

## Amendment No. 769

Senate Amendment to Assembly Bill No. 22 First Reprint (BDR 52-428)

**Proposed by:** Senate Committee on Commerce and Labor**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will ADD a 2/3s majority vote requirement for final passage of A.B. 22 (§§ 24, 38, 39, 42-47, 50).

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 dashed underlining is newly added transitory language.

KCP



Date: 5/19/2009

A.B. No. 22—Revises provisions relating to certain trade practices. (BDR 52-428)



## ASSEMBLY BILL NO. 22—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE CONSUMER AFFAIRS DIVISION)

PREFILED DECEMBER 5, 2008

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to certain trade practices. (BDR 52-428)

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 trade practices; providing that certain persons may bring a civil action for various deceptive trade practices or other violations; providing that various actions related to certain persons with an inability to reasonably protect their rights or interests constitute a deceptive trade practice; allowing equitable relief for certain actions related to consumer fraud; revising provisions governing the State's system for the registration and protection of trademarks, trade names and service marks; making various changes regarding administration of the system by the Secretary of State; authorizing the Secretary of State to prescribe certain fees; prohibiting certain misleading and deceptive practices; providing remedies and penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law defines activities that constitute deceptive trade practices and provides for the imposition of civil and criminal penalties against persons who engage in deceptive trade practices. (Chapter 598 of NRS)

**Section 1** of this bill provides that certain persons may bring a civil action for damages for deceptive trade practices and violations of chapter 598 of NRS or any regulation adopted pursuant to that chapter. **Section 5.5** of this bill defines as a deceptive trade practice knowingly taking advantage of certain persons with an inability to reasonably protect their rights or interests. **Section 44.59** of this bill allows equitable relief for various actions involving consumer fraud.

Nevada's existing trademark laws, which are administered by the Secretary of State, establish a system for the registration and protection of marks, including trademarks, trade names and service marks. (NRS 600.240-600.450). Nevada's existing trademark laws are based on the Model State Trademark Bill, which was drafted by the International Trademark Association to promote uniformity among state trademark laws and to harmonize those state laws with the federal Trademark Act of 1946, which is commonly known as the Lanham Act. (15 U.S.C. §§ 1051 et seq.)

Sections 13-57 of this bill amend Nevada's existing trademark laws to account for several changes made to the Model State Trademark Bill and the federal Trademark Act in recent years. This bill provides that the amendments to Nevada's existing trademark

laws become effective on October 1, 2010, except that this bill gives the Secretary of State authority upon passage and approval to adopt any regulations necessary for the administration of the trademark laws.

Sections 14, 20, 21 and 30-37 of this bill specify the persons who may register marks in this State and define the types of trademarks, trade names and service marks that may be registered. (NRS 600.250-600.330) Sections 22 and 36 of this bill define when a mark is deemed to be in use in this State and when a mark is deemed to be abandoned. (NRS 600.320)

Sections 15-18 and 55 of this bill protect against misuse or dilution of a famous mark and prohibit certain misleading and deceptive practices which impair the distinctiveness or harm the reputation of a famous mark. (NRS 600.435)

Sections 19 and 23 of this bill provide that to the extent Nevada's trademark laws, as implemented and administered by the Secretary of State, are substantially consistent with the federal Trademark Act, the interpretation and application given to the federal Trademark Act must be considered to be persuasive authority in interpreting and applying Nevada's trademark laws.

Existing law establishes the amounts of the fees the Secretary of State is required to collect in administering Nevada's trademark laws. (NRS 600.340, 600.355, 600.360, 600.370, 600.395) Section 24 of this bill requires the Secretary of State to prescribe the amounts of such fees by regulation and also makes such fees nonrefundable. Section 65 of this bill requires the existing amounts of such fees to remain in effect until the Secretary of State prescribes the amounts by regulation.

Sections 25 and 38-50 of this bill revise the requirements and procedures for: (1) filing, amending and reviewing applications for registration of a mark; (2) issuing, correcting, renewing and cancelling registrations; and (3) filing and recording assignments, name changes and other documents related to a registered mark, including licenses, security interests and mortgages. (NRS 600.340-600.395)

Sections 26 and 27 of this bill establish requirements for bringing actions to compel registration of a mark and actions for cancellation of the registration of a mark. Section 28 of this bill provides a method for service of process in actions brought against certain nonresident owners of marks.

Section 51 of this bill requires the Secretary of State to adopt regulations defining general classes of goods and services for which a mark may be registered. Section 51 also provides that to the extent practicable, the classes of goods and services adopted by the Secretary of State must conform to the classes of goods and services adopted by the United States Patent and Trademark Office in the administration of the federal Trademark Act. (NRS 600.400)

The other sections of this bill make conforming changes.

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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 a new section to read as follows:

*1. Except as otherwise provided in subsection 2, in addition to any other remedy or penalty, if a person suffers damage as a result of a deceptive trade practice or a violation of this chapter or any regulation adopted pursuant to this chapter, that person may commence a civil action against any other person who engaged in the act or violation to recover statutory damages of up to \$5,000 per act or violation.*

*2. A person may not be held liable in any civil action brought pursuant to this section if the person proves, by a preponderance of evidence, that the act or violation:*

*(a) Was not intentional; and*

*(b) ~~Was technical in nature, and~~*

~~(e)}~~ *Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.*

*3. For the purposes of this section, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to a person's obligations under this chapter is not a bona fide error.*

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

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 section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947, inclusive, have the meanings ascribed to them in those sections.

Sec. 5.5. NRS 598.092 is hereby amended to read as follows:

598.092 A person engages in a "deceptive trade practice" when in the course of his business or occupation he:

1. Knowingly fails to identify goods for sale or lease as being damaged by water.

2. Solicits by telephone or door to door as a lessor or seller, unless the lessor or seller identifies himself, whom he represents and the purpose of his call within 30 seconds after beginning the conversation.

3. Knowingly states that services, replacement parts or repairs are needed when no such services, replacement parts or repairs are actually needed.

4. Fails to make delivery of goods or services for sale or lease within a reasonable time or to make a refund for the goods or services, if he allows refunds.

5. Advertises or offers an opportunity for investment and:

(a) Represents that the investment is guaranteed, secured or protected in a manner which he knows or has reason to know is false or misleading;

(b) Represents that the investment will earn a rate of return which he knows or has reason to know is false or misleading;

(c) Makes any untrue statement of a material fact or omits to state a material fact which is necessary to make another statement, considering the circumstances under which it is made, not misleading;

(d) Fails to maintain adequate records so that an investor may determine how his money is invested;

(e) Fails to provide information to an investor after a reasonable request for information concerning his investment;

(f) Fails to comply with any law or regulation for the marketing of securities or other investments; or

(g) Represents that he is licensed by an agency of the State to sell or offer for sale investments or services for investments if he is not so licensed.

6. Charges a fee for advice with respect to investment of money and fails to disclose:

(a) That he is selling or offering to lease goods or services and, if he is, their identity; or

(b) That he is licensed by an agency of any state or of the United States to sell or to offer for sale investments or services for investments, or holds any other license related to the service he is providing.

7. Notifies any person, by any means, as a part of an advertising plan or scheme, that he has won a prize and that as a condition of receiving the prize he must purchase or lease goods or services.

8. Knowingly misrepresents the legal rights, obligations or remedies of a party to a transaction.

9. Fails, in a consumer transaction that is rescinded, cancelled or otherwise terminated in accordance with the terms of an agreement, advertisement, representation or provision of law, to promptly restore to a person entitled to it a deposit, down payment or other payment or, in the case of property traded in but not available, the agreed value of the property, or fails to cancel within a specified time or an otherwise reasonable time an acquired security interest. This subsection does not apply to a person who is holding a deposit, down payment or other payment on behalf of another if all parties to the transaction have not agreed to the release of the deposit, down payment or other payment.

10. Fails to inform customers, if he does not allow refunds or exchanges, that he does not allow refunds or exchanges by:

(a) Printing a statement on the face of the lease or sales receipt;

(b) Printing a statement on the face of the price tag; or

(c) Posting in an open and conspicuous place a sign at least 8 by 10 inches in size with boldface letters,

specifying that no refunds or exchanges are allowed.

*11. Knowingly takes advantage of another person's inability to reasonably protect his own rights or interests in a consumer transaction when such an inability is due to illiteracy or to a mental or physical infirmity which manifests itself as an incapability to understand the language or terms of any agreement or as another similar condition.*

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

**Sec. 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 section 1 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 section 1 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 ~~H~~, *and section 1 of this act*.

**Sec. 8.** 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, 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 ~~§~~, and *section 1 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. 9.** (Deleted by amendment.)

**Sec. 10.** NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, and *section 1 of this act*, the Commissioner may issue an order directed to the person to show cause why the Commissioner should not order the person to cease and desist from engaging in the practice. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.

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

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

(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the Commissioner free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive ~~§~~, and *section 1 of this act*; and

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

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

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

4. If a person fails to comply with any provision of an order issued pursuant to subsection 2, the Commissioner may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

5. If the court finds that:

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

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

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

the court shall issue an order enforcing the provisions of the order of the Commissioner.

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

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

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

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

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

**Sec. 11.** NRS 598.0975 is hereby amended to read as follows:

598.0975 1. Except as otherwise provided in subsection 3 and in subsection 1 of NRS 598.0999, all fees, civil penalties and any other money collected pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive ~~H~~, and *section 1 of this act*:

(a) In an action brought by the Attorney General, Commissioner or Director, must be deposited in the State General Fund and may only be used to offset the costs of administering and enforcing the provisions of NRS 598.0903 to 598.0999, inclusive ~~H~~, and *section 1 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 persons or persons with disabilities; and

(b) Programs for the education of consumers which are directed toward elderly persons or persons with disabilities, 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 *section 1 of this act*; or

(b) Restitution ordered pursuant to NRS 598.0903 to 598.0999, inclusive, and *section 1 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 or the Attorney General for distribution to the person for whom the restitution was ordered.

**Sec. 12.** 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 section 1 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 or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive ~~H~~, *and section 1 of this act*.

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act*, if the court finds that a person has willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed \$5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

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

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

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

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

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

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

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act*, 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to 598.966, 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 Commissioner or the district attorney of any county 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.

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. 13. Chapter 600 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 to 28, inclusive, of this act.

Sec. 14. 1. "Business or legal entity" means any form of business or social organization and any other nongovernmental legal entity, including, but not limited to, a corporation, limited-liability company, partnership, association, trust, union, joint venture or unincorporated organization.

2. The term does not include a government, governmental agency or political subdivision of a government.

Sec. 15. "Dilution by blurring" means the association arising from the similarity between a mark and a famous mark that impairs the distinctiveness of the famous mark.

Sec. 16. "Dilution by tarnishment" means the association arising from the similarity between a mark and a famous mark that harms the reputation of the famous mark.

Sec. 17. "Dilution of a famous mark" means dilution by blurring or dilution by tarnishment, regardless of the presence or absence of:

1. Competition between the owner of the famous mark and other parties;

2. Actual or likely confusion, mistake or deception; or

3. Actual economic injury.

Sec. 18. "Famous mark" means a mark that is famous in this State pursuant to the criteria set forth in NRS 600.435.

Sec. 19. "Federal Trademark Act" means the federal Trademark Act of 1946, as amended, 15 U.S.C. §§ 1051 et seq., which is commonly known as the Lanham Act.

Sec. 20. "Owner of a mark" or "owner" means a person who is the owner of a mark and the legal representatives, successors or assigns of such a person.

Sec. 21. 1. "Person" means a natural person or a business or legal entity.

2. The term does not include a government, governmental agency or political subdivision of a government.

Sec. 22. For the purposes of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, a mark is deemed to be "abandoned" when either of the following occurs:

1. When use of the mark has been discontinued with the intent not to resume such use. Intent not to resume use may be inferred from the circumstances. Nonuse of the mark for 2 consecutive years constitutes prima facie evidence of abandonment.

2. When any course of conduct of the owner of the mark, including acts of omission as well as commission, causes the mark to lose its significance as a mark.

Sec. 23. 1. The provisions of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act must be interpreted and applied to provide in this State a system of registration and protection of marks that is substantially consistent with the federal system of registration and protection of marks pursuant to the federal Trademark Act.

2. To the extent that the provisions of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, as implemented and administered by the Secretary of State, are substantially consistent with the federal Trademark Act, the interpretation and application given to the federal Trademark Act must

1 be considered to be persuasive authority in interpreting and applying the  
2 provisions of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive,  
3 of this act.

4 Sec. 24. 1. The Secretary of State shall, by regulation, prescribe the  
5 amount of the fees that are necessary for the administration of NRS 600.240 to  
6 600.450, inclusive, and sections 14 to 28, inclusive, of this act.

7 2. Unless otherwise specified by the Secretary of State, the fees payable  
8 pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive,  
9 of this act are nonrefundable.

10 3. The Secretary of State may adopt any other regulations that are  
11 necessary for the administration of NRS 600.240 to 600.450, inclusive, and  
12 sections 14 to 28, inclusive, of this act.

13 Sec. 25. 1. After an applicant files an application for registration of a  
14 mark and pays the required fees, the Secretary of State may review the  
15 application for conformity with the provisions of NRS 600.240 to 600.450,  
16 inclusive, and sections 14 to 28, inclusive, of this act.

17 2. The applicant:

18 (a) Shall provide any additional pertinent information regarding the  
19 application that is requested by the Secretary of State, including, but not limited  
20 to, a description or depiction of a design mark; and

21 (b) Except as otherwise provided in this paragraph, may submit amendments  
22 to the application as may be reasonably requested by the Secretary of State or  
23 deemed by the applicant to be advisable in response to any objection made by the  
24 Secretary of State. In lieu of allowing or making any amendments to the  
25 application, the Secretary of State may require the applicant to submit a new or  
26 corrected application.

27 3. The Secretary of State may require the applicant to disclaim an  
28 unregisterable component of a mark that is otherwise registerable, and an  
29 applicant may voluntarily disclaim a component of a mark that is otherwise  
30 registerable. If the applicant disclaims a component of a mark, the disclaimer  
31 does not prejudice or affect the rights of the applicant then existing or thereafter  
32 arising, either as an applicant or registrant, in the disclaimed matter or the right  
33 to seek registration in another application if the disclaimed matter is or becomes  
34 distinctive of the goods or services of the applicant.

35 4. Except as otherwise provided in subsection 5, if the Secretary of State  
36 finds that a mark is not entitled to registration:

37 (a) The Secretary of State shall notify the applicant and specify the reasons  
38 for the finding;

39 (b) The applicant shall have a reasonable period, as specified by the  
40 Secretary of State, in which to respond to the finding or to amend the application;  
41 and

42 (c) If the applicant responds to the finding or amends the application, the  
43 Secretary of State shall reexamine the application. The Secretary of State and the  
44 applicant shall repeat this procedure until:

45 (1) The Secretary of State determines that any further response or  
46 amendment by the applicant will not change the result and issues a final decision  
47 denying registration of the mark; or

48 (2) The applicant fails to respond or amend the application within the  
49 specified period, at which time the application shall be deemed to be abandoned.

50 5. If the Secretary of State is concurrently processing two or more  
51 applications seeking registration of the same or confusingly similar mark for the  
52 same or related goods or services, the Secretary of State shall grant priority to the  
53 applications in the order in which they were filed. If the Secretary of State issues

1 a certificate of registration for a mark in an earlier-filed application, the  
2 Secretary of State shall deny registration of the marks in the later-filed  
3 applications. If an applicant is aggrieved by a final decision of the Secretary of  
4 State denying registration of a mark in a later-filed application pursuant to this  
5 subsection, the applicant may bring an action for cancellation of the registration  
6 of the mark in the earlier-filed application upon grounds of prior or superior  
7 rights to the mark in accordance with section 27 of this act.

8 Sec. 26. 1. If an applicant is aggrieved by a final decision of the Secretary  
9 of State denying registration of a mark, the applicant may bring an action for a  
10 writ of mandamus to compel registration of the mark.

11 2. The applicant must file the action for a writ of mandamus within 30 days  
12 after service of the final decision of the Secretary of State.

13 3. The court's review of the final decision of the Secretary of State denying  
14 registration of the mark must be based solely upon the record before the  
15 Secretary of State.

16 4. If the applicant proves that all the statements in the application are true  
17 and that the mark is otherwise entitled to registration, the court shall grant  
18 appropriate relief compelling registration of the mark, but without costs to the  
19 Secretary of State.

20 Sec. 27. 1. If a person is aggrieved by the registration of a mark in this  
21 State, the person may bring an action for cancellation of the registration of the  
22 mark.

23 2. To bring an action for cancellation of the registration of the mark, the  
24 person must:

25 (a) Name the owner of the mark as the respondent; and

26 (b) Institute the action by filing a petition in the district court in and for  
27 Carson City, in and for the county in which the owner resides or in and for a  
28 county where the mark is in use in this State.

29 3. When the person bringing the action serves the respondent with the  
30 petition, the person also must serve the Secretary of State with a copy of the  
31 petition in the manner prescribed by Rule 5 of the Nevada Rules of Civil  
32 Procedure. The Secretary of State is not a necessary and indispensable party to  
33 the action under Rule 19 of the Nevada Rules of Civil Procedure, and the person  
34 bringing the action may not name the Secretary of State as a party to the action.

35 Sec. 28. In any action brought pursuant to NRS 600.240 to 600.450,  
36 inclusive, and sections 14 to 28, inclusive, of this act against a nonresident owner  
37 of a mark, if the nonresident owner has not appointed an agent for service of  
38 process:

39 1. The Secretary of State shall be deemed to be an agent of the nonresident  
40 owner for the purposes of service of process in the action; and

41 2. Service of process may be made upon the Secretary of State as the agent  
42 of the nonresident owner in accordance with the procedures established by law  
43 for service upon a nonresident business or legal entity.

44 Sec. 29. NRS 600.240 is hereby amended to read as follows:

45 600.240 As used in NRS 600.240 to 600.450, inclusive, and sections 14 to  
46 28, inclusive, of this act, unless the context otherwise requires, the words and terms  
47 defined in NRS 600.250 to ~~600.320,~~ 600.310, inclusive, and sections 14 to 21,  
48 inclusive, of this act have the meanings ascribed to them in those sections.

49 Sec. 30. NRS 600.250 is hereby amended to read as follows:

50 600.250 "Applicant" means ~~the person filing~~ a person who files an  
51 application for registration of a ~~trademark, his~~ mark pursuant to NRS 600.240 to  
52 600.450, inclusive, and sections 14 to 28, inclusive, of this act, and the legal  
53 representatives, successors or assigns ~~of~~ of such a person.

1        **Sec. 31. NRS 600.260 is hereby amended to read as follows:**  
2        600.260 “Mark” ~~includes~~ means any trademark ~~or trade name~~ or service  
3 mark , including any trademark or service mark that also functions as a trade  
4 name, entitled to registration pursuant to NRS 600.240 to 600.450, inclusive, and  
5 sections 14 to 28, inclusive, of this act, whether registered or not.

6        **Sec. 32. NRS 600.280 is hereby amended to read as follows:**  
7        600.280 “Registrant” ~~includes~~ means the person to whom the Secretary of  
8 State issues the certificate of registration of a mark ~~is issued, his~~ pursuant to  
9 NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act,  
10 and the legal representatives, successors or assigns ~~of such a person.~~

11        **Sec. 33. NRS 600.290 is hereby amended to read as follows:**  
12        600.290 “Service mark” means ~~is a mark used in the sale or advertising of~~  
13 ~~services~~ any word, name, symbol or device, or any combination thereof, used by  
14 a person to identify and distinguish the services of ~~one person and distinguish~~  
15 ~~them~~ that person, including a unique service, from the services of others ~~and~~  
16 to indicate the source of the services, even if that source is unknown. Titles,  
17 character names used by a person and other distinctive features of radio or  
18 television programs may be registered as service marks notwithstanding that the  
19 titles, character names or programs may advertise the goods of the sponsor.

20        **Sec. 34. NRS 600.300 is hereby amended to read as follows:**  
21        600.300 “Trademark” means any word, name, symbol or device, or any  
22 combination ~~of them, adopted and~~ thereof, used by a person to identify and  
23 distinguish the goods ~~made~~ manufactured or sold by ~~him and to distinguish~~  
24 ~~them~~ that person, including a unique product, from the goods ~~made~~  
25 manufactured or sold by others ~~and to indicate the source of the goods, even~~  
26 if that source is unknown.

27        **Sec. 35. NRS 600.310 is hereby amended to read as follows:**  
28        600.310 “Trade name” means ~~is a word, symbol, device, or any combination of~~  
29 ~~them~~ any word or name used by a person to identify ~~his~~ the business, vocation or  
30 occupation ~~and distinguish it from the business, vocation or occupation of~~  
31 ~~others~~ of that person.

32        **Sec. 36. NRS 600.320 is hereby amended to read as follows:**  
33        600.320 For the purposes of NRS 600.240 to 600.450, inclusive, and  
34 sections 14 to 28, inclusive, of this act:

35        1. “Use” means the bona fide use of a mark in the ordinary course of trade.  
36 The term does not include use made merely to reserve a right in a mark.

37        2. A mark is deemed to be ~~used~~ in “use” in this State:

38        ~~(a)~~ (a) On goods when ~~the mark~~ is placed in any manner on the goods,  
39 their containers, the displays associated with them or on the tags or labels affixed to  
40 them or, if the nature of the goods makes such placement impracticable, then on  
41 documents associated with the goods or their sale, and the goods are sold or  
42 ~~otherwise distributed in the~~ transported in commerce in this State; and

43        ~~(b)~~ (b) On services when ~~the mark~~ is used or displayed in the sale or  
44 advertising of services and the services are rendered in this State.

45        **Sec. 37. NRS 600.330 is hereby amended to read as follows:**

46        600.330 A mark must not be registered if it:

- 47        1. Contains immoral, deceptive or scandalous matter.
- 48        2. Contains matter which may disparage or falsely suggest a connection with  
49 persons, living or dead, institutions, beliefs ~~or~~ or national symbols or which may  
50 bring them into contempt or disrepute.
- 51        3. Resembles or simulates the flag , the coat of arms or other insignia of the  
52 United States, or of any state or municipality, or of any foreign nation.

4. Contains the name, signature or portrait of any living person, except when ~~this~~ the written consent of the person has been obtained.

5. Consists of a mark which:

(a) When applied to the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them;

(b) When applied to the goods or services of the applicant is primarily geographically descriptive or deceptively misdescriptive of them; or

(c) Is primarily merely a surname,

but this subsection does not prevent the registration of a mark used by the applicant which has become distinctive of the applicant's goods or services. Proof of continuous use of the mark by the applicant in this State or elsewhere for 5 years next preceding the date of the filing of the application for registration may be accepted by the Secretary of State as evidence that the mark has become distinctive.

6. So resembles a mark registered in this State which has not been abandoned that it is likely that confusion, mistake or deception may result.

**Sec. 38. NRS 600.340 is hereby amended to read as follows:**

600.340 1. A person who has adopted and is using a mark in this State may file in the Office of the Secretary of State, on a form to be furnished by the Secretary of State, an application for registration of that mark setting forth, but not limited to, the following information:

(a) Whether the mark to be registered is a trademark, trade name or service mark;

(b) A description of the mark by name, words displayed in it or other information;

(c) The name and business address of the person applying for the registration and, if it is a corporation, limited-liability company, limited partnership or registered limited-liability partnership, the state of incorporation or organization;

(d) The specific goods or services in connection with which the mark is used and the mode or manner in which the mark is used in connection with those goods or services and the class as designated by the Secretary of State which includes those goods or services;

(e) The date when the mark was first used anywhere and the date when it was first used in this State by the applicant or his predecessor in business which must precede the filing of the application; and

(f) A statement that the applicant is the owner of the mark and that no other person has the right to use the mark in this State either in the form set forth in the application or in such near resemblance to it as might deceive or cause mistake.

2. The application must:

(a) Be signed and verified by the applicant or by a member of the firm or an officer of the corporation or association applying.

(b) Be accompanied by a specimen or facsimile of the mark on white paper that is 8 1/2 inches by 11 inches in size and by a filing fee ~~of \$100 payable to the Secretary of State.~~ in the amount prescribed pursuant to section 24 of this act.

3. If the application fails to comply with this section or NRS 600.343, the Secretary of State shall return it for correction.

**Sec. 39. NRS 600.340 is hereby amended to read as follows:**

600.340 1. ~~It is~~ Subject to the limitations set forth in NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, a person who has adopted and is using a mark in this State may file in the Office of the Secretary of State, on a form ~~to be furnished~~ prescribed by the Secretary of State, an application for registration of that mark ~~setting forth~~ The application must include, but is not limited to, the following information:

(a) ~~[Whether the mark to be registered is a trademark, trade name or service mark]~~

~~— (b) A description~~ An identification of the mark by name, words displayed in it or other information ~~[+]~~ necessary to specify the elements for which trademark or service mark protection is sought.

~~(b) A drawing or other representation of the mark which complies with such requirements as the Secretary of State may specify. The drawing must depict the mark sought to be registered in:~~

~~(1) Standard typed characters if the mark is a word mark; or~~

~~(2) A special form drawing if the mark features design elements, special fonts, color or other noncharacter elements.~~

~~— After registration, the registrant may not change the drawing of the mark if the change constitutes a material alteration of the mark such that the altered mark creates a different commercial impression and those persons on notice of the original registration would need a new notice to be adequately informed of the registrant's claim of rights.~~

(c) The name and business address of the person applying for the registration and, if ~~[+]~~ the person is a ~~[corporation, limited liability company, limited partnership or registered limited liability partnership]~~ business or legal entity, the state of incorporation or organization ~~[+]~~ and the names of the officers, general partners or managing members of the business or legal entity, as specified by the Secretary of State.

(d) The specific goods or services on or in connection with which the mark is used and the mode or manner in which the mark is used on or in connection with those goods or services and the class as designated by the Secretary of State pursuant to NRS 600.400 which includes those goods or services. ~~[+]~~

(e) The date when the mark was first used anywhere and the date when ~~[+]~~ the mark was first used in this State by the applicant or ~~[+]~~ the applicant's predecessor in ~~[business which]~~ interest, provided that the date when the mark was first used in this State must precede the filing of the application. ~~[+and]~~

(f) A statement that ~~[the]~~ :

~~(1) The~~ (I) The applicant is the owner of the mark ;

~~(2) The mark is in use in this State; and [that]~~

~~(3) To the knowledge of the person signing the application,~~ no other person ~~[has]~~ :

~~(I) Holds a federal or Nevada state registration for the mark for similar goods or services with a filing date that predates the applicant's first use of the mark in this State; or~~

~~(II) Has the right to use the mark in this State either in the form set forth in the application or in such near resemblance to it as [might deceive or cause mistake.] to be likely, when applied to the goods or services of the other person, to cause confusion, mistake or deception.~~

2. The Secretary of State may require the applicant to submit with the application a statement as to whether an application to register the mark, or portions or a composite of the mark, has been filed by the applicant or the applicant's predecessor in interest with the United States Patent and Trademark Office. If such a statement is required, the statement must set forth full particulars with respect to each application, including, but not limited to:

(a) The filing date, serial number and current status of each application; and

(b) If any application resulted in the mark being denied registration or otherwise resulted in the mark not being registered, the reasons for the denial or the mark not being registered.

3. The application must ~~[+]~~



~~\_\_\_\_\_~~ (a) ~~Be signed~~ be:

(a) Signed and verified under penalty of perjury by the applicant or , if the applicant is a business or legal entity, by ~~the~~ a natural person with legal authority to bind the business or legal entity, including, but not limited to:

(1) An officer, general partner or managing member of the ~~firm or an~~ officer of the corporation or association applying.

~~\_\_\_\_\_~~ (b) ~~Be accompanied~~ business or legal entity;

(2) A designated employee of the business or legal entity responsible for its marks; or

(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia;

(b) Accompanied by a specimen ~~for facsimile of~~ which shows the mark ~~on white paper that is 8 1/2 inches by 11 inches in size and~~ as actually used on or in connection with the goods or services and which meets the criteria set forth in NRS 600.343; and

(c) Accompanied by a filing fee in the amount prescribed pursuant to section 24 of this act.

~~2-4~~ 4. If the application fails to comply with this section or NRS 600.343, the Secretary of State shall return it for correction.

**Sec. 40. NRS 600.343 is hereby amended to read as follows:**

600.343 1. A specimen accompanying an application for ~~the~~ registration of a mark or an application for renewal of the registration must meet the following criteria:

(a) The specimen must ~~agree~~ :

(1) Agree with the mark as described in the application. ~~It must agree~~ for registration of the mark or as depicted in the drawing or other representation of the mark included with that application;

(2) Agree with the mark as used ~~it, and evidence~~; and

(3) Evidence use of the mark.

~~\_\_\_\_\_~~ (b) ~~If the specimen is a drawing, it must be a substantially exact representation of the mark as actually used.~~

~~\_\_\_\_\_~~ (c) ~~The specimen must fit on a page of paper ~~not larger than~~ that measures 8 1/2 inches by 11 inches.~~

~~\_\_\_\_\_~~ (d) ~~A specimen may be a facsimile or photograph of the mark.~~

~~\_\_\_\_\_~~ (e)

(c) The specimen must be suitable for reproduction, retention and retrieval.

2. ~~[After registration, an applicant may not change the specimen if the change constitutes a material alteration of the mark.] A specimen may be a facsimile or photograph of the mark if the specimen otherwise meets the criteria set forth in subsection 1. Acceptable specimens for goods include, but are not limited to, facsimiles or photographs of labels, tags, packaging or displays associated with the goods. Acceptable specimens for services include, but are not limited to, facsimiles or photographs of brochures, web pages, advertisements or signage associated with the services.~~

**Sec. 41. NRS 600.350 is hereby amended to read as follows:**

600.350 1. Upon compliance by the applicant with the requirements ~~of NRS 600.230 and 600.340,~~ for the registration of a mark pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, the Secretary of State shall issue and deliver a certificate of registration to the applicant. The certificate of registration must be issued under the signature of the Secretary of State and the seal of the State, and it must designate:

(a) The name and business address of the owner of the mark and, if the owner is a corporation, limited liability company, limited partnership or registered limited liability partnership, business or legal entity, the state of incorporation or organization; ~~of the person claiming ownership of the mark;~~

(b) The date claimed for the first use of the mark anywhere and the date claimed for the first use of the mark in this State;

(c) The class of goods or services to which the mark applies;

(d) A description of the goods or services on or in connection with which the mark is used;

(e) A reproduction of the mark;

(f) The registration date; and

(g) The term of the registration.

~~2.~~ 2. If a date of first use contained in the application is indefinite, the certificate of registration must designate the latest definite date that can be inferred from the words used. If a month and year are given without specifying the day, the date is presumed to be the last day of the month. If only a year is given, the date is presumed to be the last day of the year.

~~3.~~ 3. The certificate of registration or a copy of the certificate certified by the Secretary of State is admissible in evidence as competent and sufficient proof of the registration of the mark in any action or judicial proceedings in any court of this State, and raises a disputable presumption that the person to whom the certificate was issued is the owner of the mark in this State as applied to the goods or services described in the certificate.

**Sec. 42. NRS 600.355 is hereby amended to read as follows:**

600.355 1. If any statement in an application for registration of a mark was incorrect when made or any arrangements or other facts described in the application have changed, making the application inaccurate in any respect without materially altering the mark, the registrant shall promptly file in the Office of the Secretary of State a certificate, signed by the registrant or his successor or by a member of the firm or an officer of the corporation or association to which the mark is registered, correcting the statement.

2. Upon the filing of a certificate of amendment or judicial decree of amendment and the payment of a filing fee ~~of \$60,~~ in the amount prescribed pursuant to section 24 of this act, the Secretary of State shall issue, in accordance with NRS 600.350, an amended certificate of registration for the remainder of the period of the registration.

**Sec. 43. NRS 600.355 is hereby amended to read as follows:**

600.355 1. If , after registration of a mark, the registrant discovers that any statement in ~~the~~ the application for registration of ~~the~~ the mark was incorrect when made or any arrangements or other facts described in the application have changed, making the application inaccurate in any respect without materially altering the mark, the registrant shall promptly file in the Office of the Secretary of State a certificate ~~signed~~ of amendment correcting the application. The certificate of amendment must be:

(a) Signed and verified under penalty of perjury by the registrant or his successor or by a member of the firm or an, if the registrant is a business or legal entity, by a natural person with legal authority to bind the business or legal entity, including, but not limited to:

(1) An officer, general partner or managing member of the corporation or association to which the mark is registered, correcting the statement, business or legal entity;



(2) A designated employee of the business or legal entity responsible for its marks; or

(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia; and

(b) Accompanied by a filing fee in the amount prescribed pursuant to section 24 of this act.

2. If, after registration of a mark, a court of competent jurisdiction enters a judicial decree amending the registration, the registrant or the party obtaining the judicial decree of amendment shall promptly file the judicial decree of amendment in the Office of the Secretary of State. The judicial decree of amendment must be accompanied by:

(a) A form prescribed by the Secretary of State which must be signed and verified under penalty of perjury by the registrant or the party obtaining the judicial decree or, if the registrant or party is a business or legal entity, by a natural person with legal authority to bind the business or legal entity, including, but not limited to:

(1) An officer, general partner or managing member of the business or legal entity;

(2) A designated employee of the business or legal entity responsible for its marks; or

(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia; and

(b) A filing fee in the amount prescribed pursuant to section 24 of this act.

3. Upon the filing of a certificate of amendment or judicial decree of amendment ~~and the payment of a filing fee in the amount prescribed pursuant to section 24 of this act,~~ in accordance with this section, the Secretary of State shall issue ~~to the registrant,~~ in accordance with NRS 600.350, an amended certificate of registration for the remainder of the period of the registration.

**Sec. 44. NRS 600.360 is hereby amended to read as follows:**

600.360 1. The registration of a mark is effective for 5 years from the date of registration and, upon application filed within 6 months before the expiration of that period, on a form to be furnished by the Secretary of State, the registration may be renewed for a successive period of 5 years. A renewal fee ~~of \$50, payable to the Secretary of State,~~ in the amount prescribed pursuant to section 24 of this act must accompany the application for renewal of the registration.

2. The registration of a mark may be renewed for additional successive 5-year periods if the requirements of subsection 1 are satisfied.

3. The Secretary of State shall give notice to each registrant when his registration is about to expire. The notice must be given within the year next preceding the expiration date, by writing to the registrant's last known address.

4. All applications for renewals must include a statement that the mark is still in use in this State.

**Sec. 45. NRS 600.360 is hereby amended to read as follows:**

600.360 1. The registration of a mark is effective for 5 years from the date of registration. ~~and, upon application filed~~

2. Except as otherwise provided in this subsection, upon the filing of an application for renewal of the registration in the Office of the Secretary of State within 6 months before the expiration of ~~that period,~~ the period of the registration, on a form ~~to be furnished~~ prescribed by the Secretary of State, the registration may be renewed for a successive period of 5 years. ~~to be~~ The Secretary

of State may adopt regulations to provide for alternative renewal periods which must not exceed 10 years.

3. The application for renewal of the registration must:

(a) Include a verified statement that the mark is still in use in this State;

(b) Be signed and verified under penalty of perjury by the registrant or, if the registrant is a business or legal entity, by a natural person with legal authority to bind the business or legal entity, including, but not limited to:

(1) An officer, general partner or managing member of the business or legal entity;

(2) A designated employee of the business or legal entity responsible for its marks; or

(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia;

(c) Be accompanied by a specimen which shows the mark as actually used on or in connection with the goods or services and which meets the criteria set forth in NRS 600.343; and

(d) Be accompanied by a renewal fee in the amount prescribed pursuant to section 24 of this act. ~~{must accompany the application for renewal of the registration.~~

~~2. The registration of a mark may be renewed for additional successive {5-year} periods if the requirements of {subsection 4} this section are satisfied.~~

~~{3.} 5. The Secretary of State {shall give} may provide notice to each registrant {when his registration is about to expire. The} of the date on which the registrant's registration will expire. If such notice is provided, the notice must be given within the {year next} 12 months immediately preceding the expiration date ~~{ by writing} and delivered to the registrant by:~~~~

(a) Mail sent to the registrant's last known address ~~{~~

~~4. All applications for renewals must include a statement that the mark is still in use in this State.}; or~~

(b) If requested by the registrant, electronic mail or other electronic means.

6. If the application for renewal of the registration fails to comply with this section or NRS 600.343, the Secretary of State shall return it for correction.

Sec. 46. NRS 600.370 is hereby amended to read as follows:

600.370 1. A mark and its registration are assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. An assignment must:

(a) Be in writing;

(b) Be signed and acknowledged by the registrant or his successor or a member of the firm or an officer of the corporation or association under whose name the mark is registered; and

(c) Be recorded with the Secretary of State upon the payment of a fee ~~{of \$100 to the Secretary of State who, upon}~~ in the amount prescribed pursuant to section 24 of this act. Upon recording the assignment, the Secretary of State shall issue in the name of the assignee a certificate of assignment for the remainder of the period of the registration.

2. An assignment of any registration is void as against any subsequent purchaser for valuable consideration without notice, unless:

(a) The assignment is recorded with the Secretary of State within 3 months after the date of the assignment; or

(b) The assignment is recorded before the subsequent purchase.

**Sec. 47. NRS 600.370 is hereby amended to read as follows:**

600.370 1. A mark and its registration are assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. An assignment must:

(a) Be in writing; and

(b) Be signed and acknowledged by the registrant or ~~his successor or a member of the firm or~~ if the registrant is a business or legal entity, by an officer, general partner or managing member of the ~~corporation or association under whose name the mark is registered; and~~

~~(c) Be recorded with~~ business or legal entity.

2. An assignment may be recorded in the Office of the Secretary of State upon the payment of a recording fee in the amount prescribed pursuant to section 24 of this act. Upon recording the assignment, the Secretary of State shall issue in the name of the assignee a certificate of assignment for the remainder of the period of the registration.

~~3.~~ 3. An assignment of any registration is void as against any subsequent purchaser for valuable consideration without notice ~~if~~ unless:

(a) The assignment is recorded ~~with~~ in the Office of the Secretary of State within 3 months after the date of the assignment; or

(b) The assignment is recorded in the Office of the Secretary of State before the subsequent purchase.

4. An applicant or registrant whose name has changed may record in the Office of the Secretary of State a certificate of change of name. The certificate of change of name must be:

(a) On a form prescribed by the Secretary of State;

(b) Signed and verified under penalty of perjury by the applicant or registrant or, if the applicant or registrant is a business or legal entity, by a natural person with legal authority to bind the business or legal entity, including, but not limited to:

(1) An officer, general partner or managing member of the business or legal entity;

(2) A designated employee of the business or legal entity responsible for its marks; or

(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia; and

(c) Accompanied by a recording fee in the amount prescribed pursuant to section 24 of this act.

5. Upon recording a certificate of change of name, the Secretary of State shall issue:

(a) In the applicant's new name, a certificate verifying that the name on the application has changed.

(b) In the registrant's new name, an amended certificate of registration for the remainder of the period of the registration.

6. In the discretion of the Secretary of State, other instruments which relate to a registered mark or an application for registration of a mark, including, but not limited to, licenses, security interests or mortgages, may be recorded in the Office of the Secretary of State if the instrument is:

(a) In writing; and

(b) Signed and acknowledged by the parties to the instrument or, if any party is a business or legal entity, by an officer, general partner or managing member of the business or legal entity.

7. If an assignment or other instrument is acknowledged, the acknowledgment is prima facie evidence of the execution of the assignment or other instrument and, if the assignment or other instrument is recorded in the Office of the Secretary of State, the record is prima facie evidence of the execution of the assignment or other instrument.

8. If an assignment or other instrument otherwise meets the requirements for recording, a photocopy of the assignment or other instrument must be accepted for recording if the photocopy is certified as a true and correct copy of the original by a party to the assignment or other instrument or by a party's successor.

Sec. 48. NRS 600.380 is hereby amended to read as follows:

600.380 The Secretary of State shall keep for public examination a record of ~~{all registered marks.}~~:

1. All marks registered or renewed by the Office of the Secretary of State pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act; and

2. All other documents filed or recorded in the Office of the Secretary of State pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act.

Sec. 49. NRS 600.390 is hereby amended to read as follows:

600.390 The Secretary of State shall cancel from the register:

1. ~~{After July 1, 1980, any filing or registration of a mark.}~~ Any registration which the registrant or the assignee of record voluntarily requests to be cancelled.

2. Any registration which has expired and is not renewed in accordance with the provisions of NRS 600.360.

~~2. Any registration which the registrant or the assignee of record voluntarily requests to be cancelled.~~

3. Any registration concerning which a court of competent jurisdiction finds that:

- (a) The registered mark has been abandoned.
- (b) The registrant is not the owner of the mark.
- (c) The registration was granted improperly.
- (d) The registration was obtained fraudulently.

(e) The registered mark is or has become the generic name for the goods or services, or a portion thereof, for which it has been registered.

(f) The registered mark is likely to cause confusion or mistake or to deceive because of its similarity to a mark ~~which~~ which was registered by another person in the United States Patent and Trademark Office ~~on~~ before the date of the filing of the application for registration by the registrant under NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act and which has not been abandoned. But if the registrant proves that he is the owner of a concurrent registration of his mark in the United States Patent and Trademark Office covering an area including this State, the registration with the Secretary of State must not be cancelled.

4. Any registration when a court of competent jurisdiction orders cancellation of the registration on any ground.

Sec. 50. NRS 600.395 is hereby amended to read as follows:

600.395 ~~{The fee for filing a}~~ If a person requests cancellation of a registration pursuant to NRS 600.390 ~~{in \$50.}~~, the request must be accompanied by a filing fee in the amount prescribed pursuant to section 24 of this act.

1        **Sec. 51. NRS 600.400 is hereby amended to read as follows:**

2        600.400 1. The Secretary of State ~~may~~ shall adopt regulations defining  
3 general classes of goods and services for which a mark may be registered. ~~{Classes~~  
4 ~~defined pursuant to this subsection}~~ The classes of goods and services adopted by  
5 the Secretary of State are deemed to be for administrative convenience and must  
6 not be deemed to be exclusive or limit or extend the rights of the applicant or  
7 registrant. To the extent practicable, the classes of goods and services adopted by  
8 the Secretary of State must conform to the classes of goods and services adopted  
9 by the United States Patent and Trademark Office in the administration of the  
10 federal Trademark Act.

11        2. A single application for registration of a mark may include any goods  
12 within their class on which the mark is used, or any services within their class  
13 rendered in connection with the mark. If a mark is used for more than one class of  
14 goods or more than one class of services the applicant must file a separate  
15 application for each class.

16        **Sec. 52. NRS 600.410 is hereby amended to read as follows:**

17        600.410 Any person who for himself ~~{}~~ or on behalf of any other person,  
18 attempts to procure or procures the registration of any mark in this State or the  
19 filing or recording of any document in the Office of the Secretary of State  
20 pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive,  
21 of this act by knowingly making any false or fraudulent representation or  
22 declaration, verbally or in writing, or by any other fraudulent means, is liable for all  
23 damages sustained in consequence of the registration or the filing or recording to  
24 any party injured thereby.

25        **Sec. 53. NRS 600.420 is hereby amended to read as follows:**

26        600.420 Any person:

27        1. Who uses, without the consent of the ~~{registrant,}~~ owner, any reproduction,  
28 counterfeit, copy or colorable imitation of a mark registered in this State in  
29 connection with the sale, distribution, offering for sale or advertising of any goods  
30 or services ~~{}~~ on or in connection with which such use is likely to cause confusion  
31 or mistake or result in deception as to the source of origin of such goods or  
32 services; or

33        2. Who reproduces, counterfeits, copies or colorably imitates any mark  
34 registered in this State and applies or causes to apply that reproduction, counterfeit,  
35 copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles  
36 or advertisements intended to be used on or in ~~{conjunction}~~ connection with the  
37 sale or other distribution in this State of goods or services,

38        is liable in a civil action by the owner of the registered mark for any or all of the  
39 remedies provided in NRS 600.430, except that the owner of the mark is not  
40 entitled to recover profits or damages ~~{under}~~ for any act in violation of subsection  
41 2 unless the act or acts were committed with ~~{knowledge that the reproduction,~~  
42 ~~counterfeit, copy or imitation of the mark was intended to be used}~~ the intent to  
43 cause confusion, mistake or deception.

44        **Sec. 54. NRS 600.430 is hereby amended to read as follows:**

45        600.430 1. Any owner of a mark registered in this State may proceed by suit  
46 to enjoin the manufacture, use, display or sale of counterfeits or imitations of ~~{it}~~  
47 the mark.

48        2. A court of competent jurisdiction may:

49        (a) Grant injunctions to restrain such manufacture, use, display or sale as it  
50 deems just and reasonable under the circumstances;

51        (b) Require the defendant to pay to the owner of the mark all profits derived  
52 from the wrongful acts of the defendant and all damages suffered by reason of these  
53 acts;

(c) Require the defendant to pay to the owner of the mark treble damages on all profits derived from the willful and wrongful acts of the defendant and treble damages on all damages suffered by reason of these acts; and

(d) Order that any counterfeits or imitations in the possession or control of any defendant be delivered ~~(for destruction)~~ to an officer of the court or ~~to the complainant~~ the owner of the mark for destruction.

3. In an action brought pursuant to this section, the court may award costs and reasonable attorney's fees to the prevailing party.

4. The enumeration of any right or remedy in this section does not affect ~~the registrant's~~ the right of the owner of the mark to prosecute under any penal law of this State.

**Sec. 55. NRS 600.435 is hereby amended to read as follows:**

600.435 1. Except as otherwise provided in subsection 4 ~~and subject to the principles of equity,~~ the owner of a mark that is famous in this State may bring an action to enjoin commercial use of the mark by a person if such use:

(a) Begins after the mark has become famous; and

(b) ~~Causes~~ Is likely to cause dilution of the famous mark.

2. A mark is famous in this State if it is distinctive, inherently or through acquired distinctiveness, and is widely recognized by the general consuming public of this State or a geographic area in this State as a designation of source of the goods or services of the owner of the mark. In determining whether a mark is famous in this State, the court shall consider, ~~[without limitation,~~ but is not limited to, the following factors:

(a) The ~~[degree of inherent or acquired distinctiveness of]~~ amount, volume and geographic extent of sales of the goods or services offered under the mark in this State.

(b) The duration ~~[and extent of use of the mark in connection with the goods and services with which the mark is used,~~

~~(c) The duration and extent of advertisement and promotion of the mark in this State,~~

~~(d) The geographical extent of the trading area in which the mark is used,~~

~~(e) The channels of trade for the goods or services with which the mark is used,~~

~~(f) The degree of recognition of the mark in the trading areas and channels of trade in this State used by the owner of the mark and the person against whom the injunction is sought,~~

~~(g) , extent and geographic reach of advertising and publicity of the mark in this State, whether the mark is advertised or publicized by the owner or other persons.~~

(c) The extent of actual recognition of the mark in this State.

(d) The nature and extent of use of the same or similar mark by other persons.

~~(h) (e)~~ Whether the mark is registered in this State or registered in the United States Patent and Trademark Office pursuant to federal law.

3. ~~[Except as otherwise provided in this subsection,~~ In an action brought pursuant to this section, the owner of a famous mark ~~[that is famous may obtain only]~~ :

(a) Is entitled to injunctive relief ~~[in an action brought pursuant to this section. The owner of a mark that is famous is entitled to the remedies provided in NRS 600.430 if]~~ throughout the geographic area in which the mark is found to be famous, but not outside the borders of this State; and

(b) If the person [using the mark] against whom the injunctive relief is sought willfully intended to cause dilution of the famous mark or willfully intended to trade on the reputation of the owner of the famous mark [H], is entitled to the



1 remedies provided in NRS 600.430, subject to the discretion of the court and the  
2 principles of equity.

3 4. The owner of a famous mark ~~{that is famous}~~ may not bring an action  
4 pursuant to this section ~~{for the}~~ based on:

5 (a) The fair use of the mark by another person {in comparative commercial  
6 advertising}, unless the other person wrongfully uses the mark as a designation  
7 of source for the person's own goods or services. For the purposes of this  
8 paragraph, fair use of the mark includes any nominative or descriptive fair use,  
9 or facilitation of such fair use, by the other person, including, but not limited to,  
10 use in connection with:

11 (1) Advertising or promotion {to identify the} that permits consumers to  
12 compare competing goods or services of the owner of the mark. {

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

14 ~~— (a) “Commercial use” means use of a mark primarily for profit. The term does~~  
15 ~~not include}; or~~

16 (2) Identifying and parodying, criticizing or commenting upon the owner  
17 of the mark or the goods or services of the owner of the mark.

18 (b) The noncommercial use of the mark by another person, including, but  
19 not limited to, use of {a} the mark for research, criticism, news commentary, news  
20 reporting, teaching or any similar use that is not primarily for profit.

21 ~~{ (b) “Dilution” means a lessening in the capacity of a mark that is famous to~~  
22 ~~identify and distinguish goods or services, regardless of the presence or absence of:~~

23 ~~— (1) Competition between the owner of the mark and other persons; or~~

24 ~~— (2) Likelihood of confusion, mistake or deception as to the source of origin~~  
25 ~~of goods or services. }~~

26 Sec. 56. NRS 600.440 is hereby amended to read as follows:

27 600.440 The rights and remedies enumerated in NRS 600.240 to 600.450,  
28 inclusive, and sections 14 to 28, inclusive, of this act are in addition to those to  
29 which an owner of a mark is entitled under the common law.

30 Sec. 57. NRS 600.450 is hereby amended to read as follows:

31 600.450 1. It is unlawful for any person ~~{for corporation}~~  
32 (a) To imitate any mark registered as provided in NRS 600.240 to 600.450,  
33 inclusive ~~{,}~~ and sections 14 to 28, inclusive, of this act;

34 (b) To use knowingly any counterfeit or imitation thereof;

35 (c) To use or display such genuine mark unless authorized to do so; or

36 (d) To use or display such genuine mark in a manner not authorized by the  
37 registrant.

38 2. Any person ~~{violating}~~ who violates any provision of subsection 1 is guilty  
39 of a misdemeanor.

40 ~~{Sec. 12.}~~ Sec. 58. NRS 11.190 is hereby amended to read as follows:

41 11.190 Except as otherwise provided in NRS 125B.050 and 217.007, actions  
42 other than those for the recovery of real property, unless further limited by specific  
43 statute, may only be commenced as follows:

44 1. Within 6 years:

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

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

50 2. Within 4 years:

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

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

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

3 (d) An action against a person alleged to have committed a deceptive trade  
4 practice in violation of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this*  
5 *act*, but the cause of action shall be deemed to accrue when the aggrieved party  
6 discovers, or by the exercise of due diligence should have discovered, the facts  
7 constituting the deceptive trade practice.

8 3. Within 3 years:

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

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

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

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

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

32 4. Within 2 years:

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

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

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

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

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

48 (f) An action to recover damages under NRS 41.740.

49 5. Within 1 year:

50 (a) An action against an officer, or officer de facto to recover goods, wares,  
51 merchandise or other property seized by the officer in his official capacity, as tax  
52 collector, or to recover the price or value of goods, wares, merchandise or other  
53 personal property so seized, or for damages for the seizure, detention or sale of, or



injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.

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

~~Sec. 14.~~ **Sec. 59.** NRS 41.600 is hereby amended to read as follows:

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

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

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

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

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

(d) An act prohibited by NRS 482.351; or

(e) A deceptive trade practice as defined in NRS 598.0915 to 598.0925, inclusive.

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

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

(b) *Any equitable relief that the court deems appropriate; and*

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

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

~~Sec. 15.~~ **Sec. 60.** NRS 482.554 is hereby amended to read as follows:

482.554 1. The Department may impose an administrative fine of not more than \$10,000 against any person who engages in a deceptive trade practice. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. For the purposes of this section, a person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:

(a) Enters into a contract for the sale of a vehicle on credit with a customer, exercises a valid option to cancel the vehicle sale and then, after the customer returns the vehicle with no damage other than reasonable wear and tear, the seller:

(1) Fails to return any down payment or other consideration in full, including, *without limitation*, returning a vehicle accepted in trade;

(2) Knowingly makes a false representation to the customer that the customer must sign another contract for the sale of the vehicle on less favorable terms; or

(3) Fails to use the disclosure as required in subsection 3.

(b) Uses a contract for the sale of the vehicle or a security agreement that materially differs from the form prescribed by law.

(c) Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the purchase and sale or lease of a motor vehicle.

(d) Engages in any other acts prescribed by the Department by regulation as a deceptive trade practice.

3. If a seller of a vehicle exercises a valid option to cancel the sale of a vehicle to a customer, the seller must provide a disclosure, and the customer must sign that disclosure, before the seller and customer may enter into a new agreement for the sale of the same vehicle on different terms, or for the sale of a different vehicle. The Department shall prescribe the form of the disclosure by regulation.

4. All administrative fines collected by the Department pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

5. Except as otherwise provided in this subsection, the administrative remedy provided in this section is not exclusive and is intended to supplement existing law.

1 The Department may not impose a fine pursuant to this section against any person  
2 who engages in a deceptive trade practice if a fine has previously been imposed  
3 against that person pursuant to NRS 598.0903 to 598.0999, inclusive, *and section 1*  
4 *of this act* for the same act. The provisions of this section do not deprive a person  
5 injured by a deceptive trade practice from resorting to any other legal remedy.

6 ~~[Sec. 16.]~~ **Sec. 61.** NRS 489.401 is hereby amended to read as follows:  
7 489.401 The following grounds, among others, constitute grounds for  
8 disciplinary action pursuant to NRS 489.381:

9 1. The intentional publication, circulation or display of any advertising which  
10 constitutes a deceptive trade practice as that term is defined in NRS 598.0915 to  
11 598.0925, inclusive.

12 2. Failure to include in any advertising the name of the licensed dealer,  
13 general serviceman or specialty serviceman, or the name under which he is doing  
14 business.

15 3. Making any substantial misrepresentation or false promise which is likely  
16 to influence, persuade or induce, or continually failing to fulfill promises to sell,  
17 breaching agreements or contracts or making false promises by any means.

18 4. Failure to disclose all terms and conditions of a sale, purchase or lease or  
19 offer to sell, purchase or lease a manufactured home, mobile home or commercial  
20 coach.

21 5. Failure to disclose to a person with whom the licensed dealer is dealing  
22 with regard to the sale, purchase or lease of a manufactured home any material  
23 facts, structural defects or other material information which the licensed dealer  
24 knew, or which by the exercise of reasonable care and diligence should have  
25 known, concerning the manufactured home or concerning the sale, purchase or  
26 lease of the manufactured home.

27 6. Failure to comply with the provisions of NRS 489.595.

28 7. Representing to any lender, guaranteeing agency or other interested party,  
29 orally or through the preparation of false documents:

30 (a) An amount in excess of the actual sales price;

31 (b) A false amount as the down payment, earnest money deposit or other  
32 valuable consideration;

33 (c) Terms differing from those actually agreed upon; or

34 (d) False information on a credit application.

35 8. Inducing an applicant to falsify his credit application.  
36 9. Failure to obtain from the holder of any lien or security interest in a  
37 manufactured home, mobile home or commercial coach, within 10 days before the  
38 closure of a sale of the manufactured home, mobile home or commercial coach, a  
39 written acknowledgment that the holder of the lien or security interest has received  
40 written notification of the sale.

41 ~~[Sec. 17.]~~ **Sec. 62.** NRS 645B.189 is hereby amended to read as follows:

42 645B.189 1. If, in carrying on his business, a mortgage broker uses an  
43 advertisement that is designed, intended or reasonably likely to solicit money from  
44 private investors, the mortgage broker shall include in each such advertisement a  
45 statement of disclosure in substantially the following form:

46  
47 Money invested through a mortgage broker is not guaranteed to earn any  
48 interest or return and is not insured.

49  
50 2. A mortgage broker shall include in each advertisement that the mortgage  
51 broker uses in carrying on his business any statements of disclosure required  
52 pursuant to the regulations adopted by the Commissioner or required pursuant to an

order of the Commissioner entered in accordance with subsections 7 and 8 of NRS 645B.185.

3. Each mortgage broker who has received his initial license within the past 12 months shall submit any proposed advertisement that the mortgage broker intends to use in carrying on his business to the Commissioner for approval.

4. In addition to the requirements set forth in this chapter, each advertisement that a mortgage broker uses in carrying on his business must comply with the requirements of:

(a) NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* concerning deceptive trade practices; and

(b) Any applicable federal statute or regulation concerning deceptive advertising and the advertising of interest rates.

5. If a mortgage broker violates any provision of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act* concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage broker for the violation, the Commissioner may take any disciplinary action set forth in subsection 2 of NRS 645B.670 against the mortgage broker.

6. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.

**Sec. 63. NRS 684B.040 is hereby amended to read as follows:**

684B.040 1. An applicant for a license as a motor vehicle physical damage appraiser must file a written application therefor with the Commissioner on forms prescribed and furnished by the Commissioner. The applicant must furnish information as to his identity, personal history, experience, financial responsibility, business record and other pertinent matters as reasonably required by the Commissioner to determine the applicant's eligibility and qualifications for the license.

2. If the applicant is a natural person, the application must include the social security number of the applicant.

3. If the applicant is a business organization, the application must include the names of all members, officers and directors, and must designate each natural person who is to exercise the licensee's powers. A natural person who is authorized to act for a business organization and who also wishes to be licensed in an individual capacity must obtain a separate license in his own name.

4. The application must be accompanied by the applicable license fee. The Commissioner shall charge a separate fee for each person authorized to act for a business organization.

5. An applicant for a license who desires to use a name other than his true name must comply with the provisions of NRS 683A.301. The Commissioner shall not issue a license in a trade name unless the name has been registered pursuant to NRS 600.240 to 600.450, inclusive, *and sections 14 to 28, inclusive, of this act.*

6. An applicant for a license shall not willfully misrepresent or withhold any fact or information called for in the application form or in connection with his application. A violation of this subsection is a gross misdemeanor.

**Sec. 64. NRS 684B.040 is hereby amended to read as follows:**

684B.040 1. An applicant for a license as a motor vehicle physical damage appraiser shall file a written application therefor with the Commissioner on forms prescribed and furnished by the Commissioner. The applicant shall furnish information as to his identity, personal history, experience, financial responsibility, business record and other pertinent matters as reasonably required by the

Commissioner to determine the applicant's eligibility and qualifications for the license.

2. If the applicant is a business organization, the application must show the names of all members, officers and directors, and must designate each natural person who is to exercise the licensee's powers. A natural person who is authorized to act for a business organization and who also wishes to be licensed in an individual capacity must obtain a separate license in his own name.

3. The application must be accompanied by the applicable license fee. The Commissioner shall charge a separate fee for each person authorized to act for a business organization.

4. An applicant for a license who desires to use a name other than his true name must comply with the provisions of NRS 683A.301. The Commissioner shall not issue a license in a trade name unless the name has been registered pursuant to NRS 600.240 to 600.450, inclusive, ~~and sections 14 to 28, inclusive, of this act.~~

5. An applicant for a license shall not willfully misrepresent or withhold any fact or information called for in the application form or in connection with his application. A violation of this subsection is a gross misdemeanor.

Sec. 65. Notwithstanding the provisions of this act to the contrary, the amount of each fee that was authorized before the effective date of this act pursuant to NRS 600.340, 600.355, 600.360, 600.370 and 600.395 must remain in effect and must be collected by the Secretary of State until such time as the Secretary of State adopts regulations pursuant to section 24 of this act prescribing the amount of those fees.

Sec. 66. The provisions of sections 13 to 23, inclusive, 25 to 37, inclusive, 39, 40, 41, 43, 45, 47, 48, 49 and 51 to 57, inclusive, of this act do not affect an action or proceeding commenced or right accrued before October 1, 2010.

~~[Sec. 18.]~~ Sec. 67. 1. This ~~[act becomes]~~ section and sections 24, 38, 42, 44, 46, 50, 63 and 65 of this act become effective upon passage and approval.

2. Sections 1 to 12, inclusive, and 58 to 62, inclusive, of this act become effective on July 1, 2009.

3. Sections 13 to 23, inclusive, 25 to 37, inclusive, 39, 40, 41, 43, 45, 47, 48, 49, 51 to 57, inclusive, and 66 of this act become effective on October 1, 2010.

4. Section 63 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,  
are repealed by the Congress of the United States.

5. Section 64 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,  
are repealed by the Congress of the United States.