a freight receiver within 20 miles of that”.

Amend the title of the bill by deleting the tenth and eleventh lines and inserting:

“accounts; requiring that the membership contract between a buyer and an organization clearly specify certain of the buyer’s rights and the conditions and limitations on those rights; revising provisions that authorize a buyer to rescind his membership contract if”.

**If this amendment is adopted, the Legislative
Counsel's Digest will be changed to read as follows:**

Legislative Counsel's Digest:

Existing law regulates buying clubs that require a person to enter into a membership contract to buy goods or services at a discount. (NRS 598.840-598.930) Existing law requires a buying club to have a trust account for the member's payments under the membership contract. (NRS 598.855) Existing law also requires the buying club to have a trust account for payments made by members to buy goods or services. (NRS 598.860) These trust accounts must be administered by an independent trustee approved by the Commissioner of the Consumer Affairs Division of the Department of Business and Industry. (NRS 598.865)

This bill allows a buying club that is an affiliate of a parent business entity to authorize its parent to serve as the trustee of the buying club's trust accounts. To qualify as the trustee, the parent must have owned, operated, controlled or granted franchises to at least 15 buying clubs for a consecutive period of 5 years or more. The parent must also post security with the Consumer Affairs Division in the amount of \$250,000. The security is held for the benefit of any member who is harmed by the failure of the affiliate buying club to comply with the laws governing buying clubs, the terms of the membership contract or the terms of any contract for the purchase of goods or services. This security is in addition to the \$50,000 security that the affiliate buying club must post with the Consumer Affairs Division under existing law. (NRS 598.851)

Existing law provides that a member of a buying club may not be required to make payments under the membership contract for more than 2 years after the contract is signed. (NRS 598.880)

Existing law also provides that the trustee must distribute one-quarter of the member's payments to the buying club during each quarter of the term of the membership contract. (NRS 598.855)

This bill establishes an alternative method for distributing the member's payments to the buying club if the parent of the buying club has met the requirements to serve as the trustee. Under the alternative method, the trustee must distribute not more than one-half of the member's payments to the buying club during the first quarter of the term of the membership contract. During the second quarter, the trustee must distribute the remaining balance of the member's payments to the buying club.

Existing law requires the membership contract to contain certain information and disclosures. The membership contract must also clearly specify certain of the member's rights under the laws governing buying clubs. (NRS 598.875)

This bill requires the membership contract to clearly specify the member's right to rescind the contract under certain circumstances and his right to receive a refund on the purchase of goods under certain circumstances. The membership contract must also clearly specify whether the member is given any other rights to a refund and whether there are any conditions and limitations on those rights.

Existing law allows a member to rescind the membership contract if the buying club moves its place of business that was closest to the member's residence more than 20 miles farther from the member's residence. (NRS 598.910) This bill does not allow the member to rescind the membership contract under such circumstances if: (1) the buying club offers a substantially equivalent at-home ordering service via the Internet or another generally available channel of communication; (2) the at-home ordering service offers the same categories of goods and services; and (3) any goods ordered

by the member are shipped, at the election of the member, to either the member's residence or a freight receiver within 20 miles of the member's residence.