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FIRST REPRINT

S.B. 404

SENATE BILL NO. 404—SENATORS SMITH, WOODHOUSE,
DENIS, SPEARMAN, PARKS; AND ATKINSON

MARCH 18, 2013

JOINT SPONSORS: ASSEMBLYMEN KIRKPATRICK;
DONDERO LOOP AND SPRINKLE

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to business practices.
(BDR 28-827)

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.

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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 business practices; prohibiting a subcontractor from receiving any public money unless the subcontractor is the holder of a state business license under certain circumstances; clarifying that a person is prohibited from entering into a contract with the State of Nevada unless the person is the holder of a state business license; making certain misrepresentations by a provider or vendor of floral or ornamental products a deceptive trade practice; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Sections 1 and 8** of this bill prohibit subcontractors from receiving public
2 money for subcontracts for public works or projects for the construction or
3 maintenance of highways unless the subcontractors hold a state business license.
4 **Section 7.5** of this bill also clarifies that a person is prohibited from entering into a
5 contract with the State of Nevada unless the person holds a state business license.
6 Existing law defines activities that constitute deceptive trade practices and
7 provides for the imposition of civil and criminal penalties against persons who
8 engage in deceptive trade practices. (Chapter 598 of NRS) **Section 9** of this bill
9 provides that certain advertising practices which misrepresent the geographic
10 location of a provider or vendor of floral or ornamental products or services



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11 constitutes a deceptive trade practice. **Sections 6, 7 and 10-18** of this bill make
12 conforming changes relating to the new deceptive trade practice established in
13 **section 9**.

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

1 **Section 1.** Chapter 338 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *A subcontractor who enters into a subcontract for a public*
4 *work shall not accept or otherwise receive any public money for*
5 *the public work, including, without limitation, accepting or*
6 *receiving any public money as a payment from a contractor,*
7 *unless the subcontractor is the holder of a state business license*
8 *issued pursuant to chapter 76 of NRS.*

9 **Sec. 2.** NRS 338.050 is hereby amended to read as follows:

10 338.050 For the purpose of NRS 338.010 to 338.090, inclusive,
11 *and section 1 of this act*, except as otherwise provided by specific
12 statute, every worker who performs work for a public work covered
13 by a contract therefor is subject to all of the provisions of NRS
14 338.010 to 338.090, inclusive, *and section 1 of this act* regardless
15 of any contractual relationship alleged to exist between such worker
16 and his or her employer.

17 **Sec. 3.** NRS 338.080 is hereby amended to read as follows:

18 338.080 None of the provisions of NRS 338.020 to 338.090,
19 inclusive, *and section 1 of this act* apply to:

20 1. Any work, construction, alteration, repair or other
21 employment performed, undertaken or carried out, by or for any
22 railroad company or any person operating the same, whether such
23 work, construction, alteration or repair is incident to or in
24 conjunction with a contract to which a public body is a party, or
25 otherwise.

26 2. Apprentices recorded under the provisions of chapter 610 of
27 NRS.

28 3. Any contract for a public work whose cost is less than
29 \$100,000. A unit of the project must not be separated from the total
30 project, even if that unit is to be completed at a later time, in order to
31 lower the cost of the project below \$100,000.

32 **Sec. 4.** NRS 338.090 is hereby amended to read as follows:

33 338.090 1. ~~Any~~ *Except as otherwise provided in*
34 *subsection 4, any* person, including the officers, agents or
35 employees of a public body, who violates any provision of NRS
36 338.010 to 338.090, inclusive, or any regulation adopted pursuant
37 thereto, is guilty of a misdemeanor.



1 2. The Labor Commissioner, in addition to any other remedy or
2 penalty provided in this chapter:

3 (a) Shall assess a person who, after an opportunity for a hearing,
4 is found to have failed to pay the prevailing wage required pursuant
5 to NRS 338.020 to 338.090, inclusive, *and section 1 of this act* an
6 amount equal to the difference between the prevailing wages
7 required to be paid and the wages that the contractor or
8 subcontractor actually paid; and

9 (b) May, in addition to any other administrative penalty, impose
10 an administrative penalty not to exceed the costs incurred by the
11 Labor Commissioner to investigate and prosecute the matter.

12 3. If the Labor Commissioner finds that a person has failed to
13 pay the prevailing wage required pursuant to NRS 338.020 to
14 338.090, inclusive, *and section 1 of this act*, the public body may,
15 in addition to any other remedy or penalty provided in this chapter,
16 require the person to pay the actual costs incurred by the public
17 body to investigate the matter.

18 *4. The provisions of subsection 1 do not apply to a*
19 *subcontractor specified in section 1 of this act.*

20 **Sec. 5.** NRS 338.1373 is hereby amended to read as follows:

21 338.1373 1. A local government or its authorized
22 representative shall award a contract for a public work pursuant to
23 the provisions of NRS 338.1415 and:

24 (a) NRS 338.1377 to 338.139, inclusive;

25 (b) NRS 338.143 to 338.148, inclusive;

26 (c) NRS 338.169 to 338.16995, inclusive; or

27 (d) NRS 338.1711 to 338.173, inclusive.

28 2. The provisions of NRS 338.1375 to 338.1382, inclusive,
29 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to
30 338.16995, inclusive, and 338.1711 to 338.1727, inclusive, do not
31 apply with respect to contracts for the construction, reconstruction,
32 improvement and maintenance of highways that are awarded by the
33 Department of Transportation pursuant to NRS 408.201 and
34 408.313 to 408.433, inclusive *H*, *and section 8 of this act.*

35 **Sec. 6.** NRS 11.190 is hereby amended to read as follows:

36 11.190 Except as otherwise provided in NRS 40.4639,
37 125B.050 and 217.007, actions other than those for the recovery of
38 real property, unless further limited by specific statute, may only be
39 commenced as follows:

40 1. Within 6 years:

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



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

4 2. Within 4 years:

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

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

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

10 (d) An action against a person alleged to have committed a
11 deceptive trade practice in violation of NRS 598.0903 to 598.0999,
12 inclusive, *and section 9 of this act*, but the cause of action shall be
13 deemed to accrue when the aggrieved party discovers, or by the
14 exercise of due diligence should have discovered, the facts
15 constituting the deceptive trade practice.

16 3. Within 3 years:

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

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

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

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

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

44 4. Within 2 years:



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

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

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

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

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

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

19 5. Within 1 year:

20 (a) An action against an officer, or officer de facto to recover
21 goods, wares, merchandise or other property seized by the officer in
22 his or her official capacity, as tax collector, or to recover the price or
23 value of goods, wares, merchandise or other personal property so
24 seized, or for damages for the seizure, detention or sale of, or injury
25 to, goods, wares, merchandise or other personal property seized, or
26 for damages done to any person or property in making the seizure.

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

31 **Sec. 7.** NRS 41.600 is hereby amended to read as follows:

32 41.600 1. An action may be brought by any person who is a
33 victim of consumer fraud.

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

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

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

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

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

40 (e) A deceptive trade practice as defined in NRS 598.0915 to
41 598.0925, inclusive **H**, and **section 9 of this act**.

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

44 (a) Any damages that the claimant has sustained;

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



1 (c) The claimant's costs in the action and reasonable attorney's
2 fees.

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

5 **Sec. 7.5.** Chapter 353 of NRS is hereby amended by adding
6 thereto a new section to read as follows:

7 *1. A person shall not enter into a contract with the State of
8 Nevada unless the person is a holder of a state business license
9 issued pursuant to chapter 76 of NRS.*

10 *2. The provisions of this section apply to all offices,
11 departments, divisions, boards, commissions, institutions, agencies
12 or any other units of:*

13 *(a) The Legislative, Executive and Judicial Departments of the
14 State Government;*

15 *(b) The Nevada System of Higher Education; and*

16 *(c) The Public Employees' Retirement System.*

17 **Sec. 7.7.** NRS 353.005 is hereby amended to read as follows:

18 353.005 ~~The~~ *Except as otherwise provided in section 7.5 of
19 this act, the provisions of this chapter do not apply to boards created
20 by the provisions of NRS 590.485 and chapters 623 to 625A,
21 inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS and
22 the officers and employees of those boards.*

23 **Sec. 8.** Chapter 408 of NRS is hereby amended by adding
24 thereto a new section to read as follows:

25 *1. A subcontractor who enters into a subcontract for a project
26 for the construction and maintenance of a highway shall not
27 accept or otherwise receive any public money for the project,
28 including, without limitation, accepting or receiving any public
29 money as a payment from a contractor, unless the subcontractor is
30 the holder of a state business license issued pursuant to chapter 76
31 of NRS.*

32 *2. As used in this section, "subcontractor" has the meaning
33 ascribed to it in NRS 338.010.*

34 **Sec. 9.** Chapter 598 of NRS is hereby amended by adding
35 thereto a new section to read as follows:

36 *1. A provider or vendor of floral or ornamental products or
37 services engages in a "deceptive trade practice" if the provider or
38 vendor misrepresents the geographic location of its business by
39 listing:*

40 *(a) A local telephone number in any advertisement or listing
41 unless the advertisement or listing identifies the actual physical
42 address, including the city and state, of the provider or vendor's
43 business.*

44 *(b) An assumed or fictitious business name in any
45 advertisement or listing if:*



1 (1) *The name of the business misrepresents the provider or*
2 *vendor's geographic location; and*

3 (2) *The advertisement or listing does not identify the actual*
4 *physical address, including the city and state, of the provider or*
5 *vendor's business.*

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

7 (a) *A publisher of a telephone directory or any other*
8 *publication or a provider of a directory assistance service that*
9 *publishes or provides information about another business;*

10 (b) *An Internet website that aggregates and provides*
11 *information about other businesses;*

12 (c) *An owner or publisher of a print advertising medium that*
13 *provides information about other businesses;*

14 (d) *An Internet service provider; or*

15 (e) *An Internet service that displays or distributes*
16 *advertisements for other businesses.*

17 3. *This section does not create or impose a duty or an*
18 *obligation on a person other than a vendor or provider described*
19 *in subsection 1.*

20 4. *As used in this section:*

21 (a) *"Floral or ornamental products or services" means floral*
22 *arrangements, cut flowers, floral bouquets, potted plants, balloons,*
23 *floral designs and related products and services.*

24 (b) *"Local telephone number" means a specific telephone*
25 *number, including the area code and prefix, assigned for the*
26 *purpose of completing local telephone calls between a calling*
27 *party or station and any other party or station within a telephone*
28 *exchange located in this State or its designated local calling areas.*
29 *The term does not include long distance telephone numbers or*
30 *toll-free telephone numbers listed in a local telephone directory.*

31 **Sec. 10.** NRS 598.0903 is hereby amended to read as follows:

32 598.0903 As used in NRS 598.0903 to 598.0999, inclusive,
33 *and section 9 of this act*, unless the context otherwise requires, the
34 words and terms defined in NRS 598.0905 to 598.0947, inclusive,
35 *and section 9 of this act* have the meanings ascribed to them in
36 those sections.

37 **Sec. 11.** NRS 598.0953 is hereby amended to read as follows:

38 598.0953 1. Evidence that a person has engaged in a
39 deceptive trade practice is prima facie evidence of intent to injure
40 competitors and to destroy or substantially lessen competition.

41 2. The deceptive trade practices listed in NRS 598.0915 to
42 598.0925, inclusive, *and section 9 of this act* are in addition to and
43 do not limit the types of unfair trade practices actionable at common
44 law or defined as such in other statutes of this State.



1 **Sec. 12.** NRS 598.0955 is hereby amended to read as follows:
2 598.0955 1. The provisions of NRS 598.0903 to 598.0999,
3 inclusive, *and section 9 of this act* do not apply to:

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

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

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

13 2. The provisions of NRS 598.0903 to 598.0999, inclusive, *and*
14 *section 9 of this act* do not apply to the use by a person of any
15 service mark, trademark, certification mark, collective mark, trade
16 name or other trade identification which was used and not
17 abandoned prior to July 1, 1973, if the use was in good faith and is
18 otherwise lawful except for the provisions of NRS 598.0903 to
19 598.0999, inclusive ~~H~~, *and section 9 of this act*.

20 **Sec. 13.** NRS 598.0963 is hereby amended to read as follows:

21 598.0963 1. Whenever the Attorney General is requested in
22 writing by the Commissioner or the Director to represent him or her
23 in instituting a legal proceeding against a person who has engaged
24 or is engaging in a deceptive trade practice, the Attorney General
25 may bring an action in the name of the State of Nevada against that
26 person on behalf of the Commissioner or Director.

27 2. The Attorney General may institute criminal proceedings to
28 enforce the provisions of NRS 598.0903 to 598.0999, inclusive ~~H~~,
29 *and section 9 of this act*. The Attorney General is not required to
30 obtain leave of the court before instituting criminal proceedings
31 pursuant to this subsection.

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

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



1 **Sec. 14.** NRS 598.0967 is hereby amended to read as follows:

2 598.0967 1. The Commissioner and the Director, in addition
3 to other powers conferred upon them by NRS 598.0903 to
4 598.0999, inclusive, *and section 9 of this act*, may issue subpoenas
5 to require the attendance of witnesses or the production of
6 documents, conduct hearings in aid of any investigation or inquiry
7 and prescribe such forms and adopt such regulations as may be
8 necessary to administer the provisions of NRS 598.0903 to
9 598.0999, inclusive **H**, *and section 9 of this act*. Such regulations
10 may include, without limitation, provisions concerning the
11 applicability of the provisions of NRS 598.0903 to 598.0999,
12 inclusive, *and section 9 of this act* to particular persons or
13 circumstances.

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

16 **Sec. 15.** NRS 598.0971 is hereby amended to read as follows:

17 598.0971 1. If, after an investigation, the Commissioner has
18 reasonable cause to believe that any person has been engaged or is
19 engaging in any deceptive trade practice in violation of
20 NRS 598.0903 to 598.0999, inclusive, *and section 9 of this act*, the
21 Commissioner may issue an order directed to the person to show
22 cause why the Commissioner should not order the person to cease
23 and desist from engaging in the practice. The order must contain a
24 statement of the charges and a notice of a hearing to be held thereon.
25 The order must be served upon the person directly or by certified or
26 registered mail, return receipt requested.

27 2. If, after conducting a hearing pursuant to the provisions of
28 subsection 1, the Commissioner determines that the person has
29 violated any of the provisions of NRS 598.0903 to 598.0999,
30 inclusive, *and section 9 of this act*, or if the person fails to appear
31 for the hearing after being properly served with the statement of
32 charges and notice of hearing, the Commissioner may make a
33 written report of his or her findings of fact concerning the violation
34 and cause to be served a copy thereof upon the person and any
35 intervener at the hearing. If the Commissioner determines in the
36 report that such a violation has occurred, he or she may order the
37 violator to:

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

40 (b) Pay the costs of conducting the investigation, costs of
41 conducting the hearing, costs of reporting services, fees for experts
42 and other witnesses, charges for the rental of a hearing room if such
43 a room is not available to the Commissioner free of charge, charges
44 for providing an independent hearing officer, if any, and charges
45 incurred for any service of process, if the violator is adjudicated to



1 have committed a violation of NRS 598.0903 to 598.0999, inclusive
2 ~~H~~, and section 9 of this act; and

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

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

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

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

21 5. If the court finds that:

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

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

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

28 ➔ the court shall issue an order enforcing the provisions of the order
29 of the Commissioner.

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

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

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

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

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



1 **Sec. 16.** NRS 598.0985 is hereby amended to read as follows:
2 598.0985 Notwithstanding the requirement of knowledge as an
3 element of a deceptive trade practice, and notwithstanding the
4 enforcement powers granted to the Commissioner or Director
5 pursuant to NRS 598.0903 to 598.0999, inclusive, *and section 9 of*
6 *this act*, whenever the district attorney of any county has reason to
7 believe that any person is using, has used or is about to use any
8 deceptive trade practice, knowingly or otherwise, he or she may
9 bring an action in the name of the State of Nevada against that
10 person to obtain a temporary or permanent injunction against the
11 deceptive trade practice.

12 **Sec. 17.** NRS 598.0993 is hereby amended to read as follows:
13 598.0993 The court in which an action is brought pursuant to
14 NRS 598.0979 and 598.0985 to 598.099, inclusive, may make such
15 additional orders or judgments as may be necessary to restore to any
16 person in interest any money or property, real or personal, which
17 may have been acquired by means of any deceptive trade practice
18 which violates any of the provisions of NRS 598.0903 to 598.0999,
19 inclusive, *and section 9 of this act*, but such additional orders or
20 judgments may be entered only after a final determination has been
21 made that a deceptive trade practice has occurred.

22 **Sec. 18.** NRS 598.0999 is hereby amended to read as follows:
23 598.0999 1. Except as otherwise provided in NRS 598.0974,
24 a person who violates a court order or injunction issued pursuant to
25 the provisions of NRS 598.0903 to 598.0999, inclusive, *and section*
26 *9 of this act* upon a complaint brought by the Commissioner, the
27 Director, the district attorney of any county of this State or the
28 Attorney General shall forfeit and pay to the State General Fund a
29 civil penalty of not more than \$10,000 for each violation. For the
30 purpose of this section, the court issuing the order or injunction
31 retains jurisdiction over the action or proceeding. Such civil
32 penalties are in addition to any other penalty or remedy available for
33 the enforcement of the provisions of NRS 598.0903 to 598.0999,
34 inclusive *H*, *and section 9 of this act*.

35 2. Except as otherwise provided in NRS 598.0974, in any
36 action brought pursuant to the provisions of NRS 598.0903 to
37 598.0999, inclusive, *and section 9 of this act*, if the court finds that
38 a person has willfully engaged in a deceptive trade practice, the
39 Commissioner, the Director, the district attorney of any county in
40 this State or the Attorney General bringing the action may recover a
41 civil penalty not to exceed \$5,000 for each violation. The court in
42 any such action may, in addition to any other relief or
43 reimbursement, award reasonable attorney's fees and costs.



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

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

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

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

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

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

20 5. If a person violates any provision of NRS 598.0903 to
21 598.0999, inclusive, *and section 9 of this act*, 598.100 to 598.2801,
22 inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525,
23 inclusive, 598.741 to 598.787, inclusive, or 598.840 to
24 598.966, inclusive, fails to comply with a judgment or order of any
25 court in this State concerning a violation of such a provision, or fails
26 to comply with an assurance of discontinuance or other agreement
27 concerning an alleged violation of such a provision, the
28 Commissioner or the district attorney of any county may bring an
29 action in the name of the State of Nevada seeking:

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

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

34 ➔ The court may grant or deny the relief sought or may order other
35 appropriate relief.

36 6. If a person violates any provision of NRS 228.500 to
37 228.640, inclusive, fails to comply with a judgment or order of any
38 court in this State concerning a violation of such a provision, or fails
39 to comply with an assurance of discontinuance or other agreement
40 concerning an alleged violation of such a provision, the Attorney
41 General may bring an action in the name of the State of Nevada
42 seeking:

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



- 1 (b) If the defendant is a corporation, dissolution of the
- 2 corporation.
- 3 ➔ The court may grant or deny the relief sought or may order other
- 4 appropriate relief.

⑩

