

---

---

SENATE BILL NO. 185—SENATORS PARKS;  
MANENDO AND SEGERBLOM

PREFILED FEBRUARY 13, 2017

---

JOINT SPONSORS: ASSEMBLYMEN NEAL,  
SPIEGEL AND YEAGER

---

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Prohibits contracts for consumer goods or services from including provisions that interfere with a consumer’s rights to provide certain information to others. (BDR 52-27)

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.

~

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

---

---

AN ACT relating to trade regulations; prohibiting a seller or lessor of consumer goods or services from including certain provisions in agreements with consumers; authorizing a consumer and certain governmental entities to bring an action for the recovery of civil penalties for violating the prohibition; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law regulates trade practices and other commercial activities. (Title 52  
2 of NRS) This bill prohibits a seller or lessor of consumer goods or services from  
3 including in an agreement with a consumer a provision that: (1) limits or requires  
4 the consumer to waive his or her rights to provide a review, comment or other  
5 statement concerning the seller or lessor or the goods or services; (2) imposes a  
6 penalty on the consumer for providing such a review, comment or other statement;  
7 or (3) declares that the provision of such a review, comment or other statement by  
8 the consumer is a breach of the agreement. This bill provides that any such  
9 provision included in an agreement is unenforceable. This bill further provides that  
10 any person who violates its provisions is guilty of a misdemeanor and, in addition  
11 to any criminal penalty, is liable for civil penalties of up to \$2,500 for the person’s



\* S B 1 8 5 \*

12 first violation, up to \$5,000 for each subsequent violation and an additional penalty  
13 of up to \$10,000 if the court finds that the violation is reckless, willful or wanton.  
14 The bill authorizes the consumer, the Attorney General, a district attorney or city  
15 attorney to bring an action to recover the civil penalty and to retain any money  
16 awarded by the court. The bill does not prohibit a person who maintains an online  
17 forum, such as an Internet website, from removing from the forum any statement or  
18 information that the person is lawfully entitled to remove.

---

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

1 **Section 1.** Chapter 597 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 *1. A seller or lessor of consumer goods or services shall not:*

4 *(a) Include in any agreement or proposed agreement with a*  
5 *consumer for the purchase, lease or rental of consumer goods or*  
6 *services any provision that:*

7 *(1) Limits or requires the consumer to waive his or her*  
8 *rights to provide a review, comment or other statement concerning*  
9 *the consumer goods or services or the seller or lessor;*

10 *(2) Imposes a penalty on the consumer for providing such a*  
11 *review, comment or other statement; or*

12 *(3) Declares that the provision of such a review, comment*  
13 *or other statement by the consumer is a breach of the agreement;*

14 *(b) Enforce or threaten to enforce a provision described in*  
15 *paragraph (a); or*

16 *(c) Refuse or threaten to refuse to enter into an agreement*  
17 *with a consumer solely because the consumer does not agree to*  
18 *the inclusion in the agreement of a provision described in*  
19 *paragraph (a).*

20 *2. Any provision that is included in an agreement with a*  
21 *consumer for the purchase, lease or rental of consumer goods or*  
22 *services in violation of subsection 1, with or without consideration,*  
23 *is against public policy and is void and unenforceable.*

24 *3. Any person who violates subsection 1 is guilty of a*  
25 *misdemeanor and, in addition to any criminal penalty, is liable*  
26 *for:*

27 *(a) A civil penalty of not more than:*

28 *(1) For the first violation, \$2,500;*

29 *(2) For the second or subsequent violation, \$5,000 for each*  
30 *violation; and*

31 *(3) If the court finds that the violation is reckless, willful or*  
32 *wanton, \$10,000, in addition to the civil penalty set forth in*  
33 *subparagraph (1) or (2); and*



1       ***(b) The costs incurred to recover the civil penalty, including,***  
2 ***without limitation:***

3           ***(1) The costs, if any, of conducting an investigation into the***  
4 ***violation;***

5           ***(2) Reasonable costs specified in NRS 18.005; and***

6           ***(3) Reasonable attorney's fees.***

7       ***4. An action to recover the civil penalty may be brought by***  
8 ***the consumer, the Attorney General or a district attorney or city***  
9 ***attorney, as appropriate. The action may be instituted in any court***  
10 ***of competent jurisdiction in the city or county in which either***  
11 ***party resides, the defendant can be found or in which the violation***  
12 ***occurred.***

13       ***5. Any money awarded by a court pursuant to subsection 4***  
14 ***must be awarded to the person or governmental entity that brought***  
15 ***the action.***

16       ***6. The civil remedy provided by this section is in addition to,***  
17 ***and not exclusive of, any other available remedy or penalty.***

18       ***7. This section does not prohibit a person who maintains an***  
19 ***online forum, including, without limitation, an Internet website,***  
20 ***from removing from the forum any statement that the person is***  
21 ***lawfully entitled to remove.***

22       ***8. As used in this section:***

23           ***(a) "Consumer" means a natural person.***

24           ***(b) "Consumer goods or services" has the meaning ascribed to***  
25 ***it in NRS 598.170.***

26           ***(c) "Lessor" means a lessor and any agent or employee of the***  
27 ***lessor.***

28           ***(d) "Seller" means a seller and any agent or employee of the***  
29 ***seller.***

30       **Sec. 2.** This act becomes effective on July 1, 2017.

