

**Amendment No. 1021**

Senate Amendment to Assembly Bill No. 521 Second Reprint (BDR 15-500)

**Proposed by:** Senator Amodei**Amendment Box:** Replaces Amendment No. 1001**Amends:** Summary: Yes 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"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold** is newly added transitory language.

BFG/BAW



Date: 5/25/2007

A.B. No. 521—Revises provisions relating to the crimes of theft, fraud and racketeering. (BDR 15-500)



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 ~~the~~ **various** crimes . ~~[of fraud and racketeering]~~ (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; ~~[establishing the crime of participating in an organized retail theft ring]~~ **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 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:**

Existing law provides additional penalties for certain crimes committed against older persons and vulnerable persons. (NRS 193.167) Section 1 of this bill provides an additional penalty for certain crimes committed against pregnant women.

Existing law provides that if a person drives under the influence of alcohol or a controlled substance and proximately causes the death of, or substantial bodily harm to, a person other than himself, the person is guilty of a category B felony which is punishable by imprisonment for a minimum term of not less than 2 years and a maximum term of not more than 20 years and a fine of not less than \$2,000 but not more than \$5,000. (NRS 484.3795) Section 11 of this bill provides that a person is guilty of the same offense and subject to the same penalty if the person drives under the influence of alcohol or a controlled substance and proximately causes the termination of the pregnancy of another person.

Existing law establishes various crimes relating to fraud. (Chapter 205 of NRS) Section 3 of this bill, which is patterned in part after existing securities laws, provides that a person

commits a category B felony if the person knowingly or intentionally engages in at least two similar transactions within 4 years after the completion of the first transaction by engaging in an act, practice or course of business or employing a device, scheme or artifice to defraud another person by making an untrue statement of fact or not stating a material fact necessary in light of the circumstances which: (1) the person knows to be false; (2) the person intends another to rely on; and (3) which causes a loss to any person who relied on the false statement or omission of material fact. (NRS 90.570) **Section 1** of this bill imposes an additional penalty against a person who commits the new crime established by **section 3** against a person who is 60 years of age or older or a vulnerable person. (NRS 193.167) **Section 8** of this bill revises the definition of a crime related to racketeering to include the new crime established by **section 3**. **Section 10** of this bill provides that a prosecution of the new crime established by **section 3** must be commenced within 4 years after the crime is committed.

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

~~{ Section 4 of this bill provides that a person who participates in an organized retail theft ring is guilty of a category B felony, punishable by imprisonment for: (1) a minimum term of not less than 1 year and a maximum term of not more than 10 years, if the aggregated value of the property involved in all thefts committed by the organized retail theft ring during a period of 90 days is at least \$2,500 but less than \$10,000; or (2) a minimum term of not less than 2 years and a maximum term of not more than 15 years, if the aggregated value of the property involved in all thefts committed by the organized retail theft ring during a period of 90 days is \$10,000 or more. }~~

Existing law authorizes the Attorney General to institute criminal proceedings to enforce the provisions of law regarding deceptive trade practices. (NRS 598.0963) ~~Section 11~~ **13** of this bill provides that the Attorney General may also institute civil proceedings to enforce those provisions.

Existing law authorizes the disclosure to the Attorney General of certain information relating to criminal investigations. (NRS 598.098, 598A.080, 598A.110) ~~Sections 12, 14, 15, 17 and 19~~ **15** of this bill authorize further sharing of information between the Attorney General and state and federal investigative agencies under specified conditions.

Existing law authorizes the Attorney General to institute proceedings against alleged violators of the laws concerning unfair trade practices for civil and criminal penalties. (NRS 598A.070, 598A.090) ~~Sections 14, 16 and 18~~ **16** of this bill authorize the Attorney General to seek other relief, including, without limitation, restitution and disgorgement.

Existing law authorizes the Attorney General to bring a civil action for any violation of the provisions of law regarding unfair trade practices and to recover the damages sustained by the person on whose behalf the Attorney General brings the action. (NRS 598A.160) ~~Section 18~~ **20** of this bill allows the Attorney General to recover treble the damages sustained by the person on whose behalf the Attorney General brings the action.

**Section 1 of Assembly Bill No. 421 creates the crime of participating in an organized retail theft ring. Section 21 of this bill amends section 1 of Assembly Bill No. 421 to: (1) provide that a person commits the crime of participating in an organized retail theft ring only if the organized retail theft ring has committed three or more thefts in this State during a 90-day period; and (2) eliminate the references to theft of services.**

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

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

- (a) Murder;
- (b) Attempted murder;
- (c) Assault;
- (d) Battery;
- (e) Kidnapping;
- (f) Robbery;
- (g) Sexual assault;
- (h) Embezzlement of money or property of a value of \$250 or more;
- (i) Obtaining money or property of a value of \$250 or more by false pretenses;

or

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

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

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

- (a) Murder;
- (b) Attempted murder;
- (c) Assault;
- (d) Battery;
- (e) Kidnapping;
- (f) Robbery; or
- (g) Sexual assault,

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

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

~~44~~ 5. As used in this section, "vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

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

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

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

(b) The person intends another to rely on; and  
(c) Results in a loss to any person who relied on the false representation or omission,

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

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

3. A person who violates subsection 1 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 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$10,000.

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

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

**Sec. 4.** ~~1. A person who participates in an organized retail theft ring that has committed three or more thefts of retail merchandise in this State during a period of 90 days is guilty of a category B felony and shall be punished by imprisonment in the state prison for:~~

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

~~(b) If the aggregated value of the property involved in all thefts committed during that 90 day period is \$10,000 or more, a minimum term of not less than 2 years and a maximum term of not more than 15 years, and by a fine of not more than \$20,000.~~

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

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

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

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

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

~~5. As used in this section:~~

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

~~(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.] (Deleted by amendment.)~~

**Sec. 5.** ~~[NRS 205.0821 is hereby amended to read as follows:~~

~~205.0821 As used in NRS 205.0821 to 205.0825, inclusive, and section 4 of this act, unless the context otherwise requires, the words and terms defined in NRS~~

~~205.0822 to 205.0831, inclusive, have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

**Sec. 6.** ~~[NRS 205.0822 is hereby amended to read as follows:~~

~~205.0833 1. Conduct denominated theft in NRS 205.0821 to 205.0835, inclusive, and section 4 of this act constitutes a single offense embracing the separate offenses commonly known as larceny, receiving or possessing stolen property, embezzlement, obtaining property by false pretenses, issuing a check without sufficient money or credit, and other similar offenses.~~

~~2. A criminal charge of theft may be supported by evidence that an act was committed in any manner that constitutes theft pursuant to NRS 205.0821 to 205.0835, inclusive, and section 4 of this act notwithstanding the specification of a different manner in the indictment or information, subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief if it determines that, in a specific case, strict application of the provisions of this subsection would result in prejudice to the defense by lack of fair notice or by surprise.] (Deleted by amendment.)~~

**Sec. 7.** ~~[NRS 205.0835 is hereby amended to read as follows:~~

~~205.0835 1. Unless a greater penalty is imposed by a specific statute [.] and unless the provisions of section 4 of this act apply under the circumstances, a person who commits theft in violation of any provision of NRS 205.0821 to 205.0835, inclusive, and section 4 of this act shall be punished pursuant to the provisions of this section.~~

~~2. If the value of the property or services involved in the theft is less than \$250, the person who committed the theft is guilty of a misdemeanor.~~

~~3. If the value of the property or services involved in the theft is \$250 or more but less than \$2,500, the person who committed the theft is guilty of a category C felony and shall be punished as provided in NRS 193.130.~~

~~4. If the value of the property or services involved in the theft is \$2,500 or more, the person who committed the theft 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 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.~~

~~5. In addition to any other penalty, the court shall order the person who committed the theft to pay restitution.] (Deleted by amendment.)~~

**Sec. 8.** NRS 207.360 is hereby amended to read as follows:

207.360 "Crime related to racketeering" means the commission of, attempt to commit or conspiracy to commit any of the following crimes:

1. Murder;
2. Manslaughter, except vehicular manslaughter as described in NRS 484.3775;
3. Mayhem;
4. Battery which is punished as a felony;
5. Kidnapping;
6. Sexual assault;
7. Arson;
8. Robbery;
9. Taking property from another under circumstances not amounting to robbery;
10. Extortion;
11. Statutory sexual seduction;
12. Extortionate collection of debt in violation of NRS 205.322;
13. Forgery;
14. Any violation of NRS 199.280 which is punished as a felony;

15. Burglary;
16. Grand larceny;
17. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;
18. Battery with intent to commit a crime in violation of NRS 200.400;
19. Assault with a deadly weapon;
20. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, or 453.375 to 453.401, inclusive;
21. Receiving or transferring a stolen vehicle;
22. Any violation of NRS 202.260, 202.275 or 202.350 which is punished as a felony;
23. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of NRS;
24. Receiving, possessing or withholding stolen goods valued at \$250 or more;
25. Embezzlement of money or property valued at \$250 or more;
26. Obtaining possession of money or property valued at \$250 or more, or obtaining a signature by means of false pretenses;
27. Perjury or subornation of perjury;
28. Offering false evidence;
29. Any violation of NRS 201.300 or 201.360;
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 ~~for~~; 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

(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, ~~or~~ 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 causes the death of, or substantial bodily harm to, ~~or~~ another person ~~other than himself,~~ or proximately causes the termination of the pregnancy of another person, 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 2 years and a maximum term of not more than 20 years and must be further punished by a fine of not less than \$2,000 nor more than \$5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the

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charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.

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

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

**Sec. 12. 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 causes the death of, or substantial bodily harm to, ~~any~~ another person [other than himself], or proximately causes the termination of the pregnancy of another person, 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 2 years and a maximum term of not more than 20 years and must be further punished by a fine of not less than \$2,000 nor more than \$5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

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

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than

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1 14 days before the trial or hearing or at such other time as the court may direct, file  
2 and serve on the prosecuting attorney a written notice of that intent.

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

6 ~~[Sec. 11.]~~ **Sec. 13.** NRS 598.0963 is hereby amended to read as follows:

7 598.0963 1. Whenever the Attorney General is requested in writing by the  
8 Commissioner or the Director to represent him in instituting a legal proceeding  
9 against a person who 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 Nevada against  
11 that person on behalf of the Commissioner or Director.

12 2. The Attorney General may institute *civil or* criminal proceedings to enforce  
13 the provisions of NRS 598.0903 to 598.0999, inclusive. The Attorney General is  
14 not required to obtain leave of the court before instituting *civil or* criminal  
15 proceedings pursuant to this subsection.

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

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

27 ~~[Sec. 12.]~~ **Sec. 14.** NRS 598.098 is hereby amended to read as follows:

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

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

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

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

42 3. Upon request, the Commissioner may:

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

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

48 ➤ This subsection does not authorize the Commissioner to disclose or make public  
49 the contents of any complaint described in paragraph (a) or the record of or any  
50 other information concerning a hearing conducted in relation to the issuance of an  
51 order to cease and desist described in paragraph (b).

52 4. *Whenever criminal or civil intelligence, investigative information or any*  
53 *other information held by any state or federal agency is made available to the*

*Attorney General on a confidential or similarly restricted basis, the Attorney General, in the course of an investigation of any violation of this chapter, may obtain and use such intelligence or information. Any such intelligence or information received retains its confidential status under the laws of this State and is exempt from the provisions of NRS 239.010.*

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

~~Sec. 13.~~ **Sec. 15.** NRS 598A.060 is hereby amended to read as follows:

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

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

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

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

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

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

(5) Agreements not to sell below cost.

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

(7) Establishment of uniform cost surveys.

(8) Establishment of minimum markup percentages.

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

(10) Agreements not to advertise prices.

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

(12) Bid rigging, including the misuse of bid depositories, foreclosures of competitive activity for a period of time, rotation of jobs among competitors, submission of identical bids, and submission of complementary bids not intended to secure acceptance by the customer.

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

(14) Agreements to restrict volume of production.

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

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

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

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

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

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

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

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

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

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

~~Sec. 14.~~ **Sec. 16.** NRS 598A.070 is hereby amended to read as follows:

598A.070 1. The Attorney General shall:

(a) Enforce the provisions of this chapter.

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

(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. 15.~~ **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 ~~if~~, 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. 16.~~ **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. 17.~~ **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 598A.100 ~~shall~~ *is confidential and must* be kept confidential by the Attorney General, ~~prior to the institution of~~

~~an action brought under this chapter for the alleged violation of the provisions of this chapter under investigation.~~ unless:

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

~~[(2)]~~ (b) Disclosure is authorized by the district court; ~~for~~

~~—3. Disclosure~~

(c) *Subject to the provisions of subsection 2, disclosure* is made pursuant to NRS 598A.080 ~~[(1)]~~; *or*

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

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

~~[(Sec. 18.)]~~ *Sec. 20.* NRS 598A.160 is hereby amended to read as follows:

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

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

(b) As parens patriae, with respect to direct or indirect damages to the general economy of the State of Nevada or any political subdivision thereof ~~[(1)]~~; *or*

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

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

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

(1) Statistical or sampling methods;

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

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

(b) Shall distribute, allocate or otherwise pay the amounts so recovered in accordance with state law, or in the absence of any applicable state law, as the district court may authorize, subject to the requirement that any distribution procedure adopted afford each person on whose behalf this State sues a reasonable opportunity individually to secure the pro rata portion of such recovery attributable to his or its respective claims for damages, less litigation and administrative costs, including attorney fees, before any of the recovery is escheated.

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

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

(a) If the aggregated value of the property ~~for services~~ involved in all thefts committed by the organized retail theft ring in this State during ~~the period of 90 days~~ *that 90-day period* is at least \$2,500 but less than

1 \$10,000, a minimum term of not less than 1 year and a maximum term of  
2 not more than 10 years, and by a fine of not more than \$10,000.

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

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

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

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

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

18 4. In any prosecution for a violation of this section, the violation shall  
19 be deemed to have been committed and may be prosecuted in any  
20 jurisdiction in this State in which any theft committed by any participant in  
21 an organized retail theft ring was committed, regardless of whether the  
22 defendant was ever physically present in that jurisdiction.

23 5. As used in this section:

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

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

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

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

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

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