

Amendment No. 1051

Senate Amendment to Senate Bill No. 235 First Reprint	(BDR 52-672)
Proposed by: Senator Woodhouse	
Amendment Box: Consistent with Amendment No. 945.	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

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

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

EWR/RBL



Date: 5/31/2017

S.B. No. 235—Provides for the regulation of ticket sales to an athletic contest or live entertainment event in certain circumstances. (BDR 52-672)



SENATE BILL NO. 235—SENATORS WOODHOUSE, PARKS, CANCELA, SPEARMAN;
ATKINSON, CANNIZZARO, DENIS, FARLEY, MANENDO AND SEGERBLOM

MARCH 6, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Provides for the regulation of ticket sales to an athletic contest or live entertainment event in certain circumstances. (BDR 52-672)

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 trade practices; making certain sales of tickets a deceptive trade practice; regulating the manner in which tickets to an athletic contest or live entertainment event may be sold in certain circumstances; requiring certain disclosures to be made by resellers of tickets to an athletic contest or live entertainment event; prohibiting the use of an Internet robot for certain purposes relating to ticket sales; limiting local governments and political subdivisions from certain regulation of ticket sales; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a number of deceptive trade practices, including, without limitation, pyramid schemes and violations of requirements relating to charitable solicitations, sales promotions, door-to-door sales and grant writing services. (NRS 598.110, 598.1305, 598.139, 598.2801, 598.595) Existing law authorizes the Attorney General, the Commissioner of Consumer Affairs and the Director of the Department of Business and Industry to investigate and prosecute deceptive trade practices, which may include, without limitation, criminal prosecution or the imposition of certain civil penalties. (NRS 598.0903-598.0999) **Section 2** of this bill makes a knowing violation of the provisions of this bill relating to ticket sales a deceptive trade practice subject to enforcement as such. **Section 18** of this bill requires the Bureau of Consumer Protection in the Office of the Attorney General to establish a toll-free statewide hotline and an Internet website by which a person may file a complaint relating to a suspected violation of this bill. **Sections 19-29** of this bill make conforming changes.

~~(Sections 9, 10 and 12 of this bill limit the applicability of the provisions of this bill to a person who annually sells 25 or more tickets to an athletic contest or live entertainment event and has not been sanctioned to sell such tickets by certain authorized persons associated with the athletic contest or live entertainment event. In addition, a person who advertises or sanctions the resale of such tickets is subject to the provisions of this bill. The provisions of this bill do not, however, apply to a person who is sanctioned to sell such tickets.)~~ **Section 13 of this bill specifies which type of resellers are subject to the provisions of this bill.** **Section 14** of this bill requires a reseller who sells ~~such~~ tickets to an athletic contest or live

entertainment event on an Internet website to inform a ticket purchaser that the reseller has not been sanctioned to resell tickets to the athletic contest or live entertainment event for which tickets are being offered by an authorized person associated with the contest or event. **Section 14** also prohibits a reseller from ~~;(1)~~ displaying a trademarked or copyrighted Internet website address or a title, designation, image, mark or other symbol on the Internet website of the reseller without the consent of the trademark or copyright holder ~~;;~~ or (2) creating an Internet website that is substantially similar to the Internet website of an entertainment facility, athletic contest or live entertainment event without permission.

Section 15 of this bill requires a reseller to make certain disclosures to a ticket purchaser before completing the resale, including: (1) the amount to be paid by the ticket purchaser for the ticket; (2) the location of any seat associated with the ticket; and (3) the right of the purchaser to a refund if an athletic contest or live entertainment event is cancelled and not rescheduled. **Section 15** further authorizes a reseller to only resell tickets at his or her registered office, established place of business or Internet website and prohibits a reseller from reselling tickets to an athletic contest or live entertainment event before ~~tickets to~~ the date for such contest or event ~~are made available to the public by an authorized person associated with the contest or event;~~ has been officially announced, except in certain circumstances. **Section 15** prohibits a reseller from reselling a ticket unless the ticket is in the actual possession of the reseller and is immediately available for delivery to the ticket purchaser ~~;;~~ except in certain circumstances. **Section 15** also ~~prohibits: (1) a reseller from reselling more than one copy of the same ticket; and (2) a reseller from employing any person to wait in line to purchase tickets to an athletic contest or a live entertainment event for the purpose of offering such tickets for resale;~~ places various other restrictions on the sale of tickets by a reseller. Section 15.5 of this bill prohibits a local government or political subdivision from further regulating the sale of tickets, except that a local government or political subdivision may require licensure, collect fees, limit the location of sales and provide for private enforcement.

Section ~~14~~ 6.5 of this bill defines "Internet robot" as a software application that attempts to complete or completes an automated transaction on an Internet website. **Section 16** prohibits the use of an Internet robot for the purposes of circumventing the ticket purchasing process on an Internet website or to disguise the identity of the ticket purchaser in order to obtain a greater quantity of tickets than authorized. **Section 16** also authorizes a person injured by the use of an Internet robot in violation of these provisions to bring a civil action to seek: (1) declaratory and injunctive relief; and (2) actual damages or \$100, whichever is greater.

Section 13 of this bill exempts a person from the requirements of this bill if such a person ;(1) resells tickets which were obtained for personal use;; or (2) is authorized to do so pursuant to section 5 of this bill. **Section 17** provides that a violation of any of the provisions of this bill is a misdemeanor unless a greater penalty is otherwise provided by law. **Section 17.5** of this bill provides an enhanced penalty for the sale of a ticket in willful and knowing violation of the provisions of this bill to an entertainment facility which is operated by a governmental entity or a public-private partnership.

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

Section 1. Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 18, inclusive, of this act.

Sec. 2. *A person engages in a "deceptive trade practice" when, in the course of his or her business or occupation, he or she knowingly violates a provision of sections 3 to 18, inclusive, of this act.*

Sec. 3. *As used in sections 3 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 12, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Athletic contest" means any contest, game or other event involving the athletic or physical skills of an amateur athlete, intercollegiate athlete or*

professional athlete held at an entertainment facility for which a ticket is required for admission.

Sec. 4.5. "Athletic team" means a group of persons who compete in a contest, game or other event in this State involving the athletic or physical skills of an amateur athlete, intercollegiate athlete or professional athlete or a person employed by such a group.

Sec. 5. 1. "Authorized person" means a person who is responsible for directing, financing, managing, participating in, promoting, organizing, sponsoring or otherwise directly involved in the hosting, staging or presentation of an athletic contest or live entertainment event, or the affiliate or agent of any such persons.

2. The term includes, without limitation, an athletic team or a person who controls or operates an entertainment facility. The term does not include a person whose initial purchase of a ticket was completed through the use of an Internet robot.

Sec. 6. "Entertainment facility" means an indoor or outdoor area, including, without limitation, an arena, auditorium, museum, racetrack or stadium in which an athletic contest or live entertainment event is staged in this State and for which a ticket is required for admission.

Sec. 6.5. "Internet robot" means a software application that attempts to complete or completes an automated transaction on an Internet website.

Sec. 7. (Deleted by amendment.)

Sec. 8. "Live entertainment event" means any activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose by a person who is physically present when providing that activity to a group of patrons at an entertainment facility, including, without limitation, any lecture, exhibition of art, performance of comedy, dance, music, theater or any other entertainment event or show. The term includes, without limitation, any game, contest or event in which persons compete against each other through electronic, digital or virtual means.

Sec. 9. "Resale" or "resell" means an offer or completed transaction for the sale of a ticket to an athletic contest or a live entertainment event ~~by a person who has not been sanctioned or otherwise authorized by an authorized person, including, without limitation, through a contract, to sell tickets for such contest or event,~~ which occurs after the initial purchase of the ticket. The term includes, without limitation, the sale of a ticket made in person or by telephone, Internet website or any other means of communication or exchange.

Sec. 10. "Reseller" means any person who ~~is subject to the provisions of sections 3 to 18, inclusive, of this act, as determined pursuant to subsection 1 of section 13 of this act,~~ resells a ticket.

Sec. 11. "Ticket" means a certificate, document, token, voucher or other evidence, whether physical or electronic, which indicates that the bearer or other person who is entitled to possession of the ticket has the right or privilege of admission to an athletic contest or live entertainment event, to occupy or have access to a particular area or seat within an entertainment facility or to acquire such a right or privilege.

Sec. 12. (Deleted by amendment.)

Sec. 13. ~~1. The provisions of sections 3 to 18, inclusive, of this act apply only to a person who, during a calendar year:~~

~~(a) Purchases and then offers for resale 25 or more tickets for admission to an athletic contest or live entertainment event; or~~

~~(b) Advertises for resale 25 or more tickets for admission to an athletic contest or live entertainment event or sanctions such resales or acts in concert with another person who engages in such resales of tickets on a regular basis.~~

~~2.~~ The provisions of sections 3 to 18, inclusive, of this act do not apply to:

~~(a) 1.~~ A person who resells a ticket obtained for personal use or for the use of another person who was known to the person that obtained the ticket before the purchase of such ticket.

~~(b) 2.~~ An authorized person.

3. A reseller who has actual possession of a ticket which is immediately available for delivery to the purchaser.

4. A labor organization as defined in NRS 613.230.

5. A nonprofit organization created for religious, charitable or educational purposes that meets the requirements set forth in NRS 372.3261.

Sec. 14. 1. A reseller who is not an authorized person and who resells a ticket to an athletic contest or live entertainment event on an Internet website shall disclose to a ticket purchaser in a clear and conspicuous manner before completing the transaction that the reseller has not been sanctioned by an authorized person to sell tickets for the athletic contest or live entertainment event associated with the ticket offered for resale.

2. The Internet website of a reseller must not display a trademarked or copyrighted URL, title, designation, image or mark or other symbol without the written consent of the trademark or copyright holder.

3. The Internet website of a reseller, including, without limitation, an Internet website that offers the purchase and resale of tickets on a secondary basis, must not use any combination of text, images, web designs or Internet addresses, or any combination thereof, which is substantially similar to the Internet website of an entertainment facility, athletic contest or live entertainment event without permission unless the reseller is an authorized person.

4. As used in this section ~~it~~:

(a) "Substantially similar" means that a reasonable person would believe that the Internet website is that of the entertainment facility, athletic contest or live entertainment event.

(b) "URL" means the Uniform Resource Locator associated with an Internet website.

Sec. 15. 1. A reseller shall:

(a) Post in a clear and conspicuous manner, at the registered office and established place of business of the reseller and on any Internet website maintained by the reseller, including, without limitation, an Internet website that offers the purchase and resale of tickets on a secondary basis, the terms and conditions of a resale, including, without limitation, any right of a ticket purchaser to cancel a purchase.

(b) Disclose to the ticket purchaser, before completing the resale of the ticket to the purchaser:

(1) That the ticket purchaser is entitled to a refund of any amount received from the purchaser if the athletic contest or live entertainment event associated with such ticket is cancelled and not rescheduled.

(2) The amount to be paid by the ticket purchaser for the ticket and the location of the seat, if any, assigned by the ticket which is offered for resale, including, without limitation, any section, row ~~and seat number~~ or area within an entertainment facility which is designated on the ticket.

(c) Refund any amount received from a ticket purchaser if the athletic contest or live entertainment event associated with such ticket is cancelled and not rescheduled.

1 (d) Resell tickets only at the registered office or established place of business
2 of the reseller or on an Internet website maintained by the reseller ~~+~~, including,
3 ~~without limitation, an Internet website that offers the purchase and resale of~~
4 ~~tickets on a secondary basis.~~

5 2. A reseller shall not:

6 (a) ~~(Resell)~~ Except as otherwise provided in subsection 5, advertise for sale
7 tickets to an athletic contest or live entertainment event until tickets are made
8 available for purchase to the general public by an authorized person.

9 ~~(b) Resell any ticket that is not in the actual possession of the reseller and~~
10 ~~immediately available for delivery to the ticket purchaser.~~

11 ~~3. A reseller shall not, directly or indirectly, employ any person to wait in~~
12 ~~line to purchase tickets to an athletic contest or live entertainment event for the~~
13 ~~purpose of offering such tickets for resale.~~

14 ~~4. A reseller who resells a ticket to an athletic contest or live entertainment~~
15 ~~event shall not offer more than one copy of the same ticket for resale.~~

16 ~~5. ~~+~~ the date for the athletic contest or live entertainment event has been~~
17 officially announced.

18 (b) Accept any type of consideration for the sale of a ticket unless the ticket
19 has been issued by a person authorized to issue tickets to the athletic contest or
20 live entertainment event.

21 (c) Resell or offer for sale more than one copy of the same ticket to an
22 athletic contest or live entertainment event.

23 (d) Offer for sale any counterfeit ticket to an athletic contest or live
24 entertainment event.

25 (e) Employ another person directly or indirectly to wait in line to purchase
26 tickets for the purpose of reselling the tickets if the practice is prohibited by the
27 sponsor, organizer or promoter of the athletic contest or live entertainment event
28 or if the venue at which the athletic contest or live entertainment event will occur
29 has posted a policy prohibiting the practice.

30 3. Except as otherwise provided in subsection 4, a reseller shall not accept
31 consideration for the sale of a ticket or accept a deposit for a ticket for which the
32 reseller does not have possession unless:

33 (a) The reseller has an agreement to purchase the ticket for an established
34 price from another person who has possession of the ticket; and

35 (b) The person to whom the reseller agrees to sell the ticket or from whom
36 the reseller accepts a deposit will have the right to a refund if the reseller is not
37 able to obtain or deliver the ticket.

38 4. If an athletic contest or live entertainment event is scheduled to take
39 place within 14 days, the reseller may accept consideration for the sale of a ticket
40 or a deposit for a ticket for which the reseller does not have possession if the
41 reseller clearly discloses to the purchaser before entering into an agreement or
42 accepting consideration that the reseller does not have possession of the ticket
43 and the person is entitled to a refund if the reseller is not able to obtain and
44 deliver the ticket.

45 5. If a professional or collegiate athletic contest is a part of a playoff or
46 tournament and the entity conducting the playoff or tournament has released a
47 range of dates on which the athletic contest may take place, a reseller may
48 advertise the sale and sell tickets for the athletic contest not more than 21 days
49 before the earliest date on which the athletic contest may take place.

50 6. As used in this section, the term "established place of business" does not
51 include a temporary location on a sidewalk, parking lot or other public area in
52 the vicinity of an entertainment facility which is vacated by a reseller after the
53 conclusion of an athletic contest or a live entertainment event.

1 Sec. 15.5. 1. A local government or political subdivision shall not limit,
2 prohibit or otherwise regulate the sale of tickets if the sale is carried out in
3 compliance with the provisions of sections 14 and 15 of this act.

4 2. The provisions of this section do not prohibit a local government or
5 political subdivision from enacting an ordinance to require a reseller to obtain a
6 license and pay applicable fees, determine where tickets may be sold and provide
7 for the right to private enforcement.

8 Sec. 16. 1. A person shall not use an Internet robot to:

9 (a) Circumvent any portion of the process for purchasing a ticket on an
10 Internet website, including, without limitation, any security or identity validation
11 measures or an access control system; or

12 (b) Disguise the identity of a ticket purchaser for the purpose of purchasing a
13 number of tickets for admission to an athletic contest or live entertainment event
14 which exceeds the maximum number of tickets allowed for purchase by an
15 authorized person.

16 2. A person injured by a violation of this section may bring a civil action in
17 ~~for the appropriate district court of competent jurisdiction~~ against the person
18 who committed the violation to seek:

19 (a) Declaratory and injunctive relief.

20 (b) Actual damages or \$100, whichever is greater.

21 ~~3. As used in this section, "Internet robot" means a software application~~
22 ~~that attempts or completes an automated transaction on an Internet website.~~

23 Sec. 17. Unless a greater penalty is provided in NRS 598.0999 or section
24 17.5 of this act, a person who violates the provisions of sections 3 to 18, inclusive,
25 of this act is guilty of a misdemeanor.

26 Sec. 17.5. 1. A person who willfully and knowingly violates the provisions
27 of sections 3 to 18, inclusive, of this act relating to the sale of a ticket to an
28 entertainment facility which is operated by a governmental entity or a public-
29 private partnership is guilty of a:

30 (a) Gross misdemeanor, if the total value of the tickets sold in violation of
31 sections 3 to 18, inclusive, of this act is less than \$1,000; or

32 (b) Category D felony and shall be punished as provided in NRS 193.130, if
33 the total value of the tickets sold in violation of sections 3 to 18, inclusive, of this
34 act is \$1,000 or more.

35 2. As used in this section:

36 (a) "Governmental entity" means:

37 (1) The government of this State;

38 (2) An agency of the government of this State;

39 (3) A political subdivision of this State; and

40 (4) An agency of a political subdivision of this State.

41 (b) "Public-private partnership" means a contract entered into by a person
42 and a governmental entity for the support of an entertainment facility.

43 Sec. 18. The Bureau of Consumer Protection in the Office of the Attorney
44 General shall establish a toll-free statewide hotline and an Internet website by
45 which a person may file a complaint relating to a suspected violation of sections 3
46 to 18, inclusive, of this act.

47 Sec. 19. NRS 598.0903 is hereby amended to read as follows:

48 598.0903 As used in NRS 598.0903 to 598.0999, inclusive, and section 2 of
49 this act, unless the context otherwise requires, the words and terms defined in NRS
50 598.0905 to 598.0947, inclusive, and section 2 of this act have the meanings
51 ascribed to them in those sections.

1 **Sec. 20.** NRS 598.0953 is hereby amended to read as follows:

2 598.0953 1. Evidence that a person has engaged in a deceptive trade
3 practice is prima facie evidence of intent to injure competitors and to destroy or
4 substantially lessen competition.

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

9 **Sec. 21.** NRS 598.0955 is hereby amended to read as follows:

10 598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, *and*
11 *section 2 of this act* do not apply to:

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

14 (b) Publishers, including outdoor advertising media, advertising agencies,
15 broadcasters or printers engaged in the dissemination of information or
16 reproduction of printed or pictorial matter who publish, broadcast or reproduce
17 material without knowledge of its deceptive character.

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

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

25 **Sec. 22.** NRS 598.0963 is hereby amended to read as follows:

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

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

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

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

46 **Sec. 23.** NRS 598.0967 is hereby amended to read as follows:

47 598.0967 1. The Commissioner and the Director, in addition to other
48 powers conferred upon them by NRS 598.0903 to 598.0999, inclusive, *and section*
49 *2 of this act*, may issue subpoenas to require the attendance of witnesses or the
50 production of documents, conduct hearings in aid of any investigation or inquiry
51 and prescribe such forms and adopt such regulations as may be necessary to
52 administer the provisions of NRS 598.0903 to 598.0999, inclusive *H*, *and section*
53 *2 of this act*. Such regulations may include, without limitation, provisions

concerning the applicability of the provisions of NRS 598.0903 to 598.0999, inclusive, **and section 2 of this act** to particular persons or circumstances.

2. Except as otherwise provided in this subsection, service of any notice or subpoena must be made by certified mail with return receipt or as otherwise allowed by law. An employee of the Consumer Affairs Division of the Department of Business and Industry may personally serve a subpoena issued pursuant to this section.

Sec. 24. NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, **and section 2 of this act**, the Commissioner may issue an order directed to the person to show cause why the Director should not order the person to cease and desist from engaging in the practice and to pay an administrative fine. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.

2. An administrative hearing on any action brought by the Commissioner must be conducted before the Director or his or her designee.

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

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

(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the Director or his or her designee free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive **††, and section 2 of this act;**

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

(d) Impose an administrative fine of \$1,000 or treble the amount of restitution ordered, whichever is greater.

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

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

5. If a person fails to comply with any provision of an order issued pursuant to subsection 3, the Commissioner or the Director may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his

1 or her principal place of business requesting the court to enforce the provisions of
2 the order or to provide any other appropriate injunctive relief.

3 6. If the court finds that:

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

5 (b) The proceedings by the Director or his or her designee concerning the
6 written report and any order issued pursuant to subsection 3 are in the interest of the
7 public; and

8 (c) The findings of the Director or his or her designee are supported by the
9 weight of the evidence,

10 ➤ the court shall issue an order enforcing the provisions of the order of the Director
11 or his or her designee.

12 7. An order issued pursuant to subsection 6 may include:

13 (a) A provision requiring the payment to the Consumer Affairs Division of the
14 Department of Business and Industry of a penalty of not more than \$5,000 for each
15 act amounting to a failure to comply with the Director's or designee's order;

16 (b) An order that the person cease doing business within this State; and

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

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

21 9. Upon the violation of any judgment, order or decree issued pursuant to
22 subsection 6 or 7, the Commissioner, after a hearing thereon, may proceed in
23 accordance with the provisions of NRS 598.0999.

24 **Sec. 25.** NRS 598.0985 is hereby amended to read as follows:

25 598.0985 Notwithstanding the requirement of knowledge as an element of a
26 deceptive trade practice, and notwithstanding the enforcement powers granted to
27 the Commissioner or Director pursuant to NRS 598.0903 to 598.0999, inclusive,
28 *and section 2 of this act*, whenever the district attorney of any county has reason to
29 believe that any person is using, has used or is about to use any deceptive trade
30 practice, knowingly or otherwise, he or she may bring an action in the name of the
31 State of Nevada against that person to obtain a temporary or permanent injunction
32 against the deceptive trade practice.

33 **Sec. 26.** NRS 598.0993 is hereby amended to read as follows:

34 598.0993 The court in which an action is brought pursuant to NRS 598.0979
35 and 598.0985 to 598.099, inclusive, may make such additional orders or judgments
36 as may be necessary to restore to any person in interest any money or property, real
37 or personal, which may have been acquired by means of any deceptive trade
38 practice which violates any of the provisions of NRS 598.0903 to 598.0999,
39 inclusive, *and section 2 of this act*, but such additional orders or judgments may be
40 entered only after a final determination has been made that a deceptive trade
41 practice has occurred.

42 **Sec. 27.** NRS 598.0999 is hereby amended to read as follows:

43 598.0999 1. Except as otherwise provided in NRS 598.0974, a person who
44 violates a court order or injunction issued pursuant to the provisions of NRS
45 598.0903 to 598.0999, inclusive, *and section 2 of this act*, upon a complaint
46 brought by the Commissioner, the Director, the district attorney of any county of
47 this State or the Attorney General shall forfeit and pay to the State General Fund a
48 civil penalty of not more than \$10,000 for each violation. For the purpose of this
49 section, the court issuing the order or injunction retains jurisdiction over the action
50 or proceeding. Such civil penalties are in addition to any other penalty or remedy
51 available for the enforcement of the provisions of NRS 598.0903 to 598.0999,
52 inclusive **H**, *and section 2 of this act*.

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

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

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

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

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

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

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

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, *and section 2 of this act*, 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:

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

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

➤ The court may grant or deny the relief sought or may order other appropriate relief.

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

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

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

➤ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 28. NRS 11.190 is hereby amended to read as follows:

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

1. Within 6 years:

(a) Except as otherwise provided in NRS 62B.420 and 176.275, an action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

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

2. Within 4 years:

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

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

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

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, *and section 2 of this act*, but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

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

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

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

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

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

4. Within 2 years:

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

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

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

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

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this paragraph relating to an action to recover

1 damages for injuries to a person apply only to causes of action which accrue after
2 March 20, 1951.

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

4 5. Within 1 year:

5 (a) An action against an officer, or officer de facto to recover goods, wares,
6 merchandise or other property seized by the officer in his or her official capacity, as
7 tax collector, or to recover the price or value of goods, wares, merchandise or other
8 personal property so seized, or for damages for the seizure, detention or sale of, or
9 injury to, goods, wares, merchandise or other personal property seized, or for
10 damages done to any person or property in making the seizure.

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

14 **Sec. 29.** NRS 41.600 is hereby amended to read as follows:

15 41.600 1. An action may be brought by any person who is a victim of
16 consumer fraud.

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

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

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

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

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

22 (e) A deceptive trade practice as defined in NRS 598.0915 to 598.0925,
23 inclusive ~~H~~, *and section 2 of this act.*

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

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

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

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

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