

Amendment No. 951

Assembly Amendment to Assembly Bill No. 561

(BDR 18-1201)

Proposed by: Assembly Committee on Ways and Means**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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

MSN/TMC



Date: 5/28/2009

A.B. No. 561—Eliminates the Consumer Affairs Division of the Department of Business and Industry and transfers certain duties and powers of the Division. (BDR 18-1201)



ASSEMBLY BILL NO. 561—COMMITTEE ON WAYS AND MEANS

(ON BEHALF OF THE DEPARTMENT OF ADMINISTRATION)

MAY 20, 2009

Referred to Committee on Ways and Means

SUMMARY—Eliminates the Consumer Affairs Division of the Department of Business and Industry for the 2009-2011 biennium, and transfers certain duties and powers of the Division. (BDR 18-1201)

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 reorganization of State Government; temporarily eliminating the Consumer Affairs Division of the Department of Business and Industry; temporarily eliminating the position of Commissioner of Consumer Affairs; transferring certain duties and powers of the Division and the Commissioner; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the chief of each division of the Department of Business and Industry to administer the provisions of law relating to his division, subject to the administrative supervision of the Director of the Department. (NRS 232.530) **Sections 3 and 4** of this bill temporarily eliminate the Consumer Affairs Division of the Department and the position of Commissioner of Consumer Affairs, ~~for the 2009-2011 biennium~~.

Existing law provides for the regulation of garages, garagemen and body shops by the Commissioner of Consumer Affairs and for the registration or licensure of garages, garagemen and body shops with the Department of Motor Vehicles. (NRS 487.530-487.570, 487.600-487.690, 597.480-597.590) **Sections 8-26** of this bill transfer authority for the regulation of garages, garagemen and body shops to the Department of Motor Vehicles and provide for the enforcement of those provisions by the Director of the Department. **Section 6** of this bill allows the Department of Motor Vehicles to impose a fine on a person who engages in certain deceptive trade practices relating to the sale or lease of a vehicle under certain circumstances. **Section 1** of this bill creates a revolving account administered by the Consumer's Advocate, to be used to pay the costs of conducting certain undercover investigations.

Existing law requires the Consumer Affairs Division to administer certain provisions of law governing credit service organizations. (NRS 598.701-598.787) Sections 52-56 of this bill transfer the powers and duties of the Consumer Affairs Division relating to credit service organizations to the Division of Mortgage Lending of the Department of Business and Industry.

Sections 36-47 and 49 of this bill temporarily transfer the powers and duties of the Commissioner of Consumer Affairs relating to deceptive trade practices to the Attorney General.

Existing law requires the Consumer Affairs Division to administer certain provisions of law governing sellers of travel, sightseeing tours, ~~credit service organizations,~~ organizations for buying goods or services, and dance studios and health clubs. (NRS 598.305-598.966) Section 51 of this bill provides that complaints concerning the charges for a sightseeing tour may be directed to the Attorney General. ~~[Sections 52-56 of this bill transfer the powers and duties of the Consumer Affairs Division relating to credit service organizations to the Division of Mortgage Lending of the Department of Business and Industry.] Sections 57-61 of this bill temporarily authorize the Attorney General solely to enforce certain provisions relating to organizations for buying goods or services at a discount, dance studios and health clubs. [Section 62 of this bill transfers the duty to administer chapter 598C of NRS relating to consumer reporting from the Commissioner of Consumer Affairs to the Attorney General.]~~

Sections 63-75 of this bill authorize the Attorney General to enforce certain provisions relating to solicitation by telephone.

~~Section 80 of this bill restores the Consumer Affairs Division, the position of the Commissioner of Consumer Affairs and the powers and duties of the Division and the Commissioner relating to deceptive trade practices, sellers of travel, sightseeing tours, organizations for buying goods or services, and dance studios and health clubs effective July 1, 2011.~~

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

Section 1. Chapter 228 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *There is hereby created a revolving account for the Bureau of Consumer Protection in the sum of \$7,500, which must be used for the payment of expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating any provision of sections 10 to 26, inclusive, of this act.*

2. *The Consumer's Advocate shall deposit the money in the revolving account in a bank or credit union qualified to receive deposits of public money as provided by law, and the deposit must be secured by a depository bond satisfactory to the State Board of Examiners.*

3. *The Consumer's Advocate or his designee may:*

- (a) *Sign all checks drawn upon the revolving account; and*
- (b) *Make withdrawals of cash from the revolving account.*

4. *Payments made from the revolving account must be promptly reimbursed from the legislative appropriation, if any, to the Consumer's Advocate for the expenses relating to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating any provision of sections 10 to 26, inclusive, of this act. The claim for reimbursement must be processed and paid as other claims against the State are paid.*

5. *The Consumer's Advocate shall:*

- (a) *Approve any disbursement from the revolving account; and*
- (b) *Maintain records of any such disbursement.*

Sec. 2. NRS 228.300 is hereby amended to read as follows:

228.300 As used in NRS 228.300 to 228.390, inclusive, and section 1 of this act, unless the context otherwise requires, the words and terms defined in NRS 228.302 to 228.308, inclusive, have the meanings ascribed to them in those sections.

1 **Sec. 3.** NRS 232.510 is hereby amended to read as follows:

2 232.510 1. The Department of Business and Industry is hereby created.

3 2. The Department consists of a Director and the following:

4 (a) ~~Consumer Affairs Division.~~

5 ~~(b)~~ Division of Financial Institutions.

6 ~~(c)~~ (b) Housing Division.

7 ~~(d)~~ (c) Manufactured Housing Division.

8 ~~(e)~~ (d) Real Estate Division.

9 ~~(f)~~ (e) Division of Insurance.

10 ~~(g)~~ (f) Division of Industrial Relations.

11 ~~(h)~~ (g) Office of Labor Commissioner.

12 ~~(i)~~ (h) Taxicab Authority.

13 ~~(j)~~ (i) Nevada Athletic Commission.

14 ~~(k)~~ (j) Office of the Nevada Attorney for Injured Workers.

15 ~~(l)~~ (k) Nevada Transportation Authority.

16 ~~(m)~~ (l) Division of Mortgage Lending.

17 ~~(n)~~ (m) Any other office, commission, board, agency or entity created or
18 placed within the Department pursuant to a specific statute, the budget approved by
19 the Legislature or an executive order, or an entity whose budget or activities have
20 been placed within the control of the Department by a specific statute.

21 **Sec. 4.** NRS 232.520 is hereby amended to read as follows:

22 232.520 The Director:

23 1. Shall appoint a chief or executive director, or both of them, of each of the
24 divisions, offices, commissions, boards, agencies or other entities of the
25 Department, unless the authority to appoint such a chief or executive director, or
26 both of them, is expressly vested in another person, board or commission by a
27 specific statute. In making the appointments, the Director may obtain lists of
28 qualified persons from professional organizations, associations or other groups
29 recognized by the Department, if any. The ~~chief of the Consumer Affairs Division~~
30 ~~is the Commissioner of Consumer Affairs, the~~ chief of the Division of Financial
31 Institutions is the Commissioner of Financial Institutions, the chief of the Housing
32 Division is the Administrator of the Housing Division, the chief of the
33 Manufactured Housing Division is the Administrator of the Manufactured Housing
34 Division, the chief of the Real Estate Division is the Real Estate Administrator, the
35 chief of the Division of Insurance is the Commissioner of Insurance, the chief of
36 the Division of Industrial Relations is the Administrator of the Division of
37 Industrial Relations, the chief of the Office of Labor Commissioner is the Labor
38 Commissioner, the chief of the Taxicab Authority is the Taxicab Administrator, the
39 chief of the Nevada Transportation Authority is the Chairman of the Authority, the
40 chief of the Division of Mortgage Lending is the Commissioner of Mortgage
41 Lending and the chief of any other entity of the Department has the title specified
42 by the Director, unless a different title is specified by a specific statute.

43 2. Is responsible for the administration of all provisions of law relating to the
44 jurisdiction, duties and functions of all divisions and other entities within the
45 Department. The Director may, if he deems it necessary to carry out his
46 administrative responsibilities, be considered as a member of the staff of any
47 division or other entity of the Department for the purpose of budget administration
48 or for carrying out any duty or exercising any power necessary to fulfill the
49 responsibilities of the Director pursuant to this subsection. This subsection does not
50 allow the Director to preempt any authority or jurisdiction granted by statute to any
51 division or other entity within the Department or to act or take on a function that
52 would contravene a rule of court or a statute.

53 3. May:

(a) Establish uniform policies for the Department, consistent with the policies and statutory responsibilities and duties of the divisions and other entities within the Department, relating to matters concerning budgeting, accounting, planning, program development, personnel, information services, dispute resolution, travel, workplace safety, the acceptance of gifts or donations, the management of records and any other subject for which a uniform departmental policy is necessary to ensure the efficient operation of the Department.

(b) Provide coordination among the divisions and other entities within the Department, in a manner which does not encroach upon their statutory powers and duties, as they adopt and enforce regulations, execute agreements, purchase goods, services or equipment, prepare legislative requests and lease or use office space.

(c) Define the responsibilities of any person designated to carry out the duties of the Director relating to financing, industrial development or business support services.

4. May, within the limits of the financial resources made available to him, promote, participate in the operation of, and create or cause to be created, any nonprofit corporation, pursuant to chapter 82 of NRS, which he determines is necessary or convenient for the exercise of the powers and duties of the Department. The purposes, powers and operation of the corporation must be consistent with the purposes, powers and duties of the Department.

5. For any bonds which he is otherwise authorized to issue, may issue bonds the interest on which is not exempt from federal income tax or excluded from gross revenue for the purposes of federal income tax.

6. May, except as otherwise provided by specific statute, adopt by regulation a schedule of fees and deposits to be charged in connection with the programs administered by him pursuant to chapters 348A and 349 of NRS. Except as otherwise provided by specific statute, the amount of any such fee or deposit must not exceed 2 percent of the principal amount of the financing.

7. May designate any person within the Department to perform any of the duties or responsibilities, or exercise any of the authority, of the Director on his behalf.

8. May negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Director or the Department.

9. May establish a trust account in the State Treasury for depositing and accounting for money that is held in escrow or is on deposit with the Department for the payment of any direct expenses incurred by the Director in connection with any bond programs administered by the Director. The interest and income earned on money in the trust account, less any amount deducted to pay for applicable charges, must be credited to the trust account. Any balance remaining in the account at the end of a fiscal year may be:

(a) Carried forward to the next fiscal year for use in covering the expense for which it was originally received; or

(b) Returned to any person entitled thereto in accordance with agreements or regulations of the Director relating to those bond programs.

Sec. 5. NRS 482.5434 is hereby amended to read as follows:

482.5434 "Body shop" has the meaning ascribed to it in ~~NRS 487.600.]~~
section 8 of this act.

Sec. 6. 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, 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}~~ *The* administrative remedy provided in this section is not exclusive and is ~~{intended to supplement existing law. The Department may not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person pursuant to NRS 598.0903 to 598.0999, inclusive, for the same act.}~~ *in addition to any other remedy provided by law.* The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.

Sec. 7. Chapter 487 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 26, inclusive, of this act.

Sec. 8. *“Body shop” means any place where the body of a motor vehicle is painted, fixed, repaired or replaced for compensation.*

Sec. 9. *“Person authorizing repairs” means a person who uses the services of a garage. The term includes an insurance company, its agents or its representatives authorizing repairs to motor vehicles under a policy of insurance.*

Sec. 10. 1. *Each garageman shall display conspicuously in those areas of his place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:*

STATE OF NEVADA

REGISTERED GARAGE

**THIS GARAGE IS REGISTERED WITH THE DEPARTMENT OF MOTOR
VEHICLES**

NEVADA AUTOMOTIVE REPAIR CUSTOMER BILL OF RIGHTS

AS A CUSTOMER IN NEVADA:

YOU have the right to receive repairs from a business that is REGISTERED with the Department of Motor Vehicles that will ensure the proper repair of your vehicle. (cite to this section of this act)

YOU have the right to receive a WRITTEN ESTIMATE of charges for repairs made to your vehicle which exceed \$50. (cite to section 12 of this act)

YOU have the right to read and understand all documents and warranties BEFORE YOU SIGN THEM. (cite to this section of this act)

YOU have the right to INSPECT ALL REPLACED PARTS and accessories that are covered by a warranty and for which a charge is made. (cite to section 17 of this act)

YOU have the right to request that all replaced parts and accessories that are not covered by a warranty BE RETURNED TO YOU AT THE TIME OF SERVICE. (cite to section 17 of this act)

YOU have the right to require authorization BEFORE any additional repairs are made to your vehicle if the charges for those repairs exceed 20% of the original estimate or \$100, whichever is less. (cite to section 13 of this act)

YOU have the right to receive a COMPLETED STATEMENT OF CHARGES for repairs made to your vehicle. (cite to section 23 of this act)

FOR MORE INFORMATION PLEASE CONTACT:

THE DEPARTMENT OF MOTOR VEHICLES

2. Each body shop shall display conspicuously in those areas of its place of business frequented by persons seeking repairs on motor vehicles a sign, not less than 22 inches by 28 inches in size, setting forth in boldface letters the following:

STATE OF NEVADA

LICENSED BODY SHOP

THIS BODY SHOP IS LICENSED BY THE DEPARTMENT OF MOTOR VEHICLES

NEVADA AUTOMOTIVE REPAIR CUSTOMER BILL OF RIGHTS

AS A CUSTOMER IN NEVADA:

YOU have the right to receive repairs from a business that is LICENSED with the Department of Motor Vehicles that will ensure the proper repair of your vehicle. (cite to this section of this act)

YOU have the right to receive a WRITTEN ESTIMATE of charges for repairs made to your vehicle which exceed \$50. (cite to section 12 of this act)

1 *YOU have the right to read and understand all documents and warranties*
2 *BEFORE YOU SIGN THEM. (cite to this section of this act)*

3
4 *YOU have the right to INSPECT ALL REPLACED PARTS and accessories that*
5 *are covered by a warranty and for which a charge is made. (cite to section 17 of*
6 *this act)*

7
8 *YOU have the right to request that all replaced parts and accessories that are not*
9 *covered by a warranty BE RETURNED TO YOU AT THE TIME OF SERVICE.*
10 *(cite to section 17 of this act)*

11
12 *YOU have the right to require authorization BEFORE any additional repairs are*
13 *made to your vehicle if the charges for those repairs exceed 20% of the original*
14 *estimate or \$100, whichever is less. (cite to section 13 of this act)*

15
16 *YOU have the right to receive a COMPLETED STATEMENT OF CHARGES*
17 *for repairs made to your vehicle. (cite to section 23 of this act)*

18
19 *FOR MORE INFORMATION PLEASE CONTACT:*

20
21 *THE DEPARTMENT OF MOTOR VEHICLES*

22
23 *3. The sign required pursuant to the provisions of subsection 1 or 2 must*
24 *include a replica of the Great Seal of the State of Nevada. The Seal must be 2*
25 *inches in diameter and be centered on the face of the sign directly above the*
26 *words "STATE OF NEVADA."*

27 *4. Any person who violates the provisions of this section is guilty of a*
28 *misdemeanor.*

29 *Sec. 11. Whenever any body shop or garageman accepts or assumes*
30 *control of a motor vehicle for the purpose of making or completing any repair,*
31 *the body shop or garageman shall comply with the provisions of sections 12 to 24,*
32 *inclusive, of this act.*

33 *Sec. 12. 1. Except as otherwise provided in section 14 of this act, a person*
34 *requesting or authorizing the repair of a motor vehicle that is more than \$50*
35 *must be furnished a written estimate or statement signed by the person making*
36 *the estimate or statement on behalf of the body shop or garageman indicating the*
37 *total charge for the performance of the work necessary to accomplish the repair,*
38 *including the charge for labor and all parts and accessories necessary to perform*
39 *the work.*

40 *2. If the estimate is for the purpose of diagnosing a malfunction, the*
41 *estimate must include the cost of:*

42 *(a) Diagnosis and disassembly; and*

43 *(b) Reassembly, if the person does not authorize the repair.*

44 *3. The provisions of this section do not require a body shop or garageman*
45 *to reassemble a motor vehicle if the body shop or garageman determines that the*
46 *reassembly of the motor vehicle would render the vehicle unsafe to operate.*

47 *Sec. 13. Except as otherwise provided in section 14 of this act, if it is*
48 *determined that additional charges are required to perform the repair authorized,*
49 *and those additional charges exceed, by 20 percent or \$100, whichever is less, the*
50 *amount set forth in the estimate or statement required to be furnished pursuant to*
51 *the provisions of section 12 of this act, the body shop or garageman shall notify*

1 *the owner and insurer of the motor vehicle of the amount of those additional*
2 *charges.*

3 **Sec. 14.** *The person authorizing the repairs may waive the estimate or*
4 *statement required pursuant to the provisions of section 12 of this act or the*
5 *notification required by section 13 of this act by executing a written waiver of that*
6 *requirement or notification. The waiver must be executed by the person*
7 *authorizing the repairs at the time he authorizes those repairs.*

8 **Sec. 15.** *If a body shop or garage performs repairs on a motor vehicle, the*
9 *body shop or garage shall perform the repairs in accordance with any*
10 *specifications of the manufacturer of the motor vehicle and the written estimate*
11 *or statement of the cost of the repairs that is most recently agreed upon by the*
12 *body shop or garage and the person authorizing the repairs.*

13 **Sec. 16.** *1. An owner and the insurer of a motor vehicle who have been*
14 *notified of additional charges pursuant to section 13 of this act shall:*

15 *(a) Authorize the performance of the repair at the additional expense; or*

16 *(b) Without delay, and upon payment of the authorized charges, take*
17 *possession of the motor vehicle.*

18 *2. Until the election provided for in subsection 1 has been made, the body*
19 *shop or garageman shall not undertake any repair which would involve such*
20 *additional charges.*

21 *3. If the owner or insurer of the motor vehicle elects to take possession of*
22 *the motor vehicle but fails to take possession within 24 hours after the election,*
23 *the body shop or garageman may charge for storage of the vehicle.*

24 **Sec. 17.** *1. Whenever the repair work performed on a motor vehicle*
25 *requires the replacement of any parts or accessories, the body shop or garageman*
26 *shall, at the request of the person authorizing the repairs or any person entitled to*
27 *possession of the motor vehicle, deliver to the person all parts and accessories*
28 *replaced as a result of the work done.*

29 *2. The provisions of subsection 1 do not apply to parts or accessories which*
30 *must be returned to a manufacturer or distributor under a warranty arrangement*
31 *or which are subject to exchange, but the customer, on request, is entitled to be*
32 *shown the warranty parts for which a charge is made.*

33 **Sec. 18.** *The body shop or garageman shall retain copies of any estimate,*
34 *statement or waiver required by sections 12 to 24, inclusive, of this act as an*
35 *ordinary business record of the body shop or garage, for a period of not less than*
36 *1 year after the date the estimate, statement or waiver is signed.*

37 **Sec. 19.** *In every instance where charges are made for the repair of a motor*
38 *vehicle by a garageman, the garageman making the repairs shall comply with the*
39 *provisions of sections 12 to 24, inclusive, of this act. A garageman is not entitled*
40 *to detain a motor vehicle by virtue of any common law or statutory lien, or*
41 *otherwise enforce such a lien, or to sue on any contract for repairs made by him*
42 *unless he has complied with the requirements of sections 12 to 24, inclusive, of*
43 *this act.*

44 **Sec. 20.** *A person shall be deemed to be engaged in a "deceptive trade*
45 *practice" if, in the course of his business or occupation, he:*

46 *1. Engages in any deceptive trade practice, as defined in NRS 598.0915 to*
47 *598.0925, inclusive, that involves the repair of a motor vehicle; or*

48 *2. Engages in any other acts prescribed by the Director by regulation as a*
49 *deceptive trade practice.*

50 **Sec. 21.** *1. The Director may request an undercover investigation of a*
51 *person who is allegedly engaging in a deceptive trade practice or violating the*
52 *provisions of sections 10 to 26, inclusive, of this act.*

2. *The Bureau of Consumer Protection in the Office of the Attorney General may conduct an undercover investigation of a person who is allegedly engaging in a deceptive trade practice or violating the provisions of sections 10 to 26, inclusive, of this act on its own motion or upon a request received pursuant to subsection 1. Nothing in this subsection requires the Bureau to conduct an undercover investigation.*

Sec. 22. *1. In addition to any other remedy or penalty, the Director may impose an administrative fine of not more than \$10,000 against any person who engages in a deceptive trade practice as set forth in section 20 of this act. The Director shall provide to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.*

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

3. The administrative remedy provided in this section is not exclusive and is in addition to any other remedy provided by law. The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.

Sec. 23. *1. If charges are made for the repair of a motor vehicle, the garageman or body shop making the charges shall present to the person authorizing repairs or the person entitled to possession of the motor vehicle a statement of the charges setting forth the following information:*

(a) The name and signature of the person authorizing repairs;

(b) A statement of the total charges;

(c) An itemization and description of all parts used to repair the motor vehicle indicating the charges made for labor; and

(d) A description of all other charges.

2. Any person violating this section is guilty of a misdemeanor.

3. In the case of a motor vehicle registered in this State, no lien for labor or materials provided under NRS 108.265 to 108.367, inclusive, may be enforced by sale or otherwise unless a statement as described in subsection 1 has been given by delivery in person or by certified mail to the last known address of the registered and the legal owner of the motor vehicle. In all other cases, the notice must be made to the last known address of the registered owner and any other person known to have or to claim an interest in the motor vehicle.

Sec. 24. *1. On or before December 31 of each year, the Director shall prepare a report concerning garages, garagemen and body shops. The report must include:*

(a) The number of complaints relating to garages, garagemen and body shops made to and acted upon by the Department during the year for which the report is prepared;

(b) The number of investigations conducted during that year by the Department relating to garages, garagemen and body shops; and

(c) The outcome of each investigation specified in paragraph (b) and the extent to which any information relating to each investigation is subject to disclosure to the members of the public.

2. On or before December 31 of each odd-numbered year, the Director shall submit the report required pursuant to subsection 1 to the Legislative Commission. On or before December 31 of each even-numbered year, the Director of the Department shall submit the report to the Director of the Legislative Counsel Bureau for transmittal to:

(a) The Senate Standing Committee on Transportation; and

(b) The Assembly Standing Committee on Transportation.

1 **Sec. 25.** *The Attorney General or any district attorney may bring an action*
2 *in any court of competent jurisdiction in the name of the State of Nevada on the*
3 *complaint of the Director, or of any person allegedly aggrieved by a violation of*
4 *the provisions of sections 12 to 24, inclusive, of this act, to enjoin any violation of*
5 *the provisions of sections 12 to 24, inclusive, of this act.*

6 **Sec. 26.** *Any person who knowingly violates any provision of sections 11 to*
7 *24, inclusive, of this act is liable, in addition to any other penalty or remedy*
8 *which may be provided by law, to a civil penalty of not more than \$500 for each*
9 *offense, which may be recovered by civil action on complaint of the Director or*
10 *the district attorney.*

11 **Sec. 27.** NRS 487.002 is hereby amended to read as follows:

12 487.002 1. The Advisory Board on Automotive Affairs, consisting of seven
13 members appointed by the Governor, is hereby created within the Department.

14 2. The Governor shall appoint to the Board:

- 15 (a) One representative of the Department;
16 (b) One representative of licensed operators of body shops;
17 (c) One representative of licensed automobile wreckers;
18 (d) One representative of registered garagemen;
19 (e) One representative of licensed operators of salvage pools; and
20 (f) Two representatives of the general public.

21 3. After the initial terms, each member of the Board serves a term of 4 years.
22 The members of the Board shall annually elect from among their number a
23 Chairman and a Vice Chairman. The Department shall provide secretarial services
24 for the Board.

25 4. The Board shall meet regularly at least twice each year and may meet at
26 other times upon the call of the Chairman. Each member of the Board is entitled to
27 the per diem allowance and travel expenses provided for state officers and
28 employees generally.

29 5. The Board shall:

30 (a) Study the regulation of garagemen, automobile wreckers and operators of
31 body shops and salvage pools, including, without limitation, the registration or
32 licensure of such persons and the methods of disciplinary action against such
33 persons;

34 (b) Analyze and advise the Department relating to any consumer complaints
35 ~~{provided to the Department by the Consumer Affairs Division of the Department~~
36 ~~of Business and Industry pursuant to NRS 598.985 or otherwise}~~ received by the
37 Department concerning garagemen, automobile wreckers or operators of body
38 shops or salvage pools;

39 (c) Make recommendations to the Department for any necessary regulations or
40 proposed legislation pertaining to paragraph (a) or (b);

41 (d) On or before January 15 of each odd-numbered year, prepare and submit a
42 report concerning its activities and recommendations to the Governor and to the
43 Director of the Legislative Counsel Bureau for transmission to the Legislature; and

44 (e) Perform any other duty assigned by the Department.

45 **Sec. 28.** NRS 487.530 is hereby amended to read as follows:

46 487.530 As used in NRS 487.530 to ~~{487.570.}~~ 487.690, inclusive, *and*
47 *sections 8 to 26, inclusive, of this act*, unless the context otherwise requires, the
48 words and terms defined in NRS ~~{487.535}~~ 487.540 to 487.550, inclusive, *and*
49 *sections 8 and 9 of this act* have the meanings ascribed to them in those sections.

50 **Sec. 29.** NRS 487.555 is hereby amended to read as follows:

51 487.555 The provisions of NRS 487.530 to ~~{487.570.}~~ 487.690, inclusive,
52 *and sections 8 to 26, inclusive, of this act* do not apply to a service station that is

1 exclusively engaged in the business of selling motor vehicle fuel, lubricants or
2 goods unrelated to the repair of motor vehicles.

3 **Sec. 30.** NRS 487.563 is hereby amended to read as follows:

4 487.563 1. Each person who submits an application for registration pursuant
5 to the provisions of NRS 487.560 shall file with the Department a bond in the
6 amount of \$5,000, with a corporate surety for the bond that is licensed to do
7 business in this State. The form of the bond must be approved by the Attorney
8 General and be conditioned upon whether the applicant conducts his business as an
9 owner or operator of a garage without fraud or fraudulent representation and in
10 compliance with the provisions of *sections 10 to 26, inclusive, of this act and* NRS
11 487.530 to ~~[487.570.] 487.567, inclusive . [~~and 597.480 to 597.590, inclusive.~~]~~

12 2. The bond must be continuous in form and the total aggregate liability on
13 the bond must be limited to the payment of the total amount of the bond.

14 3. The bond must provide that any person injured by the action of the
15 garageman may:

16 (a) Apply to the Director for compensation from the bond. The Director, for
17 good cause shown and after notice and opportunity for hearing, may determine the
18 amount of compensation and the person to whom it is to be paid. The surety shall
19 then make payment.

20 (b) Present to the Director an order of a court requiring the Director to pay to
21 the person an amount of compensation from the bond. The Director shall inform the
22 surety, and the surety shall then make payment.

23 4. In lieu of a bond required to be filed pursuant to the provisions of
24 subsection 1, a person may deposit with the Department, pursuant to the terms
25 prescribed by the Department:

26 (a) A like amount of money or bonds of the United States or of the State of
27 Nevada of an actual market value of not less than the amount fixed by the
28 Department; or

29 (b) A savings certificate of a bank or savings and loan association located in
30 this State, which must indicate an account of an amount equal to the amount of the
31 bond that would otherwise be required pursuant to this section and that the amount
32 is unavailable for withdrawal except upon order of the Department. Interest earned
33 on the certificate accrues to the account of the applicant.

34 5. A deposit made pursuant to subsection 4 may be disbursed by the Director,
35 for good cause shown and after notice and opportunity for hearing, in an amount
36 determined by him to compensate a person injured by an action of the garageman or
37 released upon receipt of:

38 (a) An order of a court requiring the Director to release all or a specified
39 portion of the deposit; or

40 (b) A statement signed by the person under whose name the deposit is made
41 and acknowledged before any person authorized to take acknowledgments in this
42 State, requesting that the Director release the deposit, or a specified portion thereof,
43 and stating the purpose for which the release is requested.

44 6. If a person fails to comply with an order of a court that relates to the repair
45 of a motor vehicle, or fails to pay or otherwise discharge any final judgment
46 rendered and entered against him or any court order issued and arising out of the
47 repair of a motor vehicle in the operation of a garage, the Department shall revoke
48 or refuse to renew the certificate of registration of the person who failed to comply
49 with the order or satisfy the judgment.

50 7. The Department may reinstate or renew a certificate of registration that is
51 revoked pursuant to the provisions of subsection 6 if the person whose certificate of
52 registration is revoked complies with the order of the court.

8. A garageman whose registration has been revoked pursuant to the provisions of subsection 6 shall furnish to the Department a bond in the amount specified in subsection 1 before the reinstatement of his registration.

Sec. 31. NRS 487.564 is hereby amended to read as follows:

487.564 1. The Department may refuse to issue a registration or may suspend, revoke or refuse to renew a registration to operate a garage upon any of the following grounds:

(a) A false statement of a material fact in a certification for a salvage vehicle required pursuant to NRS 487.800.

(b) A false statement or certification for an inspection pursuant to NRS 487.800 which attests to the mechanical fitness or safety of a salvage vehicle.

(c) The Director determines that the garage or garageman has engaged in a deceptive trade practice or violated the provisions of ~~NRS 597.480 to 597.590, inclusive.~~ *sections 10 to 26, inclusive, of this act.*

(d) Evidence of unfitness of the applicant or registrant pursuant to NRS 487.165.

(e) A violation of any regulation adopted by the Department governing the operation of a garage.

(f) A violation of any statute or regulation that constitutes fraud in conjunction with the repair of a motor vehicle or operation of a garage.

2. A person for whom a certificate of registration has been suspended or revoked pursuant to the provisions of this section, subsection 6 of NRS 487.563 or similar provisions of the laws of any other state or territory of the United States shall not be employed by, or in any manner affiliated with, the operation of a garage subject to registration in this State.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 32. NRS 487.600 is hereby amended to read as follows:

487.600 As used in NRS 487.600 to ~~487.690,~~ *487.687*, inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~487.602,~~ *487.604* to 487.608, inclusive, have the meanings ascribed to them in those sections.

Sec. 33. NRS 487.640 is hereby amended to read as follows:

487.640 1. No license may be issued to an operator of a body shop until he procures and files with the Department a good and sufficient bond in the amount of \$10,000, with a corporate surety thereon licensed to do business in the State of Nevada, approved as to form by the Attorney General, and conditioned that the applicant shall conduct his business as an operator of a body shop without fraud or fraudulent representation, and in compliance with the provisions of *sections 10 to 26, inclusive, of this act and* NRS 487.600 to ~~487.690,~~ *487.687*, inclusive. ~~[-, and 597.480 to 597.590, inclusive.]~~ The Department may, by agreement with any operator of a body shop who has been licensed by the Department for 5 years or more, allow a reduction in the amount of the bond of the operator, if the business of the operator has been conducted satisfactorily for the preceding 5 years, but no bond may be in an amount less than \$1,000.

2. The bond may be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. The bond must provide that any person injured by the action of the operator of the body shop in violation of any of the provisions of *sections 10 to 26, inclusive, of this act and* NRS 487.600 to ~~487.690,~~ *487.687*, inclusive, ~~and 597.480 to 597.590, inclusive.~~ may apply to the Director for compensation from the bond. The Director, for good cause shown and after notice and opportunity for hearing, may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

1 4. In lieu of a bond an operator of a body shop may deposit with the
2 Department, under the terms prescribed by the Department:

3 (a) A like amount of money or bonds of the United States or of the State of
4 Nevada of an actual market value of not less than the amount fixed by the
5 Department; or

6 (b) A savings certificate of a bank, credit union or savings and loan association
7 situated in Nevada, which must indicate an account of an amount equal to the
8 amount of the bond which would otherwise be required by this section and that this
9 amount is unavailable for withdrawal except upon order of the Department. Interest
10 earned on the certificate accrues to the account of the applicant.

11 5. A deposit made pursuant to subsection 4 may be disbursed by the Director,
12 for good cause shown and after notice and opportunity for hearing, in an amount
13 determined by him to compensate a person injured by an action of the licensee, or
14 released upon receipt of:

15 (a) An order of a court requiring the Director to release all or a specified
16 portion of the deposit; or

17 (b) A statement signed by the person under whose name the deposit is made
18 and acknowledged before any person authorized to take acknowledgments in this
19 State, requesting the Director to release the deposit, or a specified portion thereof,
20 and stating the purpose for which the release is requested.

21 6. When a deposit is made pursuant to subsection 4, liability under the deposit
22 is in the amount prescribed by the Department. If the amount of the deposit is
23 reduced or there is an outstanding judgment of a court for which the licensee is
24 liable under the deposit, the license is automatically suspended. The license must be
25 reinstated if the licensee:

26 (a) Files an additional bond pursuant to subsection 1;

27 (b) Restores the deposit with the Department to the original amount required
28 under this section; or

29 (c) Satisfies the outstanding judgment for which he is liable under the deposit.

30 7. A deposit made pursuant to subsection 4 may be refunded:

31 (a) By order of the Director, 3 years after the date the licensee ceases to be
32 licensed by the Department, if the Director is satisfied that there are no outstanding
33 claims against the deposit; or

34 (b) By order of court, at any time within 3 years after the date the licensee
35 ceases to be licensed by the Department, upon evidence satisfactory to the court
36 that there are no outstanding claims against the deposit.

37 8. Any money received by the Department pursuant to subsection 4 must be
38 deposited with the State Treasurer for credit to the Motor Vehicle Fund.

39 **Sec. 34.** NRS 487.650 is hereby amended to read as follows:

40 487.650 1. The Department may refuse to issue a license or may suspend,
41 revoke or refuse to renew a license to operate a body shop upon any of the
42 following grounds:

43 (a) Failure of the applicant or licensee to have or maintain an established place
44 of business in this State.

45 (b) Conviction of the applicant or licensee or an employee of the applicant or
46 licensee of a felony, or of a misdemeanor or gross misdemeanor for a violation of a
47 provision of this chapter.

48 (c) Any material misstatement in the application for the license.

49 (d) Willful failure of the applicant or licensee to comply with the motor vehicle
50 laws of this State and **sections 10 to 26, inclusive, of this act or** NRS 487.600 to
51 ~~{487.690;} 487.687, inclusive. [, or 597.480 to 597.590, inclusive.]~~

52 (e) Failure or refusal by the licensee to pay or otherwise discharge any final
53 judgment against him arising out of the operation of the body shop.

(f) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 2.

(g) A finding of guilty or guilty but mentally ill by a court of competent jurisdiction in a case involving a fraudulent inspection, purchase, sale or transfer of a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(h) An improper, careless or negligent inspection of a salvage vehicle pursuant to NRS 487.800 by the applicant or licensee or an employee of the applicant or licensee.

(i) A false statement of material fact in a certification of a salvage vehicle pursuant to NRS 487.800 or a record regarding a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(j) The display of evidence of unfitness for a license pursuant to NRS 487.165.

2. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a body shop, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.600 to ~~487.690~~ 487.687, inclusive, or to determine the suitability of an applicant or a licensee for licensure.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 35. NRS 487.690 is hereby amended to read as follows:

487.690 Any person who violates any of the provisions of *sections 10 to 26, inclusive, of this act* or NRS ~~487.690~~ 487.530 to 487.680, inclusive, is guilty of a misdemeanor.

Sec. 35.1. Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 35.2 to 35.95, inclusive, of this act.

Sec. 35.2. 1. Each organization for buying goods or services at a discount regulated by the provisions of this section, NRS 598.840 to 598.930, inclusive, and sections 35.3, 35.4 and 35.5 of this act shall apply for registration on the form prescribed by the Division.

2. At the time of application for registration, the applicant must pay to the Division an administrative fee of \$25 and deposit the required security with the Division.

3. Upon receipt of the security in the proper form and the payment of the administrative fee required by this section, the Division shall issue a certificate of registration to the applicant. A certificate of registration:

(a) Is not transferable or assignable; and

(b) Expires 1 year after it is issued.

4. A registrant must renew a certificate of registration issued pursuant to this section before the certificate expires by submitting to the Division an application for the renewal of the certificate on a form prescribed by the Division.

Sec. 35.3. 1. Each registrant shall deposit with the Division:

(a) A bond executed by a corporate surety approved by the Commissioner and licensed to do business in this State;

(b) An irrevocable letter of credit for which the registrant is the obligor, issued by a bank whose deposits are federally insured; or

1 (c) A certificate of deposit in a financial institution which is doing business
2 in this State and which is federally insured or insured by a private insurer
3 approved pursuant to NRS 678.755. The certificate of deposit may be withdrawn
4 only on the order of the Commissioner, except that the interest may accrue to the
5 registrant.

6 2. The term of the bond, letter of credit or certificate of deposit, or any
7 renewal thereof, must be not less than 1 year.

8 3. If the registrant deposits a bond, the registrant shall keep accurate
9 records of the bond and the payments made on the premium. The records must be
10 open to inspection by the Division during business hours. The registrant shall
11 notify the Division not later than 30 days before the date of expiration of the bond
12 and provide written proof of the renewal of the bond to the Division.

13 4. The Commissioner may reject any bond, letter of credit or certificate of
14 deposit which fails to conform to the requirements of this section, NRS 598.840 to
15 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act.

16 5. A registrant may change the form of security which he has deposited with
17 the Division. If the registrant changes the form of the security, the Commissioner
18 may retain for not more than 1 year any portion of the security previously
19 deposited by the registrant as security for claims arising during the time the
20 previous security was in effect.

21 6. If the amount of the deposited security falls below the amount required
22 by this section, NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and
23 35.5 of this act for that security, the registrant shall be deemed not to be
24 registered as required by section 35.2 of this act for the purposes of this section,
25 NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and 35.5 of this act.

26 Sec. 35.4. 1. The security required to be deposited by a registrant
27 pursuant to section 35.3 of this act must be held in trust for consumers injured by
28 the bankruptcy of the registrant or the registrant's breach of any agreement
29 entered into in his capacity as a registrant.

30 2. A consumer so injured may bring and maintain an action in any court of
31 competent jurisdiction to recover against the security.

32 3. The Division may bring an action for interpleader against all claimants
33 upon the security. If the Division brings such an action, the Division shall
34 publish notice of the action at least once each week for 2 weeks in a newspaper of
35 general circulation in the county in which the organization has its principal place
36 of business. The Division may deduct its costs of the action, including the costs of
37 the publication of the notice, from the amount of the security. All claims against
38 the security have equal priority. If the security is insufficient to pay all the claims
39 in full, the claims must be paid pro rata. If the registrant has posted a bond with
40 the Division, the surety is then relieved of all liability under the bond.

41 4. The Division may, in lieu of bringing an action for interpleader pursuant
42 to subsection 3, conduct a hearing to determine the distribution of the security to
43 claimants. The Division shall adopt regulations to provide for adequate notice
44 and the conduct of the hearing. If the registrant has posted a bond with the
45 Division, distribution pursuant to this subsection relieves the surety of all liability
46 under the bond.

47 5. If the security is sufficient to pay all claims against the security in full,
48 the Division may deduct from the amount of the security, the cost of any
49 investigation or hearing it conducted to determine the distribution of the security.

50 Sec. 35.5. 1. If no claims have been filed against the security deposited
51 with the Division pursuant to section 35.3 of this act within 6 months after the
52 registrant ceases to operate or his registration expires, whichever occurs later, the

1 Commissioner shall release the security to the registrant and shall not audit any
2 claims filed against the security thereafter by consumers.

3 2. If one or more claims have been filed against the security within 6
4 months after the registrant ceases to operate or his registration expires,
5 whichever occurs later, the proceeds must not be released to the registrant or
6 distributed to any consumer earlier than 1 year after the registrant ceases to
7 operate or his registration expires, whichever occurs later.

8 3. For the purposes of this section, the Commissioner shall determine the
9 date on which a registrant ceases to operate.

10 Sec. 35.6. "Registrant" means a dance studio or a health club which is
11 required to register and post security with the Division pursuant to the provisions
12 of this section, NRS 598.940 to 598.966, inclusive, and sections 35.7 to 35.95,
13 inclusive, of this act.

14 Sec. 35.7. 1. Each dance studio and health club regulated by the
15 provisions of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6,
16 35.8, 35.9 and 35.95 of this act shall apply for registration on the form prescribed
17 by the Division.

18 2. At the time of application for registration, the applicant must pay to the
19 Division an administrative fee of \$25 and deposit the required security with the
20 Division.

21 3. Upon receipt of the security in the proper form and the payment of the
22 administrative fee required by this section, the Division shall issue a certificate of
23 registration to the applicant. A certificate of registration:

24 (a) Is not transferable or assignable; and

25 (b) Expires 1 year after it is issued.

26 4. A registrant must renew a certificate of registration issued pursuant to
27 this section before the certificate expires by submitting to the Division an
28 application for the renewal of the certificate on a form prescribed by the Division.

29 Sec. 35.8. 1. Each registrant shall deposit with the Division:

30 (a) A bond executed by a corporate surety approved by the Commissioner
31 and licensed to do business in this State;

32 (b) An irrevocable letter of credit for which the registrant is the obligor,
33 issued by a bank whose deposits are federally insured; or

34 (c) A certificate of deposit in a financial institution which is doing business
35 in this State and which is federally insured or insured by a private insurer
36 approved pursuant to NRS 678.755. The certificate of deposit may be withdrawn
37 only on the order of the Commissioner, except that the interest may accrue to the
38 registrant.

39 2. The term of the bond, letter of credit or certificate of deposit, or any
40 renewal thereof, must be not less than 1 year.

41 3. If the registrant deposits a bond, the registrant shall keep accurate
42 records of the bond and the payments made on the premium. The records must be
43 open to inspection by the Division during business hours. The registrant shall
44 notify the Division not later than 30 days before the date of expiration of the bond
45 and provide written proof of the renewal of the bond to the Division.

46 4. The Commissioner may reject any bond, letter of credit or certificate of
47 deposit which fails to conform to the requirements of this section, NRS 598.940 to
48 598.966, inclusive, and sections 35.6, 35.7, 35.9 and 35.95 of this act.

49 5. A registrant may change the form of security which he has deposited with
50 the Division. If the registrant changes the form of the security, the Commissioner
51 may retain for not more than 1 year any portion of the security previously
52 deposited by the registrant as security for claims arising during the time the
53 previous security was in effect.

6. If the amount of the deposited security falls below the amount required by this chapter for that security, the registrant shall be deemed not to be registered as required by section 35.7 of this act for the purposes of this section, NRS 598.940 to 598.966, inclusive, and sections 35.6, 35.7, 35.9 and 35.95 of this act.

Sec. 35.9. 1. The security required to be deposited by a registrant pursuant to section 35.8 of this act must be held in trust for consumers injured by the bankruptcy of the registrant or the registrant's breach of any agreement entered into in his capacity as a registrant.

2. A consumer so injured may bring and maintain an action in any court of competent jurisdiction to recover against the security.

3. The Division may bring an action for interpleader against all claimants upon the security. If the Division brings such an action, the Division shall publish notice of the action at least once each week for 2 weeks in a newspaper of general circulation in the county in which the organization has its principal place of business. The Division may deduct its costs of the action, including the costs of the publication of the notice, from the amount of the security. All claims against the security have equal priority. If the security is insufficient to pay all the claims in full, the claims must be paid pro rata. If the registrant has posted a bond with the Division, the surety is then relieved of all liability under the bond.

4. The Division may, in lieu of bringing an action for interpleader pursuant to subsection 3, conduct a hearing to determine the distribution of the security to claimants. The Division shall adopt regulations to provide for adequate notice and the conduct of the hearing. If the registrant has posted a bond with the Division, distribution pursuant to this subsection relieves the surety of all liability under the bond.

5. If the security is sufficient to pay all claims against the security in full, the Division may deduct from the amount of the security, the cost of any investigation or hearing it conducted to determine the distribution of the security.

Sec. 35.95. 1. If no claims have been filed against the security deposited with the Division pursuant to section 35.8 of this act within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the Commissioner shall release the security to the registrant and shall not audit any claims filed against the security thereafter by consumers.

2. If one or more claims have been filed against the security within 6 months after the registrant ceases to operate or his registration expires, whichever occurs later, the proceeds must not be released to the registrant or distributed to any consumer earlier than 1 year after the registrant ceases to operate or his registration expires, whichever occurs later.

3. For the purposes of this section, the Commissioner shall determine the date on which a registrant ceases to operate.

Sec. 36. NRS 598.0925 is hereby amended to read as follows:

598.0925 1. Except as otherwise provided in this section, a person engages in a "deceptive trade practice" when, in the course of his business or occupation, he:

(a) Makes an assertion of scientific, clinical or quantifiable fact in an advertisement which would cause a reasonable person to believe that the assertion is true, unless, at the time the assertion is made, the person making it has possession of factually objective scientific, clinical or quantifiable evidence which substantiates the assertion; or

(b) Fails upon request of the ~~{Commissioner or}~~ Attorney General to produce within 6 working days the substantiating evidence in his possession at the time the assertion of scientific, clinical or quantifiable fact was made.

2. This section does not apply to general assertions of opinion as to quality, value or condition made without the intent to mislead another person.

Sec. 37. 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,}~~ **Attorney General**, 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. 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. 38. NRS 598.0963 is hereby amended to read as follows:

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

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

~~{3.}~~ 2. If the Attorney General has reason to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person to obtain a temporary restraining order, a preliminary or permanent injunction, or other appropriate relief.

~~{4.}~~ 3. If the Attorney General has cause to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may issue a subpoena to require the testimony of any person or the production of any documents, and may administer an oath or affirmation to any person providing such testimony. The subpoena must be served upon the person in the manner required for service of process in this State or by certified mail with return receipt requested. An employee of the Attorney General may personally serve the subpoena.

1 **Sec. 39.** NRS 598.097 is hereby amended to read as follows:

2 598.097 If any person fails to cooperate with any investigation, as provided in
3 NRS 598.096, or if any person fails to obey a subpoena issued by the
4 ~~{Commissioner, Director or}~~ Attorney General pursuant to NRS 598.0963 ~~for~~
5 ~~598.0967, the Commissioner, Director or~~, *the* Attorney General may apply to any
6 district court for equitable relief. The application must state reasonable grounds
7 showing that the relief is necessary to terminate or prevent a deceptive trade
8 practice. If the court is satisfied of the reasonable grounds, the court may:

9 1. Grant injunctive relief restraining the sale or advertisement of any property
10 by the person.

11 2. Require the attendance of or the production of documents by the person, or
12 both.

13 3. Grant other relief necessary to compel compliance by the person.

14 **Sec. 40.** ~~{NRS 598.0971 is hereby amended to read as follows:~~

15 ~~598.0971 1. If, after an investigation, the {Commissioner} Attorney General~~
16 ~~has reasonable cause to believe that any person has been engaged or is engaging in~~
17 ~~any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive,~~
18 ~~the {Commissioner} Attorney General may issue an order directed to the person to~~
19 ~~show cause why the {Commissioner} Attorney General should not order the person~~
20 ~~to cease and desist from engaging in the practice. The order must contain a~~
21 ~~statement of the charges and a notice of a hearing to be held thereon. The order~~
22 ~~must be served upon the person directly or by certified or registered mail, return~~
23 ~~receipt requested.~~

24 ~~2. If, after conducting a hearing pursuant to the provisions of subsection 1, the~~
25 ~~{Commissioner} Attorney General determines that the person has violated any of~~
26 ~~the provisions of NRS 598.0903 to 598.0999, inclusive, or if the person fails to~~
27 ~~appear for the hearing after being properly served with the statement of charges and~~
28 ~~notice of hearing, the {Commissioner} Attorney General may make a written report~~
29 ~~of his findings of fact concerning the violation and cause to be served a copy~~
30 ~~thereof upon the person and any intervener at the hearing. If the {Commissioner}~~
31 ~~Attorney General determines in the report that such a violation has occurred, he~~
32 ~~may order the violator to:~~

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

35 ~~(b) Pay the costs of conducting the investigation, costs of conducting the~~
36 ~~hearing, costs of reporting services, fees for experts and other witnesses, charges~~
37 ~~for the rental of a hearing room if such a room is not available to the~~
38 ~~{Commissioner} Attorney General free of charge, charges for providing an~~
39 ~~independent hearing officer, if any, and charges incurred for any service of process,~~
40 ~~if the violator is adjudicated to have committed a violation of NRS 598.0903 to~~
41 ~~598.0999, inclusive; and~~

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

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

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

52 ~~4. If a person fails to comply with any provision of an order issued pursuant~~
53 ~~to subsection 2, {the Commissioner may, through} the Attorney General [,] may, at~~

any time after 20 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] Attorney General 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] Attorney General are supported by the weight of the evidence;~~

~~the court shall issue an order enforcing the provisions of the order of the [Commissioner] Attorney General.~~

~~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] Attorney General of a penalty of not more than \$5,000 for each act amounting to a failure to comply with the [Commissioner's] order [.] of the Attorney General; 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] Attorney General, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999. (Deleted by amendment.)~~

Sec. 41. NRS 598.0974 is hereby amended to read as follows:

598.0974 A civil penalty must not be imposed against any person who engages in a deceptive trade practice pursuant to NRS 598.0903 to 598.0999, inclusive, in a civil proceeding brought by the [Commissioner, Director or] Attorney General if a fine has previously been imposed against that person by the Department of Motor Vehicles pursuant to NRS 482.554 [.] for the same act.

Sec. 42. 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:

(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.

(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; or

(b) Restitution ordered pursuant to NRS 598.0903 to 598.0999, inclusive, 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. 43. ~~[NRS 598.0979 is hereby amended to read as follows:]~~
~~598.0979 1. Notwithstanding the requirement of knowledge as an element of a deceptive trade practice, when the [Commissioner or Director] Attorney General has cause to believe that a person has engaged or is engaging in any deceptive trade practice, knowingly or otherwise, he may [request in writing that the Attorney General represent him in instituting] institute an appropriate legal proceeding, including, without limitation, an application for an injunction or temporary restraining order prohibiting the person from continuing the practices. The court may make orders or judgments necessary to prevent the use by the person of any such deceptive trade practice or to restore to any other person any money or property which may have been acquired by the deceptive trade practice.~~

~~2. Where the [Commissioner or Director] Attorney General has the authority to institute a civil action or other proceeding, in lieu thereof or as a part thereof, he may accept an assurance of discontinuance of any deceptive trade practice. This assurance may include a stipulation for the payment by the alleged violator of:~~

~~(a) The costs of investigation and the costs of instituting the action or proceeding;~~

~~(b) Any amount of money which he may be required to pay pursuant to the provisions of NRS 598.0971 in lieu of any administrative fine; and~~

~~(c) The restitution of any money or property acquired by any deceptive trade practice.~~

~~Except as otherwise provided in this subsection and NRS 239.0115, any assurance of discontinuance accepted by the [Commissioner or Director] Attorney General and any stipulation filed with the court is confidential to the parties to the action or proceeding and to the court and its employees. Upon final judgment by the court that an injunction or a temporary restraining order, issued as provided in subsection 1, has been violated, an assurance of discontinuance has been violated or a person has engaged in the same deceptive trade practice as had previously been enjoined, the assurance of discontinuance or stipulation becomes a public record. Proof by a preponderance of the evidence of a violation of an assurance constitutes prima facie evidence of a deceptive trade practice for the purpose of any civil action or proceeding brought thereafter by the [Commissioner or Director] Attorney General, whether a new action or a subsequent motion or petition in any pending action or proceeding.] (Deleted by amendment.)~~

Sec. 44. ~~[NRS 598.098 is hereby amended to read as follows:]~~

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

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

~~(a) Prevent the [Commissioner or Director] Attorney General from issuing public statements describing or warning of any course of conduct which constitutes a deceptive trade practice.~~

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

~~[3.] 2. Upon request, the [Commissioner] Attorney General may:~~

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

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

~~→ This subsection does not authorize the [Commissioner] Attorney General to disclose or make public the contents of any complaint described in paragraph (a) or the record of or any other information concerning a hearing conducted in relation to the issuance of an order to cease and desist described in paragraph (b).~~

~~[4. The Commissioner may adopt regulations authorizing the disclosure of information concerning any complaint or number of complaints received by the Commissioner or Director relating to a person who has been convicted of violating a provision of NRS 598.0903 to 598.0999, inclusive.] (Deleted by amendment.)~~

Sec. 45. NRS 598.0983 is hereby amended to read as follows:

598.0983 1. Before instituting any action pursuant to NRS 598.0985 to 598.0997, inclusive, the district attorney shall ascertain whether or not the action in question is subject to the regulatory authority of any state agency, board, official or other authority established by virtue of the Nevada Revised Statutes except the regulatory or administrative authority provided to the ~~[Commissioner, Director or]~~ Attorney General by NRS 598.0903 to 598.0999, inclusive.

2. If the action is subject to such regulatory authority or any regulation adopted or any statutes administered by any state regulatory agency, board, official or other authority as provided in subsection 1, the district attorney shall not institute any proceeding under NRS 598.0985 to 598.0997, inclusive, until the state agency, board, official or other state regulatory authority has had reasonable time to investigate or take any appropriate action with respect to the alleged facts.

3. For the purposes of this section, a reasonable time has elapsed if no final action or other disposition is made of any matter otherwise falling within the provisions of NRS 598.0903 to 598.0999, inclusive, within 30 days after the matter is referred to or brought to the attention of any state agency, board, official or other regulatory authority except the ~~[Commissioner, Director or]~~ Attorney General.

4. This section does not prohibit the district attorney of any county from filing an action pursuant to the provisions of NRS 598.0985 to 598.099, inclusive, if the referral of any matters subject to the provisions of NRS 598.0903 to 598.0999, inclusive, to any state agency, board, official or other regulatory authority would cause immediate harm to the public of this state or endanger the public health, safety or welfare, and such facts are shown by affidavit or by verified complaint.

Sec. 46. NRS 598.0985 is hereby amended to read as follows:

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

Sec. 47. NRS 598.099 is hereby amended to read as follows:

598.099 Whenever the district attorney or the Attorney General has reason to believe that the delay caused by complying with the notice requirement of NRS

598.0987 or the requirements of subsection ~~3~~ 2 of NRS 598.0963 would cause immediate harm to the public of this state or endanger the public welfare, he may immediately institute an action for injunctive relief, including a request for a temporary restraining order, upon proof of specific facts shown by affidavit or by verified complaint or otherwise that such immediate harm will be or is likely to be caused by the delay. ~~[The Attorney General shall give written notice of the filing by him of such an action to the Commissioner or Director.]~~ The Nevada Rules of Civil Procedure pertaining to the issuance of temporary restraining orders govern all actions instituted pursuant to this section.

Sec. 47.5. NRS 598.0993 is hereby amended to read as follows:

598.0993 1. The court in which an action is brought pursuant to NRS ~~598.0979 and~~ 598.0985 to 598.099, inclusive, may make such additional orders or judgments as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any deceptive trade practice which violates any of the provisions of NRS 598.0903 to 598.0999, inclusive, but such additional orders or judgments may be entered only after a final determination has been made that a deceptive trade practice has occurred.

Sec. 48. NRS 598.0995 is hereby amended to read as follows:

598.0995 1. In proceeding pursuant to subsection ~~3~~ 2 of NRS 598.0963 or NRS 598.0987 to 598.0995, inclusive, the district attorney or Attorney General may accept an assurance of discontinuance with respect to any method, act or practice deemed to be a deceptive trade practice from any person who is engaged or is about to engage in the method, act or practice. ~~[by following the procedures set forth in subsection 2 of NRS 598.0979.]~~

2. Any assurance made pursuant to subsection 1 must be in writing and must be filed with and subject to the approval of the district court in the county in which the alleged violator resides or has his principal place of business, or the district court in any county where any deceptive trade practice has occurred or is about to occur or the district court agreed to by the parties.

3. An assurance of discontinuance made pursuant to subsections 1 and 2 is not an admission of violation for any purpose. ~~[, but is subject to the terms, limitations and conditions of NRS 598.0979.]~~

Sec. 49. 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, 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.

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, 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, 598.100 to 598.2801, inclusive, ~~598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive,~~ 598.475, 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. 50. NRS 598.135 is hereby amended to read as follows:

598.135 The provisions of NRS 598.136, 598.137 and 598.138 do not apply to:

1. A contest of skill that does not involve the sale or lease of any goods, property or service.

2. ~~A person who is licensed as a seller or a salesman pursuant to chapter 599B of NRS, and is engaging in an activity within the scope of that license.~~

~~—3.~~ A sale or purchase, or solicitation or representation made in connection with the sale or purchase, of goods from a catalog or of books, recordings, videocassettes, periodicals or other similar goods offered by a seller or membership group which is regulated by the Federal Trade Commission if the seller or membership group sends goods, pursuant to an agreement, to a customer or member for his inspection and, if unsatisfied after inspecting the goods, the customer or member is entitled to receive a full refund of the purchase price of the goods if the goods are returned undamaged to the seller or membership group.

~~4.~~ 3. A solicitation, advertisement or promotion, or offer to extend credit, made by a commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender,

commercial finance lender or insurer, or any other person engaged in the business of extending credit, who is regulated by an officer or agency of the State or of the Federal Government.

~~[5.]~~ 4. A person licensed pursuant to chapter 463 of NRS and his employees.

Sec. 51. NRS 598.475 is hereby amended to read as follows:

598.475 1. In each advertisement for a sightseeing tour, a tour broker and a tour operator shall disclose in a clear and conspicuous manner the total price a customer is required to pay to take the sightseeing tour. Unless the inclusion of a fee or tax in the total price would violate a specific statute of this state or a federal statute or regulation, the total price must include, without limitation, all fees, taxes and other charges that a customer for a sightseeing tour is required to pay to take the sightseeing tour. If a fee or tax cannot be included in the total price because its inclusion would violate a specific statute of this state or a federal statute or regulation, the tour broker or tour operator, as applicable, shall disclose in a clear and conspicuous manner that the fee or tax is not included in the total price and must be paid in addition to the total price.

2. A tour broker and a tour operator shall not charge a customer for a sightseeing tour an amount that exceeds the sum of:

(a) The total price for the sightseeing tour which is disclosed in an advertisement for the sightseeing tour; and

(b) Any fee or tax that is not included in the total price for the sightseeing tour because its inclusion would violate a specific statute of this state or a federal statute or regulation.

3. On a billing invoice or receipt given to a customer for a sightseeing tour, a tour broker and a tour operator shall provide a clear and conspicuous notice which ~~is~~

~~(a) Sets forth the provisions of subsection 2.~~ ~~(b) States that complaints concerning the charges for a sightseeing tour may be directed to the~~ ~~(c) Provides a telephone number for the~~

~~[Division:] [Attorney General] and~~

~~(c) Provides a telephone number for the~~ ~~[Division:] [Attorney General.]~~

4. If a tour operator issues or causes to be issued a coupon or other indicia of discount or special promotion, the tour operator shall honor the coupon or other indicia in good faith unless:

(a) The coupon or other indicia sets forth a date of expiration that is clearly legible; and

(b) The date of expiration has passed.

5. The failure of a tour broker or tour operator to comply with a provision of this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

6. As used in this section:

(a) *“Advertise” or “advertisement” means the attempt by publication, dissemination, solicitation or circulation to induce, directly or indirectly, any person to take a sightseeing tour.*

(b) *“Sightseeing tour” means an excursion that:*

(1) Has a duration of 24 hours or less;

(2) Travels to one or more points of interest; and

(3) Is conducted using one or more means of motorized conveyance, including, without limitation, an airplane, bus, helicopter, tour boat or touring raft.

(c) *“Tour broker” means a person who, in this State, advertises a sightseeing tour for a tour operator and collects money from customers for a sightseeing tour.*

1 (d) *“Tour operator” means a person who, in this State, engages in the*
2 *business of providing a sightseeing tour to customers.*

3 **Sec. 52.** NRS 598.706 is hereby amended to read as follows:

4 598.706 “Commissioner” means the Commissioner of ~~the Consumer Affairs~~
5 ~~Division~~ *Mortgage Lending* of the Department of Business and Industry.

6 **Sec. 53.** NRS 598.711 is hereby amended to read as follows:

7 598.711 “Division” means the ~~Consumer Affairs~~ Division of *Mortgage*
8 *Lending* of the Department of Business and Industry.

9 **Sec. 54.** NRS 598.716 is hereby amended to read as follows:

10 598.716 “Registrant” means a credit service organization ~~[, an organization~~
11 ~~for buying goods or services at a discount, a dance studio or a health club]~~ which is
12 required to register and post security with the Division pursuant to the provisions of
13 this chapter.

14 **Sec. 55.** NRS 598.721 is hereby amended to read as follows:

15 598.721 1. Each credit service organization ~~[, organization for buying goods~~
16 ~~or services at a discount, dance studio and health club]~~ regulated by the provisions
17 of this chapter shall apply for registration on the form prescribed by the Division.

18 2. At the time of application for registration, the applicant must pay to the
19 Division an administrative fee of \$25 and deposit the required security with the
20 Division.

21 3. Upon receipt of the security in the proper form and the payment of the
22 administrative fee required by this section, the Division shall issue a certificate of
23 registration to the applicant. A certificate of registration:

24 (a) Is not transferable or assignable; and

25 (b) Expires 1 year after it is issued.

26 4. A registrant must renew a certificate of registration issued pursuant to this
27 section before the certificate expires by submitting to the Division an application
28 for the renewal of the certificate on a form prescribed by the Division.

29 **Sec. 56.** NRS 598.741 is hereby amended to read as follows:

30 598.741 As used in NRS 598.741 to 598.787, inclusive, unless the context
31 otherwise requires:

32 1. “Buyer” means a natural person who is solicited to purchase or who
33 purchases the services of an organization which provides credit services.

34 2. “Commissioner” means the Commissioner of ~~Consumer Affairs.~~
35 *Mortgage Lending.*

36 3. “Division” means the ~~Consumer Affairs~~ Division of *Mortgage Lending*
37 *of* the Department of Business and Industry.

38 4. “Extension of credit” means the right to defer payment of debt or to incur
39 debt and defer its payment, offered or granted primarily for personal, family or
40 household purposes.

41 5. “Organization”:

42 (a) Means a person who, with respect to the extension of credit by others, sells,
43 provides or performs, or represents that he can or will sell, provide or perform, any
44 of the following services, in return for the payment of money or other valuable
45 consideration:

46 (1) Improving a buyer’s credit record, history or rating.

47 (2) Obtaining an extension of credit for a buyer.

48 (3) Providing counseling or assistance to a person in establishing or
49 effecting a plan for the payment of his indebtedness, unless that counseling or
50 assistance is provided by and is within the scope of the authorized practice of a debt
51 adjuster licensed pursuant to chapter 676 of NRS.

52 (4) Providing advice or assistance to a buyer with regard to subparagraph
53 (1) or (2).

(b) Does not include:

(1) A person organized, chartered or holding a license or authorization certificate to make loans or extensions of credit pursuant to the laws of this state or the United States who is subject to regulation and supervision by an officer or agency of this state or the United States.

(2) A bank, credit union or savings and loan institution whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

(3) A person licensed as a real estate broker by this state where the person is acting within the course and scope of that license, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.

(4) A person licensed to practice law in this state where the person renders services within the course and scope of his practice as an attorney at law, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.

(5) A broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker-dealer is acting within the course and scope of such regulation.

(6) A person licensed as a debt adjuster pursuant to chapter 676 of NRS.

(7) A reporting agency.

6. "Reporting agency" means a person who, for fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the business of assembling or evaluating information regarding the credit of or other information regarding consumers to furnish consumer reports to third parties, regardless of the means or facility of commerce used to prepare or furnish the consumer reports. The term does not include:

(a) A person solely for the reason that he conveys a decision regarding whether to guarantee a check in response to a request by a third party;

(b) A person who obtains or creates a consumer report and provides the report or information contained in it to a subsidiary or affiliate; or

(c) A person licensed pursuant to chapter 463 of NRS.

Sec. 57. NRS 598.840 is hereby amended to read as follows:

598.840 As used in NRS 598.840 to 598.930, inclusive, unless the context otherwise requires:

1. "Affiliate organization" means an organization for buying goods or services at a discount that:

(a) Is a subsidiary of a parent business entity; or

(b) Operates under a franchise granted by a parent business entity.

2. "Business day" means any calendar day except Sunday, or the following business holidays: New Year's Day, Martin Luther King, Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Nevada Day, Veterans' Day, Thanksgiving Day and Christmas Day.

3. "Buyer" means a person who purchases by contract a membership in an organization for buying goods or services at a discount.

~~4. "Commissioner" means the Commissioner of the Consumer Affairs Division.~~

~~5. "Consumer Affairs Division" means the Consumer Affairs Division of the Department of Business and Industry.~~

~~6. "Franchise" has the meaning ascribed to it in 16 C.F.R. § 436.2, as amended or substituted in revision by the Federal Trade Commission.~~

~~7-1~~ 5. "Organization for buying goods or services at a discount" or "organization" means a person who, for a consideration, provides or claims to provide a buyer with the ability to purchase goods or services at a price which is represented to be lower than the price generally charged in the area. The term includes, without limitation, an affiliate organization.

~~8-1~~ 6. "Parent business entity" or "parent" means any business entity that, directly or indirectly, has owned, operated, controlled or granted franchises to, in any combination thereof, at least 15 organizations or affiliate organizations for a consecutive period of 5 years or more.

~~9-1~~ 7. "Subsidiary" means an organization for buying goods or services at a discount that is owned, operated or controlled, either directly or indirectly or in whole or in part, by a parent business entity.

Sec. 57.5. NRS 598.840 is hereby amended to read as follows:

598.840 As used in NRS 598.840 to 598.930, inclusive, and sections 35.2 to 35.5, inclusive, of this act, unless the context otherwise requires:

1. "Affiliate organization" means an organization for buying goods or services at a discount that:

(a) Is a subsidiary of a parent business entity; or

(b) Operates under a franchise granted by a parent business entity.

2. "Business day" means any calendar day except Sunday, or the following business holidays: New Year's Day, Martin Luther King, Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Nevada Day, Veterans' Day, Thanksgiving Day and Christmas Day.

3. "Buyer" means a person who purchases by contract a membership in an organization for buying goods or services at a discount.

4. "Commissioner" means the Commissioner of the Consumer Affairs Division.

5. "Division" means the Consumer Affairs Division of the Department of Business and Industry.

6. "Franchise" has the meaning ascribed to it in 16 C.F.R. § 436.2, as amended or substituted in revision by the Federal Trade Commission.

~~5-1~~ 7. "Organization for buying goods or services at a discount" or "organization" means a person who, for a consideration, provides or claims to provide a buyer with the ability to purchase goods or services at a price which is represented to be lower than the price generally charged in the area. The term includes, without limitation, an affiliate organization.

~~6-1~~ 8. "Parent business entity" or "parent" means any business entity that, directly or indirectly, has owned, operated, controlled or granted franchises to, in any combination thereof, at least 15 organizations or affiliate organizations for a consecutive period of 5 years or more.

~~7-1~~ 9. "Registrant" means an organization for buying goods or services at a discount which is required to register and post security with the Division pursuant to the provisions of NRS 598.840 to 598.930, inclusive, and sections 35.2 to 35.5, inclusive, of this act.

10. "Subsidiary" means an organization for buying goods or services at a discount that is owned, operated or controlled, either directly or indirectly or in whole or in part, by a parent business entity.

Sec. 58. NRS 598.875 is hereby amended to read as follows:

598.875 Each contract for membership in an organization must:

1. Be in writing, legible and have all spaces filled in before the buyer signs it;
2. Be in the language in which the sales presentation was given;
3. Contain the addresses of the buyer and the organization;
4. Be given to the buyer when he signs it;

5. ~~[Disclose that the security required by NRS 598.726, 598.851 and, if applicable, NRS 598.855 has been obtained and deposited with the Consumer Affairs Division;~~

~~—6.]~~ Specify the term of the membership of the buyer, which may not be measured by the buyer's life;

~~[7.]~~ 6. Clearly specify the buyer's right to cancel the contract pursuant to NRS 598.885;

~~[8.]~~ 7. Clearly specify the buyer's right to rescind the contract and to be given a refund pro rata pursuant to NRS 598.910 and the conditions and limitations on that right;

~~[9.]~~ 8. Clearly specify the buyer's right to a refund on the purchase of goods pursuant to NRS 598.895 and the conditions and limitations on that right; and

~~[10.]~~ 9. Clearly specify whether or not the buyer is given any other rights to a refund on the purchase of goods or services and, if so, any conditions and limitations on those rights.

Sec. 59. NRS 598.930 is hereby amended to read as follows:

598.930 1. The remedies, duties and prohibitions of NRS 598.840 to 598.930, inclusive, are not exclusive and are in addition to any other remedies provided by law.

2. Any violation of NRS ~~[598.851]~~ 598.870 to 598.900, inclusive, constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Sec. 60. NRS 598.948 is hereby amended to read as follows:

598.948 Each contract between the buyer and the dance studio or health club must:

1. Be in writing, legible and have all spaces filled in before the buyer signs it;

2. Be in the language in which the sales presentation was given;

3. Contain the addresses of the buyer and the studio or club;

4. Be given to the buyer when he signs it;

~~5. [Disclose whether security has been obtained and deposited with the Division pursuant to NRS 598.726;~~

~~—6.]~~ Specify the term of membership of the buyer, which must not be measured by the life of the buyer;

~~[7.]~~ 6. Clearly specify the right of the buyer to cancel the contract pursuant to NRS 598.950;

~~[8.]~~ 7. Not contain a clause by which the contract is automatically renewed; and

~~[9.]~~ 8. Specify the number of lessons and the cost of each lesson, if the contract is for dance lessons.

Sec. 61. NRS 598.966 is hereby amended to read as follows:

598.966 1. The remedies, duties and prohibitions of NRS 598.940 to 598.966, inclusive, are not exclusive and are in addition to any other remedies provided by law.

2. Any violation of NRS ~~[598.944]~~ 598.948 to 598.958, inclusive, constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Sec. 62. ~~[NRS 598C.180 is hereby amended to read as follows:~~

~~598C.180 [1.] The provisions of this chapter must be administered by the Commissioner of Consumer Affairs;~~

~~2. The Attorney General shall provide opinions for the Commissioner on all questions of law relating to the construction, interpretation or administration of this chapter.~~

~~3. The Attorney General shall represent the Division in any action or proceeding brought by or against the Commissioner pursuant to any of the provisions of this chapter.] Attorney General. (Deleted by amendment.)~~

1 **Sec. 63.** NRS 599B.010 is hereby amended to read as follows:

2 599B.010 As used in this chapter, unless the context otherwise requires:

3 1. "Chance promotion" means any plan in which premiums are distributed by
4 random or chance selection.

5 2. ~~["Commissioner" means the Commissioner of Consumer Affairs.~~

6 ~~—3.]~~ "Consumer" means a person who is solicited by a seller or salesman.

7 ~~["Division" means the Consumer Affairs Division of the Department of~~
8 ~~Business and Industry.~~

9 ~~—5.]~~ 3. "Donation" means a promise, grant or pledge of money, credit,
10 property, financial assistance or other thing of value given in response to a
11 solicitation by telephone, including, but not limited to, a payment or promise to pay
12 in consideration for a performance, event or sale of goods or services. The term
13 does not include volunteer services, government grants or contracts or a payment
14 by members of any organization of membership fees, dues, fines or assessments or
15 for services rendered by the organization to those persons, if:

16 (a) The fees, dues, fines, assessments or services confer a bona fide right,
17 privilege, professional standing, honor or other direct benefit upon the member; and

18 (b) Membership in the organization is not conferred solely in consideration for
19 making a donation in response to a solicitation.

20 ~~6.]~~ 4. "Goods or services" means any property, tangible or intangible, real,
21 personal or mixed, and any other article, commodity or thing of value.

22 ~~7.]~~ 5. "Premium" includes any prize, bonus, award, gift or any other similar
23 inducement or incentive to purchase.

24 ~~8.]~~ 6. "Recovery service" means a business or other practice whereby a
25 person represents or implies that he will, for a fee, recover any amount of money
26 that a consumer has provided to a seller or salesman pursuant to a solicitation
27 governed by the provisions of this chapter.

28 ~~9.]~~ 7. "Salesman" means any person:

29 (a) Employed or authorized by a seller to sell, or to attempt to sell, goods or
30 services by telephone;

31 (b) Retained by a seller to provide consulting services relating to the
32 management or operation of the seller's business; or

33 (c) Who communicates on behalf of a seller with a consumer:

34 (1) In the course of a solicitation by telephone; or

35 (2) For the purpose of verifying, changing or confirming an order,
36 except that a person is not a salesman if his only function is to identify a
37 consumer by name only and he immediately refers the consumer to a salesman.

38 ~~10.]~~ 8. Except as otherwise provided in subsection ~~11.]~~ 9, "seller" means
39 any person who, on his own behalf, causes or attempts to cause a solicitation by
40 telephone to be made through the use of one or more salesmen or any automated
41 dialing announcing device under any of the following circumstances:

42 (a) The person initiates contact by telephone with a consumer and represents or
43 implies:

44 (1) That a consumer who buys one or more goods or services will receive
45 additional goods or services, whether or not of the same type as purchased, without
46 further cost, except for actual postage or common carrier charges;

47 (2) That a consumer will or has a chance or opportunity to receive a
48 premium;

49 (3) That the items for sale are gold, silver or other precious metals,
50 diamonds, rubies, sapphires or other precious stones, or any interest in oil, gas or
51 mineral fields, wells or exploration sites or any other investment opportunity;

52 (4) That the product offered for sale is information or opinions relating to
53 sporting events;

(5) That the product offered for sale is the services of a recovery service; or
(6) That the consumer will receive a premium or goods or services if he makes a donation;

(b) The solicitation by telephone is made by the person in response to inquiries from a consumer generated by a notification or communication sent or delivered to the consumer that represents or implies:

(1) That the consumer has been in any manner specially selected to receive the notification or communication or the offer contained in the notification or communication;

(2) That the consumer will receive a premium if the recipient calls the person;

(3) That if the consumer buys one or more goods or services from the person, the consumer will also receive additional or other goods or services, whether or not the same type as purchased, without further cost or at a cost that the person represents or implies is less than the regular price of the goods or services;

(4) That the product offered for sale is the services of a recovery service; or

(5) That the consumer will receive a premium or goods or services if he makes a donation; or

(c) The solicitation by telephone is made by the person in response to inquiries generated by advertisements that represent or imply that the person is offering to sell any:

(1) Gold, silver or other metals, including coins, diamonds, rubies, sapphires or other stones, coal or other minerals or any interest in oil, gas or other mineral fields, wells or exploration sites, or any other investment opportunity;

(2) Information or opinions relating to sporting events; or

(3) Services of a recovery service.

~~9.9.9.9~~ 9. "Seller" does not include:

(a) A person licensed pursuant to chapter 90 of NRS when soliciting offers, sales or purchases within the scope of his license.

(b) A person licensed pursuant to chapter 119A, 119B, 624, 645 or 696A of NRS when soliciting sales within the scope of his license.

(c) A person licensed as an insurance broker, agent or solicitor when soliciting sales within the scope of his license.

(d) Any solicitation of sales made by the publisher of a newspaper or magazine or by an agent of the publisher pursuant to a written agreement between the agent and publisher.

(e) A broadcaster soliciting sales who is licensed by any state or federal authority, if the solicitation is within the scope of the broadcaster's license.

(f) A person who solicits a donation from a consumer when:

(1) The person represents or implies that the consumer will receive a premium or goods or services with an aggregated fair market value of 2 percent of the donation or \$50, whichever is less; or

(2) The consumer provides a donation of \$50 or less in response to the solicitation.

(g) A charitable organization which is registered or approved to conduct a lottery pursuant to chapter 462 of NRS.

(h) A public utility or motor carrier which is regulated pursuant to chapter 704 or 706 of NRS, or by an affiliate of such a utility or motor carrier, if the solicitation is within the scope of its certificate or license.

(i) A utility which is regulated pursuant to chapter 710 of NRS, or by an affiliate of such a utility.

(j) A person soliciting the sale of books, recordings, videocassettes, software for computer systems or similar items through:

1 (1) An organization whose method of sales is governed by the provisions
2 of Part 425 of Title 16 of the Code of Federal Regulations relating to the use of
3 negative option plans by sellers in commerce;

4 (2) The use of continuity plans, subscription arrangements, arrangements
5 for standing orders, supplements, and series arrangements pursuant to which the
6 person periodically ships merchandise to a consumer who has consented in advance
7 to receive the merchandise on a periodic basis and has the opportunity to review the
8 merchandise for at least 10 days and return it for a full refund within 30 days after it
9 is received; or

10 (3) An arrangement pursuant to which the person ships merchandise to a
11 consumer who has consented in advance to receive the merchandise and has the
12 opportunity to review the merchandise for at least 10 days and return it for a full
13 refund within 30 days after it is received.

14 (k) A person who solicits sales by periodically publishing and delivering a
15 catalog to consumers if the catalog:

16 (1) Contains a written description or illustration of each item offered for
17 sale and the price of each item;

18 (2) Includes the business address of the person;

19 (3) Includes at least 24 pages of written material and illustrations;

20 (4) Is distributed in more than one state; and

21 (5) Has an annual circulation by mailing of not less than 250,000.

22 (l) A person soliciting without the intent to complete and who does not
23 complete, the sales transaction by telephone but completes the sales transaction at a
24 later face-to-face meeting between the solicitor and the consumer, if the person,
25 after soliciting a sale by telephone, does not cause another person to collect the
26 payment from or deliver any goods or services purchased to the consumer.

27 (m) Any commercial bank, bank holding company, subsidiary or affiliate of a
28 bank holding company, trust company, savings and loan association, credit union,
29 industrial loan company, personal property broker, consumer finance lender,
30 commercial finance lender, or insurer subject to regulation by an official or agency
31 of this State or of the United States, if the solicitation is within the scope of the
32 certificate or license held by the entity.

33 (n) A person holding a certificate of authority issued pursuant to chapter 452 of
34 NRS when soliciting sales within the scope of the certificate.

35 (o) A person licensed pursuant to chapter 689 of NRS when soliciting sales
36 within the scope of his license.

37 (p) A person soliciting the sale of services provided by a video service provider
38 subject to regulation pursuant to chapter 711 of NRS.

39 (q) A person soliciting the sale of agricultural products, if the solicitation is not
40 intended to and does not result in a sale of more than \$100 that is to be delivered to
41 one address. As used in this paragraph, "agricultural products" has the meaning
42 ascribed to it in NRS 587.290.

43 (r) A person who has been operating, for at least 2 years, a retail business
44 establishment under the same name as that used in connection with the solicitation
45 of sales by telephone if, on a continuing basis:

46 (1) Goods are displayed and offered for sale or services are offered for sale
47 and provided at the person's business establishment; and

48 (2) At least 50 percent of the person's business involves the buyer
49 obtaining such goods or services at the person's business establishment.

50 (s) A person soliciting only the sale of telephone answering services to be
51 provided by the person or his employer.

52 (t) A person soliciting a transaction regulated by the Commodity Futures
53 Trading Commission, if:

(1) The person is registered with or temporarily licensed by the Commission to conduct that activity pursuant to the Commodity Exchange Act, 7 U.S.C. §§ 1 et seq.; and

(2) The registration or license has not expired or been suspended or revoked.

(u) A person who contracts for the maintenance or repair of goods previously purchased from the person:

(1) Making the solicitation; or

(2) On whose behalf the solicitation is made.

(v) A person to whom a license to operate an information service or a nonrestricted gaming license, which is current and valid, has been issued pursuant to chapter 463 of NRS when soliciting sales within the scope of his license.

(w) A person who solicits a previous customer of the business on whose behalf the call is made if the person making the call:

(1) Does not offer the customer any premium in connection with the sale;

(2) Is not selling an investment or an opportunity for an investment that is not registered with any state or federal authority; and

(3) Is not regularly engaged in telephone sales.

(x) A person who solicits the sale of livestock.

(y) An issuer which has a class of securities that is listed on the New York Stock Exchange, the American Stock Exchange or the National Market System of the National Association of Securities Dealers Automated Quotation System.

(z) A subsidiary of an issuer that qualifies for exemption pursuant to paragraph (y) if at least 60 percent of the voting power of the shares of the subsidiary is owned by the issuer.

Sec. 64. NRS 599B.025 is hereby amended to read as follows:

599B.025 ~~[[1]]~~ The Attorney General may adopt regulations establishing standards of conduct for ~~registrants~~ **sellers and salesmen** and any other regulations necessary to exercise the powers and carry out the duties of the Attorney General as set forth in this chapter.

~~[[2. The] [Commissioner and the] [Attorney General shall] [jointly] [adopt rules of practice establishing a procedure for processing complaints received concerning sellers and salesmen.] [, whether or not the sellers and salesmen are registered pursuant to this chapter. The rules of practice:~~

~~— (a) Must provide for the sharing of information and for the initial review of complaints by the Attorney General before mediation by the Commissioner; and~~

~~— (b) May provide procedures for mediation by the Commissioner after initial review by the Attorney General.~~

~~— 3. The Commissioner may adopt rules of practice necessary to administer and carry out the provisions of this chapter pertaining to the registration of sellers and salesmen. The rules of practice must not restrict the powers and duties of the Attorney General as set forth in this chapter.]~~

Sec. 65. NRS 599B.150 is hereby amended to read as follows:

599B.150 1. No salesman may be associated with or employed by more than one seller at the same time.

2. A seller shall cooperate fully with the ~~Commissioner~~ **Attorney General** in any investigation made by him concerning an alleged violation of the provisions of this chapter by a salesman.

Sec. 66. NRS 599B.160 is hereby amended to read as follows:

599B.160 If any change is made to any script, outline, presentation or sales or donation information or literature used by a ~~registrant~~ **seller or salesman** in connection with any solicitation, the new or revised material must be submitted by

1 the ~~registrant~~ *seller or salesman* to the ~~Division~~ *Attorney General* before such
2 material is used.

3 **Sec. 67.** NRS 599B.170 is hereby amended to read as follows:

4 599B.170 1. During any solicitation or sales presentation made by him, or
5 in any correspondence written in connection with a sale, a salesman shall:

- 6 (a) Identify himself by stating his true name;
- 7 (b) Identify the seller by whom he is employed; and
- 8 (c) State the purpose of his call.

9 2. During any solicitation or sales presentation made by him, or in any
10 correspondence written in connection with a ~~registrant, a registrant~~ *seller or*
11 *salesman, a seller or salesman* shall disclose to a consumer:

- 12 (a) Any charge, including the amount associated with the use of any premium
13 being offered;
- 14 (b) Any material restriction, requirement, condition, limitation or exception
15 which is associated with the use of the premium; and
- 16 (c) Any charge connected with the sale of any goods or services.

17 3. A ~~registrant~~ *seller or salesman* shall not characterize a premium as a
18 prize unless the consumer may receive the premium free of charge and without
19 making any purchase.

20 4. A ~~registrant~~ *seller or salesman* shall inform each consumer of the time
21 within which any premium will be delivered.

22 5. A ~~registrant~~ *seller or salesman* shall not make any representation of the
23 number of premiums to be awarded in a sales promotion unless the representation
24 accurately reflects the actual number of premiums that will be awarded.

25 **Sec. 68.** NRS 599B.180 is hereby amended to read as follows:

26 599B.180 If a seller expressly or impliedly represents to any consumer,
27 directly or through a salesman, that the consumer is or may be eligible to receive
28 any gift, premium, bonus or prize, however denominated, the seller shall:

29 1. Submit to the ~~Division~~ *Attorney General* a statement setting forth, for
30 each item mentioned:

- 31 (a) A description of the item.
- 32 (b) The value or worth of the item and the basis for the valuation.
- 33 (c) All terms and conditions a consumer must satisfy in order to receive the
34 item. The statement must be accompanied by a copy of the written statement of
35 terms and conditions provided to consumers pursuant to subsection 3.
- 36 (d) If they are ascertainable, the odds, for a given consumer, of receiving the
37 item.

38 (e) If a consumer is to receive fewer than all the items described by the seller:

39 (1) The manner in which the seller decides which item a given consumer is
40 to receive.

41 (2) If they are ascertainable, the odds, for a given consumer, of receiving
42 each item described.

43 (3) The name and address of each person who has, during the preceding 12
44 months or any portion thereof in which the seller has done business, received the
45 item having the greatest value and the item with the smallest odds of being
46 received.

47 2. Provide the following information to the consumer at the time of the
48 solicitation:

49 (a) The complete address of the location and the telephone number from which
50 the consumer is being called and, if different, the complete address of the principal
51 location at which the seller does business.

52 (b) The information required by paragraphs (a) and (c) of subsection 1.

(c) If the seller elects to inform the consumer of the value or worth of the item, the information must be identical to that submitted pursuant to paragraph (b) of subsection 1, in exactly the form submitted.

(d) If the consumer is to receive fewer than all the items described by the seller, the information required by subparagraph (1) of paragraph (e) of subsection 1.

3. Advise the consumer, at the time of the solicitation, that he may obtain, without cost, a written statement of the terms and conditions he must satisfy in order to receive the item. If the consumer so requests, the seller shall send him such a statement, by mail, without cost to the consumer.

Sec. 69. NRS 599B.185 is hereby amended to read as follows:

599B.185 If a ~~{registrant}~~ *seller or salesman* solicits the sale of investments or opportunities for investment, he shall, during the oral sales presentation and in writing, inform the prospective consumer:

1. Of the manner in which the price of the offered item is determined;

2. Whether the ~~{registrant}~~ *seller or salesman* or his employer receives any financial advantage other than an agent's or brokerage fee; and

3. Of the amount of any agent's or brokerage fee.

Sec. 70. NRS 599B.187 is hereby amended to read as follows:

599B.187 1. A ~~{registrant}~~ *seller or salesman* shall not use a chance promotion unless each consumer is entitled to participate in the promotion without charge or payment of any kind.

2. A ~~{registrant}~~ *seller or salesman* shall, before describing any item offered in a chance promotion, inform each consumer that he may participate in the promotion without any obligation to purchase any goods or services.

3. If a consumer specifically requests the information and the odds are ascertainable, the ~~{registrant}~~ *seller or salesman* shall orally disclose the odds of receiving each item offered in the chance promotion. If such a request is made but the odds are not ascertainable, the ~~{registrant}~~ *seller or salesman* shall disclose the manner in which the items offered in the promotion are awarded.

4. A ~~{registrant}~~ *seller or salesman* shall not require or request the payment of any money as a condition of obtaining any premium offered in a chance promotion.

5. A ~~{registrant}~~ *seller or salesman* shall not require a person to perform any action or to supply any information to participate in a chance promotion, except that the ~~{registrant}~~ *seller or salesman* may require the person to submit a written request sent by first-class mail. A ~~{registrant}~~ *seller or salesman* may not require the person to supply any information other than his name, address and a list of the premiums available in the chance promotion.

6. If a premium is offered in a chance promotion, the ~~{registrant}~~ *seller or salesman* shall provide any such premium to each person who does not purchase goods or services from the ~~{registrant}~~ *seller or salesman* upon the same terms, including time of delivery, as are provided to the persons who do purchase goods or services from the ~~{registrant}~~ *seller or salesman*.

7. If requested, a ~~{registrant}~~ *seller or salesman* shall inform each person who does not purchase goods or services from the ~~{registrant}~~ *seller or salesman* of the manner in which the person can participate in the chance promotion.

8. Any ~~{registrant}~~ *seller or salesman* who uses a chance promotion shall:

(a) Furnish to the ~~{Division}~~ *Attorney General* information establishing the financial ability of the ~~{registrant}~~ *seller or salesman* to award all premiums to be given in the promotion.

(b) Award all premiums included in the promotion to bona fide recipients within 12 months after the promotion begins.

(c) Deliver the premiums to bona fide recipients within a reasonable time.

1 **Sec. 71.** NRS 599B.190 is hereby amended to read as follows:

2 599B.190 1. Except as otherwise provided in subsection 3, a person who
3 purchases goods or services or makes a donation pursuant to a solicitation governed
4 by this chapter must be given a refund or replacement, at his option, if:

5 (a) The goods or services are defective, are not as represented or if any item
6 described pursuant to NRS 599B.180 is not received as promised; and

7 (b) He returns the unused goods, if any, or makes a written request for the
8 refund or replacement within 30 days after he receives:

9 (1) The goods or services; or

10 (2) Any item described pursuant to NRS 599B.180,

11 ↪ whichever is received later. A return or request is timely if shipment is made or
12 the request is postmarked, properly addressed and postage prepaid, within the time
13 provided by this paragraph.

14 2. A ~~registrant~~ *seller or salesman* who receives a written request for a
15 refund or replacement shall not require prior authorization for a return of goods and
16 shall give a refund or replacement within 14 days after receipt of the request.

17 3. If a consumer of goods returns only a portion of the goods, the refund or
18 replacement required by subsection 1 may be prorated accordingly.

19 4. The refund or replacement required by subsection 1 must be given by the
20 seller, regardless of whether payment for the goods or services is made to the seller
21 or some other person.

22 5. Except for any proration permitted by subsection 3, a ~~registrant~~ *seller or*
23 *salesman* shall not impose any charge in connection with a return of goods or a
24 request for a refund or replacement.

25 6. If a ~~registrant~~ *seller or salesman* receives payment by credit card, he may
26 issue a refund in the form of a credit to the credit card account of the consumer in
27 lieu of a cash refund.

28 7. Within 3 days after any purchase of goods or services or upon delivery of
29 the goods or services, whichever is later, or within 3 days after receiving a
30 donation, the seller shall provide the consumer with a written summary of the
31 provisions of this section. The summary must:

32 (a) ~~Be made in a form prescribed by the Division.~~

33 ~~—(b)—~~ Include the address to which returned goods or a request for refund may be
34 sent.

35 ~~—(c)—~~ *(b)* Be accompanied by a statement containing the information required
36 by paragraph (e) of subsection 1 of NRS 599B.180, if the provisions of that section
37 apply.

38 ~~—(d)—~~ *(c)* If the provisions of paragraph (c) of subsection 2 of NRS 599B.180
39 apply, be accompanied by a statement concerning the number of persons who have,
40 during the 12 months preceding the solicitation or any portion thereof in which the
41 seller has done business, received the item having the greatest value and the item
42 with the smallest odds of being received.

43 ↪ A summary is timely if it is postmarked, properly addressed and postage prepaid,
44 within the time provided by this subsection.

45 **Sec. 72.** NRS 599B.200 is hereby amended to read as follows:

46 599B.200 A salesman or seller shall not disclose the name or address of any
47 person who purchases goods or services pursuant to a solicitation governed by this
48 chapter. Nothing in this section prohibits the disclosure of this information to:

49 1. Any person employed by or associated with the seller; *or*

50 2. ~~The Commissioner or any employee of the Division; or~~

51 ~~—3.—~~ Any law enforcement officer or agency that requires the information for
52 investigative purposes.

1 **Sec. 73.** NRS 599B.210 is hereby amended to read as follows:

2 599B.210 1. Every ~~registrant,~~ *seller or salesman*, other than a ~~registrant,~~
3 *seller or salesman* incorporated in this state, shall file with the Secretary of State an
4 irrevocable consent appointing the Secretary of State as his agent to receive service
5 of any lawful process in any action or proceeding against him arising pursuant to
6 this chapter. Any lawful process against the ~~registrant,~~ *seller or salesman* served
7 upon the Secretary of State as provided in subsection 2 has the same force and
8 validity as if served upon the ~~registrant,~~ *seller or salesman* personally.

9 2. Service of process authorized by subsection 1 must be made by filing with
10 the Secretary of State:

11 (a) Two copies of the process. The copies must include a specific citation to
12 the provisions of this section. The Secretary of State may refuse to accept such
13 service if the proper citation is not included in each copy.

14 (b) A fee of \$10.

15 ➤ The Secretary of State shall forthwith forward one copy of the process by
16 registered or certified mail prepaid to the ~~registrant,~~ *seller or salesman*, or in the
17 case of a ~~registrant,~~ *seller or salesman* organized under the laws of a foreign
18 government, to the United States manager or last appointed United States general
19 agent of the ~~registrant,~~ *seller or salesman*, giving the day and the hour of the
20 service.

21 3. Service of process is not complete until the copy thereof has been mailed
22 and received by the ~~registrant,~~ *seller or salesman*, and the receipt of the addressee
23 is prima facie evidence of the completion of the service.

24 4. If service of summons is made upon the Secretary of State in accordance
25 with the provisions of this section, the time within which the ~~registrant,~~ *seller or*
26 *salesman* is required to appear is extended 10 days.

27 **Sec. 74.** NRS 599B.255 is hereby amended to read as follows:

28 599B.255 1. Except as otherwise provided in NRS 599B.213, the Attorney
29 General or the district attorney of any county in this state may prosecute a person
30 who willfully violates, either directly or indirectly, the provisions of this chapter.
31 ~~{Except as otherwise provided in subsection 3, such}~~ *Such* a person:

32 (a) For the first offense within 10 years, is guilty of a misdemeanor.

33 (b) For the second offense within 10 years, is guilty of a gross misdemeanor.

34 (c) For the third and all subsequent offenses within 10 years, is guilty of a
35 category D felony and shall be punished as provided in NRS 193.130, or by a fine
36 of not more than \$50,000, or by both fine and the punishment provided in NRS
37 193.130.

38 2. Any offense which occurs within 10 years immediately preceding the date
39 of the principal offense or after the principal offense constitutes a prior offense for
40 the purposes of subsection 1 when evidenced by a conviction, without regard to the
41 sequence of the offenses and convictions.

42 3. ~~{A person who violates any provision of NRS 599B.080 is guilty of a~~
43 ~~category D felony and shall be punished as provided in NRS 193.130, or by a fine~~
44 ~~of not more than \$50,000, or by both fine and the punishment provided in NRS~~
45 ~~193.130.~~

46 ~~4.~~ Property or proceeds attributable to any violation pursuant to the
47 provisions of this section are subject to forfeiture in the manner provided by NRS
48 179.1156 to 179.121, inclusive.

49 **Sec. 75.** NRS 599B.260 is hereby amended to read as follows:

50 599B.260 1. Except as otherwise provided in subsection 2, all fees, civil
51 penalties and any other money collected pursuant to this chapter in an action
52 brought by the Attorney General must be deposited in the State General Fund and
53 may only be used to defray the costs of:

(a) Administering and enforcing the provisions of this chapter.
 (b) Enforcing the provisions of chapter 598 of NRS as they relate to the conduct of sellers and salesmen . ~~[(, whether or not the sellers and salesmen are registered pursuant to this chapter.)]~~

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

(a) Criminal fines imposed pursuant to the provisions of this chapter; or
 (b) Restitution ordered in an action brought by the Attorney General pursuant to the provisions of this chapter. Money collected for restitution ordered in such an action must be deposited by the Attorney General and credited to the appropriate account of ~~[(the Division of)]~~ the Attorney General for distribution to the person for whom the restitution was ordered.

Sec. 76. NRS 686A.300 is hereby amended to read as follows:

686A.300 1. An insurer who issues insurance covering damage to a motor vehicle shall not delay making payment for any claim involving damage to a motor vehicle after receiving a statement of charges ~~[(,)]~~ pursuant to the provisions of ~~[(NRS 597.5705,)]~~ *section 23 of this act* from any garage or licensed body shop previously authorized by the insured to perform the repairs required by that claim.

2. A delay, within the meaning of this section, is failure to issue a check or draft, payable to the garage or licensed body shop or jointly to the insured and the garage or licensed body shop, within 30 days after the insurer's receipt of the statement of charges for repairs which have been satisfactorily completed.

3. If the damaged vehicle is subject to a security interest or the legal owner of the damaged vehicle is different from the registered owner, the vehicle must be repaired by a garage or licensed body shop unless:

(a) The insurer has declared the vehicle a total loss; or

(b) The total charge for the repair of the vehicle, as set forth in the statement of charges presented pursuant to ~~[(NRS 597.5705,)]~~ *section 23 of this act*, is \$300 or less.

4. Except as otherwise provided in subsection 3, nothing in this section shall be deemed to prohibit an insurer and insured from settling a claim involving damage to a motor vehicle without providing for the repair of the vehicle.

5. As used in this section, "licensed body shop" means a body shop for which a license has been issued pursuant to chapter 487 of NRS.

Sec. 77. 1. ~~NRS 487.535, 487.568, 487.570, 487.602, 597.480, 597.490, 597.500, 597.510, 597.520, 597.530, 597.535, 597.540, 597.550, 597.560, 597.570, 597.5701, 597.5702, 597.5703, 597.5704, 597.5705, 597.5706, 597.580, 597.590, 598.0913, 598.0927, 598.0957, 598.0959, 598.0965, 598.0966, 598.0967, 598.305, 598.307, 598.315, 598.317, 598.325, 598.325, 598.345, 598.356, 598.361, 598.365, 598.366, 598.367, 598.371, 598.372, 598.373, 598.374, 598.375, 598.385, 598.395, 598.405, 598.416, 598.425, 598.425, 598.445, 598.455, 598.465, 598.471, 598.485, 598.495, 598.506, 598.515, 598.525, 598.845, 598.851, 598.855, 598.860, 598.865, 598.915, 598.9407, 598.9413, 598.944, 598.946, 598.971, 598.975, 598.981, 598.985, 598.990, 598C.030, 599B.015, 599B.080, 599B.090, 599B.100, 599B.105, 599B.110, 599B.115, 599B.120, 599B.125, 599B.130, 599B.140, 599B.143, 599B.145 and 599B.195]~~ are hereby repealed.

2. NRS 598.0913, 598.0927, 598.0957, 598.0959, 598.0965, 598.0966, 598.0967, 598.0971, 598.0979, 598.098, 598.305, 598.307, 598.315, 598.317, 598.325, 598.335, 598.345, 598.356, 598.361, 598.365, 598.366, 598.367, 598.371, 598.372, 598.373, 598.374, 598.375, 598.385, 598.395, 598.405, 598.416, 598.425, 598.435, 598.445, 598.455, 598.465, 598.471, 598.485, 598.495, 598.506, 598.515, 598.525, 598.845, 598.851, 598.855, 598.860, 598.865, 598.915, 598.9407, 598.9413, 598.944, 598.946, 598C.030, 598C.180, 599B.015, 599B.080,

599B.090, 599B.100, 599B.105, 599B.110, 599B.115, 599B.120, 599B.125, 599B.130, 599B.140, 599B.143, 599B.145 and 599B.195 are hereby repealed.

Sec. 78. 1. Any regulations adopted by the Commissioner of the Consumer Affairs Division of the Department of Business and Industry or by the Division before July 1, 2009, remain in force until amended by the officer or agency to which the responsibility for the adoption of the regulations is transferred. The regulations may be enforced by the officer or agency to which the responsibility for the enforcement of the regulations is transferred.

2. Any contract or other agreement entered into by the Commissioner of the Consumer Affairs Division of the Department of Business and Industry or by the Division before July 1, 2009, is binding upon the officer or agency to which the responsibility for administration of the contract or other agreement is transferred. Any such contract or other agreement may be enforced by the officer or agency to which the responsibility for the enforcement of the provisions of the contract or other agreement is transferred.

Sec. 79. 1. As soon as practicable after July 1, 2009, at the time the Revolving Account for the Consumer Affairs Division of the Department of Business and Industry established by NRS 598.0966 is abolished, the State Treasurer shall ensure that any money in the Revolving Account is transferred to the revolving account for the Bureau of Consumer Protection created by section 1 of this act.

2. As soon as practicable after July 1, 2009, at the time the Recovery Fund established pursuant to NRS 598.371 is abolished, the State Treasurer shall ensure that any money in the Recovery Fund is transferred to the State General Fund.

Sec. 80. 1. This section and sections 1 to 35, inclusive, 36 to 57, inclusive, and 58 to 79, inclusive, of this act ~~becomes~~ become effective on July 1, 2009.

2. The amendatory provisions of sections 3, 4, 36 to 51, inclusive, 57, 58 to 75, inclusive, and subsection 2 of section 77 of this act expire by limitation on June 30, 2011.

3. Sections 35.1 to 35.95, inclusive, and 57.5 of this act become effective on July 1, 2011.

LEADLINES OF REPEALED SECTIONS

487.535 "Division" defined.
 487.568 Penalty.
 487.570 Garageman to comply with certain provisions relating to trade practices.
 487.602 "Body shop" defined.
 597.480 Definitions.
 597.490 Display of sign required; contents of sign; penalty.
 597.500 Duties of body shop or garageman on acceptance of vehicle for repair.
 597.510 Estimate of costs required for certain repairs.
 597.520 Notice of additional charges over estimate required in certain cases.
 597.530 Waiver of estimate of costs or notice of additional charges; execution of waiver.

597.535 Duty of body shop and garage to repair vehicle in accordance with manufacturer's specifications and estimate of costs required for repair.

597.540 Duties of owner and insurer upon receipt of notice of additional charges.

597.550 Replaced parts to be delivered to person authorizing repairs if requested; exception.

597.560 Records to be retained by body shop or garageman.

597.570 Compliance with NRS 597.510 to 597.5706, inclusive; enforcement of liens and contracts.

597.5701 Certain acts deemed to be deceptive trade practice.

597.5702 Revolving account for Bureau of Consumer Protection: Creation; use; deposits; claims.

597.5703 Commissioner or Director authorized to request undercover investigation of alleged deceptive trade practice; Bureau of Consumer Protection authorized to conduct such investigation.

597.5704 Administrative fine for engaging in deceptive trade practice; deposit and use of money collected as administrative fine.

597.5705 Statement of charges required for repair of vehicle; violation constitutes misdemeanor; statement required for enforcement of lien.

597.5706 Submission of annual report by Commissioner to Legislative Commission.

597.580 Violations: Injunctive relief.

597.590 Violations: Civil penalties.

598.0913 "Commissioner" defined.

598.0927 "Director" defined.

598.0957 Director may delegate powers and duties.

598.0959 Advisory committees: Creation and appointment; membership; compensation.

598.0965 Commissioner or Director to provide investigative assistance to Attorney General; legal advice and guidance by Attorney General.

598.0966 Revolving Account for Consumer Affairs Division: Creation; use; deposits; withdrawals; reimbursement; duties of Commissioner.

598.0967 Commissioner and Director: Subpoenas; hearings; regulations.

598.0971 Orders for enforcement: Authority of Commissioner: judicial review and enforcement: civil penalty and equitable relief.

598.0979 Restraining orders; injunctions; assurances of discontinuance.

598.098 Disclosure of information by Commissioner or Director: regulations.

598.305 Definitions.

598.307 "Account" defined.

598.315 "Commissioner" defined.

598.317 "Consumer" defined.

598.325 "Division" defined.

598.335 "Seller of travel" defined.

598.345 "Travel services" defined.

598.356 "Vacation certificate" defined.

598.361 Seller to maintain trust account; exception.

598.365 Seller to register, deposit security and pay fees before advertising services or conducting business in this State; certificate of registration; renewal of certificate.

598.366 Seller to include registration number in advertising; form.

598.367 Seller to display notice of Recovery Fund; penalty.

598.371 Administration of Fund: Separate accounting; limitations on use.

598.372 Administration of Fund: Report to Legislature; employment of persons; interest on money; limitations on balance; regulations.

598.373 Recovery from Fund: Deadline for complaint; hearing; judgment of court; action by Division.

598.374 Recovery from Fund: Eligibility; limitations on payment; subrogation of claim.

598.375 Security required for registration: Form; term; amount; records; rejection for nonconformance; change in form; inadequate amount; exception.

598.385 Rights and remedies of injured consumers; resolution by Division of claims against security; regulations.

598.395 Release of security if seller ceases to operate or registration expires.

598.405 Definitions.

598.416 "Advertise" and "advertisement" defined.

598.425 "Commissioner" defined.

598.435 "Division" defined.

598.445 "Sightseeing tour" defined.

598.455 "Tour broker" defined.

598.465 "Tour operator" defined.

598.471 Tour broker and tour operator to register, pay fee and, if applicable, deposit security before advertising services or conducting business in this State; certificate of registration; renewal of certificate.

598.485 Applicability of provisions limited to tour brokers and tour operators operating in certain counties.

598.495 Security required to be deposited by tour broker and tour operator: Form; term; amount; records; rejection for nonconformance; change in form; inadequate amount.

598.506 Rights and remedies of injured consumers; resolution by Division of claims against security; regulations.

598.515 Release of security if tour broker or tour operator ceases to operate.

598.525 Regulations.

598.845 Scope.

598.851 Organization to register and post security before advertising services or conducting business in this State.

598.855 Trust account required for payments on contracts.

598.860 Trust account required for payments on goods and services.

598.865 Administration of trust accounts; audits.

598.915 Waiver of statutory rights is void.

598.9407 "Commissioner" defined.

598.9413 "Division" defined.

598.944 Registration of dance studio or health club required.

598.946 Owner of dance studio or health club to register and deposit security before advertising services or conducting business in this State: Amount of security; adjustment of security; exception from requirement to deposit security.

598.971 Definitions.

598.975 "Department" defined.

598.981 "Division" defined.

598.985 Division and Department to cooperate to protect persons who authorize repair of motor vehicles.

598.990 Division to establish and maintain toll-free telephone number concerning alleged violations and develop program to provide certain information to public.

598C.030 "Commissioner" defined.

598C.180 Commissioner of Consumer Affairs to administer chapter; duties of Attorney General.

599B.015 Duties of Attorney General and Commissioner.

599B.080 Registration required.

599B.090 Registration of seller: Application; confidentiality of certain information; security; fee.

599B.100 Registration of seller: Form and amount of security; release of security.

599B.105 Rights and remedies of injured consumer; resolution by Division of claims against security; regulations.

599B.110 Registration of seller: Disclosure of certain convictions, judgments and orders concerning responsible persons.

599B.115 Registration of seller: Work card required for applicant and certain other persons; exceptions; issuance and renewal of work card; fingerprints.

599B.120 Registration of salesman: Application; statement of seller; fee.

599B.125 Statement regarding payment of child support by applicant for registration certificate; grounds for denial of registration certificate; duty of Division.

599B.130 Issuance and display of registration certificate.

599B.140 Renewal of registration.

599B.143 Suspension of registration certificate for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of registration certificate.

599B.145 Payment and refund of fees for registration.

599B.195 Delivery of goods or services must be accompanied by form.