

ASSEMBLY BILL NO. 521—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

MARCH 23, 2007

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to various crimes.
(BDR 15-500)

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

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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 crimes; providing that it is unlawful for a person to engage in certain fraudulent acts in the course of an enterprise or occupation; revising provisions relating to the crime of racketeering; revising provisions relating to crimes against pregnant women; authorizing the Attorney General to institute certain civil proceedings to enforce the provisions relating to deceptive trade practices; providing for the sharing of information and intelligence between the Attorney General and a state or federal investigative agency under certain circumstances; authorizing the Attorney General to seek certain equitable relief for violations of law relating to unfair trade practices; revising certain provisions relating to unfair trade practices; revising provisions relating to the crime of participating in an organized retail theft ring; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law provides additional penalties for certain crimes committed against
- 2 older persons and vulnerable persons. (NRS 193.167) **Section 1** of this bill provides
- 3 an additional penalty for certain crimes committed against pregnant women.
- 4 Existing law provides that if a person drives under the influence of alcohol or a
- 5 controlled substance and proximately causes the death of, or substantial bodily
- 6 harm to, a person other than himself, the person is guilty of a category B felony
- 7 which is punishable by imprisonment for a minimum term of not less than 2 years



8 and a maximum term of not more than 20 years and a fine of not less than \$2,000
9 but not more than \$5,000. (NRS 484.3795) **Section 11** of this bill provides that a
10 person is guilty of the same offense and subject to the same penalty if the person
11 drives under the influence of alcohol or a controlled substance and proximately
12 causes the termination of the pregnancy of another person.

13 Existing law establishes various crimes relating to fraud. (Chapter 205 of NRS)
14 **Section 3** of this bill, which is patterned in part after existing securities laws,
15 provides that a person commits a category B felony if the person knowingly or
16 intentionally engages in at least two similar transactions within 4 years after the
17 completion of the first transaction by engaging in an act, practice or course of
18 business or employing a device, scheme or artifice to defraud another person by
19 making an untrue statement of fact or not stating a material fact necessary in light
20 of the circumstances which: (1) the person knows to be false; (2) the person intends
21 another to rely on; and (3) which causes a loss to any person who relied on the false
22 statement or omission of material fact. (NRS 90.570) **Section 1** of this bill imposes
23 an additional penalty against a person who commits the new crime established by
24 **section 3** against a person who is 60 years of age or older or a vulnerable person.
25 (NRS 193.167) **Section 8** of this bill revises the definition of a crime related to
26 racketeering to include the new crime established by **section 3**. **Section 10** of this
27 bill provides that a prosecution of the new crime established by **section 3** must be
28 commenced within 4 years after the crime is committed.

29 Existing law establishes various crimes relating to racketeering activity. (NRS
30 207.400) **Section 9** of this bill prohibits a person from transporting property,
31 attempting to transport property or providing property to another person knowing
32 that the other person intends to use the property to further racketeering activity.
33 In addition, **section 9** prohibits a person who knows that property represents proceeds
34 of any unlawful activity to conduct or attempt to conduct any transaction involving
35 the property with the intent to further racketeering activity or with the knowledge
36 that the transaction conceals the location, source, ownership or control of the
37 property. (NRS 207.400)

38 Existing law authorizes the Attorney General to institute criminal proceedings
39 to enforce the provisions of law regarding deceptive trade practices. (NRS
40 598.0963) **Section 13** of this bill provides that the Attorney General may also
41 institute civil proceedings to enforce those provisions.

42 Existing law authorizes the disclosure to the Attorney General of certain
43 information relating to criminal investigations. (NRS 598.098, 598A.080,
44 598A.110) **Sections 14, 17 and 19** of this bill authorize further sharing of
45 information between the Attorney General and state and federal investigative
46 agencies under specified conditions.

47 Existing law authorizes the Attorney General to institute proceedings against
48 alleged violators of the laws concerning unfair trade practices for civil and criminal
49 penalties. (NRS 598A.070, 598A.090) **Sections 16 and 18** of this bill authorize the
50 Attorney General to seek other relief, including, without limitation, restitution and
51 disgorgement.

52 Existing law authorizes the Attorney General to bring a civil action for any
53 violation of the provisions of law regarding unfair trade practices and to recover the
54 damages sustained by the person on whose behalf the Attorney General brings the
55 action. (NRS 598A.160) **Section 20** of this bill allows the Attorney General to
56 recover treble the damages sustained by the person on whose behalf the Attorney
57 General brings the action.

58 Section 1 of Assembly Bill No. 421 creates the crime of participating in an
59 organized retail theft ring. **Section 21** of this bill amends section 1 of Assembly Bill
60 No. 421 to: (1) provide that a person commits the crime of participating in an
61 organized retail theft ring only if the organized retail theft ring has committed three



62 or more thefts in this State during a 90-day period; and (2) eliminate the references
63 to theft of services.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 193.167 is hereby amended to read as follows:
2 193.167 1. Except as otherwise provided in NRS 193.169,
3 any person who commits the crime of:

- 4 (a) Murder;
- 5 (b) Attempted murder;
- 6 (c) Assault;
- 7 (d) Battery;
- 8 (e) Kidnapping;
- 9 (f) Robbery;
- 10 (g) Sexual assault;
- 11 (h) Embezzlement of money or property of a value of \$250 or
12 more;

13 (i) Obtaining money or property of a value of \$250 or more by
14 false pretenses; or

15 (j) Taking money or property from the person of another,
16 ➔ against any person who is 60 years of age or older or against a
17 vulnerable person shall be punished by imprisonment in the county
18 jail or state prison, whichever applies, for a term equal to and in
19 addition to the term of imprisonment prescribed by statute for the
20 crime. The sentence prescribed by this subsection must run
21 consecutively with the sentence prescribed by statute for the crime.

22 2. Except as otherwise provided in NRS 193.169, any person
23 who commits a criminal violation of the provisions of chapter 90 or
24 91 of NRS *or section 3 of this act* against any person who is 60
25 years of age or older or against a vulnerable person shall be
26 punished by imprisonment in the county jail or state prison,
27 whichever applies, for a term equal to and in addition to the term of
28 imprisonment prescribed by statute for the criminal violation. The
29 sentence prescribed by this subsection must run consecutively with
30 the sentence prescribed by statute for the criminal violation.

31 3. *Except as otherwise provided in NRS 193.169, any person*
32 *who commits the crime of:*

- 33 (a) *Murder;*
- 34 (b) *Attempted murder;*
- 35 (c) *Assault;*
- 36 (d) *Battery;*
- 37 (e) *Kidnapping;*
- 38 (f) *Robbery; or*
- 39 (g) *Sexual assault,*



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1 ↪ *against a woman who is pregnant at the time the crime is*
2 *committed, and who knows or reasonably should know, at the time*
3 *the crime is committed, that the woman is pregnant, shall be*
4 *punished by imprisonment in the county jail or state prison,*
5 *whichever applies, for a term equal to and in addition to the term*
6 *of imprisonment prescribed by statute for the crime. The sentence*
7 *prescribed by this subsection must run consecutively with the*
8 *sentence prescribed by statute for the crime.*

9 4. This section does not create any separate offense but
10 provides an additional penalty for the primary offense, whose
11 imposition is contingent upon the finding of the prescribed fact.

12 ~~[4.]~~ 5. As used in this section, "vulnerable person" has the
13 meaning ascribed to it in subsection 7 of NRS 200.5092.

14 **Sec. 2.** Chapter 205 of NRS is hereby amended by adding
15 thereto the provisions set forth as sections 3 and 4 of this act.

16 **Sec. 3.** 1. *A person shall not, in the course of an enterprise*
17 *or occupation, knowingly and with the intent to defraud, engage in*
18 *an act, practice or course of business or employ a device, scheme*
19 *or artifice which operates or would operate as a fraud or deceit*
20 *upon a person by means of a false representation or omission of a*
21 *material fact that:*

22 (a) *The person knows to be false;*

23 (b) *The person intends another to rely on; and*

24 (c) *Results in a loss to any person who relied on the false*
25 *representation or omission,*

26 ↪ *in at least two transactions that have the same or similar*
27 *pattern, intents, results, accomplices, victims or methods of*
28 *commission, or are otherwise interrelated by distinguishing*
29 *characteristics and are not isolated incidents within 4 years and in*
30 *which the aggregate loss or intended loss is more than \$250.*

31 2. *Each act which violates subsection 1 constitutes a separate*
32 *offense.*

33 3. *A person who violates subsection 1 is guilty of a category B*
34 *felony and shall be punished by imprisonment in the state prison*
35 *for a minimum term of not less than 1 year and a maximum term*
36 *of not more than 20 years, and may be further punished by a fine*
37 *of not more than \$10,000.*

38 4. *In addition to any other penalty, the court shall order a*
39 *person who violates subsection 1 to pay restitution.*

40 5. As used in this section, "enterprise" has the meaning
41 ascribed to it in NRS 207.380.

42 **Sec. 4.** (Deleted by amendment.)

43 **Sec. 5.** (Deleted by amendment.)

44 **Sec. 6.** (Deleted by amendment.)

45 **Sec. 7.** (Deleted by amendment.)



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- 1 **Sec. 8.** NRS 207.360 is hereby amended to read as follows:
2 207.360 “Crime related to racketeering” means the commission
3 of, attempt to commit or conspiracy to commit any of the following
4 crimes:
5 1. Murder;
6 2. Manslaughter, except vehicular manslaughter as described in
7 NRS 484.3775;
8 3. Mayhem;
9 4. Battery which is punished as a felony;
10 5. Kidnapping;
11 6. Sexual assault;
12 7. Arson;
13 8. Robbery;
14 9. Taking property from another under circumstances not
15 amounting to robbery;
16 10. Extortion;
17 11. Statutory sexual seduction;
18 12. Extortionate collection of debt in violation of
19 NRS 205.322;
20 13. Forgery;
21 14. Any violation of NRS 199.280 which is punished as a
22 felony;
23 15. Burglary;
24 16. Grand larceny;
25 17. Bribery or asking for or receiving a bribe in violation of
26 chapter 197 or 199 of NRS which is punished as a felony;
27 18. Battery with intent to commit a crime in violation of
28 NRS 200.400;
29 19. Assault with a deadly weapon;
30 20. Any violation of NRS 453.232, 453.316 to 453.3395,
31 inclusive, or 453.375 to 453.401, inclusive;
32 21. Receiving or transferring a stolen vehicle;
33 22. Any violation of NRS 202.260, 202.275 or 202.350 which
34 is punished as a felony;
35 23. Any violation of subsection 2 or 3 of NRS 463.360 or
36 chapter 465 of NRS;
37 24. Receiving, possessing or withholding stolen goods valued
38 at \$250 or more;
39 25. Embezzlement of money or property valued at \$250 or
40 more;
41 26. Obtaining possession of money or property valued at \$250
42 or more, or obtaining a signature by means of false pretenses;
43 27. Perjury or subornation of perjury;
44 28. Offering false evidence;
45 29. Any violation of NRS 201.300 or 201.360;



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30. Any violation of NRS 90.570, 91.230 or 686A.290, or insurance fraud pursuant to NRS 686A.291;

31. Any violation of NRS 205.506, 205.920 or 205.930; ~~for~~

32. Any violation of NRS 202.445 or 202.446 ~~to~~; or

33. Any violation of section 3 of this act.

Sec. 9. NRS 207.400 is hereby amended to read as follows:

207.400 1. It is unlawful for a person:

(a) Who has with criminal intent received any proceeds derived, directly or indirectly, from racketeering activity to use or invest, whether directly or indirectly, any part of the proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of:

(1) Any title to or any right, interest or equity in real property; or

(2) Any interest in or the establishment or operation of any enterprise.

(b) Through racketeering activity to acquire or maintain, directly or indirectly, any interest in or control of any enterprise.

(c) Who is employed by or associated with any enterprise to conduct or participate, directly or indirectly, in:

(1) The affairs of the enterprise through racketeering activity; or

(2) Racketeering activity through the affairs of the enterprise.

(d) Intentionally to organize, manage, direct, supervise or finance a criminal syndicate.

(e) Knowingly to incite or induce others to engage in violence or intimidation to promote or further the criminal objectives of the criminal syndicate.

(f) To furnish advice, assistance or direction in the conduct, financing or management of the affairs of the criminal syndicate with the intent to promote or further the criminal objectives of the syndicate.

(g) Intentionally to promote or further the criminal objectives of a criminal syndicate by inducing the commission of an act or the omission of an act by a public officer or employee which violates his official duty.

(h) *To transport property, to attempt to transport property or to provide property to another person knowing that the other person intends to use the property to further racketeering activity.*

(i) *Who knows that property represents proceeds of, or is directly or indirectly derived from, any unlawful activity to conduct or attempt to conduct any transaction involving the property:*

(1) With the intent to further racketeering activity; or



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(2) With the knowledge that the transaction conceals the location, source, ownership or control of the property.

(j) To conspire to violate any of the provisions of this section.

2. A person who violates this section is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$25,000.

3. As used in this section, "unlawful activity" has the meaning ascribed to it in NRS 207.195.

Sec. 10. NRS 171.085 is hereby amended to read as follows:

171.085 Except as otherwise provided in NRS 171.083, 171.084 and 171.095, an indictment for:

1. Theft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS 90.570 , ~~for~~ a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999 *or a violation of section 3 of this act* must be found, or an information or complaint filed, within 4 years after the commission of the offense.

2. Any felony other than murder, theft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS 90.570 or a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999 must be found, or an information or complaint filed, within 3 years after the commission of the offense.

Sec. 11. NRS 484.3795 is hereby amended to read as follows:

484.3795 1. Unless a greater penalty is provided pursuant to NRS 484.37955, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379,

➡ and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this State, if the act or neglect of duty proximately



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1 causes the death of, or substantial bodily harm to, ~~fa~~ *another*
2 person ~~other than himself,~~ *or proximately causes the termination*
3 *of the pregnancy of another person,* is guilty of a category B felony
4 and shall be punished by imprisonment in the state prison for a
5 minimum term of not less than 2 years and a maximum term of not
6 more than 20 years and must be further punished by a fine of not
7 less than \$2,000 nor more than \$5,000. A person so imprisoned
8 must, insofar as practicable, be segregated from offenders whose
9 crimes were violent and, insofar as practicable, be assigned to an
10 institution or facility of minimum security.

11 2. A prosecuting attorney shall not dismiss a charge of
12 violating the provisions of subsection 1 in exchange for a plea of
13 guilty or nolo contendere to a lesser charge or for any other reason
14 unless he knows or it is obvious that the charge is not supported by
15 probable cause or cannot be proved at the time of trial. A sentence
16 imposed pursuant to subsection 1 may not be suspended nor may
17 probation be granted.

18 3. If consumption is proven by a preponderance of the
19 evidence, it is an affirmative defense under paragraph (c) of
20 subsection 1 that the defendant consumed a sufficient quantity of
21 alcohol after driving or being in actual physical control of the
22 vehicle, and before his blood or breath was tested, to cause him to
23 have a concentration of alcohol of 0.08 or more in his blood or
24 breath. A defendant who intends to offer this defense at a trial
25 or preliminary hearing must, not less than 14 days before the trial or
26 hearing or at such other time as the court may direct, file and serve
27 on the prosecuting attorney a written notice of that intent.

28 4. If the defendant was transporting a person who is less than
29 15 years of age in the motor vehicle at the time of the violation, the
30 court shall consider that fact as an aggravating factor in determining
31 the sentence of the defendant.

32 **Sec. 12.** NRS 484.3795 is hereby amended to read as follows:

33 484.3795 1. Unless a greater penalty is provided pursuant to
34 NRS 484.37955, a person who:

35 (a) Is under the influence of intoxicating liquor;

36 (b) Has a concentration of alcohol of 0.08 or more in his blood
37 or breath;

38 (c) Is found by measurement within 2 hours after driving or
39 being in actual physical control of a vehicle to have a concentration
40 of alcohol of 0.08 or more in his blood or breath;

41 (d) Is under the influence of a controlled substance or is under
42 the combined influence of intoxicating liquor and a controlled
43 substance;

44 (e) Inhales, ingests, applies or otherwise uses any chemical,
45 poison or organic solvent, or any compound or combination of any



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1 of these, to a degree which renders him incapable of safely driving
2 or exercising actual physical control of a vehicle; or

3 (f) Has a prohibited substance in his blood or urine in an amount
4 that is equal to or greater than the amount set forth in subsection 3
5 of NRS 484.379,

6 ➡ and does any act or neglects any duty imposed by law while
7 driving or in actual physical control of any vehicle on or off the
8 highways of this State, if the act or neglect of duty proximately
9 causes the death of, or substantial bodily harm to, ~~[a]~~ *another*
10 person ~~[other than himself,]~~, *or proximately causes the termination*
11 *of the pregnancy of another person,* is guilty of a category B felony
12 and shall be punished by imprisonment in the state prison for a
13 minimum term of not less than 2 years and a maximum term of not
14 more than 20 years and must be further punished by a fine of not
15 less than \$2,000 nor more than \$5,000. A person so imprisoned
16 must, insofar as practicable, be segregated from offenders whose
17 crimes were violent and, insofar as practicable, be assigned to an
18 institution or facility of minimum security.

19 2. A prosecuting attorney shall not dismiss a charge of
20 violating the provisions of subsection 1 in exchange for a plea of
21 guilty or nolo contendere to a lesser charge or for any other reason
22 unless he knows or it is obvious that the charge is not supported by
23 probable cause or cannot be proved at the time of trial. A sentence
24 imposed pursuant to subsection 1 may not be suspended nor may
25 probation be granted.

26 3. If consumption is proven by a preponderance of the
27 evidence, it is an affirmative defense under paragraph (c) of
28 subsection 1 that the defendant consumed a sufficient quantity of
29 alcohol after driving or being in actual physical control of the
30 vehicle, and before his blood or breath was tested, to cause him to
31 have a concentration of alcohol of 0.08 or more in his blood or
32 breath. A defendant who intends to offer this defense at a trial
33 or preliminary hearing must, not less than 14 days before the trial or
34 hearing or at such other time as the court may direct, file and serve
35 on the prosecuting attorney a written notice of that intent.

36 4. If the defendant was transporting a person who is less than
37 15 years of age in the motor vehicle at the time of the violation, the
38 court shall consider that fact as an aggravating factor in determining
39 the sentence of the defendant.

40 **Sec. 13.** NRS 598.0963 is hereby amended to read as follows:

41 598.0963 1. Whenever the Attorney General is requested in
42 writing by the Commissioner or the Director to represent him in
43 instituting a legal proceeding against a person who has engaged or is
44 engaging in a deceptive trade practice, the Attorney General may



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1 bring an action in the name of the State of Nevada against that
2 person on behalf of the Commissioner or Director.

3 2. The Attorney General may institute *civil or* criminal
4 proceedings to enforce the provisions of NRS 598.0903 to
5 598.0999, inclusive. The Attorney General is not required to obtain
6 leave of the court before instituting *civil or* criminal proceedings
7 pursuant to this subsection.

8 3. If the Attorney General has reason to believe that a person
9 has engaged or is engaging in a deceptive trade practice, the
10 Attorney General may bring an action in the name of the State of
11 Nevada against that person to obtain a temporary restraining order, a
12 preliminary or permanent injunction, or other appropriate relief.

13 4. If the Attorney General has cause to believe that a person
14 has engaged or is engaging in a deceptive trade practice, the
15 Attorney General may issue a subpoena to require the testimony of
16 any person or the production of any documents, and may administer
17 an oath or affirmation to any person providing such testimony. The
18 subpoena must be served upon the person in the manner required for
19 service of process in this State or by certified mail with return
20 receipt requested. An employee of the Attorney General may
21 personally serve the subpoena.

22 **Sec. 14.** NRS 598.098 is hereby amended to read as follows:

23 598.098 1. NRS 598.0903 to 598.0999, inclusive, do not
24 prohibit the Commissioner or Director from disclosing to the
25 Attorney General, any district attorney or any law enforcement
26 officer the fact that a crime has been committed by any person, if
27 this fact has become known as a result of any investigation
28 conducted pursuant to the provisions of NRS 598.0903 to 598.0999,
29 inclusive.

30 2. Subject to the provisions of subsection 2 of NRS 598.0979
31 and except as otherwise provided in this section, the Commissioner
32 or Director may not make public the name of any person alleged to
33 have committed a deceptive trade practice. This subsection does not:

34 (a) Prevent the Commissioner or Director from issuing public
35 statements describing or warning of any course of conduct which
36 constitutes a deceptive trade practice.

37 (b) Apply to a person who is subject to an order issued pursuant
38 to subsection 5 of NRS 598.0971.

39 3. Upon request, the Commissioner may:

40 (a) Disclose the number of written complaints received by the
41 Commissioner during the current and immediately preceding 3
42 fiscal years. A disclosure made pursuant to this paragraph must
43 include the disposition of the complaint disclosed.

44 (b) Make public any order to cease and desist issued pursuant to
45 subsection 5 of NRS 598.0971.



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1 ➡ This subsection does not authorize the Commissioner to disclose
2 or make public the contents of any complaint described in paragraph
3 (a) or the record of or any other information concerning a hearing
4 conducted in relation to the issuance of an order to cease and desist
5 described in paragraph (b).

6 4. *Whenever criminal or civil intelligence, investigative*
7 *information or any other information held by any state or federal*
8 *agency is made available to the Attorney General on a confidential*
9 *or similarly restricted basis, the Attorney General, in the course of*
10 *an investigation of any violation of this chapter, may obtain and*
11 *use such intelligence or information. Any such intelligence or*
12 *information received retains its confidential status under the laws*
13 *of this State and is exempt from the provisions of NRS 239.010.*

14 5. The Commissioner may adopt regulations authorizing the
15 disclosure of information concerning any complaint or number of
16 complaints received by the Commissioner or Director relating to a
17 person who has been convicted of violating a provision of NRS
18 598.0903 to 598.0999, inclusive.

19 **Sec. 15.** NRS 598A.060 is hereby amended to read as follows:

20 598A.060 1. Every activity enumerated in this subsection
21 constitutes a contract, combination or conspiracy in restraint of
22 trade, and it is unlawful to conduct any part of any such activity
23 *affecting commerce* in this State:

24 (a) Price fixing, which consists of raising, depressing, fixing,
25 pegging or stabilizing the price of any commodity or service, and
26 which includes, but is not limited to:

27 (1) Agreements among competitors to depress prices at
28 which they will buy essential raw material for the end product.

29 (2) Agreements to establish prices for commodities or
30 services.

31 (3) Agreements to establish uniform discounts, or to
32 eliminate discounts.

33 (4) Agreements between manufacturers to price a premium
34 commodity a specified amount above inferior commodities.

35 (5) Agreements not to sell below cost.

36 (6) Agreements to establish uniform trade-in allowances.

37 (7) Establishment of uniform cost surveys.

38 (8) Establishment of minimum markup percentages.

39 (9) Establishment of single or multiple basing point systems
40 for determining the delivered price of commodities.

41 (10) Agreements not to advertise prices.

42 (11) Agreements among competitors to fix uniform list
43 prices as a place to start bargaining.

44 (12) Bid rigging, including the misuse of bid depositories,
45 foreclosures of competitive activity for a period of time, rotation of



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1 jobs among competitors, submission of identical bids, and
2 submission of complementary bids not intended to secure
3 acceptance by the customer.

4 (13) Agreements to discontinue a product, or agreements
5 with anyone engaged in the manufacture of competitive lines to
6 limit size, styles or quantities of items comprising the lines.

7 (14) Agreements to restrict volume of production.

8 (b) Division of markets, consisting of agreements between
9 competitors to divide territories and to refrain from soliciting or
10 selling in certain areas.

11 (c) Allocation of customers, consisting of agreements not to sell
12 to specified customers of a competitor.

13 (d) Tying arrangements, consisting of contracts in which the
14 seller or lessor conditions the sale or lease of commodities or
15 services on the purchase or leasing of another commodity or service.

16 (e) Monopolization of trade or commerce in this State,
17 including, without limitation, attempting to monopolize or otherwise
18 combining or conspiring to monopolize trade or commerce in this
19 State.

20 (f) Except as otherwise provided in subsection 2, consolidation,
21 conversion, merger, acquisition of shares of stock or other equity
22 interest, directly or indirectly, of another person engaged in
23 commerce in this State or the acquisition of any assets of another
24 person engaged in commerce in this State that may:

25 (1) Result in the monopolization of trade or commerce in this
26 State or would further any attempt to monopolize trade or commerce
27 in this State; or

28 (2) Substantially lessen competition or be in restraint of
29 trade.

30 2. The provisions of paragraph (f) of subsection 1 do not:

31 (a) Apply to a person who, solely for an investment purpose,
32 purchases stock or other equity interest or assets of another person if
33 the purchaser does not use his acquisition to bring about or attempt
34 to bring about the substantial lessening of competition in this State.

35 (b) Prevent a person who is engaged in commerce in this State
36 from forming a subsidiary corporation or other business
37 organization and owning and holding all or part of the stock or
38 equity interest of that corporation or organization.

39 **Sec. 16.** NRS 598A.070 is hereby amended to read as follows:

40 598A.070 1. The Attorney General shall:

41 (a) Enforce the provisions of this chapter.

42 (b) Investigate suspected violations of the provisions of this
43 chapter.



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(c) Institute proceedings on behalf of the State, its agencies, political subdivisions, districts or municipal corporations, or as parens patriae of the persons residing in the State for:

(1) Injunctive relief to prevent and restrain a violation of any provision of this chapter.

(2) Civil penalties for violations of the provisions of this chapter.

(3) Criminal penalties for violations of the provisions of this chapter.

(4) Other equitable relief, including, without limitation, restitution and disgorgement, for violations of the provisions of this chapter.

2. Any district attorney in this State, with the permission or at the direction of the Attorney General, shall institute proceedings in the name of the State of Nevada for any violation of the provisions of this chapter.

Sec. 17. NRS 598A.080 is hereby amended to read as follows:

598A.080 The Attorney General may cooperate with and coordinate the enforcement of the provisions of this chapter with officials of the Federal Government and the several states, including , but not limited to , the *following:*

1. The sharing of information and evidence obtained in accordance with NRS 598A.100 [H], if the officials agree in writing to comply with the provisions of NRS 598A.110.

2. The receipt of information and evidence by the Attorney General from the officials during an investigation of a violation of this chapter. If the information and evidence are provided on a confidential basis, that information and evidence are subject to the provisions of NRS 598A.110.

Sec. 18. NRS 598A.090 is hereby amended to read as follows:

598A.090 The district courts have jurisdiction over actions and proceedings for violations of the provisions of this chapter and may:

1. Issue temporary restraining orders and injunctions to prevent and restrain violations of the provisions of this chapter.

2. Impose civil and criminal penalties and award damages as provided in this chapter.

3. Grant mandatory injunctions reasonably necessary to eliminate practices which are unlawful under the provisions of this chapter.

4. Grant other equitable relief, including, without limitation, restitution and disgorgement, for violations of the provisions of this chapter.

Sec. 19. NRS 598A.110 is hereby amended to read as follows:

598A.110 *1.* Any procedure, testimony taken, document or other tangible evidence produced, or answer made under NRS



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1 598A.100 ~~[shall]~~ *is confidential and must* be kept confidential by
2 the Attorney General , ~~[prior to the institution of an action brought~~
3 ~~under this chapter for the alleged violation of the provisions of this~~
4 ~~chapter under investigation,]~~ unless:

5 ~~[1.]~~ (a) Confidentiality is waived by the person upon whom the
6 written investigative demand is made;

7 ~~[2.]~~ (b) Disclosure is authorized by the district court; ~~[or~~
8 ~~—3.— Disclosure]~~

9 (c) *Subject to the provisions of subsection 2, disclosure* is made
10 pursuant to NRS 598A.080 ~~[]~~ ; or

11 (d) *Disclosure is made pursuant to an action brought under*
12 *this chapter or similar federal or state law.*

13 2. *Disclosure made pursuant to NRS 598A.080 does not*
14 *change the confidentiality of the information and evidence.*

15 **Sec. 20.** NRS 598A.160 is hereby amended to read as follows:

16 598A.160 1. The Attorney General may bring a civil action
17 for any violation of the provisions of this chapter in the name of the
18 State of Nevada and is entitled to recover damages and secure other
19 relief provided by the provisions of this chapter:

20 (a) As parens patriae of the persons residing in this State, with
21 respect to damages sustained directly or indirectly by such persons,
22 or, alternatively, if the court finds in its discretion that the interests
23 of justice so require, as a representative of a class or classes
24 consisting of persons residing in this State who have been damaged
25 directly or indirectly; ~~[or]~~

26 (b) As parens patriae, with respect to direct or indirect damages
27 to the general economy of the State of Nevada or any political
28 subdivision thereof ~~[]~~ ; or

29 (c) *On behalf of or as parens patriae, with respect to direct or*
30 *indirect damages of the State, its agencies, political subdivisions,*
31 *districts or municipal corporations.*

32 2. In any action under this section, this State:

33 (a) May recover *treble* the aggregate damage sustained by the
34 persons on whose behalf this State sues, without separately proving
35 the individual claims of each such person. Proof of such damages
36 must be based on:

37 (1) Statistical or sampling methods;

38 (2) The pro rata allocation of illegal overcharges of sales
39 occurring within the State of Nevada; or

40 (3) Such other reasonable system of estimating aggregate
41 damages as the court may permit.

42 (b) Shall distribute, allocate or otherwise pay the amounts so
43 recovered in accordance with state law, or in the absence of any
44 applicable state law, as the district court may authorize, subject to
45 the requirement that any distribution procedure adopted afford each



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1 person on whose behalf this State sues a reasonable opportunity
2 individually to secure the pro rata portion of such recovery
3 attributable to his or its respective claims for damages, less litigation
4 and administrative costs, including attorney fees, before any of the
5 recovery is escheated.

6 **Sec. 21.** Section 1 of Assembly Bill No. 421 of this session is
7 hereby amended to read as follows:

8 Section 1 . 1. A person who participates in an
9 organized retail theft ring *that has committed three or more*
10 *thefts of retail merchandise in this State during a period of*
11 *90 days* is guilty of a category B felony and shall be punished
12 by imprisonment in the state prison for:

13 (a) If the aggregated value of the property ~~for services~~
14 involved in all thefts committed by the organized retail theft
15 ring in this State during ~~a period of 90 days~~ *that 90-day*
16 *period* is at least \$2,500 but less than \$10,000, a minimum
17 term of not less than 1 year and a maximum term of not more
18 than 10 years, and by a fine of not more than \$10,000.

19 (b) If the aggregated value of the property ~~for services~~
20 involved in all thefts committed by the organized retail theft
21 ring in this State during ~~a period of 90 days~~ *that 90-day*
22 *period* is \$10,000 or more, a minimum term of not less than 2
23 years and a maximum term of not more than 15 years, and by
24 a fine of not more than \$20,000.

25 2. In addition to any other penalty, the court shall order a
26 person who violates this section to pay restitution.

27 3. For the purposes of this section, in determining the
28 aggregated value of the property ~~for services~~ involved in all
29 thefts committed by an organized retail theft ring in this State
30 during a period of 90 days:

31 (a) The amount involved in a single theft shall be deemed
32 to be the highest value, by any reasonable standard, of the
33 property ~~for services which are~~ *which is* obtained; and

34 (b) The amounts involved in all thefts committed by all
35 participants in the organized retail theft ring must be
36 aggregated.

37 4. In any prosecution for a violation of this section, the
38 violation shall be deemed to have been committed and may
39 be prosecuted in any jurisdiction in this State in which any
40 theft committed by any participant in an organized retail theft
41 ring was committed, regardless of whether the defendant was
42 ever physically present in that jurisdiction.

43 5. As used in this section:

44 (a) "Merchant" has the meaning ascribed to it in
45 NRS 597.850.



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(b) “Organized retail theft ring” means three or more persons who associate for the purpose of engaging, *and one or more of whom engage*, in the conduct of committing a series of thefts of retail merchandise against more than one merchant in this State or against one merchant but at more than one location of a retail business of the merchant in this State.

Sec. 22. 1. This section, sections 1 to 11, inclusive, and 13 to 20, inclusive, of this act become effective on October 1, 2007.

2. Section 11 of this act expires by limitation on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

3. Section 12 of this act becomes effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

4. Section 21 of this act becomes effective on October 1, 2007, only if Assembly Bill No. 421 of this session becomes effective.

