

Amendment No. 213

Senate Amendment to Senate Bill No. 261 (BDR 52-829)

Proposed by: Senate Committee on Commerce, Labor and Energy

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 261 (§§ 9, 11, 13).

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 underlining* is newly added transitory language.

TMC/JWP



Date: 4/15/2013

S.B. No. 261—Revises provisions relating to door-to-door solicitation.
(BDR 52-829)



SENATE BILL NO. 261—SENATORS JONES, WOODHOUSE, SPEARMAN, SEGERBLOM;
FORD, HUTCHISON, KIHUEN AND MANENDO

MARCH 15, 2013

JOINT SPONSORS: ASSEMBLYMEN HEALEY;
LIVERMORE AND MUNFORD

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to door-to-door solicitation.
(BDR 52-829)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for
Term of Imprisonment in County or City Jail or Detention
Facility.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the regulation of trades; requiring certain persons who engage in door-to-door commercial solicitation to obtain a permit from the Consumer Affairs Division of the Department of Business and Industry; providing for the issuance of identification badges to persons who engage in such solicitation; prohibiting commercial ~~for noncommercial~~ solicitation under certain circumstances; ~~requiring the Division to establish a list of residential addresses at which commercial solicitation is prohibited;~~ authorizing disciplinary action against the holder of a permit or identification badge; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes certain requirements relating to door-to-door solicitations. For example, a person engaged in the business or occupation of making such solicitations is required to identify himself or herself and the purpose of his or her visit within 30 seconds after beginning the conversation. (NRS 598.092) In addition, a purchaser of certain goods and services sold door-to-door generally has a statutory right to cancel the transaction within 3 business days, and a seller is required to provide the buyer with a form for giving notice of the cancellation. (NRS 598.230, 598.250)

This bill adopts additional provisions for the regulation of door-to-door solicitors. **Section 9** of this bill requires a person who engages in the business of door-to-door solicitation for commercial purposes to apply for and obtain a permit from the Consumer Affairs Division of the Department of Business and Industry. **Section 9** further requires each person who is the agent or employee of a permit holder and engages in solicitation pursuant to that permit (a "permitted solicitor") to obtain an identification badge from the Division. **Section 10** of this bill provides that certain persons are not eligible for a permit or identification badge, and

section 11 of this bill establishes the process by which a permit and identification badge are issued. **Section 12** of this bill requires the Division to deny an application for a permit or for the renewal of a permit if the applicant or permit holder is not eligible for the permit or makes any material misrepresentation in the application. **Section 13** of this bill establishes the process for renewing a permit. **Section 16** of this bill requires the Division to maintain a record of each permit and identification badge it issues, together with a record of any violations committed by the permit holder or permitted solicitor.

Sections 17-19 of this bill directly regulate the conduct of door-to-door solicitation. **Section 17** requires a permitted solicitor to display his or her identification badge and to exhibit the badge and the permit on request by any customer, prospective customer or law enforcement officer. **Section 18** regulates the hours during which commercial ~~for noncommercial~~ solicitation may be conducted. **Section 19** makes it unlawful to engage in solicitation wherever a "no solicitation" or "no trespassing" sign is ~~posted~~.

~~Section 20 of this bill requires the Division to establish and maintain a no solicitation list, whereby a person who wishes to prohibit door to door commercial solicitation at his or her residence may register the address of the residence with the Division.~~ prominently displayed in public view at certain locations.

Section 21 of this bill authorizes the Division to take disciplinary action against a permit holder or permitted solicitor on specified grounds, and **section 22** of this bill provides for judicial review of any such action. **Section 23** of this bill authorizes the Division to adopt regulations necessary to carry out the other provisions of this bill. Unless a greater penalty is prescribed by specific statute, **section 24** of this bill provides that any violation of those provisions is a misdemeanor.

Sections 1 and 28-46 of this bill make conforming changes to various existing provisions of NRS governing trade practices and solicitation by telephone.

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

Section 1. 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 salesperson pursuant to ~~chapter 599B or~~ NRS ~~599B.005 to 599B.300, inclusive,~~ 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 or her 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. 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. A person licensed pursuant to chapter 463 of NRS and his or her employees.

1 Sec. 2. Chapter 599B of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 3 to 27, inclusive, of this act.

3 Sec. 3. *As used in sections 3 to 24, inclusive, of this act, unless the context*
4 *otherwise requires, the words and terms defined in sections 4 to 8, inclusive, of*
5 *this act have the meanings ascribed to them in those sections.*

6 Sec. 4. *“Door-to-door commercial solicitation” means making or*
7 *attempting to make personal contact with a person at his or her residence,*
8 *without a prior specific invitation by or appointment with the person, primarily*
9 *for the purpose of:*

10 1. ~~*Except as otherwise provided in section 5 of this act, soliciting*~~
11 *Soliciting the sale of a service, goods, wares or merchandise; or*

12 2. *Personally delivering to the person a handbill or flyer advertising a*
13 *commercial event, activity, good or service that is offered to the person for*
14 *purchase at a location away from the residence or at a future time.*

15 Sec. 5. ~~*“Door to door noncommercial solicitation” means making or*~~
16 ~~*attempting to make personal contact with a person at his or her residence,*~~
17 ~~*without a prior specific invitation by or appointment with the person, primarily*~~
18 ~~*for the purpose of:*~~

19 1. ~~*Soliciting a gift or donation to a nonprofit organization exempt from*~~
20 ~~*federal income tax pursuant to 26 U.S.C. § 501(c)(3);*~~

21 2. ~~*Soliciting the sale of a service, goods, wares or merchandise, with the*~~
22 ~~*entire proceeds of the sale to be paid directly to or used exclusively for the benefit*~~
23 ~~*of a nonprofit organization exempt from federal income tax pursuant to 26*~~
24 ~~*U.S.C. § 501(c)(3);*~~

25 3. ~~*Personally delivering to the person a handbill or flyer advertising a*~~
26 ~~*future not for profit event, activity or service;*~~

27 4. ~~*Proselytizing on behalf of a religious organization;*~~

28 5. ~~*Soliciting support for a political candidate or organization, ballot*~~
29 ~~*measure or ideology; or*~~

30 6. ~~*Soliciting the sale of a newspaper or magazine subscription.*~~ *(Deleted by*
31 *amendment.)*

32 Sec. 6. *“Permit holder” means a person to whom a permit has been issued*
33 *by the Division pursuant to section 11 of this act.*

34 Sec. 7. *“Permitted solicitor” means an agent or employee of a permit*
35 *holder who is authorized to engage in door-to-door commercial solicitation*
36 *pursuant to that permit.*

37 Sec. 8. *“Residence” means a private residence in this State, including,*
38 *without limitation:*

39 1. *A condominium unit or apartment; and*

40 2. *The yards, grounds or hallways thereof.*

41 Sec. 9. 1. *It is unlawful for any person to engage in door-to-door*
42 *commercial solicitation in this State unless the person is a permit holder or*
43 *permitted solicitor.*

44 2. *Each applicant for a permit must submit a written application to the*
45 *Division, in the form prescribed by regulation of the Division and made under*
46 *penalty of perjury. In addition to any other information required by regulation,*
47 *the application must include or be accompanied by:*

48 (a) *The full name and business address and telephone number of the*
49 *applicant;*

50 (b) *A statement of the intended purpose of the door-to-door commercial*
51 *solicitation;*

52 (c) *If the applicant is not a natural person:*

(1) A statement of the nature of the applicant as a corporation, limited-liability company or other form of business entity;

(2) The full name and business address and telephone number of each ~~principal~~ director, officer, owner, member or partner of the applicant; and

(3) The name and business address and telephone number of the applicant's registered agent in this State;

(d) A copy of the applicant's state business license issued pursuant to chapter 76 of NRS and any business license required by the local government where the applicant will engage in door-to-door commercial solicitation;

(e) A complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each ~~principal~~ director, officer, owner, member and partner of the applicant, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(f) A list of the persons who will be authorized to act as permitted solicitors pursuant to the permit if the application is granted and, for each such person:

(1) His or her full name, address, telephone number and date of birth;

(2) A complete set of the fingerprints of the person and written permission authorizing the Division to forward the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for its report;

(3) A physical description of the person, including his or her height, weight, color of eyes and color of hair;

(4) A color photograph of the person, taken not more than 6 months preceding the date of the application, which fairly depicts the appearance of the person as of the date of the application and is suitable for reproduction on an identification badge issued pursuant to section 11 of this act; and

(5) The number and state of issuance of the driver's license of the person, if any, or a copy of another form of photo identification issued by a governmental entity.

3. The applicant must submit with the application:

(a) An application fee of ~~(\$300,)~~ \$200;

(b) For each person identified by the applicant as a person who will be authorized to act as a permitted solicitor pursuant to paragraph (f) of subsection 2, an additional fee of \$50 for preparing and issuing an identification badge to that person if the application is granted; and

(c) For each person identified pursuant to paragraphs (e) and (f) of subsection 2, an additional fee, established by regulation of the Division, equal to the sum charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the person's fingerprints.

Sec. 10. A person is not eligible for a permit or identification badge if:

1. He or she has previously been convicted of a felony or any crime involving theft, fraud or dishonesty under the laws of this State or an equivalent offense under any federal, state or local law or ordinance; or

2. A permit or identification badge issued to the person has ~~previously~~ been revoked during the immediately preceding 2 years by the Division pursuant to section 21 of this act.

Sec. 11. 1. Unless the applicant is not eligible pursuant to section 10 of this act or the Division denies the application pursuant to section 12 of this act, the Division shall approve the application within 5 business days after it receives the report of the Central Repository for Nevada Records of Criminal History relating to the applicant and each of the other persons identified pursuant to

1 paragraphs (e) and (f) of subsection 2 of section 9 of this act. If the Division
2 approves the application, the Division shall issue the requested permit and an
3 identification badge for each person who is identified in the application as a
4 person who will be authorized to act as a permitted solicitor and who is not
5 ineligible pursuant to section 10 of this act.

6 2. A permit must be issued in the name of the applicant and is not
7 transferable to any other person. The Division shall create and maintain for each
8 permit a list of the persons who are permitted solicitors pursuant to that permit.

9 3. A permit holder shall:

10 (a) Provide a copy of the permit to each permitted solicitor who is authorized
11 to engage in solicitation pursuant to the permit;

12 (b) Ensure that each permitted solicitor complies with the terms and
13 conditions of the permit and the provisions of sections 3 to 24, inclusive, of this
14 act;

15 (c) Notify the Division in writing of the name of any person to be added to or
16 deleted from the list of persons who are permitted solicitors pursuant to the
17 permit; and

18 (d) For each person to be added to the list, submit to the Division the
19 information, materials and fees required for such persons by section 9 of this act.

20 4. The Division shall issue an identification badge to any person identified
21 in a notice given pursuant to paragraph (c) of subsection 3 as a person to be
22 added to the list of persons who are permitted solicitors pursuant to a permit
23 within 5 business days after determining that the person is not ineligible pursuant
24 to section 10 of this act.

25 5. If a person applies for and is granted a permit, he or she is entitled to
26 obtain an identification badge for each permitted solicitor:

27 (a) Authorized to engage in solicitation pursuant to that permit; and

28 (b) Who is not ineligible pursuant to section 10 of this act,

29 ↪ upon compliance with the requirements of this section and section 9 of this
30 act.

31 6. Each identification badge must include the name and a photograph of
32 the permitted solicitor, the words "Permitted Solicitor" and the name of the
33 permit holder and the expiration date of the permit.

34 7. The Division shall issue a replacement identification badge to any
35 permitted solicitor who, by affidavit, notifies the Division that his or her
36 identification badge has been lost or stolen and pays the fee for preparing and
37 issuing an identification badge within 5 business days after receiving the affidavit
38 and the fee.

39 **Sec. 12.** The Division shall deny an application for a permit or renewal of
40 the permit if the Division determines that the applicant or permit holder:

41 1. Has made any material misrepresentation or false statement in the
42 application for the permit or for renewal of the permit; or

43 2. Is not eligible pursuant to section 10 of this act.

44 **Sec. 13.** 1. A permit is valid for 2 years after the date of its issuance.
45 Unless his or her name has previously been deleted pursuant to section 11 of this
46 act from the list of permitted solicitors pursuant to the permit, the identification
47 badge of any permitted solicitor expires concurrently with the expiration of the
48 permit.

49 2. A permit holder who wishes to renew the permit must submit a written
50 application for renewal to the Division, in the form prescribed by regulation of
51 the Division, not later than 60 days before the date the permit expires.

1 3. *An application for renewal of a permit must be made in the same manner*
2 *and accompanied by the same fees as an application made pursuant to section 9*
3 *of this act.*

4 Sec. 14. 1. *In addition to any other requirements of sections 9 and 13 of*
5 *this act, a natural person who applies for a permit or the renewal of a permit*
6 *shall:*

7 (a) *Include the social security number of the applicant in the application*
8 *submitted to the Division.*

9 (b) *Submit to the Division the statement prescribed by the Division of*
10 *Welfare and Supportive Services of the Department of Health and Human*
11 *Services pursuant to NRS 425.520. The statement must be completed and signed*
12 *by the applicant or permit holder.*

13 2. *The Division shall include the statement required by subsection 1 in:*

14 (a) *The application or any other forms that must be submitted for a permit or*
15 *the renewal of a permit; or*

16 (b) *A separate form prescribed by the Division.*

17 3. *A permit may not be issued or renewed by the Division if the applicant or*
18 *permit holder:*

19 (a) *Fails to submit the statement required by subsection 1; or*

20 (b) *Indicates on the statement submitted pursuant to subsection 1 that the*
21 *applicant or permit holder is subject to a court order for the support of a child*
22 *and is not in compliance with the order or a plan approved by the district attorney*
23 *or other public agency enforcing the order for the repayment of the amount owed*
24 *pursuant to the order.*

25 4. *If an applicant or permit holder indicates on the statement submitted*
26 *pursuant to subsection 1 that he or she is subject to a court order for the support*
27 *of a child and is not in compliance with the order or a plan approved by the*
28 *district attorney or other public agency enforcing the order for the repayment of*
29 *the amount owed pursuant to the order, the Division shall advise the applicant or*
30 *permit holder to contact the district attorney or other public agency enforcing the*
31 *order to determine the actions that the applicant or permit holder may need to*
32 *take to satisfy the arrearage.*

33 Sec. 15. 1. *If the Division receives a copy of a court order issued pursuant*
34 *to NRS 425.540 that provides for the suspension of all professional, occupational*
35 *and recreational licenses, certificates and permits issued to a natural person who*
36 *is a permit holder, the Division shall deem the permit to be suspended at the end*
37 *of the 30th day after the date on which the court order was issued unless the*
38 *Division receives a letter issued to the permit holder by the district attorney or*
39 *other public agency pursuant to NRS 425.550 stating that the permit holder has*
40 *complied with the subpoena or warrant or has satisfied the arrearage pursuant to*
41 *NRS 425.560.*

42 2. *The Division shall reinstate a permit that has been suspended by a*
43 *district court pursuant to NRS 425.540 if the Division receives a letter issued by*
44 *the district attorney or other public agency pursuant to NRS 425.550 to the permit*
45 *holder whose permit was suspended stating that the permit holder has complied*
46 *with the subpoena or warrant or has satisfied the arrearage pursuant to NRS*
47 *425.560.*

48 Sec. 16. *The Division shall maintain a record of each permit and*
49 *identification badge issued and any violation or alleged violation by the permit*
50 *holder or permitted solicitor of the provisions of sections 3 to 24, inclusive, of this*
51 *act.*

52 Sec. 17. *A permitted solicitor shall:*

1 1. Conspicuously display his or her identification badge at all times while
2 engaged in door-to-door commercial solicitation.

3 2. Upon the request of a customer, prospective customer or law enforcement
4 officer, exhibit his or her identification badge and a copy of the permit pursuant
5 to which he or she is acting.

6 Sec. 18. A person shall not engage in door-to-door commercial solicitation
7 ~~for door-to-door noncommercial solicitation~~ except during the hours of 9 a.m.
8 ~~and [sunset as announced and published for that day by the National Weather~~
9 ~~Service.] 7 p.m.~~ Any solicitation of a customer or prospective customer begun
10 during that period must be completed within that period.

11 Sec. 19. It is unlawful:

12 1. For a permit holder ~~or permitted solicitor~~ ~~for person engaging in door-~~
13 ~~to-door noncommercial solicitation~~ to enter or remain upon any public or
14 private premises if a "No Solicitation" or "No Trespassing" sign is ~~posted at~~
15 prominently displayed in public view:

16 (a) At or near each entrance to the premises ~~or~~ ; or

17 (b) If the premises are located in a gated community, on the entrance gate to
18 the community.

19 2. ~~For a permit holder or permitted solicitor to engage in door-to-door~~
20 ~~commercial solicitation at any address appearing on the no solicitation list~~
21 ~~established pursuant to section 20 of this act.~~

22 ~~3. For a person to obtain an invitation to visit a private residence for the~~
23 ~~purpose of soliciting the purchase or sale of goods, services or any other thing of~~
24 ~~value by knowingly making a false or deceptive representation or statement.~~

25 Sec. 20. ~~1. An owner or lawful occupant of a residence in this State who~~
26 ~~wishes to prohibit door-to-door commercial solicitation at his or her residence~~
27 ~~may register the address of the residence with the Division by completing and~~
28 ~~submitting to the Division the form prescribed by the Division by mail, personal~~
29 ~~delivery or through the Internet website maintained by the Division. The~~
30 ~~registration is effective 30 days after it is received by the Division.~~

31 2. ~~The Division shall establish, maintain and publish on its Internet website~~
32 ~~a no solicitation list consisting of all the addresses registered pursuant to~~
33 ~~subsection 1 and not deleted pursuant to subsection 3. Each permit holder shall~~
34 ~~obtain and review the no solicitation list immediately upon the receipt of the~~
35 ~~permit and at such intervals thereafter as are reasonably necessary to comply~~
36 ~~with the requirements of section 19 of this act.~~

37 3. ~~Each address appearing on the no solicitation list must remain on the list~~
38 ~~for 2 years after the date the address is submitted to the Division, at which time~~
39 ~~the address must be deleted unless, before the expiration of that period:~~

40 ~~(a) A new registration for that address is submitted to and received by the~~
41 ~~Division pursuant to subsection 1; or~~

42 ~~(b) The owner or occupant of the residence at that address submits to the~~
43 ~~Division a written request for removal from the list.~~

44 4. ~~Unless a written request for removal from the list has been received by~~
45 ~~the Division before that date, the Division shall, not later than 60 days before the~~
46 ~~expiration of the registration, mail a written notice of the expiration to the owner~~
47 ~~or occupant who submitted the registration, at the address appearing on the list.~~

48 5. ~~Neither the State, the Division nor any of their officers, employees,~~
49 ~~agents or volunteers are liable to any person for any injury, damage or loss of~~
50 ~~any kind arising from or relating to any error or omission that occurs in~~
51 ~~compiling or maintaining the no solicitation list.~~ (Deleted by amendment.)

52 Sec. 21. 1. After a hearing, the Division may suspend, revoke or refuse to
53 renew a permit if the Division determines that the permit holder has:

1 (a) Made any false or fraudulent statement in applying for the permit or
2 renewal of the permit, including, without limitation, any false or fraudulent
3 statement about the criminal history of the permit holder or a permitted solicitor;

4 (b) Failed to collect and pay to the Department of Taxation, as required by
5 law, any tax imposed on the gross receipts from the sale, storage, use or other
6 consumption of tangible personal property sold by the permit holder or a
7 permitted solicitor;

8 (c) Failed to exercise reasonable care in supervising solicitation conducted
9 by a permitted solicitor to ensure that the solicitation is conducted in accordance
10 with the provisions of sections 3 to 24, inclusive, of this act and other provisions
11 of statute applicable to the solicitation;

12 (d) Violated or condoned a violation of any provision of NRS 207.171,
13 598.092, 598.140 to 598.2801, inclusive, 609.190, 609.221, 609.240 to 609.260,
14 inclusive, or sections 3 to 24, inclusive, of this act; or

15 (e) Authorized or condoned solicitation that is otherwise unlawful or
16 solicitation by a permitted solicitor conducted in such a manner as to constitute a
17 menace to the health, safety or general welfare of the public.

18 2. After a hearing, the Division may suspend or revoke the identification
19 badge of a permitted solicitor who has:

20 (a) Violated any applicable provision listed in paragraph (d) of subsection 1;
21 or

22 (b) Otherwise engaged in unlawful solicitation or solicitation conducted in
23 such a manner as to constitute a menace to the health, safety or general welfare
24 of the public.

25 Sec. 22. Action taken by the Division to suspend, revoke or refuse to renew
26 a permit or identification badge pursuant to section 21 of this act is a final
27 decision in a contested case for the purposes of chapter 233B of NRS.

28 Sec. 23. The Division may adopt such regulations as it deems necessary to
29 carry out the provisions of sections 3 to 24, inclusive, of this act.

30 Sec. 24. In addition to any disciplinary action authorized by section 21 of
31 this act, unless a greater penalty is prescribed by specific statute, a person who
32 violates a provision of sections 3 to 24, inclusive, of this act is guilty of a
33 misdemeanor.

34 Sec. 25. As used in this chapter, unless the context otherwise requires, the
35 words and terms defined in sections 26 and 27 of this act have the meanings
36 ascribed to them in those sections.

37 Sec. 26. "Commissioner" means the Commissioner of Consumer Affairs.

38 Sec. 27. "Division" means the Consumer Affairs Division of the
39 Department of Business and Industry.

40 Sec. 28. NRS 599B.005 is hereby amended to read as follows:

41 599B.005 1. The Legislature finds and declares that:

42 (a) The sale of goods or services or the solicitation of donations by telephone
43 has a significant impact upon the economy and well-being of this state and its local
44 communities.

45 (b) Many legitimate solicitors by telephone merit certain protections pursuant
46 to the laws of this state.

47 (c) Certain unscrupulous practices by persons soliciting donations or the sale of
48 goods or services by telephone are contrary to good business practices and have
49 caused consumers to suffer substantial losses because of misrepresentation, the lack
50 of complete information relating to goods, services and the persons initiating or
51 causing the solicitation by telephone, and the lack of delivery of the goods and
52 services purchased.

53 2. It is the intent of the Legislature to:

- (a) Provide each consumer with information necessary to make an intelligent decision relating to donations or offers of sale;
- (b) Educate and assist the public to distinguish between honest and dishonest practices of solicitation by telephone;
- (c) Safeguard the public against deceptive practices and financial hardship;
- (d) Prohibit representations that tend to be misleading;
- (e) Ensure, foster and encourage competition and fair dealings among sellers by requiring sellers to disclose certain information adequately; and
- (f) Protect the integrity of the industry relating to solicitation by telephone.

3. As the provisions of ~~this chapter~~ *NRS 599B.005 to 599B.300, inclusive*, are necessary to protect the public welfare, it is also the intent of the Legislature that the provisions of ~~this chapter~~ *those sections* be liberally construed to effectuate ~~its~~ *their* purposes.

Sec. 29. NRS 599B.010 is hereby amended to read as follows:

599B.010 As used in ~~this chapter~~ *NRS 599B.005 to 599B.300, inclusive*, unless the context otherwise requires:

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

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

~~3. "Consumer" means a person who is solicited by a seller or salesperson.~~

~~4. "Division" means the Consumer Affairs Division of the Department of Business and Industry.~~

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

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

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

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

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

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

~~9. NRS 599B.005 to 599B.300, inclusive.~~

7. "Salesperson" means any person:

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

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

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

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

(2) For the purpose of verifying, changing or confirming an order,

↪ except that a person is not a salesperson if his or her only function is to identify a consumer by name only and he or she immediately refers the consumer to a salesperson.

~~1101~~ 8. Except as otherwise provided in subsection ~~1111~~ 9, “seller” means any person who, on his or her own behalf, causes or attempts to cause a solicitation by telephone to be made through the use of one or more salespersons or any automated dialing announcing device under any of the following circumstances:

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

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

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

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

(4) That the product offered for sale is information or opinions relating to 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 or she 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 or she 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.

~~1111~~ 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 or her license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 (o) A person licensed pursuant to chapter 689 of NRS when soliciting sales
53 within the scope of his or her license.

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

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

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

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

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

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

(t) A person soliciting a transaction regulated by the Commodity Futures 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 or her 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. 30. NRS 599B.015 is hereby amended to read as follows:

599B.015 1. The Attorney General shall provide opinions for the Division on all questions of law relating to the construction, interpretation or administration of ~~this chapter.~~ **NRS 599B.005 to 599B.300, inclusive.**

2. The Commissioner shall determine whether a person is required to register pursuant to the provisions of ~~this chapter.~~ **NRS 599B.005 to 599B.300, inclusive.** In making that determination, the Commissioner shall consider the definitions, intent, findings and declarations set forth in ~~this chapter.~~ **NRS 599B.005 to 599B.300, inclusive.**

1 **Sec. 31.** NRS 599B.025 is hereby amended to read as follows:

2 599B.025 1. The Attorney General may adopt regulations establishing
3 standards of conduct for registrants and any other regulations necessary to exercise
4 the powers and carry out the duties of the Attorney General as set forth in ~~this~~
5 ~~chapter.~~ *NRS 599B.005 to 599B.300, inclusive.*

6 2. The Commissioner and the Attorney General shall jointly adopt rules of
7 practice establishing a procedure for processing complaints received concerning
8 sellers and salespersons, whether or not the sellers and salespersons are registered
9 pursuant to ~~this chapter.~~ *NRS 599B.005 to 599B.300, inclusive.* The rules of
10 practice:

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

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

15 3. The Commissioner may adopt rules of practice necessary to administer and
16 carry out the provisions of ~~this chapter.~~ *NRS 599B.005 to 599B.300, inclusive,*
17 pertaining to the registration of sellers and salespersons. The rules of practice must
18 not restrict the powers and duties of the Attorney General as set forth in ~~this~~
19 ~~chapter.~~ *those sections.*

20 **Sec. 32.** NRS 599B.030 is hereby amended to read as follows:

21 599B.030 The remedies, duties and prohibitions of ~~this chapter.~~ *NRS*
22 *599B.005 to 599B.300, inclusive,* are not exclusive and are in addition to any other
23 remedies provided by law.

24 **Sec. 33.** NRS 599B.080 is hereby amended to read as follows:

25 599B.080 It is unlawful for any person to do business as a seller or
26 salesperson in this State without being registered with the Division pursuant to the
27 provisions of ~~this chapter.~~ *NRS 599B.005 to 599B.300, inclusive.* For the
28 purposes of this section, a person does business as a seller or salesperson in this
29 State if he or she solicits or causes to be solicited a sale of goods or services or a
30 donation from a location in this State or solicits persons in this State from a location
31 outside this State.

32 **Sec. 34.** NRS 599B.100 is hereby amended to read as follows:

33 599B.100 1. An application filed pursuant to NRS 599B.090 must be
34 accompanied by:

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

37 (b) An irrevocable letter of credit issued for the benefit of the applicant by a
38 bank whose deposits are insured by an agency of the Federal Government; or

39 (c) A certificate of deposit in a financial institution insured by an agency of the
40 Federal Government or by a private insurer approved pursuant to NRS 678.755.
41 The certificate of deposit may be withdrawn only on the order of the
42 Commissioner, except that the interest may accrue to the applicant.

43 2. The amount of the bond, letter of credit or certificate of deposit must be
44 \$50,000, and the bond, letter of credit or certificate of deposit must be conditioned
45 upon compliance by the applicant with the provisions of ~~this chapter.~~ *NRS*
46 *599B.005 to 599B.300, inclusive.*

47 3. The amount of the security required to be filed by the seller may be
48 increased to not more than \$250,000 as part of an assurance of discontinuance
49 accepted by the Attorney General pursuant to NRS 599B.235.

50 4. If, after a registration certificate is issued, the amount of the bond, letter of
51 credit or certificate of deposit which secures the registration falls below the amount
52 that is required by subsection 2 or the amount determined by the Commissioner
53 pursuant to subsection 3, the seller shall be deemed not to be registered pursuant to

~~{this chapter}~~ **NRS 599B.005 to 599B.300, inclusive**, for the purposes of NRS 599B.080.

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

6. The Commissioner may reject any bond, letter of credit or certificate of deposit which fails to conform to the requirements of this section.

7. A seller may change the form of the security. If a seller changes the form of the security, the Commissioner may retain for not more than 1 year all or a portion of the security previously filed by the seller as security for claims arising at the time the security was in effect.

8. If no claims have been filed against the bond, letter of credit or certificate of deposit within 6 months after the registrant ceases to operate or his or her registration expires, whichever occurs later, the Commissioner shall release the bond, letter of credit or certificate of deposit to the registrant and shall not audit any claims filed thereafter by consumers. If one or more claims have been filed against the bond, letter of credit or certificate of deposit within 6 months after the registrant ceases to operate or his or her 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 or her registration expires, whichever occurs later. The Division shall not audit any claims which are filed pursuant to NRS 599B.105 more than 1 year after the registrant ceases to operate or his or her registration expires, whichever occurs later. For the purposes of this subsection, the Commissioner shall determine the date on which a registrant ceases to operate.

Sec. 35. NRS 599B.140 is hereby amended to read as follows:

599B.140 1. Each person registered pursuant to the provisions of ~~{this chapter}~~ **NRS 599B.005 to 599B.300, inclusive**, must renew his or her registration annually by:

(a) Paying the fee for registration;

(b) Submitting to the Division the application required by NRS 599B.090 or 599B.120, whichever applies; and

(c) If the person is a seller, submitting to the Division:

(1) A copy of the work card obtained by:

(I) The seller pursuant to subsection 1 of NRS 599B.115; and

(II) Each principal officer, director, trustee, shareholder, owner, partner and employee of the seller, and each salesperson associated with the seller who is not an employee of the seller, pursuant to subsection 2 of NRS 599B.115; and

(2) If applicable, a statement listing each person who, pursuant to subsection 5 of NRS 599B.115, is not required to obtain a work card.

2. Registration expires on the anniversary of the issuance of the registration. A registrant who wishes to renew his or her registration must do so on or before the date his or her registration expires.

3. For the purposes of NRS 599B.080, a person who fails to renew his or her registration within the time required by this section is not registered pursuant to ~~{this chapter}~~ **NRS 599B.005 to 599B.300, inclusive**.

4. Except as otherwise provided in NRS 599B.160, if any material change in the information submitted for registration occurs before the date for renewal, a registrant shall submit that information to the Division within 10 days after the registrant obtains knowledge of the change.

Sec. 36. NRS 599B.150 is hereby amended to read as follows:

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

2. A seller shall cooperate fully with the Commissioner in any investigation made by the Commissioner concerning an alleged violation of the provisions of ~~this chapter~~ **NRS 599B.005 to 599B.300, inclusive**, by a salesperson.

Sec. 37. NRS 599B.190 is hereby amended to read as follows:

599B.190 1. Except as otherwise provided in subsection 3, a person who purchases goods or services or makes a donation pursuant to a solicitation governed by ~~this chapter~~ **NRS 599B.005 to 599B.300, inclusive**, must be given a refund or replacement, at his or her option, if:

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

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

(1) The goods or services; or

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

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

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

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

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

5. Except for any proration permitted by subsection 3, a registrant shall not impose any charge in connection with a return of goods or a request for a refund or replacement.

6. If a registrant receives payment by credit card, he or she may issue a refund in the form of a credit to the credit card account of the consumer in lieu of a cash refund.

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

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

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

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

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

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

Sec. 38. NRS 599B.200 is hereby amended to read as follows:

599B.200 A salesperson or seller shall not disclose the name or address of any person who purchases goods or services pursuant to a solicitation governed by ~~this chapter~~ **NRS 599B.005 to 599B.300, inclusive**. Nothing in this section prohibits the disclosure of this information to:

1. Any person employed by or associated with the seller;
2. The Commissioner or any employee of the Division; or
3. Any law enforcement officer or agency that requires the information for investigative purposes.

Sec. 39. NRS 599B.210 is hereby amended to read as follows:

599B.210 1. Every registrant, other than a registrant incorporated in this state, shall file with the Secretary of State an irrevocable consent appointing the Secretary of State as his or her agent to receive service of any lawful process in any action or proceeding against him or her arising pursuant to ~~this chapter~~ **NRS 599B.005 to 599B.300, inclusive**. Any lawful process against the registrant served upon the Secretary of State as provided in subsection 2 has the same force and validity as if served upon the registrant personally.

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

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

(b) A fee of \$10.

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

3. Service of process is not complete until the copy thereof has been mailed and received by the registrant, and the receipt of the addressee is prima facie evidence of the completion of the service.

4. If service of summons is made upon the Secretary of State in accordance with the provisions of this section, the time within which the registrant is required to appear is extended 10 days.

Sec. 40. NRS 599B.213 is hereby amended to read as follows:

599B.213 1. The Attorney General has primary jurisdiction to investigate and prosecute violations of ~~this chapter~~ **NRS 599B.005 to 599B.300, inclusive**, and any fraud involving solicitation by telephone.

2. When acting pursuant to this section, the Attorney General may commence his or her investigation and file a criminal action without leave of court, and he or she has exclusive charge of the conduct of the prosecution.

Sec. 41. NRS 599B.215 is hereby amended to read as follows:

599B.215 1. The Attorney General may conduct an investigation to determine whether a person, either directly or indirectly, has violated, is violating or is about to violate any of the provisions of ~~this chapter~~ **NRS 599B.005 to 599B.300, inclusive**, or any regulation adopted pursuant thereto.

2. If the Attorney General has reason to believe that any person, either directly or indirectly, has violated, is violating or is about to violate any of the provisions of ~~this chapter~~ **NRS 599B.005 to 599B.300, inclusive**, or any regulation adopted pursuant thereto, the Attorney General may:

(a) Issue a subpoena to require the testimony of any person;

(b) Issue a subpoena to require the production of any documents; or

(c) Administer an oath or affirmation to any person providing testimony pursuant to a subpoena.

3. A subpoena issued pursuant to subsection 2 must be served in the manner provided in the Nevada Rules of Civil Procedure.

1 **Sec. 42.** NRS 599B.235 is hereby amended to read as follows:

2 599B.235 1. The Attorney General may accept an assurance of
3 discontinuance of any violation of the provisions of ~~this chapter~~ *NRS 599B.005 to*
4 *599B.300, inclusive*, or any regulation adopted pursuant thereto. The assurance
5 may include a stipulation for the payment of money to this state by the alleged
6 violator, including but not limited to, payment for the costs of investigation, for the
7 costs of instituting the action or proceeding and for the restitution of any money or
8 property acquired as a result of the violation.

9 2. Proof by a preponderance of evidence of a violation of an assurance given
10 pursuant to subsection 1 constitutes prima facie evidence of a violation of the
11 applicable statutes or regulations for the purpose of any civil action or proceeding
12 brought thereafter by the Attorney General, whether the action or proceeding is a
13 new action or a subsequent motion or petition in a pending action or proceeding.

14 **Sec. 43.** NRS 599B.245 is hereby amended to read as follows:

15 599B.245 1. If the Attorney General has reason to believe that a person,
16 either directly or indirectly, has violated, is violating or is about to violate any of
17 the provisions of ~~this chapter~~ *NRS 599B.005 to 599B.300, inclusive*, or any
18 regulation adopted pursuant thereto, he or she may institute an appropriate legal
19 proceeding against the person. The district court, upon a showing that the person,
20 either directly or indirectly, has violated, is violating or is about to violate any of
21 the provisions of ~~this chapter~~ *NRS 599B.005 to 599B.300, inclusive*, or any
22 regulation adopted pursuant thereto, may grant the following remedies, as
23 appropriate:

- 24 (a) Issue a temporary or permanent injunction;
25 (b) Impose a civil penalty not to exceed \$5,000 for each violation;
26 (c) Issue a declaratory judgment;
27 (d) Order restitution for consumers;
28 (e) Provide for the appointment of a receiver;
29 (f) Order the payment of attorney's fees and costs; and
30 (g) Order such other relief as the court deems just.

31 2. Any person who violates a court order or injunction issued pursuant to
32 subsection 1 shall, upon a complaint brought by the Attorney General, pay a civil
33 penalty of not more than \$50,000 for each violation.

34 **Sec. 44.** NRS 599B.255 is hereby amended to read as follows:

35 599B.255 1. Except as otherwise provided in NRS 599B.213, the Attorney
36 General or the district attorney of any county in this state may prosecute a person
37 who willfully violates, either directly or indirectly, the provisions of ~~this chapter~~
38 *NRS 599B.005 to 599B.300, inclusive*. Except as otherwise provided in subsection
39 3, such a person:

- 40 (a) For the first offense within 10 years, is guilty of a misdemeanor.
41 (b) For the second offense within 10 years, is guilty of a gross misdemeanor.
42 (c) For the third and all subsequent offenses within 10 years, 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 2. Any offense which occurs within 10 years immediately preceding the date
47 of the principal offense or after the principal offense constitutes a prior offense for
48 the purposes of subsection 1 when evidenced by a conviction, without regard to the
49 sequence of the offenses and convictions.

50 3. A person who violates any provision of NRS 599B.080 is guilty of a
51 category D felony and shall be punished as provided in NRS 193.130, or by a fine
52 of not more than \$50,000, or by both fine and the punishment provided in NRS
53 193.130.

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

Sec. 45. NRS 599B.260 is hereby amended to read as follows:

599B.260 1. Except as otherwise provided in subsection 2, all fees, civil penalties and any other money collected pursuant to ~~this chapter~~ **NRS 599B.005 to 599B.300, inclusive**, in an action brought by the Attorney General must be deposited in the State General Fund and may only be used to defray the costs of:

(a) Administering and enforcing the provisions of ~~this chapter~~ **NRS 599B.005 to 599B.300, inclusive**.

(b) Enforcing the provisions of chapter 598 of NRS as they relate to the conduct of sellers and salespersons, whether or not the sellers and salespersons are registered pursuant to ~~this chapter~~ **NRS 599B.005 to 599B.300, inclusive**.

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

(a) Criminal fines imposed pursuant to the provisions of ~~this chapter~~ **NRS 599B.005 to 599B.300, inclusive**; or

(b) Restitution ordered in an action brought by the Attorney General pursuant to the provisions of ~~this chapter~~ **NRS 599B.005 to 599B.300, inclusive**. 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 or the Attorney General for distribution to the person for whom the restitution was ordered.

Sec. 46. NRS 228.380 is hereby amended to read as follows:

228.380 1. Except as otherwise provided in this section, the Consumer's Advocate may exercise the power of the Attorney General in areas of consumer protection, including, but not limited to, enforcement of chapters 90, 597, 598, 598A, 598B, 598C ~~to 599B~~ **of NRS, NRS 599B.005 to 599B.300, inclusive**, and **chapter 711 of NRS**.

2. The Consumer's Advocate may not exercise any powers to enforce any criminal statute set forth in:

(a) Chapter 90, 597, 598, 598A, 598B ~~to 598C~~ **or 598C to 599B of NRS **or NRS 599B.005 to 599B.300, inclusive**, for any transaction or activity that involves a proceeding before the Public Utilities Commission of Nevada if the Consumer's Advocate is participating in that proceeding as a real party in interest on behalf of the customers or a class of customers of utilities; or**

(b) Chapter 711 of NRS.

3. The Consumer's Advocate may expend revenues derived from NRS 704.033 only for activities directly related to the protection of customers of public utilities.

4. The powers of the Consumer's Advocate do not extend to proceedings before the Public Utilities Commission of Nevada directly relating to discretionary or competitive telecommunication services.

Sec. 47. 1. This act becomes effective on July 1, 2014.

2. Sections 14 and 15 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears for the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.