
ASSEMBLY BILL NO. 232—ASSEMBLYMEN CONKLIN, ATKINSON, HORNE, PERKINS, BUCKLEY, ANDERSON, ANDONOV, ANGLE, ARBERRY, BEERS, BROWN, CARPENTER, CHOWNING, CHRISTENSEN, CLABORN, COLLINS, GEDDES, GIBBONS, GIUNCHIGLIANI, GOICOECHEA, GOLDWATER, GRADY, GRIFFIN, GUSTAVSON, HARDY, HETTRICK, KNECHT, KOIVISTO, LESLIE, MABEY, MANENDO, MARVEL, MCCLAIN, MCCLEARY, MORTENSON, OCEGUERA, PARKS, PIERCE, SHERER, WEBER AND WILLIAMS

MARCH 4, 2003

JOINT SPONSORS: SENATORS TITUS, AMODEI, RAWSON, NEAL, CARLTON AND HARDY

Referred to Committee on Commerce and Labor

SUMMARY—Requires establishment of registry of certain telephone numbers and prohibits telephone solicitors from making unsolicited telephone calls to telephone numbers included in registry under certain circumstances. (BDR 52-1073)

FISCAL NOTE: Effect on Local Government: Yes.
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 telephone solicitation; requiring the establishment of a registry of certain telephone numbers; requiring the publication of a list of certain telephone numbers; prohibiting a telephone solicitor from making an unsolicited telephone call for the sale of goods or services to a telephone number included in the currently effective version of the list under certain circumstances; providing that the making of an unsolicited telephone call for the sale of goods and services is a deceptive trade practice under certain circumstances; creating the Registry Fund as a special revenue fund in the State



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Treasury; providing for money to be transferred to the Registry Fund; and providing other matters properly relating thereto.

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

1 **Section 1.** NRS 598.0999 is hereby amended to read as
2 follows:

3 598.0999 1. A person who violates a court order or
4 injunction issued pursuant to the provisions of NRS 598.0903 to
5 598.0999, inclusive, upon a complaint brought by the
6 Commissioner, the Director, the district attorney of any county of
7 this state or the Attorney General shall forfeit and pay to the State
8 General Fund a civil penalty of not more than \$10,000 for each
9 violation. For the purpose of this section, the court issuing the order
10 or injunction retains jurisdiction over the action or proceeding. Such
11 civil penalties are in addition to any other penalty or remedy
12 available for the enforcement of the provisions of NRS 598.0903 to
13 598.0999, inclusive.

14 2. In any action brought pursuant to the provisions of NRS
15 598.0903 to 598.0999, inclusive, if the court finds that a person has
16 willfully engaged in a deceptive trade practice, the Commissioner,
17 the Director, the district attorney of any county in this state or the
18 Attorney General bringing the action may recover a civil penalty not
19 to exceed \$2,500 for each violation. The court in any such action
20 may, in addition to any other relief or reimbursement, award
21 reasonable attorney's fees and costs.

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

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

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

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

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

35 5. If a person violates any provision of NRS 598.0903 to
36 598.0999, inclusive, 598.100 to 598.2801, inclusive, 598.305
37 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to
38 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply



1 with a judgment or order of any court in this state concerning a
2 violation of such a provision, or fails to comply with an assurance of
3 discontinuance or other agreement concerning an alleged violation
4 of such a provision, the Commissioner or the district attorney of any
5 county may bring an action in the name of the State of Nevada
6 seeking:

- 7 (a) The suspension of the person's privilege to conduct business
8 within this state; or
- 9 (b) If the defendant is a corporation, dissolution of the
10 corporation.

11 The court may grant or deny the relief sought or may order other
12 appropriate relief.

13 **6. *If a person violates any provision of sections 3 to 16,***
14 ***inclusive, of this act, fails to comply with a judgment or order of***
15 ***any court in this state concerning a violation of such a provision,***
16 ***or fails to comply with an assurance of discontinuance or other***
17 ***agreement concerning an alleged violation of such a provision, the***
18 ***Attorney General may bring an action in the name of the State of***
19 ***Nevada seeking:***

- 20 ***(a) The suspension of the person's privilege to conduct***
21 ***business within this state; or***
- 22 ***(b) If the defendant is a corporation, dissolution of the***
23 ***corporation.***

24 ***The court may grant or deny the relief sought or may order other***
25 ***appropriate relief.***

26 **Sec. 2.** Chapter 228 of NRS is hereby amended by adding
27 thereto the provisions set forth as sections 3 to 16, inclusive, of this
28 act.

29 **Sec. 3.** ***As used in sections 3 to 16, inclusive, of this act,***
30 ***unless the context otherwise requires, the words and terms defined***
31 ***in sections 4, 5 and 6 of this act have the meanings ascribed to***
32 ***them in those sections.***

33 **Sec. 4.** ***"Registry" means the registry established pursuant to***
34 ***section 7 of this act.***

35 **Sec. 5. 1.** ***"Telephone solicitor" means a person who makes***
36 ***or causes another person or a machine to make an unsolicited***
37 ***telephone call for the sale of goods or services.***

38 **2.** ***As used in this section:***
39 ***(a) "Device for automatic dialing and announcing" has the***
40 ***meaning ascribed to it in NRS 597.812.***

41 ***(b) "Machine" includes, without limitation, a device for***
42 ***automatic dialing and announcing.***

43 **Sec. 6. 1.** ***"Unsolicited telephone call for the sale of goods***
44 ***or services" means an unsolicited telephone call, other than a***



- 1 *telephone call on behalf of a charitable organization, political*
2 *party or candidate for public office, to:*
- 3 (a) *Rent, lease, sell, exchange, promote or gift any good or*
4 *service;*
 - 5 (b) *Solicit any act described in paragraph (a);*
 - 6 (c) *Seek or obtain a donation or contribution of money or*
7 *anything else of value; or*
 - 8 (d) *Seek or obtain information, including, without limitation,*
9 *any document, intended to be used to facilitate any act described*
10 *in paragraph (a), (b) or (c).*
- 11 2. *As used in this section:*
- 12 (a) *“Charitable organization” means a person that the*
13 *Secretary of the Treasury has determined to be tax exempt*
14 *pursuant to the provisions of section 501(c)(3) of the Internal*
15 *Revenue Code of 1986, 26 U.S.C. § 501(c)(3).*
 - 16 (b) *“Good or service” means:*
 - 17 (1) *Any property or product, whether tangible or intangible;*
 - 18 (2) *Any service, including, without limitation, financial*
19 *service;*
 - 20 (3) *A loan or any other extension of credit;*
 - 21 (4) *Insurance;*
 - 22 (5) *Any investment or opportunity for investment;*
 - 23 (6) *A gift, prize, bonus or any other inducement to act; or*
 - 24 (7) *Anything of value.*
 - 25 (c) *“Telephone call on behalf of a charitable organization”*
26 *means a telephone call soliciting a donation or contribution to a*
27 *charitable organization if:*
 - 28 (1) *The call is made by an employee of the charitable*
29 *organization or a volunteer; and*
 - 30 (2) *The caller, within 30 seconds after beginning the*
31 *conversation with the person who is called, discloses:*
 - 32 (I) *The actual first and last name of the caller; and*
 - 33 (II) *The name, address and telephone number of the*
34 *charitable organization.*
- 35 3. *For the purposes of this section, a telephone call is deemed*
36 *to have been solicited if it is made to a person who:*
- 37 (a) *Expressly requested or expressly gave permission for the*
38 *telephone call to be made;*
 - 39 (b) *Had an established business relationship with the caller, if*
40 *the telephone call is made solely to verify the termination of the*
41 *business relationship; or*
 - 42 (c) *Has a delinquent obligation for which payment or*
43 *performance is due but has not been made, if the telephone call is*
44 *made to:*
 - 45 (1) *Collect the payment or obtain the performance; or*



1 (2) *Extend credit to allow the person to make the payment.*
2 **Sec. 7. 1. The Consumer's Advocate shall:**
3 (a) *Establish and maintain, or cause to be established and*
4 *maintained, a registry that includes the name and telephone*
5 *number of each person in this state who has requested that his*
6 *telephone number be included in the list published pursuant to*
7 *this section;*
8 (b) *Provide for a toll-free telephone number that may be used*
9 *to request inclusion or maintenance of a telephone number in the*
10 *registry;*
11 (c) *Publish a list of the telephone numbers in the registry at*
12 *least once every 6 months and ensure that no other personally*
13 *identifying information contained in the registry is included in the*
14 *published lists;*
15 (d) *On January 1, 2007, and every 3 years thereafter, delete*
16 *from the registry every telephone number and related information,*
17 *except for each telephone number and related information for*
18 *which the Consumer's Advocate has received a request within the*
19 *preceding 6 months to include or maintain the telephone number*
20 *in the registry; and*
21 (e) *During the 6-month period identified in paragraph (d), use*
22 *reasonable means, including, without limitation, public service*
23 *announcements, to inform the public that telephone numbers and*
24 *related information in the registry will be deleted or otherwise*
25 *purged unless new or renewed requests for inclusion in the*
26 *registry are received by the Consumer's Advocate.*
27 **2. The Consumer's Advocate may:**
28 (a) *Contract for the establishment and maintenance of the*
29 *registry;*
30 (b) *Provide for additional procedures for requesting inclusion*
31 *or maintenance of a telephone number in the registry; and*
32 (c) *Require by regulation that information in addition to*
33 *names and telephone numbers be included in the registry,*
34 *including, without limitation, the mailing address of each person*
35 *who has requested inclusion in the registry.*
36 **3. A person may request that his telephone number be**
37 *included or maintained in the registry using:*
38 (a) *A toll-free telephone number provided by the Consumer's*
39 *Advocate for that purpose; or*
40 (b) *Any other method provided by the Consumer's Advocate.*
41 **4. If a person requests that his telephone number be included**
42 *in the registry, the person must indicate whether he authorizes*
43 *callers with whom he has an established business relationship,*
44 *and affiliates of those callers, to make unsolicited sales calls for*
45 *the sale of goods or services to him despite the inclusion of his*



1 *telephone number in the registry. If the person does not indicate*
2 *his choice with regard to such authorization, he shall be deemed to*
3 *have chosen to authorize such calls. The person may request to*
4 *change his choice with regard to such authorization using any of*
5 *the procedures with which he may request to include or maintain*
6 *his telephone number in the registry. The person's choice with*
7 *regard to such authorization must be included in the registry and*
8 *in every list of the telephone numbers in the registry published*
9 *while that choice is in effect.*

10 *5. In publishing a list of the telephone numbers in the*
11 *registry, the Consumer's Advocate shall publish the list with two*
12 *distinct portions. One portion must include the telephone number*
13 *of each person who has chosen to authorize callers with whom the*
14 *person has an established business relationship, and affiliates of*
15 *those callers, to make unsolicited sales calls for the sale of goods*
16 *or services to him despite the inclusion of his telephone number in*
17 *the registry. The other portion must include the telephone number*
18 *of each person who has chosen not to authorize callers with whom*
19 *the person has an established business relationship, and affiliates*
20 *of those callers, to make unsolicited sales calls for the sale of*
21 *goods or services to him.*

22 *6. A person may request to have his telephone number*
23 *removed from the registry. Such a request must be submitted to the*
24 *Consumer's Advocate in writing.*

25 **Sec. 8. 1.** *The Consumer's Advocate shall make*
26 *information available to the public concerning the establishment*
27 *and maintenance of the registry, including, without limitation:*

28 *(a) The procedures for requesting the inclusion or*
29 *maintenance of a telephone number in the registry;*

30 *(b) A statement indicating that a revised version of the list of*
31 *telephone numbers in the registry will be published at least once*
32 *every 6 months;*

33 *(c) A statement indicating that no information contained in the*
34 *registry, other than the telephone numbers, will be included on the*
35 *list published pursuant to this section or otherwise disclosed to*
36 *the public; and*

37 *(d) A statement indicating that all telephone numbers and*
38 *related information in the registry will be deleted or otherwise*
39 *purged from the registry every 3 years, except for any telephone*
40 *number and related information for which the Consumer's*
41 *Advocate has received a new or renewed request for inclusion in*
42 *the registry within the 6 months before the potential deletion.*

43 *2. A person who publishes telephone directories for*
44 *distribution to the public in this state shall ensure that each such*



1 *telephone directory includes the information made available to the*
2 *public by the Consumer's Advocate pursuant to subsection 1.*

3 **Sec. 9. 1.** *The registry is not a public record. Any list*
4 *published of the telephone numbers contained within the registry*
5 *is not a public record.*

6 **2.** *The telephone numbers in the registry must not be*
7 *published or released except pursuant to the provisions of sections*
8 *3 to 16, inclusive, of this act.*

9 **3.** *The information in the registry other than the telephone*
10 *numbers:*

11 *(a) Must not be published or released; and*

12 *(b) May only be used by the Consumer's Advocate to*
13 *administer the provisions of sections 3 to 16, inclusive, of this act.*

14 **Sec. 10.** *Each list of telephone numbers published pursuant*
15 *to section 7 of this act must be made available to a telephone*
16 *solicitor upon the payment of the fee established for this purpose*
17 *by the Consumer's Advocate. The fee must not exceed \$1,000*
18 *annually for each telephone solicitor, regardless of the number of*
19 *revised editions of the list that are published during the calendar*
20 *year.*

21 **Sec. 11. 1.** *Except as otherwise provided in this section, a*
22 *telephone solicitor shall not intentionally make an unsolicited*
23 *telephone call for the sale of goods or services to a telephone*
24 *number in the currently effective version of the list of telephone*
25 *numbers in the registry. A telephone solicitor may make an*
26 *unsolicited telephone call for the sale of goods or services to a*
27 *telephone number in the currently effective version of the list if:*

28 *(a) The telephone solicitor, or an affiliate of the telephone*
29 *solicitor, has an established business relationship with the person*
30 *whose telephone number is called; and*

31 *(b) The list indicates that the person whose telephone number*
32 *is called chose to authorize callers with whom he has an*
33 *established business relationship, and affiliates of those callers, to*
34 *make unsolicited sales calls for the sale of goods or services to him*
35 *despite the inclusion of his telephone number in the registry.*

36 **2.** *A person who obtains a copy of or access to the registry or*
37 *to any version of the list of telephone numbers in the registry shall*
38 *not use that information for any purpose other than determining*
39 *whether a particular telephone number is available for an*
40 *unsolicited telephone call for the sale of goods or services.*

41 **3.** *For the purposes of this section, a version of the list of*
42 *telephone numbers in the registry is deemed to be the currently*
43 *effective version of the list for the period beginning on the 31st day*
44 *after it is published and ending on the 30th day after the next*
45 *version is published.*



1 **Sec. 12. 1.** *If the Consumer's Advocate finds that a*
2 *telephone solicitor has violated section 11 of this act, the*
3 *Consumer's Advocate may, for the first offense, in lieu of taking*
4 *any action against the telephone solicitor pursuant to section 13 of*
5 *this act or NRS 598.0903 to 598.0999, inclusive, issue a notice of*
6 *violation to the telephone solicitor if the telephone solicitor agrees*
7 *to:*

8 *(a) Establish written policies and procedures to ensure*
9 *compliance with section 11 of this act;*

10 *(b) Provide training concerning the provisions of section 11 of*
11 *this act to each person who makes telephone calls for the*
12 *telephone solicitor; and*

13 *(c) Maintain records evidencing compliance with the*
14 *provisions of paragraphs (a) and (b).*

15 **2.** *A notice of violation issued pursuant to subsection 1 must*
16 *set forth with particularity the violation alleged by the Consumer's*
17 *Advocate, the corrective action the telephone solicitor must take*
18 *and the period within which that corrective action must be taken.*
19 *If a telephone solicitor to whom a notice of violation is issued fails*
20 *to take the corrective action set forth in the notice of violation, the*
21 *Consumer's Advocate may:*

22 *(a) Extend the period for taking corrective action; or*

23 *(b) Proceed against the telephone solicitor in accordance with*
24 *the provisions of section 13 of this act or NRS 598.0903 to*
25 *598.0999, inclusive.*

26 **Sec. 13. 1.** *If, after an investigation, the Consumer's*
27 *Advocate has reasonable cause to believe that any person has been*
28 *engaged or is engaging in any act in violation of sections 3 to 16,*
29 *inclusive, of this act, the Consumer's Advocate may issue an order*
30 *directed to the person to show cause why the Consumer's*
31 *Advocate should not order the person to cease and desist from*
32 *engaging in the practice. The order must contain a statement of*
33 *the charges and a notice of a hearing to be held thereon. The*
34 *order must be served upon the person directly or by certified or*
35 *registered mail, return receipt requested.*

36 **2.** *If, after conducting a hearing pursuant to the provisions of*
37 *subsection 1, the Consumer's Advocate determines that the person*
38 *has violated any of the provisions of sections 3 to 16, inclusive, of*
39 *this act, or if the person fails to appear for the hearing after being*
40 *properly served with the statement of charges and notice of*
41 *hearing, the Consumer's Advocate may make a written report of*
42 *his findings of fact concerning the violation and cause to be*
43 *served a copy thereof upon the person and any intervener at the*
44 *hearing. If the Consumer's Advocate determines in the report that*
45 *such a violation has occurred, he may order the violator to:*



- 1 (a) Cease and desist from engaging in the practice or other
- 2 activity constituting the violation;
- 3 (b) Pay the costs of reporting services, fees for experts and
- 4 other witnesses, charges for the rental of a hearing room if such a
- 5 room is not available to the Consumer's Advocate free of charge,
- 6 charges for providing an independent hearing officer, if any, and
- 7 charges incurred for any service of process, if the violator is
- 8 adjudicated to have committed a violation of sections 3 to 16,
- 9 inclusive, of this act; and
- 10 (c) Provide restitution for any money or property improperly
- 11 received or obtained as a result of the violation.
- 12 The order must be served upon the person directly or by certified
- 13 or registered mail, return receipt requested. The order becomes
- 14 effective upon service in the manner provided in this subsection.
- 15 3. Any person whose pecuniary interests are directly and
- 16 immediately affected by an order issued pursuant to subsection 2
- 17 or who is aggrieved by the order may petition for judicial review in
- 18 the manner provided in chapter 233B of NRS. Such a petition
- 19 must be filed within 30 days after the service of the order. The
- 20 order becomes final upon the filing of the petition.
- 21 4. If a person fails to comply with any provision of an order
- 22 issued pursuant to subsection 2, the Consumer's Advocate may, at
- 23 any time 30 days after the service of the order, cause an action to
- 24 be instituted in the district court of the county wherein the person
- 25 resides or has his principal place of business requesting the court
- 26 to enforce the provisions of the order or to provide any other
- 27 appropriate injunctive relief.
- 28 5. If the court finds that:
- 29 (a) The violation complained of is a violation of sections 3 to
- 30 16, inclusive, of this act;
- 31 (b) The proceedings by the Consumer's Advocate concerning
- 32 the written report and any order issued pursuant to subsection 2
- 33 are in the interest of the public; and
- 34 (c) The findings of the Consumer's Advocate are supported by
- 35 the weight of the evidence,
- 36 the court shall issue an order enforcing the provisions of the order
- 37 of the Consumer's Advocate.
- 38 6. An order issued pursuant to subsection 5 may include:
- 39 (a) A provision requiring the payment to the Consumer's
- 40 Advocate of a penalty of not more than \$5,000 for each act
- 41 amounting to a failure to comply with the order of the Consumer's
- 42 Advocate; or
- 43 (b) Such injunctive or other equitable or extraordinary relief
- 44 as is determined appropriate by the court.



1 7. *Any aggrieved party may appeal from the final judgment,*
2 *order or decree of the court in a like manner as provided for*
3 *appeals in civil cases.*

4 8. *Upon the violation of any judgment, order or decree issued*
5 *pursuant to subsection 5 or 6, the Consumer's Advocate, after a*
6 *hearing thereon, may proceed in accordance with the provisions of*
7 *NRS 598.0999.*

8 **Sec. 14.** *A violation of a provision of sections 3 to 16,*
9 *inclusive, of this act constitutes a deceptive trade practice for the*
10 *purposes of NRS 598.0903 to 598.0999, inclusive. For the*
11 *purposes of enforcing the provisions of sections 3 to 16, inclusive,*
12 *of this act, the Consumer's Advocate may exercise the authority of*
13 *the Attorney General pursuant to NRS 598.0903 to 598.0999,*
14 *inclusive.*

15 **Sec. 15.** 1. *The Registry Fund is hereby created as a special*
16 *revenue fund in the State Treasury for the use of the Consumer's*
17 *Advocate.*

18 2. *All money collected by the Consumer's Advocate pursuant*
19 *to section 10 of this act must be deposited in the State Treasury for*
20 *credit to the Registry Fund. The interest and income earned on the*
21 *money in the Registry Fund, after deducting any applicable*
22 *charges, must be credited to the Registry Fund.*

23 3. *Expenditures from the Registry Fund must be made only to*
24 *administer and enforce the provisions of sections 3 to 16,*
25 *inclusive, of this act.*

26 4. *The Consumer's Advocate shall administer the Registry*
27 *Fund. All claims against the Registry Fund must be paid as other*
28 *claims against the State are paid.*

29 5. *Any money remaining in the Registry Fund at the end of a*
30 *fiscal year does not revert to the State General Fund, and the*
31 *balance in the Registry Fund must be carried forward to the next*
32 *fiscal year.*

33 6. *Each year, the Consumer's Advocate shall submit an*
34 *itemized statement of the income and expenditures for the Registry*
35 *Fund:*

36 (a) *To the Legislature, if the Legislature is in session; or*
37 (b) *If the Legislature is not in session, to the Interim Finance*
38 *Committee.*

39 **Sec. 16.** *The Consumer's Advocate shall adopt regulations to*
40 *carry out the provisions of sections 3 to 16, inclusive, of this act.*

41 **Sec. 17.** NRS 228.300 is hereby amended to read as follows:
42 228.300 As used in NRS 228.300 to 228.390, inclusive, *and*
43 *sections 3 to 16, inclusive, of this act,* unless the context otherwise
44 requires, the words and terms defined in NRS 228.302 to 228.308,
45 inclusive, have the meanings ascribed to them in those sections.



1 **Sec. 18.** The State Treasurer shall, upon passage and approval
2 of this act, transfer \$200,000:

3 1. From the account within the Attorney General's Special
4 Fund for money deposited pursuant to subsection 1 of NRS
5 598A.260; and

6 2. To the Registry Fund created by section 15 of this act.

7 **Sec. 19.** This act becomes effective:

8 1. Upon passage and approval for the purposes of adopting
9 regulations, transferring money pursuant to section 18 of this act,
10 and entering into contracts or otherwise preparing to carry out the
11 provisions of this act.

12 2. On October 1, 2003, for the purposes of the Consumer's
13 Advocate receiving and accepting requests to include telephone
14 numbers in the registry established pursuant to section 7 of this act.

15 3. On December 1, 2003, for the purpose of publishing the first
16 list of telephone numbers in the registry; and

17 4. On January 1, 2004, for all other purposes.

