
ASSEMBLY BILL NO. 361—ASSEMBLYMAN CARRILLO

MARCH 20, 2017

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing business practices.
(BDR 52-320)

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

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

AN ACT relating to business practices; making the charging of certain fees a deceptive trade practice; revising provisions governing deceptive trade practices relating to gift certificates; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law defines various activities involving businesses and occupations
2 that constitute deceptive trade practices. (NRS 598.0915-598.0925) If a person
3 engages in a deceptive trade practice, the person may be subject to restraint by
4 injunction and the imposition of civil and criminal penalties. (NRS 598.0979,
5 598.0985, 598.0999)

6 **Section 1** of this bill makes it a deceptive trade practice for a person, in the
7 course of his or her business or occupation, to charge a fee to: (1) update or change
8 records relating to a person, including billing or credit information; or (2) speak
9 with a natural person by telephone in lieu of using an automated or computerized
10 telephone system.

11 Existing law makes it a deceptive trade practice for a person, in the course of
12 his or her business or occupation, to issue a gift certificate that expires on a certain
13 date unless the expiration date of the gift certificate or a telephone number for
14 obtaining balance or expiration information is printed on the front or back of the
15 gift certificate in at least 10-point font. (NRS 598.0921) **Section 2** of this bill
16 changes the font size and style for the required information to 12-point bold font
17 and requires its placement only on the front of the gift certificate and on any leaflet,
18 packaging or other written material concerning the gift certificate which is provided
19 to the buyer of the gift certificate.



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

- 1 **Section 1.** NRS 598.092 is hereby amended to read as follows:
2 598.092 A person engages in a “deceptive trade practice” when
3 in the course of his or her business or occupation he or she:
4 1. Knowingly fails to identify goods for sale or lease as being
5 damaged by water.
6 2. Solicits by telephone or door to door as a lessor or seller,
7 unless the lessor or seller identifies himself or herself, whom he or
8 she represents and the purpose of his or her call within 30 seconds
9 after beginning the conversation.
10 3. Knowingly states that services, replacement parts or repairs
11 are needed when no such services, replacement parts or repairs are
12 actually needed.
13 4. Fails to make delivery of goods or services for sale or lease
14 within a reasonable time or to make a refund for the goods or
15 services, if he or she allows refunds.
16 5. Advertises or offers an opportunity for investment and:
17 (a) Represents that the investment is guaranteed, secured or
18 protected in a manner which he or she knows or has reason to know
19 is false or misleading;
20 (b) Represents that the investment will earn a rate of return
21 which he or she knows or has reason to know is false or misleading;
22 (c) Makes any untrue statement of a material fact or omits to
23 state a material fact which is necessary to make another statement,
24 considering the circumstances under which it is made, not
25 misleading;
26 (d) Fails to maintain adequate records so that an investor may
27 determine how his or her money is invested;
28 (e) Fails to provide information to an investor after a reasonable
29 request for information concerning his or her investment;
30 (f) Fails to comply with any law or regulation for the marketing
31 of securities or other investments; or
32 (g) Represents that he or she is licensed by an agency of the
33 State to sell or offer for sale investments or services for investments
34 if he or she is not so licensed.
35 6. Charges a fee for advice with respect to investment of
36 money and fails to disclose:
37 (a) That he or she is selling or offering to lease goods or services
38 and, if he or she is, their identity; or
39 (b) That he or she is licensed by an agency of any state or of the
40 United States to sell or to offer for sale investments or services for
41 investments or holds any other license related to the service he or
42 she is providing.



1 7. Notifies any person, by any means, as a part of an
2 advertising plan or scheme, that he or she has won a prize and that
3 as a condition of receiving the prize he or she must purchase or lease
4 goods or services.

5 8. Knowingly misrepresents the legal rights, obligations or
6 remedies of a party to a transaction.

7 9. Fails, in a consumer transaction that is rescinded, cancelled
8 or otherwise terminated in accordance with the terms of an
9 agreement, advertisement, representation or provision of law, to
10 promptly restore to a person entitled to it a deposit, down payment
11 or other payment or, in the case of property traded in but not
12 available, the agreed value of the property or fails to cancel within a
13 specified time or an otherwise reasonable time an acquired security
14 interest. This subsection does not apply to a person who is holding a
15 deposit, down payment or other payment on behalf of another if all
16 parties to the transaction have not agreed to the release of the
17 deposit, down payment or other payment.

18 10. Fails to inform customers, if he or she does not allow
19 refunds or exchanges, that he or she does not allow refunds or
20 exchanges by:

- 21 (a) Printing a statement on the face of the lease or sales receipt;
- 22 (b) Printing a statement on the face of the price tag; or
- 23 (c) Posting in an open and conspicuous place a sign at least 8 by
24 10 inches in size with boldface letters,
25 ↪ specifying that no refunds or exchanges are allowed.

26 11. Knowingly and willfully violates NRS 597.7118 or
27 597.7125.

28 12. Knowingly takes advantage of another person's inability
29 reasonably to protect his or her own rights or interests in a consumer
30 transaction when such an inability is due to illiteracy, or to a mental
31 or physical infirmity or another similar condition which manifests
32 itself as an incapability to understand the language or terms of any
33 agreement.

34 **13. Charges a fee to a person to:**

- 35 (a) *Change or update any record which relates to that person,*
36 *including, without limitation, billing or credit information; or*
- 37 (b) *Speak to a natural person by telephone in lieu of using an*
38 *automated or computerized telephone system.*

39 **Sec. 2.** NRS 598.0921 is hereby amended to read as follows:

40 598.0921 1. A person engages in a "deceptive trade practice"
41 if, in the course of his or her business or occupation:

- 42 (a) He or she issues a gift certificate that expires on a certain
43 date, unless either of the following is printed plainly and
44 conspicuously on the front ~~for back~~ of the gift certificate *and on*
45 *any brochure, leaflet, pamphlet, packaging or other written*



1 *material provided to the buyer of the gift certificate which contains*
2 *information concerning the gift certificate* in at least ~~10-point~~
3 *12-point bold* font and in such a manner that the print is readily
4 visible to the buyer of the gift certificate before the buyer purchases
5 the gift certificate:

6 (1) The expiration date of the gift certificate; or

7 (2) A toll-free telephone number accompanied by a statement
8 setting forth that the buyer or holder of the gift certificate may call
9 the telephone number to obtain the balance of the gift certificate and
10 the expiration date of the gift certificate;

11 (b) He or she imposes upon the buyer or holder of a gift
12 certificate a service fee, unless each of the following is printed
13 plainly and conspicuously on the front or back of the gift certificate
14 in at least 10-point font and in such a manner that the print is readily
15 visible to the buyer of the gift certificate before the buyer purchases
16 the gift certificate:

17 (1) The amount of the service fee;

18 (2) The event or events that will cause the service fee to be
19 imposed;

20 (3) The frequency with which the service fee will be
21 imposed; and

22 (4) If the service fee will be imposed on the basis of
23 inactivity, the duration of inactivity, which must not be less than 3
24 continuous years of nonuse, that will cause the service fee to be
25 imposed; or

26 (c) Regardless of the notice provided, he or she imposes upon
27 the buyer or holder of a gift certificate:

28 (1) A service fee or a combination of service fees that exceed
29 a total of \$1 per month; or

30 (2) A service fee that commences or is imposed within the
31 first 12 months after the issuance of the gift certificate.

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

33 (a) A gift certificate that is issued as part of an award, loyalty,
34 promotional, rebate, incentive or reward program and for which
35 issuance the issuer does not receive money or any other thing of
36 value;

37 (b) A gift certificate that is sold at a reduced price to an
38 employer or nonprofit or charitable organization, if the expiration
39 date of the gift certificate is not more than 30 days after the date of
40 sale; and

41 (c) A gift certificate that is issued by an establishment licensed
42 pursuant to the provisions of chapter 463 of NRS.

43 3. As used in this section:

44 (a) "Gift certificate" means an instrument or a record evidencing
45 a promise by the seller or issuer of the instrument or record to



1 provide goods or services to the holder of the gift certificate for the
2 value shown in, upon or ascribed to the instrument or record and for
3 which the value shown in, upon or ascribed to the instrument or
4 record is decreased in an amount equal to the value of goods or
5 services provided by the issuer or seller to the holder. The term
6 includes, without limitation, a gift card, certificate or similar
7 instrument. The term does not include:

8 (1) An instrument or record for prepaid telecommunications
9 or technology services, including, without limitation, a card for
10 prepaid telephone services, a card for prepaid technical support
11 services and an instrument for prepaid Internet service purchased or
12 otherwise distributed to a consumer of such services, including,
13 without limitation, as part of an award, loyalty, promotional or
14 reward program; or

15 (2) An instrument or record, by whatever name called, that
16 may be used to obtain goods or services from more than one person
17 or business entity, if the expiration date is printed plainly and
18 conspicuously on the front ~~for back~~ of the instrument or record.

19 (b) "Issue" means to sell or otherwise provide a gift certificate to
20 any person and includes, without limitation, adding value to an
21 existing gift certificate.

22 (c) "Record" means information which is inscribed on a tangible
23 medium or which is stored in an electronic or other medium,
24 including, without limitation, information stored on a
25 microprocessor chip or magnetic strip, and is retrievable in
26 perceivable form.

27 (d) "Service fee" means any charge or fee other than the charge
28 or fee imposed for the issuance of the gift certificate, including,
29 without limitation, a service fee imposed on the basis of inactivity or
30 any other type of charge or fee imposed after the sale of the gift
31 certificate.

32 **Sec. 3.** The provisions of NRS 598.0921, as amended by
33 section 2 of this act, apply only to gift certificates issued on or after
34 July 1, 2017.

35 **Sec. 4.** This act becomes effective on July 1, 2017.

