

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—Revises provisions governing deceptive trade practices. (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; providing that the rental, lease or sale of certain goods or services for an unconscionable price within a certain period before or during a state of emergency is a deceptive trade practice; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines a number of actions as deceptive trade practices that are punishable by the imposition of civil and criminal penalties. (NRS 598.0915-598.0925, 598.0971-598.0999) **Section 2** of this bill provides that conducting a business or occupation that is required to be registered with the Consumer Affairs Division of the Department of Business and Industry without being so registered is a deceptive trade practice, and **section 4** of this bill authorizes the Commissioner of Consumer Affairs to impose a fine on a person who engages in such a deceptive trade practice. **Section 4.7** of this bill provides that renting, leasing or selling a consumer good or service that is vital to the public health, safety or welfare for an unconscionable price within 24 hours before or at any time during a state of emergency is a deceptive trade practice.

Existing law provides a private right of action for a person who is a victim of consumer fraud to recover damages. The term "consumer fraud" includes a



14 deceptive trade practice. (NRS 41.600) Because unconscionable pricing during a
15 state of emergency is made a deceptive trade practice, **section 13** of this bill
16 provides a person with this private right of action for such practices.

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

1 **Section 1.** Chapter 598 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 4.7, inclusive, of this
3 act.

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

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

11 **Sec. 4.** 1. *In addition to any other remedy or penalty, if a*
12 *person engages in a deceptive trade practice, as defined in section*
13 *2 of this act, the Commissioner may impose a fine of:*

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

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

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

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

19 **Sec. 4.5.** *The Legislature finds and declares that:*

20 1. *Protecting the public from the economic practice*
21 *commonly known as “price gouging” is a vital function of state*
22 *government in providing for the public health, safety and welfare;*

23 2. *The pricing of consumer goods and services is generally*
24 *best left to the marketplace in ordinary conditions, but when a*
25 *state of emergency results in abnormal disruptions of the market,*
26 *the public interest requires that excessive and unjustified increases*
27 *in the prices of consumer goods and services be prohibited;*

28 3. *During a state of emergency the vulnerable persons of*
29 *society are left even more vulnerable, and those with limited*
30 *resources may find themselves without the ability to purchase even*
31 *the most basic necessities such as potable water, food and*
32 *medicine;*

33 4. *During a state of emergency, price is an inaccurate and*
34 *ineffective manner of determining the needs of people, and price*
35 *gouging serves only to discriminate against the poor and to*
36 *encourage looting, human suffering and panic;*

37 5. *It is the intent of the Legislature in enacting section 4.7 of*
38 *this act to protect consumers from excessive and unjustified*



1 *increases in the prices charged within 24 hours before or at any*
2 *time during a state of emergency for consumer goods and services*
3 *that are vital to the public health, safety or welfare; and*

4 *6. As the provisions of this chapter are necessary to protect*
5 *the public welfare, it is also the intent of the Legislature that the*
6 *provisions of this chapter be liberally construed to effectuate its*
7 *purposes.*

8 **Sec. 4.7. 1. Except as otherwise provided in subsection 2, a**
9 **person engages in a “deceptive trade practice” if he rents, leases**
10 **or sells or offers to rent, lease or sell a consumer good or service**
11 **for an unconscionable price within 24 hours before or at any time**
12 **during a state of emergency.**

13 *2. A person does not engage in a “deceptive trade practice”*
14 *pursuant to subsection 1 if he rents, leases or sells or offers to*
15 *rent, lease or sell a consumer good or service for a price that is*
16 *approved by an appropriate government or governmental entity.*

17 *3. For the purposes of this section a price for a consumer*
18 *good or service is an unconscionable price if the price exceeds the*
19 *average price at which the consumer good or service was rented,*
20 *leased or sold or offered for rent, lease or sale in the usual course*
21 *of business in the same market area at the time of, or during the*
22 *30 days immediately preceding, the state of emergency, except that*
23 *the price may include an increase in price which reflects*
24 *reasonable expenses and a charge for any attendant business risk*
25 *in addition to the cost of the goods and services which are*
26 *necessarily incurred in procuring the goods and services during*
27 *the state of emergency.*

28 *4. The provisions of this section do not preempt the authority*
29 *of a local government to adopt an ordinance relating to the price*
30 *of a consumer good or service during a state of emergency.*

31 *5. As used in this section:*

32 *(a) “Consumer good or service” means a good or service used,*
33 *purchased or rendered primarily for personal, family or household*
34 *purposes that is vital to the public health, safety or welfare. The*
35 *term includes, without limitation, food for human consumption,*
36 *food for domestic animals, clothing, shoes, ice, water, gas,*
37 *electricity, heat, fuel of all kinds and building materials.*

38 *(b) “State of emergency” means the period:*

39 *(1) Beginning when the Governor or the Legislature*
40 *proclaims a state of emergency or declaration of disaster either*
41 *pursuant to NRS 414.070 or pursuant to a declaration of the*
42 *President of the United States that a state of emergency exists in*
43 *this State or any other state; and*

44 *(2) Ending when the Governor or the Legislature*
45 *terminates the proclamation of a state of emergency.*



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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 to 4.7, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947, inclusive, *and sections 2, 3 and 4.7 of this act* have the meanings ascribed to them in those sections.

Sec. 5.5. NRS 598.0953 is hereby amended to read as follows:

598.0953 1. Evidence that a person has engaged in a deceptive trade practice is prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.

2. The deceptive trade practices listed in NRS 598.0915 to 598.0925, inclusive, *and sections 2 and 4.7 of this act* are in addition to and do not limit the types of unfair trade practices actionable at common law or defined as such in other statutes of this State.

Sec. 5.7. NRS 598.0955 is hereby amended to read as follows:

598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, *and sections 2 to 4.7, inclusive, of this act* do not apply to:

(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency.

(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters or printers engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character.

(c) Actions or appeals pending on July 1, 1973.

2. The provisions of NRS 598.0903 to 598.0999, inclusive, *and sections 2 to 4.7, inclusive, of this act* do not apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name or other trade identification which was used and not abandoned prior to July 1, 1973, if the use was in good faith and is otherwise lawful except for the provisions of NRS 598.0903 to 598.0999, inclusive ~~§~~, *and sections 2 to 4.7, inclusive, of this act*.

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

5. Pursuant to an order of any district court, impound any sample of property which is material to the deceptive trade practice and retain the property in his possession until completion of all proceedings as provided in NRS 598.0903 to 598.0999, inclusive ~~4.7~~ *, and sections 2 to 4.7, inclusive, of this act.* An order may not be issued pursuant to this subsection unless:

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

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

Sec. 6.5. NRS 598.0963 is hereby amended to read as follows:

598.0963 1. Whenever the Attorney General is requested in writing by the Commissioner or the Director to represent him in instituting a legal proceeding against a person who has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person on behalf of the Commissioner or Director.

2. The Attorney General may institute criminal proceedings to enforce the provisions of NRS 598.0903 to 598.0999, inclusive ~~4.7~~ *, and sections 2 to 4.7, inclusive, of this act.* The Attorney General is not required to obtain leave of the court before instituting criminal proceedings pursuant to this subsection.

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

4. If the Attorney General has cause to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may issue a subpoena to require the testimony of any person or the production of any documents, and may administer an oath or affirmation to any person providing such testimony. The subpoena must be served upon the person in the manner required for service of process in this State or by certified mail with return



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1 receipt requested. An employee of the Attorney General may
2 personally serve the subpoena.

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

4 598.0966 1. There is hereby created a Revolving Account for
5 the ~~[Consumer Affairs Division of the Department of Business and~~
6 ~~Industry]~~ *Division* in the sum of \$7,500, which must be used for the
7 payment of expenses related to conducting an undercover
8 investigation of a person who is allegedly engaging in a deceptive
9 trade practice.

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

14 3. The Commissioner or his designee may:

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

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

17 4. Payments made from the Revolving Account must be
18 promptly reimbursed from the legislative appropriation, if any, to
19 the ~~[Consumer Affairs]~~ Division for the expenses related to
20 conducting an undercover investigation of a person who is allegedly
21 engaging in a deceptive trade practice. The claim for reimbursement
22 must be processed and paid as other claims against the State are
23 paid.

24 5. The Commissioner shall:

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

26 (b) Maintain records of any such disbursement.

27 **Sec. 7.5.** NRS 598.0967 is hereby amended to read as follows:

28 598.0967 1. The Commissioner and the Director, in addition
29 to other powers conferred upon them by NRS 598.0903 to
30 598.0999, inclusive, *and sections 2 to 4.7, inclusive, of this act,*
31 may issue subpoenas to require the attendance of witnesses or the
32 production of documents, conduct hearings in aid of any
33 investigation or inquiry and prescribe such forms and adopt such
34 regulations as may be necessary to administer the provisions of NRS
35 598.0903 to 598.0999, inclusive ~~[]~~, *and sections 2 to 4.7,*
36 *inclusive, of this act.* Such regulations may include, without
37 limitation, provisions concerning the applicability of the provisions
38 of NRS 598.0903 to 598.0999, inclusive, *and sections 2 to 4.7,*
39 *inclusive, of this act* to particular persons or circumstances.

40 2. Service of any notice or subpoena must be made as provided
41 in N.R.C.P. 45(c).

42 **Sec. 7.7.** NRS 598.0971 is hereby amended to read as follows:

43 598.0971 1. If, after an investigation, the Commissioner has
44 reasonable cause to believe that any person has been engaged or is
45 engaging in any deceptive trade practice in violation of NRS



1 598.0903 to 598.0999, inclusive, *and sections 2 to 4.7, inclusive, of*
2 *this act*, the Commissioner may issue an order directed to the person
3 to show cause why the Commissioner should not order the person to
4 cease and desist from engaging in the practice. The order must
5 contain a statement of the charges and a notice of a hearing to be
6 held thereon. The order must be served upon the person directly or
7 by certified or registered mail, return receipt requested.

8 2. If, after conducting a hearing pursuant to the provisions of
9 subsection 1, the Commissioner determines that the person has
10 violated any of the provisions of NRS 598.0903 to 598.0999,
11 inclusive, *and sections 2 to 4.7, inclusive, of this act*, or if the
12 person fails to appear for the hearing after being properly served
13 with the statement of charges and notice of hearing, the
14 Commissioner may make a written report of his findings of fact
15 concerning the violation and cause to be served a copy thereof upon
16 the person and any intervener at the hearing. If the Commissioner
17 determines in the report that such a violation has occurred, he may
18 order the violator to:

19 (a) Cease and desist from engaging in the practice or other
20 activity constituting the violation;

21 (b) Pay the costs of conducting the investigation, costs of
22 conducting the hearing, costs of reporting services, fees for experts
23 and other witnesses, charges for the rental of a hearing room if such
24 a room is not available to the Commissioner free of charge, charges
25 for providing an independent hearing officer, if any, and charges
26 incurred for any service of process, if the violator is adjudicated to
27 have committed a violation of NRS 598.0903 to 598.0999, inclusive
28 ~~§~~, *and sections 2 to 4.7, inclusive, of this act*; and

29 (c) Provide restitution for any money or property improperly
30 received or obtained as a result of the violation.

31 ➡ The order must be served upon the person directly or by certified
32 or registered mail, return receipt requested. The order becomes
33 effective upon service in the manner provided in this subsection.

34 3. Any person whose pecuniary interests are directly and
35 immediately affected by an order issued pursuant to subsection 2 or
36 who is aggrieved by the order may petition for judicial review in the
37 manner provided in chapter 233B of NRS. Such a petition must be
38 filed within 30 days after the service of the order. The order
39 becomes final upon the filing of the petition.

40 4. If a person fails to comply with any provision of an order
41 issued pursuant to subsection 2, the Commissioner may, through the
42 Attorney General, at any time after 30 days after the service of
43 the order, cause an action to be instituted in the district court of the
44 county wherein the person resides or has his principal place of



1 business requesting the court to enforce the provisions of the order
2 or to provide any other appropriate injunctive relief.

3 5. If the court finds that:

4 (a) The violation complained of is a deceptive trade practice;

5 (b) The proceedings by the Commissioner concerning the
6 written report and any order issued pursuant to subsection 2 are in
7 the interest of the public; and

8 (c) The findings of the Commissioner are supported by the
9 weight of the evidence,

10 ➔ the court shall issue an order enforcing the provisions of the order
11 of the Commissioner.

12 6. Except as otherwise provided in NRS 598.0974, an order
13 issued pursuant to subsection 5 may include:

14 (a) A provision requiring the payment to the Commissioner of a
15 penalty of not more than \$5,000 for each act amounting to a failure
16 to comply with the Commissioner's order; or

17 (b) Such injunctive or other equitable or extraordinary relief as
18 is determined appropriate by the court.

19 7. Any aggrieved party may appeal from the final judgment,
20 order or decree of the court in a like manner as provided for appeals
21 in civil cases.

22 8. Upon the violation of any judgment, order or decree issued
23 pursuant to subsection 5 or 6, the Commissioner, after a hearing
24 thereon, may proceed in accordance with the provisions of
25 NRS 598.0999.

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

27 598.0975 1. Except as otherwise provided in subsection 1 of
28 NRS 598.0999 and subsection 3, all fees, civil penalties and any
29 other money collected pursuant to the provisions of NRS 598.0903
30 to 598.0999, inclusive ~~§~~, and *sections 2 to 4.7, inclusive, of this*
31 *act*;

32 (a) In an action brought by the Attorney General, Commissioner
33 or Director, must be deposited in the State General Fund and may
34 only be used to offset the costs of administering and enforcing the
35 provisions of NRS 598.0903 to 598.0999, inclusive ~~§~~, and
36 *sections 2 to 4.7, inclusive, of this act*.

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

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

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

44 (b) Programs for the education of consumers which are directed
45 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 ~~[§]~~, *and sections 2 to 4.7, inclusive, of this act;* or

(b) Restitution ordered pursuant to NRS 598.0903 to 598.0999, inclusive, *and sections 2 to 4.7, inclusive, 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.

Sec. 9. NRS 598.0985 is hereby amended to read as follows:

598.0985 Notwithstanding the requirement of knowledge as an element of a deceptive trade practice, and notwithstanding the enforcement powers granted to the Commissioner or Director pursuant to NRS 598.0903 to 598.0999, inclusive, *and sections 2 to 4.7, inclusive, of this act*, whenever the district attorney of any county has reason to believe that any person is using, has used or is about to use any deceptive trade practice, knowingly or otherwise, he may bring an action in the name of the State of Nevada against that person to obtain a temporary or permanent injunction against the deceptive trade practice.

Sec. 10. NRS 598.0993 is hereby amended to read as follows:

598.0993 The court in which an action is brought pursuant to NRS 598.0979 and 598.0985 to 598.099, inclusive, may make such additional orders or judgments as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any deceptive trade practice which violates any of the provisions of NRS 598.0903 to 598.0999, inclusive, *and sections 2 to 4.7, inclusive, of this act*, but such additional orders or judgments may be entered only after a final determination has been made that a deceptive trade practice has occurred.

Sec. 11. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, *and sections 2 to 4.7, inclusive, of this act* upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than \$10,000 for each violation. For the purpose of this section, the court issuing the order



1 or injunction retains jurisdiction over the action or proceeding. Such
2 civil penalties are in addition to any other penalty or remedy
3 available for the enforcement of the provisions of NRS 598.0903 to
4 598.0999, inclusive ~~[.]~~, *and sections 2 to 4.7, inclusive, of this act.*

5 2. Except as otherwise provided in NRS 598.0974, in any
6 action brought pursuant to the provisions of NRS 598.0903 to
7 598.0999, inclusive, *and sections 2 to 4.7, inclusive, of this act*, if
8 the court finds that a person has willfully engaged in a deceptive
9 trade practice, the Commissioner, the Director, the district attorney
10 of any county in this State or the Attorney General bringing the
11 action may recover a civil penalty not to exceed \$5,000 for each
12 violation. The court in any such action may, in addition to any other
13 relief or reimbursement, award reasonable attorney's fees and costs.

14 3. A natural person, firm, or any officer or managing agent of
15 any corporation or association who knowingly and willfully engages
16 in a deceptive trade practice:

17 (a) For the first offense, is guilty of a misdemeanor.

18 (b) For the second offense, is guilty of a gross misdemeanor.

19 (c) For the third and all subsequent offenses, is guilty of a
20 category D felony and shall be punished as provided in
21 NRS 193.130.

22 ➤ The court may require the natural person, firm, or officer or
23 managing agent of the corporation or association to pay to the
24 aggrieved party damages on all profits derived from the knowing
25 and willful engagement in a deceptive trade practice and treble
26 damages on all damages suffered by reason of the deceptive trade
27 practice.

28 4. Any offense which occurred within 10 years immediately
29 preceding the date of the principal offense or after the principal
30 offense constitutes a prior offense for the purposes of subsection 3
31 when evidenced by a conviction, without regard to the sequence of
32 the offenses and convictions.

33 5. If a person violates any provision of NRS 598.0903 to
34 598.0999, inclusive, *and sections 2 to 4.7, inclusive, of this*
35 *act*, 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive,
36 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, or
37 598.840 to 598.966, inclusive, fails to comply with a judgment or
38 order of any court in this State concerning a violation of such a
39 provision, or fails to comply with an assurance of discontinuance or
40 other agreement concerning an alleged violation of such a provision,
41 the Commissioner or the district attorney of any county may bring
42 an action in the name of the State of Nevada seeking:

43 (a) The suspension of the person's privilege to conduct business
44 within this State; or



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(b) If the defendant is a corporation, dissolution of the corporation.

➡ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➡ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 12. NRS 11.190 is hereby amended to read as follows:

11.190 Except as otherwise provided in NRS 125B.050 and 217.007, actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

1. Within 6 years:

(a) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged on an account in a store.

(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, *and sections 2 to 4.7, inclusive, of this act*, but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.



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(b) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

(c) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without his fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

(d) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(e) An action pursuant to NRS 40.750 for damages sustained by a financial institution because of its reliance on certain fraudulent conduct of a borrower, but the cause of action in such a case shall be deemed to accrue upon the discovery by the financial institution of the facts constituting the concealment or false statement.

4. Within 2 years:

(a) An action against a sheriff, coroner or constable upon liability incurred by acting in his official capacity and in virtue of his office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.

(b) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.

(c) An action for libel, slander, assault, battery, false imprisonment or seduction.

(d) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this paragraph relating to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

5. Within 1 year:

(a) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in



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1 his official capacity, as tax collector, or to recover the price or value
2 of goods, wares, merchandise or other personal property so seized,
3 or for damages for the seizure, detention or sale of, or injury to,
4 goods, wares, merchandise or other personal property seized, or for
5 damages done to any person or property in making the seizure.

6 (b) An action against an officer, or officer de facto for money
7 paid to the officer under protest, or seized by the officer in his
8 official capacity, as a collector of taxes, and which, it is claimed,
9 ought to be refunded.

10 **Sec. 13.** NRS 41.600 is hereby amended to read as follows:

11 41.600 1. An action may be brought by any person who is a
12 victim of consumer fraud.

13 2. As used in this section, "consumer fraud" means:

14 (a) An unlawful act as defined in NRS 119.330;

15 (b) An unlawful act as defined in NRS 205.2747;

16 (c) An act prohibited by NRS 482.36655 to 482.36667,
17 inclusive;

18 (d) An act prohibited by NRS 482.351; or

19 (e) A deceptive trade practice as defined in NRS 598.0915 to
20 598.0925, inclusive ~~H~~, *and sections 2 and 4.7 of this act.*

21 3. If the claimant is the prevailing party, the court shall award
22 him:

23 (a) Any damages that he has sustained; and

24 (b) His costs in the action and reasonable attorney's fees.

25 4. Any action brought pursuant to this section is not an action
26 upon any contract underlying the original transaction.

