

Assembly Bill No. 359– Assemblywomen
Considine; and Kasama

CHAPTER.....

AN ACT relating to trade practices; providing that it is a deceptive trade practice not to provide certain translations in a language other than English of certain contracts, agreements or disclosures to certain persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 4 of this bill requires a business and an agent or employee of a business that advertises in a language other than English and negotiates certain transactions in a language other than English to provide a translation of the contract or agreement that results from such advertising and negotiations in the language that was used in the advertisement and negotiation to the person who is party to the contract. **Section 4** requires such translated contracts or agreements to be provided before the execution of the contract or agreement and to include every term and condition in the contract or agreement. **Section 5** of this bill provides that if the business is a financial institution that is required to provide certain disclosures to comply with the federal Consumer Leasing Act and the Truth in Lending Act, such disclosures are required to be translated into the same language as the contract or agreement. **Section 5** requires such translated disclosures to be provided before the execution of the contract or agreement. **Section 8** provides that certain words, expressions and numerals are not required to be translated. **Section 9** of this bill authorizes a person who is aggrieved by a party that fails to comply with the provisions of **sections 3-9** of this bill to rescind the contract or agreement. **Section 4** provides that the provisions of **section 4**, and, as a result, the provisions of this bill, do not apply to a person who: (1) is a bank, savings and loan association, savings bank, thrift company or credit union; (2) has a physical location; and (3) engages in a transaction other than the issuance of a credit card or an automobile loan.

Existing law provides that a variety of actions constitute deceptive trade practices. (NRS 118A.275, 205.377, 228.620, 370.695, 597.997, 603.170, 604B.910, 676A.770; chapter 598 of NRS) Existing law provides that evidence which shows that a person has engaged in a deceptive trade practice is prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition. (NRS 598.0953) Unless a fine has been previously imposed against a person committing a deceptive trade practice by the Department of Motor Vehicles, existing law authorizes a court to impose a civil penalty of not more than \$12,500 for each violation upon a person whom the court finds has engaged in a deceptive trade practice. (NRS 598.0973) Additionally, existing law authorizes a court to make such additional orders or judgments as may be necessary to restore to any person in interest any money or property which may have been acquired by means of any deceptive trade practice. (NRS 598.0993) In addition to these mechanisms, existing law provides that when the Commissioner of Consumer Affairs or the Director of the Department of Business and Industry has cause to believe that a person has engaged or is engaging in any deceptive trade practice, the Commissioner or Director may request that the Attorney General represent him or her in instituting an appropriate legal proceeding, including an application for an injunction or temporary restraining order. (NRS 598.0979) Existing law provides that if a person violates a court order or injunction resulting from a complaint



brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General, the person is required to pay a civil penalty of not more than \$10,000 for each violation. Furthermore, if a court finds that a person has willfully engaged in a deceptive trade practice, the person who committed the violation: (1) may have to pay not more than \$5,000 for each violation; and (2) is guilty of a misdemeanor for the first offense, a gross misdemeanor for the second offense and a category D felony for the third and all subsequent offenses. (NRS 598.0999) **Section 2** of this bill provides that a person engages in a deceptive trade practice when, in the course of his or her business or occupation, he or she knowingly violates the provisions of **sections 3-9**. **Sections 10-22** of this bill make conforming changes to indicate the placement of **section 2** in the Nevada Revised Statutes.

Existing law provides that certain deceptive trade practices constitute consumer fraud. (NRS 41.600) Existing law additionally authorizes the Department of Motor Vehicles to impose an administrative fine of not more than \$10,000 against any person who engages in a deceptive trade practice. (NRS 482.554) Existing law provides that a person is deemed to engage in a deceptive trade practice in the business of automotive repairs if the person engages in certain deceptive trade practices that involve the repair of a motor vehicle set forth in existing law. (NRS 487.6889, 598.0915-598.0925) **Sections 20-22** of this bill include the deceptive trade practice created by **section 2** in the list of actions that qualify as deceptive trade practices.

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

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 9, 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 9, inclusive, of this act.*

Sec. 3. *1. As used in sections 3 to 9, inclusive, of this act, unless the context otherwise requires, “contract or agreement” means the document that creates the rights and obligations of the parties which results from a negotiation or transaction described in section 4 of this act and which is not excluded pursuant to subsection 4 of section 4 of this act.*

2. The term includes, without limitation, any subsequent document that makes substantial changes to the rights and obligations of the parties.

3. The term does not include:

(a) Any subsequent documents authorized or contemplated by the original document or the document described in subsection 2.



Such subsequent documents that are authorized or contemplated include, without limitation:

- (1) Periodic statements;*
- (2) Sales slips or invoices which represent purchases made pursuant to a credit card agreement;*
- (3) Memoranda of purchases in an add-on sale; and*
- (4) Documents relating to the refinancing of a purchase as provided for or required by the original document or the document described in subsection 2.*

(b) Matters incorporated during the regular course of business in contracts or agreements that result from a transaction listed in paragraph (b) of subsection 3 of section 4 of this act. Such matters include, without limitation:

- (1) Rules and regulations governing a tenancy; and*
- (2) Inventories of furnishings.*

Sec. 4. *Except as otherwise provided in subsection 4 and section 8 of this act:*

1. A person who, in the course of his or her business or occupation, advertises in a language other than English and negotiates orally or in writing any of the transactions listed in subsection 3 in a language other than English, or who allows an employee or agent of the person to advertise in a language other than English and to negotiate orally or in writing any of the transactions listed in subsection 3 in a language other than English, shall deliver a translation of the contract or agreement that results from such advertising and negotiations in the language that was used in the advertisement and negotiation of the contract or agreement to the person who is a party to the contract or agreement and to any other person who may sign the contract or agreement.

2. The translation of the contract or agreement required by subsection 1 must:

- (a) Be provided to the person who is a party to the contract or agreement and to any other person who may sign the contract or agreement before the execution of the contract or agreement; and*
- (b) Include, without limitation, every term and condition in the contract or agreement.*

3. A person must provide pursuant to subsection 1 a translation of a contract or agreement that results from the following transactions:

- (a) A loan or extension of credit that is secured by property, other than real property, that is used for personal, family or household purposes;*



(b) A lease, sublease, rental contract or agreement or other contract or agreement containing a term of tenancy if the lease, sublease, rental contract or agreement or other contract or agreement:

(1) Is for a period that is at least 1 month; and

(2) Applies to a dwelling, apartment, mobile home or other dwelling unit that is used as a residence; or

(c) Except as otherwise provided in this paragraph, an unsecured loan that is used for personal, family or household purposes. A credit instrument, as defined in NRS 463.01467, is not an unsecured loan for the purposes of this paragraph.

4. The provisions of this section do not apply to a person who:

(a) Is a bank, savings and loan association, savings bank, thrift company or credit union;

(b) Has a physical location; and

(c) Engages in a transaction other than:

(1) The issuance of a credit card, as defined in NRS 97A.050; or

(2) An automobile loan.

5. As used in this section, "automobile loan" means a loan or an extension of credit that is expressly intended to finance the purchase of a motor vehicle, as defined in NRS 482.075, when the loan or credit is secured by the motor vehicle being purchased.

Sec. 5. 1. Except as otherwise provided in subsection 4 of section 4 of this act and section 8 of this act, if a financial institution is required pursuant to Regulation M or Regulation Z to provide a disclosure to a person in addition to any contract or agreement described in section 4 of this act, the financial institution shall be deemed to be in compliance with section 4 of this act if:

(a) The disclosure required pursuant to Regulation M or Regulation Z is translated into the same language that the contract or agreement was translated pursuant to section 4 of this act; and

(b) The translated disclosure is provided to the person who is a party to the contract or agreement and to any other person who may sign the contract or agreement before the execution of the contract or agreement.

2. As used in this section:

(a) "Consumer Leasing Act" means the federal Consumer Leasing Act, as amended, 15 U.S.C. §§ 1667 et seq.



(b) “Regulation M” means the federal regulations, as amended, 12 C.F.R. Part 1013, adopted pursuant to the Consumer Leasing Act and commonly known as Regulation M.

(c) “Regulation Z” means the federal regulations, as amended, 12 C.F.R. Part 226, adopted pursuant to the Truth in Lending Act and commonly known as Regulation Z.

(d) “Truth in Lending Act” means the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq.

Secs. 6 and 7. (Deleted by amendment.)

Sec. 8. A translation that is required pursuant to sections 4 and 5 of this act, if applicable, may retain the following elements of the executed English language contract or agreement or disclosure, if applicable, without translation:

1. Names and titles of persons;
2. Addresses;
3. Brand names;
4. Trade names;
5. Trademarks;
6. Registered service marks;
7. Full or abbreviated designations of the make and model of goods or services;
8. Alphanumeric codes, numerals, dollar amounts expressed in numerals and dates; and
9. Individual words or expressions that do not have a generally accepted non-English translation.

Sec. 9. If a person fails to comply with the provisions of sections 3 to 9, inclusive, of this act, the aggrieved party may rescind the contract or agreement.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



receipt requested. An employee of the Attorney General may personally serve the subpoena.

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

598.0967 1. The Commissioner and the Director, in addition to other powers conferred upon them by NRS 598.0903 to 598.0999, inclusive, **and section 2 of this act**, may issue subpoenas to require the attendance of witnesses or the production of documents, conduct hearings in aid of any investigation or inquiry and prescribe such forms and adopt such regulations as may be necessary to administer the provisions of NRS 598.0903 to 598.0999, inclusive **H**, **and section 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. 15. 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 ~~H~~, 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 or her principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

6. If the court finds that:

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

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

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



↳ the court shall issue an order enforcing the provisions of the order of the Director or his or her designee.

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

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

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

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

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

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

Sec. 16. NRS 598.0985 is hereby amended to read as follows:

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

Sec. 17. NRS 598.0993 is hereby amended to read as follows:

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

Sec. 18. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, **and section**



2 of this act upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than \$10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive **H**, **and section 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, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, 598.840 to 598.966, inclusive, or 598.9701 to 598.9718, 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. 19. 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 damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

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

5. Within 1 year:

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

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

Sec. 20. NRS 41.600 is hereby amended to read as follows:

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

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

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

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

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

(d) An act prohibited by NRS 482.351; or

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

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

(a) Any damages that the claimant has sustained;

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

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

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



Sec. 21. NRS 482.554 is hereby amended to read as follows:

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

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

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

(1) Fails to return any down payment or other consideration in full, including, returning a vehicle accepted in trade;

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

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

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

(c) Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, *and section 2 of this act* that involves the purchase and sale or lease of a motor vehicle.

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

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

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

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

Sec. 22. NRS 487.6889 is hereby amended to read as follows:

487.6889 A person shall be deemed to be engaged in a “deceptive trade practice” if, in the course of his or her business or occupation, the person:



1. Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, *and section 2 of this act* that involves the repair of a motor vehicle; or
2. Engages in any other acts prescribed by the Director by regulation as a deceptive trade practice.

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