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SECOND REPRINT

S.B. 261

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

MARCH 15, 2013

JOINT SPONSORS: ASSEMBLYMEN HEALEY;
LIVERMORE AND MUNFORD

Referred to Committee on Commerce, Labor and Energy

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

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

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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 the regulation of trades; prohibiting door-to-door commercial solicitation under certain circumstances; requiring an owner of a business which involves the use of door-to-door commercial solicitation to maintain specified records; requiring the use of identification badges by persons who engage in such solicitation; authorizing the governing body of a county, city or unincorporated town to require a license for the operation of a business which involves the use of such solicitation, and to charge and collect a fee for the license; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

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



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7 required to provide the buyer with a form for giving notice of the cancellation.
8 (NRS 598.230, 598.250)

9 This bill adopts additional provisions for the regulation of door-to-door
10 solicitors. **Section 9** of this bill prohibits door-to-door commercial solicitation by
11 certain persons and requires an owner of a business which involves the use of door-
12 to-door commercial solicitation to maintain specified business records and records
13 relating to agents and employees of the business who engage in such solicitation.
14 **Section 10** of this bill prohibits the owner of such a business or any agent or
15 employee of the business from engaging in door-to-door commercial solicitation if
16 the owner, agent or employee has been convicted of a felony during the preceding 5
17 years or, during the preceding 2 years, has been adjudged to have violated any
18 specified statute relating to deceptive trade practices or the unlawful employment of
19 children.

20 **Sections 17-19** of this bill directly regulate the conduct of door-to-door
21 commercial solicitation. **Section 17** requires a person who engages in such
22 solicitation to display an identification badge that meets the requirements of that
23 section and to exhibit the badge on request by any customer, prospective customer
24 or law enforcement officer. **Section 18** regulates the hours during which door-to-
25 door commercial solicitation may be conducted. **Section 19** makes it unlawful to
26 engage in such solicitation wherever a "no solicitation" or "no trespassing" sign is
27 prominently displayed in public view at certain locations.

28 **Section 24** of this bill provides that any violation of the provisions of this bill
29 constitutes a deceptive trade practice.

30 **Sections 46.2, 46.4 and 46.6** of this bill authorize the governing body of any
31 county, city or unincorporated town, respectively, to: (1) require a license to
32 operate a business which involves the use of door-to-door commercial solicitation;
33 and (2) charge and collect a fee for the issuance and renewal of such a license.
34 **Section 46.8** of this bill exempts any such fee from provisions of existing law
35 which limit increases in fees for business licenses.

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

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 2.** Chapter 598 of NRS is hereby amended by adding
3 thereto the provisions set forth as sections 3 to 27, inclusive, of this
4 act.

5 **Sec. 3.** *As used in sections 3 to 24, inclusive, of this act,*
6 *unless the context otherwise requires, the words and terms defined*
7 *in sections 3.5 to 8, inclusive, of this act have the meanings*
8 *ascribed to them in those sections.*

9 **Sec. 3.5.** *"Commissioner" means the Commissioner of*
10 *Consumer Affairs.*

11 **Sec. 4.** *"Door-to-door commercial solicitation" means*
12 *making or attempting to make personal contact with a person at*
13 *his or her residence, without a prior specific invitation by or*
14 *appointment with the person, primarily for the purpose of:*

15 *1. Soliciting the sale of a service, goods, wares or*
16 *merchandise; or*



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

5 ↳ *The term does not include door-to-door noncommercial*
6 *solicitation.*

7 **Sec. 4.5.** *“Door-to-door noncommercial solicitation” means*
8 *making or attempting to make personal contact with a person at*
9 *his or her residence, without a prior specific invitation by or*
10 *appointment with the person, primarily for the purpose of:*

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

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

18 3. *Personally delivering to the person a handbill or flyer*
19 *advertising a future not-for-profit event, activity or service;*

20 4. *Proselytizing on behalf of a religious organization;*

21 5. *Soliciting support for a political candidate or organization,*
22 *ballot measure or ideology; or*

23 6. *Polling, canvassing or gathering information.*

24 **Sec. 5.** (Deleted by amendment.)

25 **Sec. 5.5.** *“Door-to-door solicitor” means a person who is an*
26 *agent or employee of an owner of a business which involves the*
27 *use of door-to-door commercial solicitation and who engages in*
28 *door-to-door commercial solicitation.*

29 **Sec. 6.** *“Owner of a business which involves the use of door-*
30 *to-door commercial solicitation” or “owner” means a person who:*

31 1. *Engages in door-to-door commercial solicitation*
32 *personally or through an agent or employee; and*

33 2. *Owns a business for which one or more persons engage in*
34 *door-to-door commercial solicitation, without regard to whether*
35 *the door-to-door commercial solicitation is a primary purpose of*
36 *the business.*

37 **Sec. 7.** (Deleted by amendment.)

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

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

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

42 **Sec. 9.** 1. *It is unlawful for any person to engage in door-*
43 *to-door commercial solicitation in this State unless the person is*
44 *an owner of a business which involves the use of door-to-door*
45 *commercial solicitation or a door-to-door solicitor.*



1 2. *It is unlawful for an owner of a business which involves*
2 *the use of door-to-door commercial solicitation to engage in door-*
3 *to-door commercial solicitation in this State, personally or*
4 *through a door-to-door solicitor, unless the owner maintains the*
5 *following records:*

6 (a) *A copy of:*

7 (1) *The owner's state business license issued pursuant to*
8 *chapter 76 of NRS; and*

9 (2) *Any business license, including any license required for*
10 *door-to-door commercial solicitation as authorized by sections*
11 *46.2, 46.4 and 46.6 of this act, which may be required by any local*
12 *government where the owner, personally or through a door-to-*
13 *door solicitor, engages in door-to-door commercial solicitation;*
14 *and*

15 (b) *A list of the door-to-door solicitors who are agents or*
16 *employees of the owner and, for each such door-to-door solicitor:*

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

19 (2) *A complete set of the fingerprints of the door-to-door*
20 *solicitor and written permission authorizing a law enforcement*
21 *agency to forward the fingerprints to the Central Repository for*
22 *Nevada Records of Criminal History for submission to the Federal*
23 *Bureau of Investigation for its report;*

24 (3) *A physical description of the door-to-door solicitor,*
25 *including his or her height, weight, color of eyes and color of hair;*

26 (4) *A color photograph of the door-to-door solicitor, taken*
27 *not more than 6 months preceding the current date, which fairly*
28 *depicts the appearance of the door-to-door solicitor as of the*
29 *current date and is suitable for reproduction on an identification*
30 *badge which meets the requirements of section 17 of this act; and*

31 (5) *The number and state of issuance of the driver's license*
32 *of the door-to-door solicitor, if any, or a copy of another form of*
33 *photo identification issued by a governmental entity.*

34 3. *An owner of a business which involves the use of door-to-*
35 *door commercial solicitation shall make available the records set*
36 *forth in subsection 2 for the inspection of any law enforcement*
37 *officer at all times during the ordinary hours of business.*

38 **Sec. 10.** *An owner of a business which involves the use of*
39 *door-to-door commercial solicitation shall not engage in door-to-*
40 *door commercial solicitation, personally or through a door-to-door*
41 *solicitor, and a door-to-door solicitor shall not engage in door-to-*
42 *door commercial solicitation if the owner or door-to-door solicitor*
43 *has been:*



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1 *1. Convicted of a felony under the laws of this State or an*
2 *equivalent offense under any federal or state law during the*
3 *immediately preceding 5 years; or*

4 *2. Convicted of or otherwise adjudged to have committed any*
5 *violation of a provision of NRS 207.171, 598.0903 to 598.0999,*
6 *inclusive, 598.140 to 598.2801, inclusive, 609.190, 609.221 or*
7 *609.240 to 609.260, inclusive, or sections 3 to 24, inclusive, of this*
8 *act during the immediately preceding 2 years.*

9 **Sec. 11.** (Deleted by amendment.)

10 **Sec. 12.** (Deleted by amendment.)

11 **Sec. 13.** (Deleted by amendment.)

12 **Sec. 14.** (Deleted by amendment.)

13 **Sec. 15.** (Deleted by amendment.)

14 **Sec. 16.** (Deleted by amendment.)

15 **Sec. 17.** *1. If an owner of a business which involves the use*
16 *of door-to-door commercial solicitation personally engages in*
17 *door-to-door solicitation or a door-to-door solicitor engages in*
18 *door-to-door commercial solicitation, the owner or door-to-door*
19 *solicitor shall:*

20 *(a) Conspicuously display an identification badge that meets*
21 *the requirements of this section at all times while engaged in door-*
22 *to-door commercial solicitation.*

23 *(b) Upon the request of a customer, prospective customer or*
24 *law enforcement officer, exhibit his or her identification badge.*

25 *2. For the purposes of this section, an identification badge*
26 *must be a card not smaller than 2 inches by 3 1/2 inches which*
27 *contains:*

28 *(a) The name and a photograph, not smaller than 1 inch by 1*
29 *inch, of the owner of a business which involves the use of door-to-*
30 *door commercial solicitation or door-to-door solicitor, as*
31 *applicable;*

32 *(b) The words "Door-to-door Solicitor"; and*

33 *(c) If the person is an agent or employee of an owner, the*
34 *words "a Representative of" and the name of the owner or the*
35 *owner's business for which the person acts as a door-to-door*
36 *solicitor.*

37 **Sec. 18.** *An owner of a business which involves the use of*
38 *door-to-door commercial solicitation or a door-to-door solicitor*
39 *shall not engage in door-to-door commercial solicitation except*
40 *during the hours of 9 a.m. and 7 p.m. Any solicitation of a*
41 *customer or prospective customer begun during that period must*
42 *be completed within that period.*

43 **Sec. 19.** *It is unlawful:*

44 *1. For an owner of a business which involves the use of door-*
45 *to-door commercial solicitation or a door-to-door solicitor to enter*



1 *or remain upon any public or private premises if a “No*
2 *Solicitation” or “No Trespassing” sign is prominently displayed in*
3 *public view:*

4 *(a) At or near each entrance to the premises; or*

5 *(b) If the premises are located in a gated community, on the*
6 *entrance gate to the community.*

7 *2. For an owner or door-to-door solicitor to obtain an*
8 *invitation to visit a private residence for the purpose of soliciting*
9 *the purchase or sale of goods, services or any other thing of value*
10 *by knowingly making a false or deceptive representation or*
11 *statement.*

12 **Sec. 20.** (Deleted by amendment.)

13 **Sec. 21.** (Deleted by amendment.)

14 **Sec. 22.** (Deleted by amendment.)

15 **Sec. 23.** *The Commissioner may adopt such regulations as*
16 *he or she deems necessary to carry out the provisions of sections 3*
17 *to 24, inclusive, of this act.*

18 **Sec. 24.** *Any violation of sections 3 to 24, inclusive, of this*
19 *act constitutes a deceptive trade practice for the purposes of NRS*
20 *598.0903 to 598.0999, inclusive.*

21 **Sec. 25.** (Deleted by amendment.)

22 **Sec. 26.** (Deleted by amendment.)

23 **Sec. 27.** (Deleted by amendment.)

24 **Sec. 27.5.** NRS 598.0999 is hereby amended to read as
25 follows:

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

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



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

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

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

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

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

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

20 5. If a person violates any provision of NRS 598.0903 to
21 598.0999, inclusive, 598.100 to 598.2801, inclusive, 598.305 to
22 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741
23 to 598.787, inclusive, ~~for~~ 598.840 to 598.966, inclusive, *or sections*
24 *3 to 24, inclusive, of this act*, fails to comply with a judgment or
25 order of any court in this State concerning a violation of such a
26 provision, or fails to comply with an assurance of discontinuance or
27 other agreement concerning an alleged violation of such a provision,
28 the Commissioner or the district attorney of any county may bring
29 an action in the name of the State of Nevada seeking:

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

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

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

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

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



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

3 ↳ The court may grant or deny the relief sought or may order other
4 appropriate relief.

5 **Sec. 28.** (Deleted by amendment.)

6 **Sec. 29.** (Deleted by amendment.)

7 **Sec. 30.** (Deleted by amendment.)

8 **Sec. 31.** (Deleted by amendment.)

9 **Sec. 32.** (Deleted by amendment.)

10 **Sec. 33.** (Deleted by amendment.)

11 **Sec. 34.** (Deleted by amendment.)

12 **Sec. 35.** (Deleted by amendment.)

13 **Sec. 36.** (Deleted by amendment.)

14 **Sec. 37.** (Deleted by amendment.)

15 **Sec. 38.** (Deleted by amendment.)

16 **Sec. 39.** (Deleted by amendment.)

17 **Sec. 40.** (Deleted by amendment.)

18 **Sec. 41.** (Deleted by amendment.)

19 **Sec. 42.** (Deleted by amendment.)

20 **Sec. 43.** (Deleted by amendment.)

21 **Sec. 44.** (Deleted by amendment.)

22 **Sec. 45.** (Deleted by amendment.)

23 **Sec. 46.** (Deleted by amendment.)

24 **Sec. 46.2.** Chapter 244 of NRS is hereby amended by adding
25 thereto a new section to read as follows:

26 **1. The board of county commissioners may:**

27 **(a) Require a license to operate a business which involves the**
28 **use of door-to-door commercial solicitation; and**

29 **(b) Charge and collect a fee for the issuance and renewal of**
30 **such a license.**

31 **2. As used in this section, “door-to-door commercial**
32 **solicitation” has the meaning ascribed to it in section 4 of this act.**

33 **Sec. 46.4.** Chapter 268 of NRS is hereby amended by adding
34 thereto a new section to read as follows:

35 **1. The governing body of an incorporated city may:**

36 **(a) Require a license to operate a business which involves the**
37 **use of door-to-door commercial solicitation; and**

38 **(b) Charge and collect a fee for the issuance and renewal of**
39 **such a license.**

40 **2. As used in this section, “door-to-door commercial**
41 **solicitation” has the meaning ascribed to it in section 4 of this act.**

42 **Sec. 46.6.** Chapter 269 of NRS is hereby amended by adding
43 thereto a new section to read as follows:

44 **1. The town board or board of county commissioners may, for**
45 **an unincorporated town:**



1 (a) *Require a license to operate a business which involves the*
2 *use of door-to-door commercial solicitation; and*

3 (b) *Charge and collect a fee for the issuance and renewal of*
4 *such a license.*

5 2. *As used in this section, "door-to-door commercial*
6 *solicitation" has the meaning ascribed to it in section 4 of this act.*

7 **Sec. 46.8.** NRS 354.5989 is hereby amended to read as
8 follows:

9 354.5989 1. A local government shall not increase any fee
10 for a business license or adopt a fee for a business license issued for
11 revenue or regulation, or both, except as permitted by this section.
12 This prohibition does not apply to fees:

13 (a) Imposed by hospitals, county airports, airport authorities,
14 convention authorities, the Las Vegas Valley Water District or the
15 Clark County Sanitation District;

16 (b) Imposed on public utilities for the privilege of doing
17 business pursuant to a franchise;

18 (c) Imposed in compliance with the provisions of NRS 711.670
19 on video service providers for the privilege of doing business
20 pursuant to chapter 711 of NRS;

21 (d) For business licenses which are calculated as a fraction or
22 percentage of the gross revenue of the business;

23 (e) Imposed pursuant to NRS 244.348, 268.0973, 268.821 or
24 269.182; ~~or~~

25 (f) *Authorized pursuant to section 46.2, 46.4 or 46.6 of this*
26 *act; or*

27 (g) Regulated pursuant to NRS 354.59881 to 354.59889,
28 inclusive.

29 2. The amount of revenue the local government derives or is
30 allowed to derive, whichever is greater, from all fees for business
31 licenses except:

32 (a) The fees excluded by subsection 1, for the fiscal year ended
33 on June 30, 1991; and

34 (b) The fees collected for a particular type of business during the
35 immediately preceding fiscal year ending on June 30 that a local
36 government will not collect in the next subsequent fiscal year,

37 ↪ is the base from which the maximum allowable revenue from
38 such fees must be calculated for the next subsequent fiscal year. To
39 the base must be added the sum of the amounts respectively equal to
40 the product of the base multiplied by the percentage increase in the
41 population of the local government added to the percentage increase
42 in the Consumer Price Index for the year ending on December 31
43 next preceding the year for which the limit is being calculated. The
44 amount so determined becomes the base for computing the allowed
45 increase for each subsequent year.



1 3. A local government may not increase any fee for a business
2 license which is calculated as a fraction or percentage of the gross
3 revenue of the business if its total revenues from such fees have
4 increased during the preceding fiscal year by more than the increase
5 in the Consumer Price Index during that preceding calendar year.
6 The provisions of this subsection do not apply to a fee:

7 (a) Imposed in compliance with the provisions of NRS 711.670
8 on video service providers for the privilege of doing business
9 pursuant to chapter 711 of NRS;

10 (b) Imposed pursuant to NRS 244.348, 268.0973, 268.821 or
11 269.182; ~~or~~

12 (c) *Authorized pursuant to section 46.2, 46.4 or 46.6 of this*
13 *act; or*

14 (d) Regulated pursuant to NRS 354.59881 to 354.59889,
15 inclusive.

16 4. A local government may submit an application to increase
17 its revenue from fees for business licenses beyond the amount
18 allowable pursuant to this section to the Nevada Tax Commission,
19 which may grant the application only if it finds that the rate of a
20 business license of the local government is substantially below that
21 of other local governments in the State.

22 5. The provisions of this section apply to a business license
23 regardless of the fund to which the revenue from it is assigned. An
24 ordinance or resolution enacted by a local government in violation
25 of the provisions of this section is void.

26 6. As used in this section, "fee for a business license" does not
27 include a tax imposed on the revenues from the rental of transient
28 lodging.

29 **Sec. 47.** (Deleted by amendment.)

