
SENATE BILL NO. 18—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE CONSUMER AFFAIRS DIVISION)

PREFILED JANUARY 26, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Authorizes the imposition of a fine for engaging in a certain deceptive trade practice. (BDR 52-587)

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 deceptive trade practices; providing that the conducting of certain businesses or occupations without registering with the Consumer Affairs Division of the Department of Business and Industry is a deceptive trade practice; authorizing the Commissioner of Consumer Affairs to impose a fine on persons who engage in such a deceptive trade practice; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law defines a number of actions as deceptive trade practices that are
 - 2 punishable by the imposition of civil penalties. (NRS 598.0915-598.0925,
 - 3 598.0971-598.0974) **Section 2** of this bill provides that conducting a business or
 - 4 occupation that is required to be registered with the Consumer Affairs Division of
 - 5 the Department of Business and Industry without being so registered is a deceptive
 - 6 trade practice, and **section 4** of this bill authorizes the Commissioner of Consumer
 - 7 Affairs to impose a fine on a person who engages in such a deceptive trade practice.
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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 thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *A person engages in a “deceptive trade practice” if, in the course of his business or occupation, he is required to be registered with the Division pursuant to any provision of this chapter or NRS 599B.080 and he fails to be registered with the Division.*

Sec. 3. *“Division” means the Consumer Affairs Division of the Department of Business and Industry.*

Sec. 4. 1. *In addition to any other remedy or penalty, if a person engages in a deceptive trade practice, as defined in section 2 of this act, the Commissioner may impose a fine of:*

(a) For the first violation, \$100;

(b) For the second violation, \$250; and

(c) For each subsequent violation, \$500.

2. *All money collected from fines imposed pursuant to this section must be deposited in the State General Fund.*

Sec. 5. NRS 598.0903 is hereby amended to read as follows:

598.0903 As used in NRS 598.0903 to 598.0999, inclusive, *and sections 2, 3 and 4 of this act*, unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 6. NRS 598.096 is hereby amended to read as follows:

598.096 When the Commissioner, Director or Attorney General has cause to believe that any person has engaged or is engaging in any deceptive trade practice, he may:

1. Request the person to file a statement or report in writing under oath or otherwise, on such forms as may be prescribed by the Commissioner, Director or Attorney General, as to all facts and circumstances concerning the sale or advertisement of property by the person, and such other data and information as the Commissioner, Director or Attorney General may deem necessary.

2. Examine under oath any person in connection with the sale or advertisement of any property.

3. Examine any property or sample thereof, record, book, document, account or paper as he may deem necessary.

4. Make true copies, at the expense of the ~~{Consumer Affairs Division of the Department of Business and Industry,}~~ *Division*, of any record, book, document, account or paper examined pursuant to subsection 3, which copies may be offered into evidence in lieu of



1 the originals thereof in actions brought pursuant to NRS 598.097
2 and 598.0979.

3 5. Pursuant to an order of any district court, impound any
4 sample of property which is material to the deceptive trade practice
5 and retain the property in his possession until completion of all
6 proceedings as provided in NRS 598.0903 to 598.0999, inclusive ~~H~~
7 , and sections 2, 3 and 4 of this act. An order may not be issued
8 pursuant to this subsection unless:

9 (a) The Commissioner, Director or Attorney General, and the
10 court give the accused full opportunity to be heard; and

11 (b) The Commissioner, Director or Attorney General proves by
12 clear and convincing evidence that the business activities of the
13 accused will not be impaired thereby.

14 **Sec. 7.** NRS 598.0966 is hereby amended to read as follows:

15 598.0966 1. There is hereby created a Revolving Account for
16 the ~~{Consumer Affairs Division of the Department of Business and~~
17 ~~Industry}~~ Division in the sum of \$7,500, which must be used for the
18 payment of expenses related to conducting an undercover
19 investigation of a person who is allegedly engaging in a deceptive
20 trade practice.

21 2. The Commissioner shall deposit the money in the Revolving
22 Account in a bank or credit union qualified to receive deposits of
23 public money as provided by law, and the deposit must be secured
24 by a depository bond satisfactory to the State Board of Examiners.

25 3. The Commissioner or his designee may:

26 (a) Sign all checks drawn upon the Revolving Account; and

27 (b) Make withdrawals of cash from the Revolving Account.

28 4. Payments made from the Revolving Account must be
29 promptly reimbursed from the legislative appropriation, if any, to
30 the ~~{Consumer Affairs}~~ Division for the expenses related to
31 conducting an undercover investigation of a person who is allegedly
32 engaging in a deceptive trade practice. The claim for reimbursement
33 must be processed and paid as other claims against the State are
34 paid.

35 5. The Commissioner shall:

36 (a) Approve any disbursement from the Revolving Account; and

37 (b) Maintain records of any such disbursement.

38 **Sec. 8.** NRS 598.0975 is hereby amended to read as follows:

39 598.0975 1. Except as otherwise provided in subsection 1 of
40 NRS 598.0999 and subsection 3, all fees, civil penalties and any
41 other money collected pursuant to the provisions of NRS 598.0903
42 to 598.0999, inclusive ~~H~~, and sections 2, 3 and 4 of this act:

43 (a) In an action brought by the Attorney General, Commissioner
44 or Director, must be deposited in the State General Fund and may
45 only be used to offset the costs of administering and enforcing the



provisions of NRS 598.0903 to 598.0999, inclusive ~~H~~ , and sections 2, 3 and 4 of this act.

(b) In an action brought by the district attorney of a county, must be deposited with the county treasurer of that county and accounted for separately in the county general fund.

2. Money in the account created pursuant to paragraph (b) of subsection 1 must be used by the district attorney of the county for:

(a) The investigation and prosecution of deceptive trade practices against elderly or disabled persons; and

(b) Programs for the education of consumers which are directed toward elderly or disabled persons, law enforcement officers, members of the judicial system, persons who provide social services and the general public.

3. The provisions of this section do not apply to:

(a) Criminal fines imposed pursuant to NRS 598.0903 to 598.0999, inclusive ~~H~~ , and sections 2, 3 and 4 of this act; or

(b) Restitution ordered pursuant to NRS 598.0903 to 598.0999, inclusive, and sections 2, 3 and 4 of this act in an action brought by the Attorney General. Money collected for restitution ordered in such an action must be deposited by the Attorney General and credited to the appropriate account of the ~~{Consumer Affairs Division of the Department of Business and Industry}~~ Division or the Attorney General for distribution to the person for whom the restitution was ordered.

