
SENATE BILL NO. 399—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE ATTORNEY GENERAL)

MARCH 21, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing trade practices and resident agents. (BDR 52-429)

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 business activities; expanding the definition of “deceptive trade practice” to include the failure to disclose certain information or the making of certain false statements or representations relating to a sale or lease of goods or services; prohibiting certain providers of telecommunications services from billing a customer for a service if the provider is notified or knows or upon reasonable inquiry should know that the customer has not authorized the service; expanding the authority of a district court to grant equitable relief for a deceptive trade practice; providing that certain tangible evidence or answers relating to an unfair trade practice are not public records under certain circumstances; prohibiting the filing of a certificate of change of a resident agent under certain circumstances; providing a penalty; 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. 1. *A person engages in a “deceptive trade practice”***
4 ***if, in the course of his business or occupation, he, directly or***



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- 1 *through another person, employee, agent or representative acting*
2 *on his behalf:*
- 3 *(a) Fails to disclose in a truthful, clear and conspicuous*
4 *manner, before a customer pays for any goods or services offered,*
5 *or misrepresents, directly or by implication at the time of the sale*
6 *or lease of the goods or services, any of the following information:*
- 7 *(1) The total cost to purchase, receive or use, and the*
8 *quantity of, any goods or services that are the subject of the offer;*
9 *(2) Any material restriction, limitation or condition to*
10 *purchase, receive or use any goods or services that are the subject*
11 *of the offer;*
- 12 *(3) Any material aspect of the performance, efficacy,*
13 *nature or central characteristics of any goods or services that are*
14 *the subject of the offer;*
- 15 *(4) Any material aspect of the nature or terms of the seller's*
16 *refund, cancellation, exchange or repurchase policies;*
- 17 *(5) Any affiliation of the seller with, or endorsement or*
18 *sponsorship by, any person or governmental entity;*
- 19 *(6) That any offered goods or services are required by a*
20 *person to provide protections that the person already has pursuant*
21 *to any federal or state law or regulation; or*
- 22 *(7) Any material aspect of a negative option including, but*
23 *not limited to, the fact that the customer's account will be charged*
24 *unless the customer acts to avoid the charge, or the date the*
25 *charge will be submitted for payment and the specific actions the*
26 *customer must take to avoid the charge.*
- 27 *(b) Makes a false statement concerning or fails to disclose the*
28 *date the charge for the goods or services will be submitted for*
29 *payment or the date the customer's account will be charged.*
- 30 *(c) Causes billing information to be submitted for payment, or*
31 *collects or attempts to collect payment for goods or services or a*
32 *charitable contribution without obtaining express authorization*
33 *from the customer or donor, as verified in accordance with*
34 *subsection 2.*
- 35 *(d) Presents for payment or deposits into a financial*
36 *institution's credit card system or electronic banking system a*
37 *credit card sales draft or an electronic debit drawn on a*
38 *customer's bank account that is generated by a sales transaction*
39 *for the purchase or lease of goods or services, if the credit card*
40 *sales draft or electronic debit is not the result of a sale or lease*
41 *transaction directly between the cardholder and the seller, as*
42 *verified in accordance with subsection 2, unless the financial*
43 *institution expressly authorizes the payment or deposit.*
- 44 *(e) Uses a business relationship or an affiliation with a seller*
45 *or lessor of goods or services to obtain access to the credit card*



1 *system of a financial institution or a person's bank account*
2 *information, if the access is not authorized by an agreement*
3 *between the seller or lessor and the financial institution or bank.*

4 *(f) Sells, loans, gives, transmits, trades or distributes in any*
5 *manner, to another person, a customer's credit card or banking*
6 *account information or any other information relating to the*
7 *customer that allows the recipient to access the customer's credit*
8 *card or banking account, without express authorization of the*
9 *customer, for the purpose of enabling the recipient to use the*
10 *information to engage in advertising, telemarketing, direct*
11 *mailing, facsimile advertising, submitting mail electronically or*
12 *any indirect sales activity relating to the sale of goods or services.*

13 *2. For the purposes of this section, any authorization*
14 *specified in paragraph (c) or (d) of subsection 1 is verifiable upon:*

15 *(a) Presenting the express written authorization of the*
16 *customer or donor for the payment or charitable contribution,*
17 *which must include the signature of the customer or donor;*

18 *(b) Presenting the express oral authorization of the customer*
19 *or donor, if the authorization:*

20 *(1) Is recorded in audible form;*

21 *(2) Is made available to the customer or donor and to the*
22 *bank or other billing entity of the customer or donor upon request;*

23 *(3) Clearly indicates that the customer has authorized*
24 *payment for the goods or services or the donor has authorized the*
25 *charitable contribution; and*

26 *(4) Clearly indicates that the customer or donor has*
27 *received the following information:*

28 *(I) The number of debits, charges or payments required*
29 *to purchase the goods or services or to make the charitable*
30 *contribution;*

31 *(II) The date each debit, charge or payment will be*
32 *submitted for payment;*

33 *(III) The amount of each debit, charge or payment for*
34 *the goods or services or charitable contribution;*

35 *(IV) The name of the customer or donor;*

36 *(V) The billing information of the customer or donor,*
37 *stated with sufficient specificity to ensure that the customer or*
38 *donor understands the account that will be used to collect payment*
39 *for the goods or services or the charitable contribution;*

40 *(VI) A telephone number that is available for use by the*
41 *customer or donor to submit inquiries and that is answered by a*
42 *natural person during normal business hours; and*

43 *(VII) The date the authorization of the customer or*
44 *donor was obtained; or*



1 (c) *Presenting written confirmation of the transaction, set*
2 *forth in a clear and conspicuous manner and sent to the customer*
3 *or donor by first class mail at least 30 days before the submission*
4 *for payment of the customer's or donor's billing information,*
5 *which includes:*

6 (1) *The information set forth in subparagraph (4) of*
7 *paragraph (b); and*

8 (2) *A clear and concise statement indicating the manner in*
9 *which the customer or donor may, if the written confirmation is*
10 *inaccurate, cancel the sale or charitable contribution and obtain a*
11 *refund of any money paid for the sale or donated for the*
12 *charitable contribution.*

13 3. *As used in this section:*

14 (a) *"Credit" means the right granted by a creditor to a debtor*
15 *to defer payment of a debt or to incur a debt and defer its payment.*

16 (b) *"Credit card" means any card, plate, coupon book or other*
17 *credit device existing for the purpose of obtaining money,*
18 *property, labor or services on credit, or any debit card issued by a*
19 *financial institution.*

20 (c) *"Credit card sales draft" means any record or evidence of a*
21 *credit card or debit transaction.*

22 (d) *"Credit card system" means any method or procedure used*
23 *to process a credit card or debit card transaction involving a card*
24 *or other device issued or licensed by any financial institution or*
25 *any operator employed or licensed by a financial institution.*

26 (e) *"Customer" means any person who pays or is or may be*
27 *required to pay for goods or services.*

28 (f) *"Electronic banking system" means any method or*
29 *procedure used by a financial institution or an operator employed*
30 *by a financial institution to carry out an electronic banking*
31 *transaction.*

32 **Sec. 3.** *A person engages in a "deceptive trade practice" if, in*
33 *the course of his business or occupation, he, directly or through*
34 *another person, employee, agent or representative acting on his*
35 *behalf:*

36 1. *Makes a false, misleading or threatening statement to*
37 *induce a person to pay for goods or services that are not ordered,*
38 *delivered or authorized, or to induce the person to make a*
39 *charitable contribution.*

40 2. *Provides substantial assistance or support to any other*
41 *person, if he knows or consciously avoids knowing that the other*
42 *person is engaged in a deceptive trade practice.*

43 **Sec. 4.** *NRS 598.0903 is hereby amended to read as follows:*

44 598.0903 *As used in NRS 598.0903 to 598.0999, inclusive,*
45 *and sections 2 and 3 of this act, unless the context otherwise*



1 requires, the words and terms defined in NRS 598.0905 to
2 598.0947, inclusive, *and sections 2 and 3 of this act* have the
3 meanings ascribed to them in those sections.

4 **Sec. 5.** NRS 598.0915 is hereby amended to read as follows:

5 598.0915 A person engages in a “deceptive trade practice” if,
6 in the course of his business or occupation, he ~~is~~, *directly or*
7 *through another person, employee, agent or representative acting*
8 *on his behalf:*

9 1. Knowingly passes off goods or services for sale or lease as
10 those of another person.

11 2. Knowingly makes a false representation as to the source,
12 sponsorship, approval or certification of goods or services for sale or
13 lease.

14 3. Knowingly makes a false representation as to affiliation,
15 connection, association with or certification by another person.

16 4. *Refuses to disclose, makes a false or misleading*
17 *representation or uses a mail drop, registered agent, post office*
18 *box, electronic mail address or unlisted telephone number as the*
19 *sole point of contact for the business for the purpose of concealing*
20 *the physical address or geographic location of:*

21 (a) *Each address where the operation of the business is*
22 *located;*

23 (b) *The location of any person who, by telephone, mail,*
24 *facsimile or electronic mail, or in any indirect manner, sells or*
25 *leases or solicits the sale or lease of any goods or services for or on*
26 *behalf of the business;*

27 (c) *The address of each owner, director or officer of the*
28 *business; or*

29 (d) *The geographic location from which any goods or services*
30 *are provided by the business.*

31 5. Uses deceptive representations or designations of geographic
32 origin in connection with goods or services for sale or lease.

33 ~~is~~ 6. Knowingly makes a false representation as to the
34 characteristics, ingredients, uses, benefits, alterations or quantities of
35 goods or services for sale or lease or a false representation as to the
36 sponsorship, approval, status, affiliation or connection of a person
37 therewith.

38 ~~is~~ 7. Represents that goods for sale or lease are original or
39 new if he knows or should know that they are deteriorated, altered,
40 reconditioned, reclaimed, used or secondhand.

41 ~~is~~ 8. Represents that goods or services for sale or lease are of
42 a particular standard, quality or grade, or that such goods are of a
43 particular style or model, if he knows or should know that they are
44 of another standard, quality, grade, style or model.



- 1 ~~[8.]~~ **9.** Disparages the goods, services or business of another
- 2 person by false or misleading representation of fact.
- 3 ~~[9.]~~ **10.** Advertises goods or services with intent not to sell or
- 4 lease them as advertised.
- 5 ~~[10.]~~ **11.** Advertises goods or services for sale or lease with
- 6 intent not to supply reasonably expectable public demand, unless the
- 7 advertisement discloses a limitation of quantity.
- 8 ~~[11.]~~ **12.** Advertises goods or services as being available free of
- 9 charge with intent to require payment of undisclosed costs as a
- 10 condition of receiving the goods or services.
- 11 ~~[12.]~~ **13.** Advertises under the guise of obtaining sales
- 12 personnel when the purpose is to first sell or lease goods or services
- 13 to the sales personnel applicant.
- 14 ~~[13.]~~ **14.** Makes false or misleading statements of fact
- 15 concerning the price of goods or services for sale or lease, or the
- 16 reasons for, existence of or amounts of price reductions.
- 17 ~~[14.]~~ **15.** Fraudulently alters any contract, written estimate of
- 18 repair, written statement of charges or other document in connection
- 19 with the sale or lease of goods or services.
- 20 ~~[15.]~~ **16.** Knowingly makes any other false representation in a
- 21 transaction.
- 22 ~~[16.]~~ **17.** Knowingly falsifies an application for credit relating
- 23 to a retail installment transaction, as defined in NRS 97.115.
- 24 **Sec. 6.** NRS 598.0967 is hereby amended to read as follows:
- 25 598.0967 1. The Commissioner and the Director, in addition
- 26 to other powers conferred upon them by NRS 598.0903 to
- 27 598.0999, inclusive, *and sections 2 and 3 of this act*, may issue
- 28 subpoenas to require the attendance of witnesses or the production
- 29 of documents, conduct hearings in aid of any investigation or
- 30 inquiry and prescribe such forms and adopt such regulations as may
- 31 be necessary to administer the provisions of NRS 598.0903 to
- 32 598.0999, inclusive ~~[]~~, *and sections 2 and 3 of this act*. Such
- 33 regulations may include, without limitation, provisions concerning
- 34 the applicability of the provisions of NRS 598.0903 to 598.0999,
- 35 inclusive, *and sections 2 and 3 of this act* to particular persons or
- 36 circumstances.
- 37 2. Service of any notice or subpoena must be made as provided
- 38 in N.R.C.P. 45(c).
- 39 **Sec. 7.** 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 sections 2 and 3 of this act*,
- 44 the Commissioner may issue an order directed to the person to show
- 45 cause why the Commissioner should not order the person to cease



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

5 2. If, after conducting a hearing pursuant to the provisions of
6 subsection 1, the Commissioner determines that the person has
7 violated any of the provisions of NRS 598.0903 to 598.0999,
8 inclusive, *and sections 2 and 3 of this act*, or if the person fails to
9 appear for the hearing after being properly served with the statement
10 of charges and notice of hearing, the Commissioner may make a
11 written report of his findings of fact concerning the violation and
12 cause to be served a copy thereof upon the person and any
13 intervener at the hearing. If the Commissioner determines in the
14 report that such a violation has occurred, he may order the violator
15 to:

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

18 (b) Pay the costs of reporting services, fees for experts and other
19 witnesses, charges for the rental of a hearing room if such a room is
20 not available to the Commissioner free of charge, charges for
21 providing an independent hearing officer, if any, and charges
22 incurred for any service of process, if the violator is adjudicated to
23 have committed a violation of NRS 598.0903 to 598.0999, inclusive
24 ~~§~~, *and sections 2 and 3 of this act*; and

25 (c) Provide restitution for any money or property improperly
26 received or obtained as a result of the violation.

27 The order must be served upon the person directly or by certified or
28 registered mail, return receipt requested. The order becomes
29 effective upon service in the manner provided in this subsection.

30 3. Any person whose pecuniary interests are directly and
31 immediately affected by an order issued pursuant to subsection 2 or
32 who is aggrieved by the order may petition for judicial review in the
33 manner provided in chapter 233B of NRS. Such a petition must be
34 filed within 30 days after the service of the order. The order
35 becomes final upon the filing of the petition.

36 4. If a person fails to comply with any provision of an order
37 issued pursuant to subsection 2, the Commissioner may, through the
38 Attorney General, at any time after 30 days after the service of
39 the order, cause an action to be instituted in the district court of the
40 county wherein the person resides or has his principal place of
41 business requesting the court to enforce the provisions of the order
42 or to provide any other appropriate injunctive relief.

43 5. If the court finds that:

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



1 (b) The proceedings by the Commissioner concerning the
2 written report and any order issued pursuant to subsection 3 are in
3 the interest of the public; and

4 (c) The findings of the Commissioner are supported by the
5 weight of the evidence,
6 the court shall issue an order enforcing the provisions of the order of
7 the Commissioner.

8 6. An order issued pursuant to subsection 5 may include:

9 (a) A provision requiring the payment to the Commissioner of a
10 penalty of not more than \$5,000 for each act amounting to a failure
11 to comply with the Commissioner's order; or

12 (b) Such injunctive or other equitable or extraordinary relief as
13 is determined appropriate by the court.

14 7. Any aggrieved party may appeal from the final judgment,
15 order or decree of the court in a like manner as provided for appeals
16 in civil cases.

17 8. Upon the violation of any judgment, order or decree issued
18 pursuant to subsection 5 or 6, the Commissioner, after a hearing
19 thereon, may proceed in accordance with the provisions of
20 NRS 598.0999.

21 **Sec. 8.** NRS 598.0973 is hereby amended to read as follows:

22 598.0973 1. In any action brought pursuant to NRS 598.0979
23 to 598.099, inclusive, *and sections 2 and 3 of this act*, if the court
24 finds that a person has engaged in a deceptive trade practice directed
25 toward an elderly or disabled person, the court may, in addition to
26 any other civil or criminal penalty, impose a civil penalty of not
27 more than \$10,000 for each violation.

28 2. In determining whether to impose a civil penalty pursuant to
29 subsection 1, the court shall consider whether:

30 (a) The conduct of the person was in disregard of the rights of
31 the elderly or disabled person;

32 (b) The person knew or should have known that his conduct was
33 directed toward an elderly or disabled person;

34 (c) The elderly or disabled person was more vulnerable to the
35 conduct of the person because of the age, health, infirmity, impaired
36 understanding, restricted mobility or disability of the elderly or
37 disabled person;

38 (d) The conduct of the person caused the elderly or disabled
39 person to suffer actual and substantial physical, emotional or
40 economic damage;

41 (e) The conduct of the person caused the elderly or disabled
42 person to suffer:

43 (1) Mental or emotional anguish;

44 (2) The loss of the primary residence of the elderly or
45 disabled person;



- 1 (3) The loss of the principal employment or source of income
- 2 of the elderly or disabled person;
- 3 (4) The loss of money received from a pension, retirement
- 4 plan or governmental program;
- 5 (5) The loss of property that had been set aside for retirement
- 6 or for personal or family care and maintenance;
- 7 (6) The loss of assets which are essential to the health and
- 8 welfare of the elderly or disabled person; or
- 9 (7) Any other interference with the economic well-being of
- 10 the elderly or disabled person, including the encumbrance of his
- 11 primary residence or principal source of income; or
- 12 (f) Any other factors that the court deems to be appropriate.

13 **Sec. 9.** NRS 598.0975 is hereby amended to read as follows:
 14 598.0975 1. Except as otherwise provided in subsection 1 of
 15 NRS 598.0999 and subsection 3, all fees, civil penalties and any
 16 other money collected pursuant to the provisions of NRS 598.0903
 17 to 598.0999, inclusive ~~§~~, *and sections 2 and 3 of this act*:

18 (a) In an action brought by the Attorney General, Commissioner
 19 or Director, must be deposited in the State General Fund and may
 20 only be used to offset the costs of administering and enforcing the
 21 provisions of NRS 598.0903 to 598.0999, inclusive ~~§~~, *and*
 22 *sections 2 and 3 of this act.*

23 (b) In an action brought by the district attorney of a county,
 24 must be deposited with the county treasurer of that county and
 25 accounted for separately in the county general fund.

26 2. Money in the account created pursuant to paragraph (b) of
 27 subsection 1 must be used by the district attorney of the county for:

28 (a) The investigation and prosecution of deceptive trade
 29 practices against elderly or disabled persons; and

30 (b) Programs for the education of consumers which are directed
 31 toward elderly or disabled persons, law enforcement officers,
 32 members of the judicial system, persons who provide social services
 33 and the general public.

34 3. The provisions of this section do not apply to:

35 (a) Criminal fines imposed pursuant to NRS 598.0903 to
 36 598.0999, inclusive ~~§~~, *and sections 2 and 3 of this act*; or

37 (b) Restitution ordered pursuant to NRS 598.0903 to 598.0999,
 38 inclusive, *and sections 2 and 3 of this act*, in an action brought by
 39 the Attorney General. Money collected for restitution ordered in
 40 such an action must be deposited by the Attorney General and
 41 credited to the appropriate account of the Consumer Affairs
 42 Division of the Department of Business and Industry or the Attorney
 43 General for distribution to the person for whom the restitution was
 44 ordered.



1 **Sec. 10.** NRS 598.098 is hereby amended to read as follows:
2 598.098 1. NRS 598.0903 to 598.0999, inclusive, *and*
3 *sections 2 and 3 of this act* do not prohibit the Commissioner or
4 Director from disclosing to the Attorney General, any district
5 attorney or any law enforcement officer the fact that a crime has
6 been committed by any person, if this fact has become known as a
7 result of any investigation conducted pursuant to the provisions of
8 NRS 598.0903 to 598.0999, inclusive **H**, *and sections 2 and 3 of*
9 *this act.*

10 2. Subject to the provisions of subsection 2 of NRS 598.0979
11 and except as otherwise provided in this section, the Commissioner
12 or Director may not make public the name of any person alleged to
13 have committed a deceptive trade practice. This subsection does not:

14 (a) Prevent the Commissioner or Director from issuing public
15 statements describing or warning of any course of conduct which
16 constitutes a deceptive trade practice.

17 (b) Apply to a person who is subject to an order issued pursuant
18 to subsection 5 of NRS 598.0971.

19 3. Upon request, the Commissioner may:

20 (a) Disclose the number of written complaints received by the
21 Commissioner during the current or immediately preceding fiscal
22 year. A disclosure made pursuant to this paragraph must include the
23 disposition of the complaint disclosed.

24 (b) Make public any order to cease and desist issued pursuant to
25 subsection 5 of NRS 598.0971.

26 This subsection does not authorize the Commissioner to disclose or
27 make public the contents of any complaint described in paragraph
28 (a) or the record of or any other information concerning a hearing
29 conducted in relation to the issuance of an order to cease and desist
30 described in paragraph (b).

31 4. The Commissioner may adopt regulations authorizing the
32 disclosure of information concerning any complaint or number of
33 complaints received by the Commissioner or Director relating to a
34 person who has been convicted of violating a provision of NRS
35 598.0903 to 598.0999, inclusive **H**, *and sections 2 and 3 of this*
36 *act.*

37 **Sec. 11.** NRS 598.0999 is hereby amended to read as follows:

38 598.0999 1. A person who violates a court order or
39 injunction issued pursuant to the provisions of NRS 598.0903 to
40 598.0999, inclusive, *and sections 2 and 3 of this act*, upon a
41 complaint brought by the Commissioner, the Director, the district
42 attorney of any county of this state or the Attorney General shall
43 forfeit and pay to the State General Fund a civil penalty of not more
44 than \$10,000 for each violation. For the purpose of this section, the
45 court issuing the order or injunction retains jurisdiction over the



1 action or proceeding. Such civil penalties are in addition to any
2 other penalty or remedy available for the enforcement of the
3 provisions of NRS 598.0903 to 598.0999, inclusive ~~§~~ , *and*
4 *sections 2 and 3 of this act.*

5 2. In any action brought pursuant to the provisions of NRS
6 598.0903 to 598.0999, inclusive, *and sections 2 and 3 of this act*, if
7 the court finds that a person has willfully engaged in a deceptive
8 trade practice, the Commissioner, the Director, the district attorney
9 of any county in this state or the Attorney General bringing the
10 action may recover a civil penalty not to exceed \$2,500 for each
11 violation. The court in any such action may, in addition to any other
12 relief or reimbursement, award reasonable attorney's fees and costs.

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

- 16 (a) For the first offense, is guilty of a misdemeanor.
- 17 (b) For the second offense, is guilty of a gross misdemeanor.
- 18 (c) For the third and all subsequent offenses, is guilty of a
19 category D felony and shall be punished as provided in
20 NRS 193.130.

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

26 5. If a person violates any provision of NRS 598.0903 to
27 598.0999, inclusive, *and sections 2 and 3 of this act*, 598.100
28 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to
29 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to
30 598.966, inclusive, fails to comply with a judgment or order of any
31 court in this state concerning a violation of such a provision, or fails
32 to comply with an assurance of discontinuance or other agreement
33 concerning an alleged violation of such a provision, the
34 Commissioner , ~~or~~ the district attorney of any county *or the*
35 *Attorney General* may bring an action in the name of the State of
36 Nevada seeking:

- 37 (a) The suspension of the person's privilege to conduct business
38 within this state; or
- 39 (b) If the defendant is a corporation, dissolution of the
40 corporation.

41 The court may grant or deny the relief sought or may order other
42 appropriate relief.

43 *6. In any action brought by a district attorney or the Attorney*
44 *General for injunctive or other equitable relief to restrain or*
45 *prevent a violation of any provision of NRS 598.0903 to 598.0999,*



1 *inclusive, and sections 2 and 3 of this act, if appropriate notice is*
2 *given in accordance with NRS 598.0997, the court in which the*
3 *action is brought:*

- 4 (a) *Shall grant or deny the requested relief based solely upon:*
5 (1) *Whether or not the existence of the deceptive trade*
6 *practice is shown;*
7 (2) *The extent of participation in the deceptive trade*
8 *practice by each person against whom the injunctive or other*
9 *equitable relief is sought; and*
10 (3) *The propriety of the relief requested;*
11 (b) *Shall not rely upon any principle or rule of common law*
12 *for granting or denying equitable relief or any requirement for*
13 *granting or denying equitable or injunctive relief set forth in the*
14 *Nevada Rules of Civil Procedure; and*
15 (c) *Shall not require a bond for any injunction issued by the*
16 *court in the action.*

17 **Sec. 12.** NRS 598.969 is hereby amended to read as follows:
18 598.969 A provider shall not:

- 19 1. Make a statement or representation regarding the provision
20 of a telecommunications service, including, without limitation, a
21 statement regarding the rates, terms or conditions of a
22 telecommunications service, that:
23 (a) Is false, misleading or deceptive; or
24 (b) Fails to include material information which makes the
25 statement or representation false, misleading or deceptive.
26 2. Misrepresent his identity.
27 3. Falsely state to a person that the person has subscribed or
28 authorized a subscription to or has received a telecommunications
29 service.
30 4. Omit, when explaining the terms and conditions of a
31 subscription to a telecommunications service, a material fact
32 concerning the subscription.
33 5. Fail to provide a customer with timely written notice
34 containing:
35 (a) A clear and detailed description relating directly to the
36 services for which the customer is being billed and the amount the
37 customer is being charged for each service;
38 (b) All terms and conditions relating directly to the services
39 provided; ~~and~~
40 ~~—(e) The~~
41 (c) *For each charge for any telecommunications service, the*
42 *name, address and telephone number of [the provider.]:*
43 (1) *The provider who originates the charge; and*
44 (2) *The billing agent for the provider who originates the*
45 *charge, if the name, address and telephone number of the billing*



1 *agent differ from the name, address and telephone number of the*
2 *provider who originates the charge; and*

3 (d) *The duration of each call that is billed to the customer*
4 *reported in minutes, seconds or any fraction thereof, if the charges*
5 *for the telecommunications service are calculated, in whole or in*
6 *part, based upon the duration of the call.*

7 6. Fail to honor, within a reasonable period, a request of a
8 customer to cancel a telecommunications service pursuant to the
9 terms and conditions for the service.

10 7. Bill a customer for a telecommunications service after the
11 customer has cancelled the telecommunications service pursuant to
12 the terms and conditions of the service.

13 8. Bill a customer for ~~services that~~ *a service if* the provider *is*
14 *notified or* knows *or upon reasonable inquiry should know that* the
15 customer has not authorized ~~to~~ *the service*, unless the service is
16 required to be provided by law. The failure of a customer to refuse a
17 proposal from a provider does not constitute specific authorization.

18 9. Change a customer's subscription to a local exchange carrier
19 or an interexchange carrier unless:

20 (a) The customer has authorized the change within the 30 days
21 immediately preceding the date of the change; and

22 (b) The provider complies with the provisions of 47 U.S.C. §
23 258, as amended, and the verification procedures set forth in 47
24 C.F.R. Part 64, Subpart K, as amended.

25 10. Fail to provide to a customer who has authorized the
26 provider to change his subscription to a local exchange carrier or an
27 interexchange carrier a written confirmation of the change within 30
28 days after the date of the change.

29 11. Propose or enter into a contract with a person that purports
30 to:

31 (a) Waive the protection afforded to the person by any provision
32 of this section; or

33 (b) Authorize the provider or an agent, employee, independent
34 contractor or representative of the provider to violate any provision
35 of this section.

36 **Sec. 13.** NRS 598A.060 is hereby amended to read as follows:

37 598A.060 1. Every activity enumerated in this subsection
38 constitutes a contract, combination or conspiracy in restraint of
39 trade, and it is unlawful to conduct any part of any such activity in
40 this state:

41 (a) Price fixing, which consists of raising, depressing, fixing,
42 pegging or stabilizing the price of any commodity or service ~~to~~ and
43 which includes, but is not limited to:

44 (1) Agreements among competitors to depress prices at
45 which they will buy essential raw material for the end product.



- 1 (2) Agreements to establish prices for commodities or
2 services.
- 3 (3) Agreements to establish uniform discounts, or to
4 eliminate discounts.
- 5 (4) Agreements between manufacturers to price a premium
6 commodity *at* a specified amount above inferior commodities.
- 7 (5) Agreements not to sell below cost.
- 8 (6) Agreements to establish uniform trade-in allowances.
- 9 (7) Establishment of uniform cost surveys.
- 10 (8) Establishment of minimum markup percentages.
- 11 (9) Establishment of single or multiple basing point systems
12 for determining the delivered price of commodities.
- 13 (10) Agreements not to advertise prices.
- 14 (11) Agreements among competitors to fix uniform list
15 prices as a place to start bargaining.
- 16 (12) Bid rigging, including the misuse of bid depositories,
17 foreclosures of competitive activity for a period of time, rotation of
18 jobs among competitors, submission of identical bids ~~§~~ and
19 submission of complementary bids not intended to secure
20 acceptance by the customer.
- 21 (13) Agreements to discontinue a product, or agreements
22 with anyone engaged in the manufacture of competitive lines to
23 limit size, styles or quantities of items comprising the lines.
- 24 (14) Agreements to restrict volume of production.
- 25 (b) Division of markets, consisting of agreements between
26 competitors to divide territories and to refrain from soliciting or
27 selling in certain areas.
- 28 (c) Allocation of customers, consisting of agreements not to sell
29 to specified customers of a competitor.
- 30 (d) Tying arrangements, consisting of contracts in which the
31 seller or lessor conditions the sale or lease of commodities or
32 services on the purchase or leasing of another commodity or service.
- 33 (e) ~~[Monopolization of trade or commerce in this state,
34 including, without limitation, attempting to monopolize or otherwise
35 combining or conspiring to monopolize trade or commerce in this
36 state.~~
- 37 ~~(f)~~ Except as otherwise provided in subsection 2, consolidation,
38 conversion, merger, acquisition of shares of stock or other equity
39 interest, directly or indirectly, of another person engaged in
40 commerce in this state or the acquisition of any assets of another
41 person engaged in commerce in this state that may:
 - 42 (1) Result in the monopolization of trade or commerce in this
43 state or would further any attempt to monopolize trade or commerce
44 in this state; or



1 (2) Substantially lessen competition or be in restraint of
2 trade.

3 2. The provisions of paragraph ~~[(f)]~~ (e) of subsection 1 do not:

4 (a) Apply to a person who, solely for an investment purpose,
5 purchases stock or other equity interest or assets of another person if
6 the purchaser does not use his acquisition to bring about or attempt
7 to bring about the substantial lessening of competition in this state.

8 (b) Prevent a person who is engaged in commerce in this state
9 from forming a subsidiary corporation or other business
10 organization and owning and holding all or part of the stock or
11 equity interest of that corporation or organization.

12 **3. *It is unlawful to engage in any monopolization of trade or***
13 ***commerce in this state, including, without limitation, attempting to***
14 ***monopolize or combining or conspiring to monopolize trade or***
15 ***commerce in this state.***

16 **Sec. 14.** NRS 598A.070 is hereby amended to read as follows:
17 598A.070 1. The Attorney General shall:

18 (a) Enforce the provisions of this chapter.

19 (b) Investigate suspected violations of the provisions of this
20 chapter.

21 (c) Institute proceedings on behalf of the State, its agencies,
22 political subdivisions, districts or municipal corporations, or as
23 parens patriae of the persons residing in the State for:

24 (1) Injunctive *or other equitable* relief to ~~prevent~~ :

25 (I) *Prevent* and restrain a violation of any provision of
26 this chapter ~~[(f)]~~; or

27 (II) *Recover or otherwise address gains obtained in*
28 *violation of any provision of this chapter, including, without*
29 *limitation, restitution and disgorgement of any such gains.*

30 (2) Civil penalties for violations of the provisions of this
31 chapter.

32 (3) Criminal penalties for violations of the provisions of this
33 chapter.

34 2. Any district attorney in this state, with the permission or at
35 the direction of the Attorney General, shall institute proceedings in
36 the name of the State of Nevada for any violation of the provisions
37 of this chapter.

38 **Sec. 15.** NRS 598A.090 is hereby amended to read as follows:
39 598A.090 The district courts have jurisdiction over actions and

40 proceedings for violations of the provisions of this chapter and may:
41 1. Issue temporary restraining orders and injunctions to prevent
42 and restrain violations of the provisions of this chapter.

43 2. Impose civil and criminal penalties and award damages as
44 provided in this chapter.



1 3. Grant mandatory injunctions *or any other equitable relief*
2 reasonably necessary to ~~eliminate~~ :

3 (a) *Eliminate* practices which are unlawful under the provisions
4 of this chapter ~~;~~ ; or

5 (b) *Recover or otherwise address gains obtained in violation of*
6 *any provision of this chapter, including, without limitation,*
7 *restitution and disgorgement of any such gains.*

8 **Sec. 16.** NRS 598A.110 is hereby amended to read as follows:
9 598A.110 Any procedure, testimony taken, document or other
10 tangible evidence produced, or answer made under NRS 598A.100
11 ~~shall~~ *is not a public record and must* be kept confidential by the
12 Attorney General ~~[prior to the institution of an action brought under~~
13 ~~this chapter for the alleged violation of the provisions of this chapter~~
14 ~~under investigation.]~~ unless:

15 1. Confidentiality is waived by the person upon whom the
16 written investigative demand is made;

17 2. Disclosure is authorized by the district court; or

18 3. Disclosure is made pursuant to NRS 598A.080.

19 **Sec. 17.** NRS 78.110 is hereby amended to read as follows:

20 78.110 1. ~~He~~ *Except as otherwise provided in subsection 3,*
21 *if* a corporation created pursuant to this chapter desires to change its
22 resident agent, the change may be effected by filing with the
23 Secretary of State a certificate of change signed by an officer of the
24 corporation which sets forth:

25 (a) The name of the corporation;

26 (b) The name and street address of its present resident agent; and

27 (c) The name and street address of the new resident agent.

28 2. The new resident agent's certificate of acceptance must be a
29 part of or attached to the certificate of change.

30 3. *A person who, by mail or electronic means, solicits a*
31 *corporation to change its present resident agent shall not file a*
32 *certificate of change for the corporation pursuant to subsection 1*
33 *unless:*

34 (a) *At least 30 days before the date the person files the*
35 *certificate of change, he provides a written notice of the proposed*
36 *change to the corporation and the present resident agent of the*
37 *corporation;*

38 (b) *The corporation has not rescinded its authorization to*
39 *change its present resident agent; and*

40 (c) *The person attests under oath that:*

41 (1) *He has provided the written notices required by*
42 *paragraph (a); and*

43 (2) *The corporation has not rescinded its authorization to*
44 *change its present resident agent.*



1 4. *A written notice provided to a corporation pursuant to*
2 *paragraph (a) of subsection 3 must include a statement indicating*
3 *that the corporation may rescind the authorization given by the*
4 *corporation to change its present resident agent.*

5 5. A change authorized by this section becomes effective upon
6 the filing of the certificate of change.

7 6. *A violation of a provision of subsection 3 or 4 or any false*
8 *statement made in connection with providing a written notice*
9 *pursuant to those subsections constitutes a deceptive trade practice*
10 *for the purposes of NRS 598.0903 to 598.0999, inclusive, and*
11 *sections 2 and 3 of this act.*

12 **Sec. 18.** Chapter 80 of NRS is hereby amended by adding
13 thereto a new section to read as follows:

14 1. *A person who, by mail or electronic means, solicits a*
15 *foreign corporation to change its present resident agent shall not*
16 *file a certificate of change for the foreign corporation pursuant to*
17 *NRS 80.070 unless:*

18 (a) *At least 30 days before the date the person files the*
19 *certificate of change, he provides a written notice of the proposed*
20 *change to the foreign corporation and the present resident agent*
21 *of the foreign corporation;*

22 (b) *The foreign corporation has not rescinded its authorization*
23 *to change its present resident agent; and*

24 (c) *The person attests under oath that:*

25 (1) *He has provided the written notices required by*
26 *paragraph (a); and*

27 (2) *The foreign corporation has not rescinded its*
28 *authorization to change its present resident agent.*

29 2. *A written notice provided to a foreign corporation pursuant*
30 *to paragraph (a) of subsection 1 must include a statement*
31 *indicating that the foreign corporation may rescind the*
32 *authorization given by the foreign corporation to change its*
33 *present resident agent.*

34 3. *A violation of a provision of this section or any false*
35 *statement made in connection with providing a written notice*
36 *pursuant to this section constitutes a deceptive trade practice for*
37 *the purposes of NRS 598.0903 to 598.0999, inclusive, and sections*
38 *2 and 3 of this act.*

39 **Sec. 19.** NRS 80.070 is hereby amended to read as follows:

40 80.070 1. ~~[A]~~ *Except as otherwise provided in section 18 of*
41 *this act, a foreign corporation may change its resident agent by*
42 *filing with the Secretary of State:*

43 (a) A certificate of change, signed by an officer of the
44 corporation, setting forth:

45 (1) The name of the corporation;



1 (2) The name and street address of the present resident agent;
2 and

3 (3) The name and street address of the new resident agent;
4 and

5 (b) A certificate of acceptance executed by the new resident
6 agent, which must be a part of or attached to the certificate of
7 change.

8 The change authorized by this subsection becomes effective upon
9 the filing of the certificate of change.

10 2. A person who has been designated by a foreign corporation
11 as resident agent may file with the Secretary of State a signed
12 statement that he is unwilling to continue to act as the agent of the
13 corporation for the service of process.

14 3. Upon the filing of the statement of resignation with the
15 Secretary of State, the capacity of the resigning person as resident
16 agent terminates. If the statement of resignation is not accompanied
17 by a statement of the corporation appointing a successor resident
18 agent, the resigning resident agent shall give written notice, by mail,
19 to the corporation, of the filing of the statement and its effect. The
20 notice must be addressed to any officer of the corporation other than
21 the resident agent.

22 4. If a resident agent dies, resigns or moves from the State, the
23 corporation, within 30 days thereafter, shall file with the Secretary
24 of State a certificate of acceptance executed by the new resident
25 agent. The certificate must set forth the name of the new resident
26 agent, his street address for the service of process ~~§~~ and his mailing
27 address if different from his street address.

28 5. A corporation that fails to file a certificate of acceptance
29 executed by a new resident agent within 30 days after the death,
30 resignation or removal of its resident agent shall be deemed in
31 default and is subject to the provisions of NRS 80.150 and 80.160.

32 **Sec. 20.** NRS 86.235 is hereby amended to read as follows:

33 86.235 1. ~~§~~ *Except as otherwise provided in subsection 3,*
34 *if* a limited-liability company formed pursuant to this chapter desires
35 to change its resident agent, the change may be effected by filing
36 with the Secretary of State a certificate of change , signed by a
37 manager of the company or, if management is not vested in a
38 manager, by a member, that sets forth:

- 39 (a) The name of the limited-liability company;
40 (b) The name and street address of its present resident agent; and
41 (c) The name and street address of the new resident agent.

42 2. The new resident agent's certificate of acceptance must be a
43 part of or attached to the certificate of change.

44 3. ~~The~~ *A person who, by mail or electronic means, solicits a*
45 *limited-liability company to change its present resident agent shall*



1 *not file a certificate of change for the limited-liability company*
2 *pursuant to subsection 1 unless:*
3 *(a) At least 30 days before the date the person files the*
4 *certificate of change, he provides a written notice of the proposed*
5 *change to the limited-liability company and the present resident*
6 *agent of the limited-liability company;*
7 *(b) The limited-liability company has not rescinded its*
8 *authorization to change its present resident agent; and*
9 *(c) The person attests under oath that:*
10 *(1) He has provided the written notices required by*
11 *paragraph (a); and*
12 *(2) The limited-liability company has not rescinded its*
13 *authorization to change its present resident agent.*
14 *4. A written notice provided to a limited-liability company*
15 *pursuant to paragraph (a) of subsection 3 must include a*
16 *statement indicating that the limited-liability company may rescind*
17 *the authorization given by the limited-liability company to change*
18 *its present resident agent.*
19 *5. A change authorized by this section becomes effective upon*
20 *the filing of the certificate of change.*
21 *6. A violation of a provision of subsection 3 or 4 or any false*
22 *statement made in connection with providing a written notice*
23 *pursuant to those subsections constitutes a deceptive trade practice*
24 *for the purposes of NRS 598.0903 to 598.0999, inclusive, and*
25 *sections 2 and 3 of this act.*
26 **Sec. 21.** NRS 87.490 is hereby amended to read as follows:
27 87.490 1. ~~FF~~ *Except as otherwise provided in subsection 2,*
28 *if a registered limited-liability partnership wishes to change the*
29 *location of its principal office in this state or its resident agent, it*
30 *shall first file with the Secretary of State a certificate of change that*
31 *sets forth:*
32 *(a) The name of the registered limited-liability partnership;*
33 *(b) The street address of its principal office;*
34 *(c) If the location of its principal office will be changed, the*
35 *street address of its new principal office;*
36 *(d) The name of its resident agent; and*
37 *(e) If its resident agent will be changed, the name of its new*
38 *resident agent.*
39 *The certificate of acceptance of its new resident agent must*
40 *accompany the certificate of change.*
41 *2. A person who, by mail or electronic means, solicits a*
42 *registered limited-liability partnership to change its present*
43 *resident agent shall not file a certificate of change for the*
44 *registered limited-liability partnership pursuant to subsection 1*
45 *unless:*



1 (a) *At least 30 days before the date the person files the*
2 *certificate of change, he provides a written notice of the proposed*
3 *change to the registered limited-liability partnership and the*
4 *present resident agent of the registered limited-liability*
5 *partnership;*

6 (b) *The registered limited-liability partnership has not*
7 *rescinded its authorization to change its present resident agent;*
8 *and*

9 (c) *The person attests under oath that:*

10 (1) *He has provided the written notices required by*
11 *paragraph (a); and*

12 (2) *The registered limited-liability partnership has not*
13 *rescinded its authorization to change its present resident agent.*

14 3. *A written notice provided to a registered limited-liability*
15 *partnership pursuant to paragraph (a) of subsection 2 must*
16 *include a statement indicating that the registered limited-liability*
17 *partnership may rescind the authorization given by the registered*
18 *limited-liability partnership to change its present resident agent.*

19 4. *A certificate of change filed pursuant to this section must be:*

20 (a) *Signed by a managing partner of the registered limited-*
21 *liability partnership; and*

22 (b) *Accompanied by a fee of \$30.*

23 5. *A violation of a provision of subsection 2 or 3 or any false*
24 *statement made in connection with providing a written notice*
25 *pursuant to those subsections constitutes a deceptive trade practice*
26 *for the purposes of NRS 598.0903 to 598.0999, inclusive, and*
27 *sections 2 and 3 of this act.*

28 **Sec. 22.** NRS 88.331 is hereby amended to read as follows:

29 88.331 1. ~~He~~ *Except as otherwise provided in subsection 3,*
30 *if a limited partnership created pursuant to this chapter desires to*
31 *change its resident agent, the change may be effected by filing with*
32 *the Secretary of State a certificate of change, signed by a general*
33 *partner, which sets forth:*

34 (a) *The name of the limited partnership;*

35 (b) *The name and street address of its present resident agent; and*

36 (c) *The name and street address of the new resident agent.*

37 2. *The new resident agent's certificate of acceptance must be a*
38 *part of or attached to the certificate of change.*

39 3. ~~The~~ *A person who, by mail or electronic means, solicits a*
40 *limited partnership to change its present resident agent shall not*
41 *file a certificate of change for the limited partnership pursuant to*
42 *subsection 1 unless:*

43 (a) *At least 30 days before the date the person files the*
44 *certificate of change, he provides a written notice of the proposed*



1 *change to the limited partnership and the present resident agent of*
2 *the limited partnership;*
3 *(b) The limited partnership has not rescinded its authorization*
4 *to change its present resident agent; and*
5 *(c) The person attests under oath that:*
6 *(1) He has provided the written notices required by*
7 *paragraph (a); and*
8 *(2) The limited partnership has not rescinded its*
9 *authorization to change its present resident agent.*
10 *4. A written notice provided to a limited partnership pursuant*
11 *to paragraph (a) of subsection 3 must include a statement*
12 *indicating that the limited partnership may rescind the*
13 *authorization given by the limited partnership to change its*
14 *present resident agent.*
15 *5. A change authorized by this section becomes effective upon*
16 *the filing of the certificate of change.*
17 *6. A violation of a provision of subsection 3 or 4 or any false*
18 *statement made in connection with providing a written notice*
19 *pursuant to those subsections constitutes a deceptive trade practice*
20 *for the purposes of NRS 598.0903 to 598.0999, inclusive, and*
21 *sections 2 and 3 of this act.*
22 **Sec. 23.** NRS 88A.540 is hereby amended to read as follows:
23 88A.540 1. ~~He~~ *Except as otherwise provided in subsection*
24 *3, if* a business trust formed pursuant to this chapter desires to
25 change its resident agent, the change may be effected by filing with
26 the Secretary of State a certificate of change, signed by at least one
27 trustee of the business trust, setting forth:
28 (a) The name of the business trust;
29 (b) The name and street address of the present resident agent;
30 and
31 (c) The name and street address of the new resident agent.
32 2. A certificate of acceptance executed by the new resident
33 agent must be a part of or attached to the certificate of change.
34 3. ~~The~~ *A person who, by mail or electronic means, solicits a*
35 *business trust to change its present resident agent shall not file a*
36 *certificate of change for the business trust pursuant to subsection*
37 *1 unless:*
38 *(a) At least 30 days before the date the person files the*
39 *certificate of change, he provides a written notice of the proposed*
40 *change to the business trust and the present resident agent of the*
41 *business trust;*
42 *(b) The business trust has not rescinded its authorization to*
43 *change its present resident agent; and*
44 *(c) The person attests under oath that:*



1 (1) *He has provided the written notices required by*
2 *paragraph (a); and*

3 (2) *The business trust has not rescinded its authorization to*
4 *change its present resident agent.*

5 4. *A written notice provided to a business trust pursuant to*
6 *paragraph (a) of subsection 3 must include a statement indicating*
7 *that the business trust may rescind the authorization given by the*
8 *business trust to change its present resident agent.*

9 5. *A change authorized by this section becomes effective upon*
10 *the filing of the certificate of change.*

11 6. *A violation of a provision of subsection 3 or 4 or any false*
12 *statement made in connection with providing a written notice*
13 *pursuant to those subsections constitutes a deceptive trade practice*
14 *for the purposes of NRS 598.0903 to 598.0999, inclusive, and*
15 *sections 2 and 3 of this act.*

16 **Sec. 24.** This act becomes effective upon passage and
17 approval.

