

ASSEMBLY BILL NO. 343—ASSEMBLYMAN CARPENTER  
(BY REQUEST)

MARCH 17, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes related to sellers of travel.  
(BDR 52-881)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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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 sellers of travel; requiring a seller of travel to include his registration number in his advertising; requiring a seller of travel to maintain a trust account for money received for the purchase of travel services; revising the definition of “seller of travel”; requiring the Division to mail to a seller of travel an application for the renewal of his certificate before the expiration of his current certificate; allowing a seller of travel to comply with certain financial security requirements by maintaining a specified policy of insurance; providing an exclusion from certain financial security requirements; 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.** Chapter 598 of NRS is hereby amended by adding
- 2     thereto the provisions set forth as sections 2 and 3 of this act.
- 3     **Sec. 2.** *A seller of travel shall include the registration*
- 4     *number from his certificate of registration in any advertising*
- 5     *conducted by, or on the behalf of, the seller of travel.*
- 6     **Sec. 3.** *1. A seller of travel shall maintain a trust account*
- 7     *in a bank, credit union or savings and loan association in this*
- 8     *state for the purpose of depositing money paid to the seller of*
- 9     *travel by a person for the purchase of travel services.*



1       2. *A seller of travel shall deposit all money received by the*  
2 *seller of travel from a person for the purchase of travel services*  
3 *into the trust account within 3 business days after receiving the*  
4 *money.*

5       3. *The seller of travel shall pay out of the trust account the*  
6 *money paid by a person for the purchase of travel services as*  
7 *needed to complete the purchase of travel services purchased by*  
8 *the person.*

9       **Sec. 4.** NRS 598.0999 is hereby amended to read as follows:

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

21       2. In any action brought pursuant to the provisions of NRS  
22 598.0903 to 598.0999, inclusive, if the court finds that a person has  
23 willfully engaged in a deceptive trade practice, the Commissioner,  
24 the Director, the district attorney of any county in this state or the  
25 Attorney General bringing the action may recover a civil penalty not  
26 to exceed \$2,500 for each violation. The court in any such action  
27 may, in addition to any other relief or reimbursement, award  
28 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       4. Any offense which occurred within 10 years immediately  
38 preceding the date of the principal offense or after the principal  
39 offense constitutes a prior offense for the purposes of subsection 3  
40 when evidenced by a conviction, without regard to the sequence of  
41 the offenses and convictions.

42       5. If a person violates any provision of NRS 598.0903 to  
43 598.0999, inclusive, 598.100 to 598.2801, inclusive, 598.305  
44 to 598.395, inclusive, *and sections 2 and 3 of this act*, 598.405 to  
45 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to



1 598.966, inclusive, fails to comply with a judgment or order of any  
2 court in this state concerning a violation of such a provision, or fails  
3 to comply with an assurance of discontinuance or other agreement  
4 concerning an alleged violation of such a provision, the  
5 Commissioner or the district attorney of any county may bring an  
6 action in the name of the State of Nevada 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 **Sec. 5.** NRS 598.305 is hereby amended to read as follows:

14 598.305 As used in NRS 598.305 to 598.395, inclusive, *and*  
15 *sections 2 and 3 of this act*, unless the context otherwise requires,  
16 the words and terms defined in NRS 598.315 to 598.356, inclusive,  
17 have the meanings ascribed to them in those sections.

18 **Sec. 6.** NRS 598.335 is hereby amended to read as follows:

19 598.335 “Seller of travel” means a person, *including, without*  
20 *limitation, a business entity*, who offers for sale, directly or  
21 indirectly, transportation by air, land, rail or water, travel services,  
22 vacation certificates or any combination thereof, to a person or  
23 group of persons for a fee, commission or other valuable  
24 consideration. The term:

25 1. Includes any person who offers membership in a travel club  
26 or any services related to travel for an advance fee ~~for payment.~~,  
27 *payment or deposit.*

28 2. Does not include:

29 (a) *A person who:*

30 *(1) Contracts with a seller of travel to sell travel services on*  
31 *behalf of the seller of travel;*

32 *(2) Receives compensation for selling the travel services*  
33 *only from the seller of travel; and*

34 *(3) Requires a purchaser of travel services to pay for the*  
35 *travel services by transmitting payment directly to the provider of*  
36 *the travel services or the seller of travel;*

37 (b) A hotel that provides or arranges travel services for its  
38 patrons or guests;

39 ~~(b)~~ (c) A person who, for compensation, transports persons or  
40 property by air, land, rail or water; or

41 ~~(c)~~ (d) A tour broker or tour operator who is subject to the  
42 provisions of NRS 598.405 to 598.525, inclusive.



1     **Sec. 7.** NRS 598.365 is hereby amended to read as follows:  
2     598.365 1. Before advertising its services or conducting  
3 business in this state, a seller of travel must register with the  
4 Division by:

- 5     (a) Submitting to the Division an application for registration on  
6 a form prescribed by the Division;  
7     (b) Paying to the Division a fee of \$25; and  
8     (c) Depositing the security required pursuant to NRS 598.375, if  
9 any, with the Division.

10    2. The Division shall issue a certificate of registration to the  
11 seller of travel upon receipt of:

- 12    (a) The security in the proper form if the seller of travel is  
13 required to deposit security pursuant to NRS 598.375; and  
14    (b) The payment of the fee required by this section.

15    3. A certificate of registration:

- 16    (a) Is not transferable or assignable; and  
17    (b) Expires 1 year after it is issued.

18    4. A seller of travel must renew a certificate of registration  
19 issued pursuant to this section before the certificate expires by:

- 20    (a) Submitting to the Division an application for the renewal of  
21 the certificate on a form prescribed by the Division; and  
22    (b) Paying to the Division a fee of \$25.

23    ***5. The Division shall mail an application for the renewal of a***  
24 ***certificate to the last known address of a seller of travel at least 30***  
25 ***days before the expiration of the certificate.***

26    ***6. The provisions of this section do not require a person***  
27 ***described in paragraph (a) of subsection 2 of NRS 598.335 to***  
28 ***register with the Division.***

29     **Sec. 8.** NRS 598.375 is hereby amended to read as follows:

30     598.375 1. Except as otherwise provided in subsection 8,  
31 each seller of travel shall deposit with the Division:

32     (a) A bond executed by a corporate surety approved by the  
33 Commissioner and licensed to do business in this state;

34     (b) An irrevocable letter of credit for which the seller of travel is  
35 the obligor, issued by a bank whose deposits are federally insured;

36     ~~(c)~~

37     ***(c) Written proof that the seller of travel maintains a policy of***  
38 ***insurance covering liability for errors and omissions of the seller***  
39 ***of travel for activities relating to the provisions of NRS 598.305 to***  
40 ***598.395, inclusive, and sections 2 and 3 of this act; or***

41     ***(d)*** A certificate of deposit in a financial institution which is  
42 doing business in this state and which is federally insured or insured  
43 by a private insurer approved pursuant to NRS 678.755. The  
44 certificate of deposit may be withdrawn only on the order of the



1 Commissioner, except that the interest may accrue to the seller of  
2 travel.

3 2. The term of the bond, letter of credit , *policy of insurance*,  
4 or certificate of deposit, or any renewal thereof, must be not less  
5 than 1 year.

6 3. The amount of the bond, letter of credit , *policy of insurance*  
7 or certificate of deposit, or any renewal thereof, must be ~~[\$50,000.]~~  
8 *\$10,000.*

9 4. If the seller of travel deposits a bond ~~[ ]~~ *or written proof of*  
10 *maintaining a policy of insurance*, the seller of travel shall keep  
11 accurate records of the bond *or policy of insurance* and the  
12 payments made on the premium. The records must be open to  
13 inspection by the Division during business hours. The seller of  
14 travel shall notify the Division not later than 30 days before the date  
15 of expiration of the bond *or policy of insurance* and provide written  
16 proof of the renewal of the bond *or policy of insurance* to the  
17 Division.

18 5. The Commissioner may reject any bond, letter of credit ,  
19 *policy of insurance* or certificate of deposit that fails to comply with  
20 the requirements of this chapter.

21 6. A seller of travel may change the form of security that he  
22 has deposited with the Division. If the seller of travel changes the  
23 form of the security, the Commissioner may retain for not more than  
24 1 year any portion of the security previously deposited by the seller  
25 of travel as security for claims arising during the time the previous  
26 security was in effect.

27 7. If the amount of the deposited security falls below the  
28 amount required by this chapter for that security, the seller of travel  
29 shall be deemed not to be registered as required by NRS 598.365 for  
30 the purposes of this chapter.

31 8. The provisions of this section do not apply to a seller of  
32 travel who ~~[is]~~ :

33 (a) *Is* accredited by and appointed as an agent of the Airlines  
34 Reporting Corporation ~~[ ]~~ ; *or*

35 (b) *Has sold travel services in this state for 3 continuous years*  
36 *pursuant to the provisions of NRS 598.305 to 598.395, inclusive,*  
37 *and sections 2 and 3 of this act, and who has not been the subject*  
38 *of a complaint made to the Division concerning activities governed*  
39 *by NRS 598.305 to 598.395, inclusive, and sections 2 and 3 of this*  
40 *act.*

41 **Sec. 9.** This act becomes effective on July 1, 2003.

