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SECOND REPRINT

S.B. 235

SENATE BILL NO. 235—SENATORS WOODHOUSE, PARKS, CANCELA,
SPEARMAN; ATKINSON, CANNIZZARO, DENIS, FARLEY,
MANENDO AND SEGERBLOM

MARCH 6, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Provides for the regulation of ticket sales to an athletic contest or live entertainment event in certain circumstances. (BDR 52-672)

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 trade practices; making certain sales of tickets a deceptive trade practice; regulating the manner in which tickets to an athletic contest or live entertainment event may be sold in certain circumstances; requiring certain disclosures to be made by resellers of tickets to an athletic contest or live entertainment event; prohibiting the use of an Internet robot for certain purposes relating to ticket sales; limiting local governments and political subdivisions from certain regulation of ticket sales; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prohibits a number of deceptive trade practices, including, without
2 limitation, pyramid schemes and violations of requirements relating to charitable
3 solicitations, sales promotions, door-to-door sales and grant writing services. (NRS
4 598.110, 598.1305, 598.139, 598.2801, 598.595) Existing law authorizes the
5 Attorney General, the Commissioner of Consumer Affairs and the Director of the
6 Department of Business and Industry to investigate and prosecute deceptive trade
7 practices, which may include, without limitation, criminal prosecution or the
8 imposition of certain civil penalties. (NRS 598.0903-598.0999) **Section 2** of this
9 bill makes a knowing violation of the provisions of this bill relating to ticket sales a
10 deceptive trade practice subject to enforcement as such. **Section 18** of this bill
11 requires the Bureau of Consumer Protection in the Office of the Attorney General



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12 to establish a toll-free statewide hotline and an Internet website by which a person
13 may file a complaint relating to a suspected violation of this bill. **Sections 19-29** of
14 this bill make conforming changes.

15 **Section 13** of this bill specifies which type of resellers are subject to the
16 provisions of this bill. **Section 14** of this bill requires a reseller who sells tickets to
17 an athletic contest or live entertainment event on an Internet website to inform a
18 ticket purchaser that the reseller has not been sanctioned to resell tickets to the
19 athletic contest or live entertainment event for which tickets are being offered by an
20 authorized person associated with the contest or event. **Section 14** also prohibits a
21 reseller from: (1) displaying a trademarked or copyrighted Internet website address
22 or a title, designation, image, mark or other symbol on the Internet website of the
23 reseller without the consent of the trademark or copyright holder; or (2) creating an
24 Internet website that is substantially similar to the Internet website of an
25 entertainment facility, athletic contest or live entertainment event without
26 permission.

27 **Section 15** of this bill requires a reseller to make certain disclosures to a ticket
28 purchaser before completing the resale, including: (1) the amount to be paid by the
29 ticket purchaser for the ticket; (2) the location of any seat associated with the ticket;
30 and (3) the right of the purchaser to a refund if an athletic contest or live
31 entertainment event is cancelled and not rescheduled. **Section 15** further authorizes
32 a reseller to only resell tickets at his or her registered office, established place of
33 business or Internet website and prohibits a reseller from reselling tickets to an
34 athletic contest or live entertainment event before the date for such contest or event
35 has been officially announced, except in certain circumstances. **Section 15**
36 prohibits a reseller from reselling a ticket unless the ticket is in the actual
37 possession of the reseller and is immediately available for delivery to the ticket
38 purchaser, except in certain circumstances. **Section 15** also places various other
39 restrictions on the sale of tickets by a reseller. **Section 15.5** of this bill prohibits a
40 local government or political subdivision from further regulating the sale of tickets,
41 except that a local government or political subdivision may require licensure,
42 collect fees, limit the location of sales and provide for private enforcement.

43 **Section 6.5** of this bill defines "Internet robot" as a software application that
44 attempts to complete or completes an automated transaction on an Internet website.

45 **Section 16** prohibits the use of an Internet robot for the purposes of circumventing
46 the ticket purchasing process on an Internet website or to disguise the identity of
47 the ticket purchaser in order to obtain a greater quantity of tickets than authorized.

48 **Section 16** also authorizes a person injured by the use of an Internet robot in
49 violation of these provisions to bring a civil action to seek: (1) declaratory and
50 injunctive relief; and (2) actual damages or \$100, whichever is greater.

51 **Section 13** of this bill exempts a person from the requirements of this bill if
52 such a person: (1) resells tickets which were obtained for personal use; or (2) is
53 authorized to do so pursuant to **section 5** of this bill. **Section 17** provides that a
54 violation of any of the provisions of this bill is a misdemeanor unless a greater
55 penalty is otherwise provided by law. **Section 17.5** of this bill provides an enhanced
56 penalty for the sale of a ticket in willful and knowing violation of the provisions of
57 this bill to an entertainment facility which is operated by a governmental entity or a
58 public-private partnership.



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

1 **Section 1.** Chapter 598 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 18, inclusive, of this
3 act.

4 **Sec. 2.** *A person engages in a “deceptive trade practice”*
5 *when, in the course of his or her business or occupation, he or she*
6 *knowingly violates a provision of sections 3 to 18, inclusive, of this*
7 *act.*

8 **Sec. 3.** *As used in sections 3 to 18, inclusive, of this act,*
9 *unless the context otherwise requires, the words and terms defined*
10 *in sections 4 to 12, inclusive, of this act have the meanings*
11 *ascribed to them in those sections.*

12 **Sec. 4.** *“Athletic contest” means any contest, game or other*
13 *event involving the athletic or physical skills of an amateur*
14 *athlete, intercollegiate athlete or professional athlete held at an*
15 *entertainment facility for which a ticket is required for admission.*

16 **Sec. 4.5.** *“Athletic team” means a group of persons who*
17 *compete in a contest, game or other event in this State involving*
18 *the athletic or physical skills of an amateur athlete, intercollegiate*
19 *athlete or professional athlete or a person employed by such a*
20 *group.*

21 **Sec. 5. 1.** *“Authorized person” means a person who is*
22 *responsible for directing, financing, managing, participating in,*
23 *promoting, organizing, sponsoring or otherwise directly involved*
24 *in the hosting, staging or presentation of an athletic contest or live*
25 *entertainment event, or the affiliate or agent of any such persons.*

26 **2.** *The term includes, without limitation, an athletic team or a*
27 *person who controls or operates an entertainment facility. The*
28 *term does not include a person whose initial purchase of a ticket*
29 *was completed through the use of an Internet robot.*

30 **Sec. 6.** *“Entertainment facility” means an indoor or outdoor*
31 *area, including, without limitation, an arena, auditorium,*
32 *museum, racetrack or stadium in which an athletic contest or live*
33 *entertainment event is staged in this State and for which a ticket is*
34 *required for admission.*

35 **Sec. 6.5.** *“Internet robot” means a software application that*
36 *attempts to complete or completes an automated transaction on an*
37 *Internet website.*

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

39 **Sec. 8.** *“Live entertainment event” means any activity*
40 *provided for pleasure, enjoyment, recreation, relaxation, diversion*
41 *or other similar purpose by a person who is physically present*
42 *when providing that activity to a group of patrons at an*



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1 *entertainment facility, including, without limitation, any lecture,*
2 *exhibition of art, performance of comedy, dance, music, theater or*
3 *any other entertainment event or show. The term includes, without*
4 *limitation, any game, contest or event in which persons compete*
5 *against each other through electronic, digital or virtual means.*

6 **Sec. 9.** *“Resale” or “resell” means an offer or completed*
7 *transaction for the sale of a ticket to an athletic contest or a live*
8 *entertainment event which occurs after the initial purchase of the*
9 *ticket. The term includes, without limitation, the sale of a ticket*
10 *made in person or by telephone, Internet website or any other*
11 *means of communication or exchange.*

12 **Sec. 10.** *“Reseller” means any person who resells a ticket.*

13 **Sec. 11.** *“Ticket” means a certificate, document, token,*
14 *voucher or other evidence, whether physical or electronic, which*
15 *indicates that the bearer or other person who is entitled to*
16 *possession of the ticket has the right or privilege of admission to*
17 *an athletic contest or live entertainment event, to occupy or have*
18 *access to a particular area or seat within an entertainment facility*
19 *or to acquire such a right or privilege.*

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

21 **Sec. 13.** *The provisions of sections 3 to 18, inclusive, of this*
22 *act do not apply to:*

23 1. *A person who resells a ticket obtained for personal use or*
24 *for the use of another person who was known to the person that*
25 *obtained the ticket before the purchase of such ticket.*

26 2. *An authorized person.*

27 3. *A reseller who has actual possession of a ticket which is*
28 *immediately available for delivery to the purchaser.*

29 4. *A labor organization as defined in NRS 613.230.*

30 5. *A nonprofit organization created for religious, charitable*
31 *or educational purposes that meets the requirements set forth in*
32 *NRS 372.3261.*

33 **Sec. 14.** 1. *A reseller who is not an authorized person and*
34 *who resells a ticket to an athletic contest or live entertainment*
35 *event on an Internet website shall disclose to a ticket purchaser in*
36 *a clear and conspicuous manner before completing the*
37 *transaction that the reseller has not been sanctioned by an*
38 *authorized person to sell tickets for the athletic contest or live*
39 *entertainment event associated with the ticket offered for resale.*

40 2. *The Internet website of a reseller must not display a*
41 *trademarked or copyrighted URL, title, designation, image or*
42 *mark or other symbol without the written consent of the trademark*
43 *or copyright holder.*

44 3. *The Internet website of a reseller, including, without*
45 *limitation, an Internet website that offers the purchase and resale*



1 of tickets on a secondary basis, must not use any combination of
2 text, images, web designs or Internet addresses, or any
3 combination thereof, which is substantially similar to the Internet
4 website of an entertainment facility, athletic contest or live
5 entertainment event without permission unless the reseller is an
6 authorized person.

7 4. As used in this section:

8 (a) "Substantially similar" means that a reasonable person
9 would believe that the Internet website is that of the entertainment
10 facility, athletic contest or live entertainment event.

11 (b) "URL" means the Uniform Resource Locator associated
12 with an Internet website.

13 **Sec. 15. 1. A reseller shall:**

14 (a) Post in a clear and conspicuous manner, at the registered
15 office and established place of business of the reseller and on any
16 Internet website maintained by the reseller, including, without
17 limitation, an Internet website that offers the purchase and resale
18 of tickets on a secondary basis, the terms and conditions of a
19 resale, including, without limitation, any right of a ticket
20 purchaser to cancel a purchase.

21 (b) Disclose to the ticket purchaser, before completing the
22 resale of the ticket to the purchaser:

23 (1) That the ticket purchaser is entitled to a refund of any
24 amount received from the purchaser if the athletic contest or live
25 entertainment event associated with such ticket is cancelled and
26 not rescheduled.

27 (2) The amount to be paid by the ticket purchaser for the
28 ticket and the location of the seat, if any, assigned by the ticket
29 which is offered for resale, including, without limitation, any
30 section, row or area within an entertainment facility which is
31 designated on the ticket.

32 (c) Refund any amount received from a ticket purchaser if the
33 athletic contest or live entertainment event associated with such
34 ticket is cancelled and not rescheduled.

35 (d) Resell tickets only at the registered office or established
36 place of business of the reseller or on an Internet website
37 maintained by the reseller, including, without limitation, an
38 Internet website that offers the purchase and resale of tickets on a
39 secondary basis.

40 2. A reseller shall not:

41 (a) Except as otherwise provided in subsection 5, advertise for
42 sale tickets to an athletic contest or live entertainment event until
43 the date for the athletic contest or live entertainment event has
44 been officially announced.



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1 (b) *Accept any type of consideration for the sale of a ticket*
2 *unless the ticket has been issued by a person authorized to issue*
3 *tickets to the athletic contest or live entertainment event.*

4 (c) *Resell or offer for sale more than one copy of the same*
5 *ticket to an athletic contest or live entertainment event.*

6 (d) *Offer for sale any counterfeit ticket to an athletic contest or*
7 *live entertainment event.*

8 (e) *Employ another person directly or indirectly to wait in line*
9 *to purchase tickets for the purpose of reselling the tickets if the*
10 *practice is prohibited by the sponsor, organizer or promoter of the*
11 *athletic contest or live entertainment event or if the venue at which*
12 *the athletic contest or live entertainment event will occur has*
13 *posted a policy prohibiting the practice.*

14 3. *Except as otherwise provided in subsection 4, a reseller*
15 *shall not accept consideration for the sale of a ticket or accept a*
16 *deposit for a ticket for which the reseller does not have possession*
17 *unless:*

18 (a) *The reseller has an agreement to purchase the ticket for an*
19 *established price from another person who has possession of the*
20 *ticket; and*

21 (b) *The person to whom the reseller agrees to sell the ticket or*
22 *from whom the reseller accepts a deposit will have the right to a*
23 *refund if the reseller is not able to obtain or deliver the ticket.*

24 4. *If an athletic contest or live entertainment event is*
25 *scheduled to take place within 14 days, the reseller may accept*
26 *consideration for the sale of a ticket or a deposit for a ticket for*
27 *which the reseller does not have possession if the reseller clearly*
28 *discloses to the purchaser before entering into an agreement or*
29 *accepting consideration that the reseller does not have possession*
30 *of the ticket and the person is entitled to a refund if the reseller is*
31 *not able to obtain and deliver the ticket.*

32 5. *If a professional or collegiate athletic contest is a part of a*
33 *playoff or tournament and the entity conducting the playoff or*
34 *tournament has released a range of dates on which the athletic*
35 *contest may take place, a reseller may advertise the sale and sell*
36 *tickets for the athletic contest not more than 21 days before the*
37 *earliest date on which the athletic contest may take place.*

38 6. *As used in this section, the term "established place of*
39 *business" does not include a temporary location on a sidewalk,*
40 *parking lot or other public area in the vicinity of an entertainment*
41 *facility which is vacated by a reseller after the conclusion of an*
42 *athletic contest or a live entertainment event.*

43 **Sec. 15.5. 1.** *A local government or political subdivision*
44 *shall not limit, prohibit or otherwise regulate the sale of tickets if*



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1 *the sale is carried out in compliance with the provisions of*
2 *sections 14 and 15 of this act.*

3 *2. The provisions of this section do not prohibit a local*
4 *government or political subdivision from enacting an ordinance to*
5 *require a reseller to obtain a license and pay applicable fees,*
6 *determine where tickets may be sold and provide for the right to*
7 *private enforcement.*

8 **Sec. 16. 1. A person shall not use an Internet robot to:**

9 *(a) Circumvent any portion of the process for purchasing a*
10 *ticket on an Internet website, including, without limitation, any*
11 *security or identity validation measures or an access control*
12 *system; or*

13 *(b) Disguise the identity of a ticket purchaser for the purpose*
14 *of purchasing a number of tickets for admission to an athletic*
15 *contest or live entertainment event which exceeds the maximum*
16 *number of tickets allowed for purchase by an authorized person.*

17 *2. A person injured by a violation of this section may bring a*
18 *civil action in the appropriate district court against the person who*
19 *committed the violation to seek:*

20 *(a) Declaratory and injunctive relief.*

21 *(b) Actual damages or \$100, whichever is greater.*

22 **Sec. 17. Unless a greater penalty is provided in NRS**
23 **598.0999 or section 17.5 of this act, a person who violates the**
24 **provisions of sections 3 to 18, inclusive, of this act is guilty of a**
25 **misdemeanor.**

26 **Sec. 17.5. 1. A person who willfully and knowingly violates**
27 **the provisions of sections 3 to 18, inclusive, of this act relating to**
28 **the sale of a ticket to an entertainment facility which is operated**
29 **by a governmental entity or a public-private partnership is guilty**
30 **of a:**

31 *(a) Gross misdemeanor, if the total value of the tickets sold in*
32 *violation of sections 3 to 18, inclusive, of this act is less than*
33 *\$1,000; or*

34 *(b) Category D felony and shall be punished as provided in*
35 *NRS 193.130, if the total value of the tickets sold in violation of*
36 *sections 3 to 18, inclusive, of this act is \$1,000 or more.*

37 *2. As used in this section:*

38 *(a) "Governmental entity" means:*

39 *(1) The government of this State;*

40 *(2) An agency of the government of this State;*

41 *(3) A political subdivision of this State; and*

42 *(4) An agency of a political subdivision of this State.*

43 *(b) "Public-private partnership" means a contract entered into*
44 *by a person and a governmental entity for the support of an*
45 *entertainment facility.*



1 **Sec. 18.** *The Bureau of Consumer Protection in the Office of*
2 *the Attorney General shall establish a toll-free statewide hotline*
3 *and an Internet website by which a person may file a complaint*
4 *relating to a suspected violation of sections 3 to 18, inclusive, of*
5 *this act.*

6 **Sec. 19.** NRS 598.0903 is hereby amended to read as follows:
7 598.0903 As used in NRS 598.0903 to 598.0999, inclusive,
8 *and section 2 of this act*, unless the context otherwise requires, the
9 words and terms defined in NRS 598.0905 to 598.0947, inclusive,
10 *and section 2 of this act* have the meanings ascribed to them in
11 those sections.

12 **Sec. 20.** NRS 598.0953 is hereby amended to read as follows:
13 598.0953 1. Evidence that a person has engaged in a
14 deceptive trade practice is prima facie evidence of intent to injure
15 competitors and to destroy or substantially lessen competition.

16 2. The deceptive trade practices listed in NRS 598.0915 to
17 598.0925, inclusive, *and section 2 of this act* are in addition to and
18 do not limit the types of unfair trade practices actionable at common
19 law or defined as such in other statutes of this State.

20 **Sec. 21.** NRS 598.0955 is hereby amended to read as follows:
21 598.0955 1. The provisions of NRS 598.0903 to 598.0999,
22 inclusive, *and section 2 of this act* do not apply to:

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

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

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

32 2. The provisions of NRS 598.0903 to 598.0999, inclusive, *and*
33 *section 2 of this act* do not apply to the use by a person of any
34 service mark, trademark, certification mark, collective mark, trade
35 name or other trade identification which was used and not
36 abandoned prior to July 1, 1973, if the use was in good faith and is
37 otherwise lawful except for the provisions of NRS 598.0903 to
38 598.0999, inclusive **H**, *and section 2 of this act*.

39 **Sec. 22.** NRS 598.0963 is hereby amended to read as follows:
40 598.0963 1. Whenever the Attorney General is requested in
41 writing by the Commissioner or the Director to represent him or her
42 in instituting a legal proceeding against a person who has engaged
43 or is engaging in a deceptive trade practice, the Attorney General
44 may bring an action in the name of the State of Nevada against that
45 person on behalf of the Commissioner or Director.



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

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

11 4. If the Attorney General has cause to believe that a person
12 has engaged or is engaging in a deceptive trade practice, the
13 Attorney General may issue a subpoena to require the testimony of
14 any person or the production of any documents, and may administer
15 an oath or affirmation to any person providing such testimony. The
16 subpoena must be served upon the person in the manner required for
17 service of process in this State or by certified mail with return
18 receipt requested. An employee of the Attorney General may
19 personally serve the subpoena.

20 **Sec. 23.** NRS 598.0967 is hereby amended to read as follows:

21 598.0967 1. The Commissioner and the Director, in addition
22 to other powers conferred upon them by NRS 598.0903 to
23 598.0999, inclusive, **and section 2 of this act**, may issue subpoenas
24 to require the attendance of witnesses or the production of
25 documents, conduct hearings in aid of any investigation or inquiry
26 and prescribe such forms and adopt such regulations as may be
27 necessary to administer the provisions of NRS 598.0903 to
28 598.0999, inclusive **H**, **and section 2 of this act**. Such regulations
29 may include, without limitation, provisions concerning the
30 applicability of the provisions of NRS 598.0903 to 598.0999,
31 inclusive, **and section 2 of this act** to particular persons or
32 circumstances.

33 2. Except as otherwise provided in this subsection, service of
34 any notice or subpoena must be made by certified mail with return
35 receipt or as otherwise allowed by law. An employee of the
36 Consumer Affairs Division of the Department of Business and
37 Industry may personally serve a subpoena issued pursuant to this
38 section.

39 **Sec. 24.** NRS 598.0971 is hereby amended to read as follows:

40 598.0971 1. If, after an investigation, the Commissioner has
41 reasonable cause to believe that any person has been engaged or is
42 engaging in any deceptive trade practice in violation of NRS
43 598.0903 to 598.0999, inclusive, **and section 2 of this act**, the
44 Commissioner may issue an order directed to the person to show
45 cause why the Director should not order the person to cease and



1 desist from engaging in the practice and to pay an administrative
2 fine. The order must contain a statement of the charges and a notice
3 of a hearing to be held thereon. The order must be served upon the
4 person directly or by certified or registered mail, return receipt
5 requested.

6 2. An administrative hearing on any action brought by the
7 Commissioner must be conducted before the Director or his or her
8 designee.

9 3. If, after conducting a hearing pursuant to the provisions of
10 subsection 2, the Director or his or her designee determines that the
11 person has violated any of the provisions of NRS 598.0903 to
12 598.0999, inclusive, **and section 2 of this act**, or if the person fails
13 to appear for the hearing after being properly served with the
14 statement of charges and notice of hearing, the Director or his or her
15 designee shall issue an order setting forth his or her findings of fact
16 concerning the violation and cause to be served a copy thereof upon
17 the person and any intervener at the hearing. If the Director or his or
18 her designee determines in the report that such a violation has
19 occurred, he or she may order the violator to:

20 (a) Cease and desist from engaging in the practice or other
21 activity constituting the violation;

22 (b) Pay the costs of conducting the investigation, costs of
23 conducting the hearing, costs of reporting services, fees for experts
24 and other witnesses, charges for the rental of a hearing room if such
25 a room is not available to the Director or his or her designee free of
26 charge, charges for providing an independent hearing officer, if any,
27 and charges incurred for any service of process, if the violator is
28 adjudicated to have committed a violation of NRS 598.0903 to
29 598.0999, inclusive **†**, **and section 2 of this act**;

30 (c) Provide restitution for any money or property improperly
31 received or obtained as a result of the violation; and

32 (d) Impose an administrative fine of \$1,000 or treble the amount
33 of restitution ordered, whichever is greater.

34 ➔ The order must be served upon the person directly or by certified
35 or registered mail, return receipt requested. The order becomes
36 effective upon service in the manner provided in this subsection.

37 4. Any person whose pecuniary interests are directly and
38 immediately affected by an order issued pursuant to subsection 3 or
39 who is aggrieved by the order may petition for judicial review in the
40 manner provided in chapter 233B of NRS. Such a petition must be
41 filed within 30 days after the service of the order. The order
42 becomes final upon the filing of the petition.

43 5. If a person fails to comply with any provision of an order
44 issued pursuant to subsection 3, the Commissioner or the Director
45 may, through the Attorney General, at any time after 30 days after



1 the service of the order, cause an action to be instituted in the
2 district court of the county wherein the person resides or has his or
3 her principal place of business requesting the court to enforce the
4 provisions of the order or to provide any other appropriate
5 injunctive relief.

6 6. If the court finds that:

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

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

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

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

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

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

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

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

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

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

31 **Sec. 25.** NRS 598.0985 is hereby amended to read as follows:

32 598.0985 Notwithstanding the requirement of knowledge as an
33 element of a deceptive trade practice, and notwithstanding the
34 enforcement powers granted to the Commissioner or Director
35 pursuant to NRS 598.0903 to 598.0999, inclusive, *and section 2 of*
36 *this act*, whenever the district attorney of any county has reason to
37 believe that any person is using, has used or is about to use any
38 deceptive trade practice, knowingly or otherwise, he or she may
39 bring an action in the name of the State of Nevada against that
40 person to obtain a temporary or permanent injunction against the
41 deceptive trade practice.

42 **Sec. 26.** NRS 598.0993 is hereby amended to read as follows:

43 598.0993 The court in which an action is brought pursuant to
44 NRS 598.0979 and 598.0985 to 598.099, inclusive, may make such
45 additional orders or judgments as may be necessary to restore to any



1 person in interest any money or property, real or personal, which
2 may have been acquired by means of any deceptive trade practice
3 which violates any of the provisions of NRS 598.0903 to 598.0999,
4 inclusive, *and section 2 of this act*, but such additional orders or
5 judgments may be entered only after a final determination has been
6 made that a deceptive trade practice has occurred.

7 **Sec. 27.** NRS 598.0999 is hereby amended to read as follows:

8 598.0999 1. Except as otherwise provided in NRS 598.0974,
9 a person who violates a court order or injunction issued pursuant to
10 the provisions of NRS 598.0903 to 598.0999, inclusive, *and section*
11 *2 of this act*, upon a complaint brought by the Commissioner, the
12 Director, the district attorney of any county of this State or the
13 Attorney General shall forfeit and pay to the State General Fund a
14 civil penalty of not more than \$10,000 for each violation. For the
15 purpose of this section, the court issuing the order or injunction
16 retains jurisdiction over the action or proceeding. Such civil
17 penalties are in addition to any other penalty or remedy available for
18 the enforcement of the provisions of NRS 598.0903 to 598.0999,
19 inclusive *H*, *and section 2 of this act*.

20 2. Except as otherwise provided in NRS 598.0974, in any
21 action brought pursuant to the provisions of NRS 598.0903 to
22 598.0999, inclusive, *and section 2 of this act*, if the court finds that
23 a person has willfully engaged in a deceptive trade practice, the
24 Commissioner, the Director, the district attorney of any county in
25 this State or the Attorney General bringing the action may recover a
26 civil penalty not to exceed \$5,000 for each violation. The court in
27 any such action may, in addition to any other relief or
28 reimbursement, award reasonable attorney's fees and costs.

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

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

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

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

37 ➤ The court may require the natural person, firm, or officer or
38 managing agent of the corporation or association to pay to the
39 aggrieved party damages on all profits derived from the knowing
40 and willful engagement in a deceptive trade practice and treble
41 damages on all damages suffered by reason of the deceptive trade
42 practice.

43 4. Any offense which occurred within 10 years immediately
44 preceding the date of the principal offense or after the principal
45 offense constitutes a prior offense for the purposes of subsection 3



1 when evidenced by a conviction, without regard to the sequence of
2 the offenses and convictions.

3 5. If a person violates any provision of NRS 598.0903
4 to 598.0999, inclusive, *and section 2 of this act*, 598.100 to
5 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to
6 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840
7 to 598.966, inclusive, fails to comply with a judgment or order of
8 any court in this State concerning a violation of such a provision, or
9 fails to comply with an assurance of discontinuance or other
10 agreement concerning an alleged violation of such a provision, the
11 Commissioner or the district attorney of any county may bring an
12 action in the name of the State of Nevada seeking:

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

15 (b) If the defendant is a corporation, dissolution of the
16 corporation.

17 ➤ The court may grant or deny the relief sought or may order other
18 appropriate relief.

19 6. If a person violates any provision of NRS 228.500 to
20 228.640, inclusive, fails to comply with a judgment or order of any
21 court in this State concerning a violation of such a provision, or fails
22 to comply with an assurance of discontinuance or other agreement
23 concerning an alleged violation of such a provision, the Attorney
24 General may bring an action in the name of the State of Nevada
25 seeking:

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

28 (b) If the defendant is a corporation, dissolution of the
29 corporation.

30 ➤ The court may grant or deny the relief sought or may order other
31 appropriate relief.

32 **Sec. 28.** NRS 11.190 is hereby amended to read as follows:

33 11.190 Except as otherwise provided in NRS 40.4639,
34 125B.050 and 217.007, actions other than those for the recovery of
35 real property, unless further limited by specific statute, may only be
36 commenced as follows:

37 1. Within 6 years:

38 (a) Except as otherwise provided in NRS 62B.420 and 176.275,
39 an action upon a judgment or decree of any court of the United
40 States, or of any state or territory within the United States, or the
41 renewal thereof.

42 (b) An action upon a contract, obligation or liability founded
43 upon an instrument in writing, except those mentioned in the
44 preceding sections of this chapter.

45 2. Within 4 years:



1 (a) An action on an open account for goods, wares and
2 merchandise sold and delivered.

3 (b) An action for any article charged on an account in a store.

4 (c) An action upon a contract, obligation or liability not founded
5 upon an instrument in writing.

6 (d) An action against a person alleged to have committed a
7 deceptive trade practice in violation of NRS 598.0903 to 598.0999,
8 inclusive, *and section 2 of this act*, but the cause of action shall be
9 deemed to accrue when the aggrieved party discovers, or by the
10 exercise of due diligence should have discovered, the facts
11 constituting the deceptive trade practice.

12 3. Within 3 years:

13 (a) An action upon a liability created by statute, other than a
14 penalty or forfeiture.

15 (b) An action for waste or trespass of real property, but when the
16 waste or trespass is committed by means of underground works
17 upon any mining claim, the cause of action shall be deemed to
18 accrue upon the discovery by the aggrieved party of the facts
19 constituting the waste or trespass.

20 (c) An action for taking, detaining or injuring personal property,
21 including actions for specific recovery thereof, but in all cases
22 where the subject of the action is a domestic animal usually included
23 in the term "livestock," which has a recorded mark or brand upon it
24 at the time of its loss, and which strays or is stolen from the true
25 owner without the owner's fault, the statute does not begin to run
26 against an action for the recovery of the animal until the owner has
27 actual knowledge of such facts as would put a reasonable person
28 upon inquiry as to the possession thereof by the defendant.

29 (d) Except as otherwise provided in NRS 112.230 and 166.170,
30 an action for relief on the ground of fraud or mistake, but the cause
31 of action in such a case shall be deemed to accrue upon the
32 discovery by the aggrieved party of the facts constituting the fraud
33 or mistake.

34 (e) An action pursuant to NRS 40.750 for damages sustained by
35 a financial institution or other lender because of its reliance on
36 certain fraudulent conduct of a borrower, but the cause of action in
37 such a case shall be deemed to accrue upon the discovery by the
38 financial institution or other lender of the facts constituting the
39 concealment or false statement.

40 4. Within 2 years:

41 (a) An action against a sheriff, coroner or constable upon
42 liability incurred by acting in his or her official capacity and in
43 virtue of his or her office, or by the omission of an official duty,
44 including the nonpayment of money collected upon an execution.



1 (b) An action upon a statute for a penalty or forfeiture, where the
2 action is given to a person or the State, or both, except when the
3 statute imposing it prescribes a different limitation.

4 (c) An action for libel, slander, assault, battery, false
5 imprisonment or seduction.

6 (d) An action against a sheriff or other officer for the escape of a
7 prisoner arrested or imprisoned on civil process.

8 (e) Except as otherwise provided in NRS 11.215, an action to
9 recover damages for injuries to a person or for the death of a person
10 caused by the wrongful act or neglect of another. The provisions of
11 this paragraph relating to an action to recover damages for injuries
12 to a person apply only to causes of action which accrue after
13 March 20, 1951.

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

15 5. Within 1 year:

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

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

28 **Sec. 29.** NRS 41.600 is hereby amended to read as follows:

29 41.600 1. An action may be brought by any person who is a
30 victim of consumer fraud.

31 2. As used in this section, "consumer fraud" means:

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

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

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

36 (d) An act prohibited by NRS 482.351; or

37 (e) A deceptive trade practice as defined in NRS 598.0915 to
38 598.0925, inclusive **H**, and **section 2 of this act**.

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

41 (a) Any damages that the claimant has sustained;

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

43 (c) The claimant's costs in the action and reasonable attorney's
44 fees.



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

③



* S B 2 3 5 R 2 *