

Amendment No. 594

Assembly Amendment to Senate Bill No. 349 First Reprint (BDR 43-855)

Proposed by: Assembly Committee on Growth and Infrastructure

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

Adoption of this amendment will REMOVE the 2/3s majority vote requirement from S.B. 349 R1.

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.

JDK/JFD



Date: 5/23/2023

S.B. No. 349—Revises provisions relating to document preparation services.
(BDR 43-855)



SENATE BILL NO. 349—SENATOR FLORES

MARCH 21, 2023

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to document preparation services.
(BDR 43-855)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to document preparation services; authorizing a document preparation service to use the name of the Department of Motor Vehicles in an advertisement under certain circumstances; requiring, under certain circumstances, a document preparation service to request an amended registration from the Secretary of State; making it unlawful for a person to represent himself or herself as a document preparation service if the person is not registered as a document preparation service; setting forth the form for statements that must be included in any advertisement for services of a document preparation service; authorizing, under certain circumstances, the Secretary of State to suspend or revoke the registration of a document preparation service or to assess a ~~fe~~**fe** penalty; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from using the name, service marks, trademarks or logo of the Department of Motor Vehicles in an advertisement unless the person is an appointed agent of the Department and has obtained the written permission of the Department for such use. (NRS 482.160) **Section 1** of this bill provides a limited exception from that general prohibition by authorizing a document preparation service to use the term "Department of Motor Vehicles" or "DMV" in an advertisement if: (1) the term is followed by the term "services," "registration services" or other similar language; and (2) the advertisement includes a clear and conspicuous statement that the document preparation service is a third-party business not affiliated with the Department.

Existing law requires a person who wishes to engage in the business of a document preparation service to register with the Secretary of State. (NRS 240A.100) **Section 4** of this bill provides that it is unlawful for a person to: (1) represent himself or herself as a document preparation service if the person has not registered as a document preparation service, or if his or her registration is expired, revoked or suspended or is otherwise not in good standing; or (2) submit an application for registration as a document preparation service that contains a substantial and material misstatement or omission of fact.

Section 3 of this bill requires a registrant to submit to the Secretary of State a request for an amended registration ~~for, along with a fee of \$10.~~ if the registrant changes his or her: (1)

mailing address, county or residence or place of business or employment; or (2) name and the registrant intends to use the new name in the performance of document preparation services.

Existing law sets forth certain requirements for any advertisement for the service of a registrant, including that the advertisement include a statement that the registrant is not an attorney authorized to practice in this State and is prohibited from providing legal advice or legal representation to any person. (NRS 240A.150) **Section 5** of this bill sets forth: (1) the specific words that must be included in such statement; and (2) certain penalties if the Secretary of State finds a person ~~[guilty of a]~~ in violation of such provisions.

Existing law prohibits a registrant from: (1) retaining any fees or costs for services not performed or costs not incurred after the date of last service performed for a client; (2) making certain promises, or statements; (3) using certain terms in an advertisement or written description of the registrant or services provided by the registrant; (4) representing himself or herself as a paralegal or legal assistant; (5) with certain exceptions, negotiating concerning the rights or responsibilities of a client; (6) with certain exceptions, appearing on behalf of a client in a court proceeding or other formal adjudicative proceeding; (7) with certain exceptions, providing certain advice, explanations, opinions or recommendations to a client; or (8) seeking or obtaining from a client a waiver of any provision of law relating to document preparation services. (NRS 240A.240) **Section 6** of this bill sets forth certain penalties which may be imposed if the Secretary of State finds a person ~~[guilty of a]~~ in violation of such provisions.

Existing law : (1) authorizes the Secretary of State to conduct or cause to be conducted an investigation if the Secretary of State obtains information that a provision of law, regulation or order relating to document preparation services has been violated ~~[]~~ ; and (2) requires the Secretary of State to conduct a hearing before imposing any fine for such a violation. (NRS 240A.260) **Section 7 of this bill** provides that if, within a reasonable period of time, a registrant fails to provide the Secretary of State with any information requested by the Secretary of State during an investigation of an alleged violation by the registrant, the Secretary of State may suspend ~~[, revoke]~~ or refuse to renew the registration of the ~~[registration.]~~ registrant. Section 7 removes the requirement for the Secretary of State to conduct a hearing before imposing such a fine, and instead requires the Secretary of State to provide an opportunity for a hearing. Section 7 also requires the Secretary of State, upon receiving a complaint alleging a violation of the provisions of law governing document preparation services, to provide notice of the complaint to the document preparation service or other person who is the subject of the complaint.

Existing law authorizes the Secretary of State to deny, suspend, revoke or refuse to renew the registration of any person who violates a provision of law relating to document preparation services. (NRS 240A.270) **Section 8** of this bill authorizes the Secretary of State to suspend or revoke the registration of a registrant pending a hearing if the Secretary of State believes it is in the public interest or is necessary to protect the public.

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

Section 1. NRS 482.160 is hereby amended to read as follows:

482.160 1. The Director may adopt and enforce such administrative regulations as are necessary to carry out the provisions of this chapter.

2. The Director may establish branch offices as provided in NRS 481.055, and may by contract appoint any person or public agency as an agent to assist in carrying out the duties of the Department pursuant to this chapter.

3. Except as otherwise provided in this subsection, the contract with each agent appointed by the Department in connection with the registration of motor vehicles and issuance of license plates may provide for compensation based upon the reasonable value of the services of the agent but must not exceed \$2 for each registration. An authorized inspection station or authorized station that issues

certificates of registration pursuant to NRS 482.281 is not entitled to receive compensation from the Department pursuant to this subsection.

4. Except as otherwise provided in this section, no person may use in an advertisement:

(a) The name, service marks, trademarks or logo of the Department; or

(b) A service mark, trademark or logo designed to closely resemble a service mark, trademark or logo of the Department and intended to mislead a viewer to believe that the service mark, trademark or logo is the service mark, trademark or logo of the Department.

5. An agent appointed pursuant to subsection 2 or NRS 487.815 may use the name, service marks, trademarks or logo of the Department in an advertisement if the agent has obtained the written permission of the Department for such use.

6. A document preparation service registered pursuant to chapter 240A of NRS may use the term "Department of Motor Vehicles" or "DMV" in an advertisement if:

(a) The term is immediately followed by the term "services" or "registration services" or other similar language which clearly indicates that the document preparation service is a third-party business and that the advertisement is not an advertisement of the Department; and

(b) The advertisement includes a clear and conspicuous statement that the document preparation service is a third-party business not affiliated with the Department. The statement must be of a conspicuous size, if in writing, and must appear in substantially the following form:

THIS DOCUMENT PREPARATION SERVICE IS A THIRD-PARTY BUSINESS NOT AFFILIATED WITH THE NEVADA DEPARTMENT OF MOTOR VEHICLES.

Sec. 2. Chapter 240A of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. 1. If, at any time during his or her appointment, a registrant changes his or her mailing address, county of residence or place of business or employment, the registrant shall submit to the Secretary of State a request for an amended registration on a form provided by the Secretary of State. The request must:

(a) Include the new information; and

(b) Be submitted within 30 days after making the change.

2. The Secretary of State may suspend the registration of a registrant who fails to provide to the Secretary of State notice of a change in any of the information specified in subsection 1.

3. If a registrant changes his or her name and the registrant intends to use his or her new name in performing document preparation services, the registrant shall submit to the Secretary of State a request for an amended registration on a form provided by the Secretary of State. The request must:

(a) Include the new name and signature and the address of the registrant;

and

(b) Be submitted within 30 days after making the change. ~~It and~~

~~(c) Be accompanied by a fee of \$10.~~

4. Upon receipt of a request for an amended registration, ~~and the appropriate fee,~~ the Secretary of State shall issue an amended registration.

Sec. 4. 1. It is unlawful for a person to:

(a) Represent himself or herself as a document preparation service if the person has not registered as a document preparation service pursuant to this

chapter, or if his or her registration is expired, revoked or suspended or is otherwise not in good standing.

(b) Submit an application for registration as a document preparation service that contains a substantial and material misstatement or omission of fact.

2. Any person who violates a provision of paragraph (a) of subsection 1 is liable for a ~~civil~~ penalty of not more than \$1,000 for each violation, plus reasonable ~~attorney's~~ investigative fees and costs.

3. The Secretary of State may request that the Attorney General bring an action to enjoin any violation of paragraph (a) of subsection 1 and recover any penalties, attorney's fees and costs.

4. Any person who is aware of a violation of this chapter by a registrant or a person applying for registration as a document preparation service may file a complaint with the Secretary of State setting forth the details of the violation that are known by the person who is filing the complaint.

Sec. 5. NRS 240A.150 is hereby amended to read as follows:

240A.150 1. Any advertisement for the services of a registrant which the registrant disseminates or causes to be disseminated must include a ~~clear and conspicuous~~ statement ~~[that the registrant is not an attorney authorized to practice in this State and is prohibited from providing legal advice or legal representation to any person.~~

~~2. The statement required by subsection 1 to be included in an advertisement must:~~

~~(a) Be~~ in the same language as the rest of the advertisement. ~~}; and~~

~~(b) Be in the form prescribed by regulation of the Secretary of State.~~

~~3. The notice statement must be of a conspicuous size, if in writing, and must appear in substantially the following form:~~

I AM NOT AN ATTORNEY IN THE STATE OF NEVADA. I AM NOT ~~LICENSED~~ AUTHORIZED TO GIVE LEGAL ADVICE OR LEGAL REPRESENTATION. I MAY NOT ACCEPT FEES FOR GIVING LEGAL ADVICE OR LEGAL REPRESENTATION.

2. A person shall not disseminate or cause to be disseminated any advertisement or other statement that he or she is engaged in the business of a document preparation service in this State unless he or she has complied with all the applicable requirements of this chapter.

3. If the Secretary of State finds a registrant ~~guilty of a~~ in violation of the provisions of subsection 1, the Secretary of State ~~shall~~ may:

(a) Suspend the registration of the registrant for not less than 1 year.

(b) Revoke the registration of the registrant for a third or subsequent offense.

(c) Assess a ~~civil~~ penalty of not more than \$1,000 for each violation.

4. Unless a greater penalty is provided pursuant to NRS 240A.290, a registrant who is found guilty in a criminal prosecution of violating the provisions of subsection 1 shall be punished by a fine of ~~not~~ not less than \$100 or more than ~~(\$1,000)~~ \$5,000 for each violation.

Sec. 6. NRS 240A.240 is hereby amended to read as follows:

240A.240 1. A registrant shall not:

(a) After the date of the last service performed for a client, retain any fees or costs for services not performed or costs not incurred.

(b) Make, orally or in writing:

(1) A promise of the result to be obtained by the filing or submission of any document, unless the registrant has some basis in fact for making the promise;

(2) A statement that the registrant has some special influence with or is able to obtain special treatment from the court or agency with which a document is to be filed or submitted; or

(3) A false or misleading statement to a client if the registrant knows that the statement is false or misleading or knows that the registrant lacks a sufficient basis for making the statement.

(c) Except as otherwise provided in subsection 3, in any advertisement or written description of the registrant or the services provided by the registrant, or on any letterhead or business card of the registrant, use the term "legal aid," "legal services," "law office," "notario," "notario publico," "notary public," "notary," "paralegal," "legal assistant," "licensed," "licenciado," "attorney," "lawyer" or any similar term, in English, Spanish or any other language, which implies that the registrant:

(1) Offers services without charge if the registrant does not do so;

(2) Is an attorney authorized to practice law in this State; or

(3) Is acting under the direction and supervision of an attorney.

(d) Represent himself or herself, orally or in writing, as a paralegal or legal assistant which implies that the registrant is acting under the direction and supervision of an attorney licensed to practice law in this State.

(e) Except as otherwise provided in subsection 2, negotiate with another person concerning the rights or responsibilities of a client, communicate the position of a client to another person or convey the position of another person to a client.

(f) Except as otherwise provided in subsection 2, appear on behalf of a client in a court proceeding or other formal adjudicative proceeding, unless the registrant is ordered to appear by the court or presiding officer.

(g) Except as otherwise provided in subsection 2, provide any advice, explanation, opinion or recommendation to a client about possible legal rights, remedies, defenses, options or the selection of documents or strategies, except that a registrant may provide to a client published factual information, written or approved by an attorney, relating to legal procedures, rights or obligations.

(h) Seek or obtain from a client a waiver of any provision of this chapter. Any such waiver is contrary to public policy and void.

2. The provisions of paragraphs (e), (f) and (g) of subsection 1 do not apply to a registrant to the extent that compliance with such provisions would violate federal law.

3. A registrant who is also a notary public appointed by the Secretary of State pursuant to chapter 240 of NRS and in good standing with the Secretary of State may, in any advertisement or written description of the registrant or the services provided by the registrant, use the term "notary public."

4. If the Secretary of State finds a registrant ~~guilty of a~~ in violation of the provisions of subsection 1, the Secretary of State ~~shall~~ may:

(a) **Suspend the registration of the registrant for not less than 1 year.**

(b) **Revoke the registration of the registrant for a third or subsequent offense.**

(c) **Assess a ~~civil~~ penalty of not more than \$1,000 for each violation.**

Sec. 7. NRS 240A.260 is hereby amended to read as follows:

240A.260 1. If the Secretary of State obtains information that a provision of this chapter or a regulation or order adopted or issued pursuant thereto has been violated by a registrant or another person, the Secretary of State may conduct or cause to be conducted an investigation of the alleged violation.

2. **If, within a reasonable period of time, a registrant fails to provide the Secretary of State with any information requested by the Secretary of State during an investigation of an alleged violation by the registrant, the Secretary of State may suspend ~~or revoke~~ or refuse to renew the registration of the registrant.**

3. If, after investigation, the Secretary of State determines that a violation has occurred, the Secretary of State may:

(a) Serve, by certified mail addressed to the person who has committed the violation, a written order directing the person to cease and desist from the conduct constituting the violation. The order must notify the person that any willful violation of the order may subject the person to prosecution and criminal penalties pursuant to NRS 240A.290 and ~~feivill~~ penalties pursuant to this section and NRS 240A.280.

(b) If a registrant has committed the violation:

(1) ~~Begin proceedings pursuant to NRS 240A.270 to revoke~~ *Revoke* or suspend the registration of the registrant; or

(2) ~~After a hearing on the matter, impose~~ *Impose* a ~~feivill~~ penalty of not more than \$1,000 for each violation. The authority of the Secretary of State to impose a ~~feivill~~ penalty applies regardless of whether the person is still a registrant at the time ~~of the hearing~~ *that the penalty is imposed* so long as the person was a registrant at the time that he or she committed the violation. *The Secretary of State shall afford any person upon whom such a penalty is imposed an opportunity for a hearing pursuant to the provisions of NRS 233B.121.*

(c) If a person engaged in the business of a document preparation service and was not a registrant at the time of the violation, after a hearing on the matter, impose a ~~feivill~~ penalty for each violation of not more than \$5,000 or the amount of economic benefit derived from the violation, whichever is greater.

(d) Refer the alleged violation to the Attorney General or a district attorney for commencement of a civil action against the person pursuant to NRS 240A.280.

(e) Refer the alleged violation to the Attorney General or a district attorney for prosecution of the person pursuant to NRS 240A.290.

(f) Take any combination of the actions described in this subsection.

~~3.4~~ 4. Any person who is aware of a violation of this chapter by a document preparation service, a person applying for registration as a document preparation service or a person who is engaging in the business of a document preparation service and is not registered by the Secretary of State pursuant to this chapter may file a complaint with the Secretary of State setting forth the details of the violation that are known by the person who is filing the complaint.

~~4.4~~ 5. *If the Secretary of State receives a complaint alleging a violation of this chapter, the Secretary of State shall notify the document preparation service or other person who is the subject of the complaint. The notice:*

(a) Must be sent by certified mail;

(b) Is deemed to have been received 3 days after the notice is mailed;

(c) Must include, without limitation:

(1) A description of each allegation contained in the complaint;

(2) A statement of each statutory provision which the document preparation service or other person is alleged to have violated;

(3) An explanation of any disciplinary action that may be taken against the document preparation service or other person if the Secretary of State determines that the alleged violation occurred;

(4) A statement that the document preparation service or other person must respond to the notice not later than 15 days after the notice is received; and

(5) Instructions on the manner in which the document preparation service or other person may respond to the notice.

6. Any determination by the Secretary of State that a provision of this chapter or a regulation or order adopted or issued pursuant thereto has been violated by a registrant or another person and the imposition of any ~~feivill~~ penalty by the Secretary of State pursuant to this section is a public record.

1 **Sec. 8.** NRS 240A.270 is hereby amended to read as follows:

2 240A.270 1. The Secretary of State may deny, suspend, revoke or refuse to
3 renew the registration of any person who violates a provision of this chapter or a
4 regulation or order adopted or issued pursuant thereto. Except as otherwise
5 provided in ~~(subsections 2 and 3,)~~ *this section*, a suspension or revocation may be
6 imposed only after a hearing. *The registration of a registrant may be suspended or*
7 *revoked by the Secretary of State pending a hearing if the Secretary of State*
8 *believes it is in the public interest or is necessary to protect the public.*

9 2. The Secretary of State may suspend the registration of any person who is
10 also appointed as a notary public pursuant to NRS 240.010 and whose appointment
11 as a notary public is suspended for violating the provisions of NRS 240.001 to
12 240.169, inclusive, or a regulation or order adopted or issued pursuant thereto. If
13 the Secretary of State suspends the registration of a registrant pursuant to this
14 subsection:

15 (a) The Secretary of State shall notify the registrant in writing of the
16 suspension.

17 (b) The registrant may have his or her registration as a document preparation
18 service reinstated by the Secretary of State if his or her registration as a document
19 preparation service has not expired during the suspension upon a showing that his
20 or her suspension as a notary public has been lifted.

21 3. Except as otherwise provided in subsection 2, the Secretary of State shall
22 immediately revoke the registration of a registrant upon the receipt of an official
23 document or record showing:

24 (a) The entry of a judgment or conviction; or

25 (b) The occurrence of any other event,

26 ➤ that would disqualify the registrant from registration pursuant to subsection 2 of
27 NRS 240A.100.

28 4. Upon the suspension or revocation of or refusal to renew the registration of
29 a document preparation service pursuant to this section, the Secretary of State shall
30 notify the Department of Motor Vehicles of the name of the document preparation
31 service for the purposes of NRS 481.062.

32 **Sec. 9.** This act becomes effective on July 1, 2023.