

SENATE BILL NO. 350—SENATOR ATKINSON

MARCH 20, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing the installation and use of certain technology devices in a motor vehicle. (BDR 52-575)

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 regulations; prohibiting certain persons from installing, requiring to be installed or using certain technology devices in a motor vehicle in certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law defines activities that constitute deceptive trade practices and
2 provides for the imposition of civil and criminal penalties against persons who
3 engage in deceptive trade practices. (NRS 11.190, 41.600; chapter 598 of NRS)
4 **Section 28** of this bill prohibits certain creditors or long-term lessors of certain
5 motor vehicles from: (1) installing or requiring the installation of certain
6 technology devices which record the location of a motor vehicle unless the
7 consumer who has purchased or leased the motor vehicle is given written notice or
8 agrees in writing to such installation; or (2) installing or using certain technology
9 devices which can remotely disable a motor vehicle in the event of a default unless
10 the consumer agrees in writing to such installation and use. **Section 28** also
11 provides certain requirements for and restrictions on the use of such technology
12 devices. **Section 29** of this bill imposes certain requirements and restrictions on any
13 person who: (1) manufactures or provides such technology devices; (2) installs such
14 technology devices; or (3) possesses or obtains data from such technology devices.
15 **Section 30** of this bill makes any violation of the provisions of **sections 28 and 29**
16 a deceptive trade practice. **Sections 15-27** of this bill provide definitions for the
17 provisions relating to the new deceptive trade practices established in **sections 28**
18 **and 29**. **Section 31** of this bill makes a conforming change. **Section 32** of this bill
19 makes a conforming change to a provision of existing law that imposes certain
20 requirements on retail installment contracts. (NRS 97.165)



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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.** (Deleted by amendment.)
3 **Sec. 3.** (Deleted by amendment.)
4 **Sec. 4.** (Deleted by amendment.)
5 **Sec. 5.** (Deleted by amendment.)
6 **Sec. 6.** (Deleted by amendment.)
7 **Sec. 7.** (Deleted by amendment.)
8 **Sec. 8.** (Deleted by amendment.)
9 **Sec. 9.** (Deleted by amendment.)
10 **Sec. 10.** (Deleted by amendment.)
11 **Sec. 11.** (Deleted by amendment.)
12 **Sec. 12.** (Deleted by amendment.)
13 **Sec. 13.** (Deleted by amendment.)
14 **Sec. 14.** (Deleted by amendment.)
15 **Sec. 15.** Chapter 598 of NRS is hereby amended by adding
16 thereto the provisions set forth as sections 16 to 30, inclusive, of this
17 act.
18 **Sec. 16.** *As used in sections 16 to 30, inclusive, of this act,*
19 *unless the context otherwise requires, the words and terms defined*
20 *in sections 17 to 27, inclusive, of this act have the meanings*
21 *ascribed in those sections.*
22 **Sec. 17.** *“Consumer” means:*
23 1. *A retail buyer who purchases a motor vehicle; or*
24 2. *A long-term lessee who leases a motor vehicle,*
25 ↳ *primarily for personal, family or household use.*
26 **Sec. 18.** *“Creditor” means a lender, dealer or other secured*
27 *party to a transaction for the purchase of a motor vehicle or the*
28 *assignee of such a lender, dealer or other secured party.*
29 **Sec. 19.** *“Dealer” has the meaning ascribed to it in*
30 *NRS 482.020.*
31 **Sec. 20.** *“Electronic tracking technology” means technology*
32 *that enables the use of a global positioning satellite or similar*
33 *technology to obtain or record the location of a motor vehicle.*
34 **Sec. 21.** *“Lease” has the meaning ascribed to it in*
35 *NRS 482.053.*
36 **Sec. 22.** *“Long-term lessee” has the meaning ascribed to it in*
37 *NRS 482.053.*
38 **Sec. 23.** *“Long-term lessor” has the meaning ascribed to it in*
39 *NRS 482.053.*
40 **Sec. 24.** *“Retail buyer” has the meaning ascribed to it in*
41 *NRS 97.085.*



1 **Sec. 25.** *“Retail installment contract” has the meaning*
2 *ascribed to it in NRS 97.105.*

3 **Sec. 26.** *“Secured party” has the meaning ascribed to it in*
4 *NRS 104.9102.*

5 **Sec. 27.** *“Starter interruption technology” means technology*
6 *which can be used to remotely disable the starter of a motor*
7 *vehicle or to remotely cause an audible sound in a motor vehicle,*
8 *or both.*

9 **Sec. 28. 1.** *A creditor, in connection with a retail*
10 *installment contract for the sale of a motor vehicle, or a long-term*
11 *lessor, in connection with a lease of a motor vehicle, must not use,*
12 *install or require to be installed in the motor vehicle any electronic*
13 *tracking technology for the purpose of ascertaining or recording*
14 *the location of the motor vehicle unless the:*

15 *(a) Consumer agrees in writing to the installation of the*
16 *electronic tracking technology in the motor vehicle, provided that*
17 *the agreement is optional and not a required condition of the retail*
18 *installment contract or lease; or*

19 *(b) Creditor or long-term lessor provides to the consumer,*
20 *before the signing of the retail installment contract or lease,*
21 *written notification in a document that is separate from the*
22 *contract or lease and may be retained by the consumer, that the*
23 *motor vehicle is equipped with electronic tracking technology that*
24 *may be used by the creditor or lessor:*

25 *(1) To verify and maintain the operational status of the*
26 *electronic tracking technology;*

27 *(2) To service the contract or lease; or*

28 *(3) To locate the vehicle for repossession as provided by*
29 *this section or by any other provision of law.*

30 **2.** *A creditor, in connection with a retail installment contract*
31 *for the sale of a motor vehicle, or a long-term lessor, in connection*
32 *with a lease of a motor vehicle, must not install in the motor*
33 *vehicle or use starter interruption technology unless, before the*
34 *signing of the contract or lease the consumer and the creditor or*
35 *long-term lessor enter into a written agreement, in a document*
36 *that is separate from the contract or lease, a copy of which may be*
37 *retained by the consumer and for which the consumer must*
38 *provide written acknowledgment of receipt, that the motor vehicle*
39 *is equipped with starter interruption technology. The agreement*
40 *must provide that:*

41 *(a) The vehicle is equipped with starter interruption*
42 *technology which may only be used as provided in this subsection.*

43 *(b) The starter interruption technology may be used to disable*
44 *the starter of the motor vehicle remotely if the consumer is in*
45 *default as provided in the retail installment contract or lease, but*



1 *in no case sooner than 30 days after the due date of a missed*
2 *payment by the consumer on the contract or lease.*

3 *(c) The use of starter interruption technology to disable the*
4 *starter of the motor vehicle constitutes constructive repossession*
5 *for the purposes of applicable law, including, without limitation,*
6 *chapters 97, 104 and 104A of NRS.*

7 *(d) For the purposes of reducing or eliminating the risk of*
8 *potential injury or harm to the consumer and the health, safety*
9 *and welfare of the public, starter interruption technology must be*
10 *designed, installed and operated only to prevent a motor vehicle*
11 *from being started and must not be used in a way that will:*

12 *(1) Disable the motor vehicle while it is being operated;*

13 *(2) Turn off the engine when the engine is running; or*

14 *(3) Cause an audible warning sound which lasts longer*
15 *than 20 seconds when the engine is started or turned off.*

16 *(e) Not less than 48 hours before the starter interruption*
17 *technology is engaged, the consumer must be provided with actual*
18 *notice, in a form and manner clearly stated in the agreement and*
19 *which may consist of, without limitation, a clear visual signal*
20 *displayed in a place easily visible to the driver of the motor vehicle.*

21 *(f) The consumer will be provided with the name, address and*
22 *toll-free telephone number of a person who has the authority to*
23 *have the starter interruption technology activated, deactivated or*
24 *reinstated, as necessary.*

25 *(g) The consumer will be provided with the ability, in the event*
26 *of an emergency, to start and freely operate the vehicle not less*
27 *than two times over a 48-hour period after the engagement of the*
28 *starter interruption technology.*

29 *(h) In the event that the retail installment contract or lease for*
30 *the motor vehicle is assigned to a successor in interest or another*
31 *secured party, the successor in interest or other secured party must*
32 *provide the consumer with his or her name, address and toll-free*
33 *telephone number in a commercially reasonable time and manner.*

34 *(i) The consumer must not be charged a fee or incur any cost*
35 *for the installation or use of the starter interruption technology.*

36 *(j) A breach of the agreement by the creditor or long-term*
37 *lessor constitutes a deceptive trade practice.*

38 *3. The provision of this section:*

39 *(a) May not be waived by the consumer.*

40 *(b) Do not apply to a creditor or long-term lessor who conducts*
41 *a transaction for the installment sale or long-term lease of a motor*
42 *vehicle intended for use by a business entity in the course or scope*
43 *of business.*



1 **Sec. 29. 1. A person who manufactures or provides**
2 **electronic tracking technology devices or starter interruption**
3 **technology devices shall:**

4 **(a) Label each such device with the name of the manufacturer**
5 **and a unique identifier that is designed to remain legible for the**
6 **estimated useful life of the device.**

7 **(b) Keep records for each device for not less than the estimated**
8 **useful life of the device that include, without limitation:**

9 **(1) The date of manufacture;**

10 **(2) The date of sale;**

11 **(3) The identity of the original purchaser; and**

12 **(4) If known, the identity of the person who initially**
13 **installed the device.**

14 **(c) Provide to any installer of the device specific instructions**
15 **on the proper installation of the device in a vehicle and retain**
16 **records showing the exact instructions which were provided with**
17 **each device, as identified with a unique identifier pursuant to**
18 **paragraph (a).**

19 **(d) If he or she regains possession of a device and resells or**
20 **provides it to another person, keep the records required pursuant**
21 **to paragraphs (b) and (c).**

22 **2. A person who installs an electronic tracking technology**
23 **device or a starter interruption technology device in a motor**
24 **vehicle must:**

25 **(a) Hold a certification from the:**

26 **(1) Mobile Electronics Certified Professional program or its**
27 **successor; or**

28 **(2) National Institute for Automotive Service Excellence or**
29 **its successor.**

30 **(b) Keep records of each installation conducted for not less**
31 **than 3 years. Such records must include, without limitation:**

32 **(1) The date of installation;**

33 **(2) The unique identifier on each device as required by**
34 **paragraph (a) of subsection 1; and**

35 **(3) A copy of the installation instructions provided by the**
36 **manufacturer or provider of the device as required by paragraph**
37 **(c) of subsection 1.**

38 **(c) If the installation is at the request of or on behalf of a**
39 **creditor in connection with a retail installment contract for the**
40 **sale of a motor vehicle or a long-term lessor in connection with**
41 **the lease of a motor vehicle, provide a copy of the records required**
42 **by paragraph (b) to the creditor or lessor or a designee of the**
43 **creditor or lessor.**



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1 3. *A person who possesses or obtains telemetry data related to*
2 *a consumer that is collected by electronic tracking technology or*
3 *starter interruption technology may not:*

4 (a) *Sell any telemetry data.*

5 (b) *Provide any telemetry data to any person or entity other*
6 *than:*

7 (1) *The consumer;*

8 (2) *A reposessor who is authorized pursuant to section 28*
9 *of this act to repossess the motor vehicle from which the telemetry*
10 *data was obtained; or*

11 (3) *A person authorized by law to possess or obtain such*
12 *telemetry data.*

13 (c) *Use any telemetry data for any purpose other than:*

14 (1) *As needed to ensure that the electronic tracking*
15 *technology or starter interruption technology is operating*
16 *properly, provided that such use is brief and periodic;*

17 (2) *To communicate an audible or visible warning to the*
18 *consumer as authorized in section 28 of this act;*

19 (3) *To activate starter interruption technology as authorized*
20 *in section 28 of this act;*

21 (4) *To locate a motor vehicle at the request of the*
22 *consumer; or*

23 (5) *To locate the motor vehicle for repossession as*
24 *authorized in section 28 of this act.*

25 (d) *Retain any telemetry data for a period of more than 180*
26 *days after collection of the data.*

27 (e) *Fail to erase all electronically stored telemetry data and*
28 *shred any physical copies of such data not more than 180 days*
29 *after collection of the data.*

30 4. *As used in this section, unless the context otherwise*
31 *requires:*

32 (a) *“Device” means all physical parts and pieces which are*
33 *required to allow for the operation of electronic tracking*
34 *technology or starter interruption technology in a motor vehicle.*

35 (b) *“Reposessor” has the meaning ascribed to it in*
36 *NRS 648.015.*

37 (c) *“Telemetry data” means any information collected by*
38 *electronic tracking technology or starter interruption technology,*
39 *regardless of whether such information is transmitted or retained*
40 *in the device, and includes, without limitation, information*
41 *pertaining to the location, speed and motion status of a motor*
42 *vehicle.*

43 **Sec. 30. 1. Any violation of sections 28 and 29 of this act**
44 **constitute a deceptive trade practice for the purposes of NRS**
45 **598.0903 to 598.0999, inclusive.**



1 2. *A consumer who prevails in an action for a violation of*
2 *section 28 or 29 of this act by a person who is a creditor in*
3 *connection with a retail installment contract for the sale of a*
4 *motor vehicle or a long-term lessor in connection with the lease of*
5 *a motor vehicle, in addition to any other award or other remedy*
6 *available pursuant to law, must be awarded the greater of:*

7 (a) *Statutory damages pursuant to subsection 3 of NRS*
8 *104.9625, if applicable; or*

9 (b) *\$1,000.*

10 **Sec. 31.** NRS 598.0999 is hereby amended to read as follows:

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

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

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

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

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

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

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



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

6 5. If a person violates any provision of NRS 598.0903 to
7 598.0999, inclusive, 598.100 to 598.2801, inclusive, 598.305 to
8 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741
9 to 598.787, inclusive, ~~to~~ 598.840 to 598.966, inclusive, *or sections*
10 *16 to 30, inclusive, of this act*, fails to comply with a judgment or
11 order of any court in this State concerning a violation of such a
12 provision, or fails to comply with an assurance of discontinuance or
13 other agreement concerning an alleged violation of such a provision,
14 the Commissioner or the district attorney of any county may bring
15 an action in the name of the State of Nevada seeking:

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

18 (b) If the defendant is a corporation, dissolution of the
19 corporation.

20 ↪ The court may grant or deny the relief sought or may order other
21 appropriate relief.

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

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

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

33 ↪ The court may grant or deny the relief sought or may order other
34 appropriate relief.

35 **Sec. 32.** NRS 97.165 is hereby amended to read as follows:

36 97.165 1. Every retail installment contract must be contained
37 in a single document which must contain the entire agreement of the
38 parties, including any promissory notes or other evidences of
39 indebtedness between the parties relating to the transaction, except
40 as otherwise provided in NRS 97.205 , ~~and~~ 97.235 ~~and~~ *and section*
41 *28 of this act*, but:

42 (a) If the buyer's obligation to pay the total of payments is
43 represented by a promissory note secured by a chattel mortgage or
44 other security agreement, the promissory note may be a separate
45 instrument if the mortgage or security agreement recites the amount



1 and terms of payment of that note and the promissory note recites
2 that it is secured by a mortgage or security agreement.

3 (b) In a transaction involving the repair, alteration or
4 improvement upon or in connection with real property, the contract
5 may be secured by a mortgage or deed of trust on the real property
6 contained in a separate document. Retail sales transactions for home
7 improvements which are financed or insured by the Federal Housing
8 Administration are not subject to the provisions of this chapter.

9 2. The contract must be dated, signed by the retail buyer and
10 completed as to all essential provisions, except as otherwise
11 provided in NRS 97.205, 97.215 and 97.235. The printed or typed
12 portion of the contract, other than instructions for completion, must
13 be in a size equal to at least 8-point type.

14 3. Any fee charged to the retail buyer for his or her cancellation
15 of a retail installment contract within 72 hours after its execution is
16 prohibited unless notice of the fee is clearly set forth in the printed
17 or typed portion of the contract.

Sec. 33. This act becomes effective on July 1, 2017.

