

Amendment No. 405

Senate Amendment to Senate Bill No. 314	(BDR 52-657)
Proposed by: Senate Committee on Commerce and Labor	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

DP/WLK



Date: 4/18/2021

S.B. No. 314—Provides for the regulation of high-volume marketplace sellers.
(BDR 52-657)



SENATE BILL NO. 314—SENATOR NEAL

MARCH 22, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Provides for the regulation of high-volume marketplace sellers. (BDR 52-657)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to trade practices; providing that failing to provide or disclose certain information relating to online marketplaces is a deceptive trade practice; requiring a high-volume marketplace seller to provide certain identifying information to an online marketplace; requiring the online marketplace to verify such identifying information; requiring the online marketplace to disclose certain information regarding the high-volume marketplace dealer; authorizing an online marketplace to issue a partial disclosure of certain information; prohibiting local governments from implementing certain requirements on online marketplaces and high-volume marketplace sellers; authorizing the Commissioner of Consumer Affairs to adopt regulations relating to high-volume marketplace sellers; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that engaging in certain acts constitutes a deceptive trade practice,
2 including contriving, preparing, setting up, proposing, operating, advertising or promoting a
3 pyramid scheme and violating certain requirements relating to charitable solicitations, sales
4 promotions, door-to-door sales and grant writing services. (NRS 598.110, 598.1305, 598.139,
5 598.2801, 598.595) Existing law authorizes the Attorney General, the Commissioner of
6 Consumer Affairs and the Director of the Department of Business and Industry to investigate
7 an allegation of a deceptive trade practice and authorizes the Attorney General to prosecute
8 deceptive trade practices on behalf of the Commissioner or the Director, which may include
9 criminal prosecution or the imposition of certain civil penalties. (NRS 598.0903-598.0999)
10 **Sections 2 and 16** of this bill provide that knowingly violating any of the provisions of
11 **sections 3-16** of this bill relating to high-volume marketplace sellers providing certain
12 information to online marketplaces and the disclosure of certain other information by an
13 online marketplace constitutes a deceptive trade practice. **Section 15** of this bill authorizes a
14 person to file a complaint with the Attorney General, the Commissioner or the Director
15 relating to a suspected violation of the provisions of **sections 3-16** relating to certain sellers
16 providing and disclosing certain information relating to online marketplaces. **Sections 17-29**

of this bill make conforming changes by indicating the placement of **section 2** in the Nevada Revised Statutes. Specifically, **section 18** of this bill provides that the deceptive trade practice described in **section 2** is in addition to and does not limit the types of unfair trade practices actionable at common law or defined as such in statute. **Section 19** of this bill provides that the deceptive trade practice described in **section 2** does not apply to certain situations and persons. **Section 20** of this bill authorizes the Attorney General to institute criminal proceedings to enforce the provisions of **section 2**. **Section 21** of this bill authorizes the Commissioner and Director to issue subpoenas, conduct hearings and adopt regulations to administer the provisions of **section 2**. **Section 22** of this bill provides that certain orders of enforcement may be issued by the Commissioner and Director against a person who has engaged in a deceptive trade practice described in **section 2**. **Sections 23-25** of this bill authorize a district attorney to seek injunctive relief, provide for the relief of injured persons and provide certain civil and criminal penalties in response to a person engaging in a deceptive trade practice described in **section 2**.

Section 10 of this bill requires an online marketplace to require a high-volume marketplace seller to provide certain types of identifying information to the online marketplace within ~~[24 hours]~~ **3 business days** after the marketplace seller becomes a high-volume marketplace seller. **Section 10** requires the online marketplace to notify each high-volume marketplace seller not less than once each year that the high-volume marketplace seller is required to inform the online marketplace if any identifying information has changed within a certain period of time. Additionally, except for certain government records and tax documents, **section 10** requires the online marketplace to verify the identifying information. **Finally, section 10 provides that any of the identifying information provided by a high-volume marketplace seller to an online marketplace is confidential.**

Section 11 of this bill requires an online marketplace to obtain additional identifying information from high-volume marketplace sellers and disclose this information on the listing of the consumer product that is offered for sale by the high-volume marketplace seller. **Section 11** authorizes the online marketplace to make a partial disclosure in certain circumstances involving business addresses and business telephone numbers and the lack thereof. **Section 11** additionally requires the online marketplace to revoke a partial disclosure in certain circumstances. In addition to such disclosures, **section 12** requires an online marketplace to disclose to a consumer the identity of a high-volume marketplace seller that fulfills an order if the high-volume marketplace seller is different from the seller that is listed on the consumer product listing.

Section 13 of this bill prohibits a county, city, local government or other political subdivision of this State or agency thereof from implementing any requirement on an online marketplace or high-volume marketplace that is not identical to the provisions listed in **sections 3-16**.

Section 14 of this bill authorizes the Commissioner to adopt such regulations as the Commissioner determines necessary to carry out the intent of **sections 3-16**.

Section 15.5 of this bill provides that the provisions of sections 3-16 do not establish a private right of action against a marketplace seller, a high-volume marketplace seller or an online marketplace.

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

Section 1. Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this act.

Sec. 2. *A person engages in a “deceptive trade practice” when, in the course of his or her business or occupation, he or she knowingly violates a provision of sections 3 to 16, inclusive, of this act.*

Sec. 3. *As used in sections 3 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 9, inclusive, of this act have the meanings ascribed to them in those sections.*

1 **Sec. 4. 1. “Consumer product” means any tangible personal property**
2 **which is distributed through commerce and which is normally used for personal,**
3 **family or household purposes.**

4 **2. The term includes, without limitation, any tangible personal property that**
5 **is intended to be attached to or installed in any real property without regard to**
6 **whether it is so attached or installed.**

7 **Sec. 5. “Contact information” includes, without limitation:**

- 8 **1. The address of the person;**
9 **2. The telephone number of the person; and**
10 **3. An electronic mail address of the person.**

11 **Sec. 6. “High-volume marketplace seller” means a marketplace seller who,**
12 **in any continuous 12-month period during the previous 24 months, makes or**
13 **enters into 200 or more separate retail sales transactions of new or unused**
14 **consumer products that result in the cumulative gross receipts from the retail**
15 **sales transactions exceeding ~~195,000~~ \$7,500.**

16 **Sec. 7. 1. “Marketplace seller” means a person who:**

17 **(a) Is independent of an operator, facilitator or owner of an online**
18 **marketplace; and**

19 **(b) Sells, offers to sell or contracts to sell a consumer product or who makes**
20 **a retail sales transaction of a consumer product in this State through any online**
21 **marketplace.**

22 **2. The term does not include any person who:**

23 **(a) Is a business entity that has made available to the general public the**
24 **name, address and contact information of the business entity;**

25 **(b) Has a contractual relationship with the owner of the online marketplace**
26 **that is ongoing in which the person provides for the manufacturing, distribution,**
27 **wholesaling or fulfillment of shipments of consumer products; and**

28 **(c) Has provided to the online marketplace the information described in**
29 **paragraph (a).**

30 **Sec. 8. “Online marketplace” means any electronic marketplace or**
31 **electronically based or accessed platform that:**

32 **1. Includes, without limitation, features that allow for, facilitate or enable**
33 **marketplace sellers to engage in the sale, purchase, payment, storage, shipping or**
34 **delivery of a consumer product in this State; and**

35 **2. Hosts one or more marketplace sellers.**

36 **Sec. 9. “Verify” means to confirm the information provided to an online**
37 **marketplace pursuant to sections 3 to 16, inclusive, of this act by using:**

38 **1. An identity verification system that has the capability to confirm the**
39 **name, address and contact information of the marketplace seller; or**

40 **2. A combination of two-factor authentication methods, public records**
41 **searches and the presentation of a government-issued identification of the**
42 **marketplace seller.**

43 **Sec. 10. 1. An online marketplace shall require any high-volume**
44 **marketplace seller on the online marketplace to provide the online marketplace**
45 **with the following information within ~~24 hours~~ 3 business days after the**
46 **marketplace seller becomes a high-volume marketplace seller:**

47 **(a) Except as otherwise provided in paragraph (b), the bank account**
48 **information for the high-volume marketplace seller, the accuracy of which has**
49 **been confirmed directly by the online marketplace or by a payment processor or**
50 **other third party that is contracted by the online marketplace. The high-volume**
51 **marketplace seller may provide the bank account information to:**

52 **(1) The online marketplace; or**

1 (2) *A payment processor or other third party that is contracted by the*
2 *online marketplace to maintain such information. The online marketplace may*
3 *obtain such information upon request from the payment processor or other third*
4 *party.*

5 ***(b) If the high-volume marketplace seller does not have a bank account and***
6 ***cannot provide the information required pursuant to paragraph (a), the name of***
7 ***the payee for payments issued by the online marketplace to the high-volume***
8 ***marketplace seller. The high-volume marketplace seller may provide the payee***
9 ***information to:***

10 ***(1) The online marketplace; or***

11 ***(2) A payment processor or other third party that is contracted by the***
12 ***online marketplace to maintain such information. The online marketplace may***
13 ***obtain such information upon request from the payment processor or other third***
14 ***party.***

15 ***(c) The contact information for the high-volume marketplace seller,***
16 ***including, without limitation:***

17 ***(1) If the high-volume marketplace seller is an natural person, a copy of***
18 ***a valid photo identification for the natural person that includes the name and***
19 ***address of the natural person.***

20 ***(2) If the high-volume marketplace seller is not a natural person:***

21 ***(I) A copy of a valid photo identification for a natural person acting***
22 ***on behalf of the high-volume marketplace seller that includes the name and***
23 ***address of the natural person; or***

24 ***(II) A copy of a record issued by the Federal Government or by the***
25 ***District of Columbia or any other state or territory of the United States or a tax***
26 ***document that includes the business name of the high-volume marketplace seller***
27 ***and the business address of the high-volume marketplace seller.***

28 ***(d) The tax identification number of the high-volume marketplace seller.***

29 ***(e) Information on whether the high-volume marketplace seller is:***

30 ***(1) Exclusively advertising or offering consumer products on the online***
31 ***marketplace; or***

32 ***(2) Actively advertising or offering consumer products on any other***
33 ***online marketplace or Internet website.***

34 ***2. Not less than once each year, the online marketplace shall notify each***
35 ***high-volume marketplace seller that the high-volume marketplace seller shall:***

36 ***(a) Inform the online marketplace of any changes to the information***
37 ***provided pursuant to subsection 1 within 3 business days after receiving the***
38 ***notification from the online marketplace; and***

39 ***(b) Electronically certify:***

40 ***(1) If there are not any changes to the information provided pursuant to***
41 ***subsection 1, that the information provided pursuant to subsection 1 has not***
42 ***changed; or***

43 ***(2) If there are any changes to the information provided pursuant to***
44 ***subsection 1, that the high-volume marketplace seller is providing the changed***
45 ***information.***

46 ***↪ If a high-volume marketplace seller has not provided the electronic***
47 ***certification pursuant to paragraph (b) or, if applicable, has not provided the***
48 ***changed information within 3 business days after receiving the notification from***
49 ***the online marketplace, the online marketplace shall suspend the participation of***
50 ***the high-volume marketplace seller on the online marketplace until the high-***
51 ***volume marketplace seller provides the electronic certification pursuant to***
52 ***paragraph (b) or, if applicable, provides the changed information and the online***
53 ***marketplace verifies the changed information pursuant to subsection 3.***

1 3. Except as otherwise provided in subsection 4, the online marketplace
2 shall verify:

3 (a) The information provided pursuant to subsection 1 within 3 business days
4 after receiving the information; and

5 (b) The changed information provided pursuant to subsection 2 within 3
6 business days after receiving the changed information.

7 4. If a high-volume marketplace seller provides a copy of a record issued by
8 the Federal Government or by the District of Columbia or any other state or
9 territory of the United States or provides a tax document, the online marketplace
10 shall presume the information contained in such a record or document to be
11 verified as of the date of issuance of the record or document.

12 5. Any information provided by a high-volume marketplace seller to an
13 online marketplace pursuant to subsection 1 is confidential and must be kept by
14 the online marketplace for the sole purpose of maintaining records on the high-
15 volume marketplace seller.

16 **Sec. 11.** 1. An online marketplace shall require any high-volume
17 marketplace seller on the online marketplace to provide the online marketplace
18 with the following information within ~~24 hours~~ 3 business days after the
19 marketplace seller becomes a high-volume marketplace seller:

20 (a) The name of the high-volume marketplace seller;

21 (b) The address of the high-volume marketplace seller;

22 (c) The contact information of the high-volume marketplace seller, which
23 may include, without limitation, an electronic mail address provided by the online
24 marketplace to the high-volume marketplace seller;

25 (d) Whether the high-volume marketplace seller also engages in the
26 manufacturing, importing or reselling of consumer products; and

27 (e) Any other information determined to be necessary by the online
28 marketplace to address circumvention or evasion of the requirements of sections
29 3 to 16, inclusive, of this act, provided that the additional information is limited to
30 what is necessary to address the circumvention or evasion.

31 2. Except as otherwise provided in subsection 3, the online marketplace
32 shall disclose to consumers on the listing of the consumer product that is offered
33 for sale by the high-volume marketplace seller:

34 (a) The name of the high-volume marketplace seller.

35 (b) The information described in paragraphs (b) to (e), inclusive, of
36 subsection 1. The online marketplace may disclose the information by use of an
37 Internet link on the listing of the consumer product.

38 (c) A reporting mechanism that allows a consumer to report to the online
39 marketplace electronically and by use of a telephone any suspicious activity
40 conducted by the high-volume marketplace seller.

41 (d) A message encouraging consumers to report to the online marketplace
42 any suspicious activity conducted by the high-volume marketplace seller.

43 3. Upon request from a high-volume marketplace seller, an online
44 marketplace may allow for a partial disclosure of the information required
45 pursuant to paragraphs (a) to (d), inclusive, of subsection 1 if the high-volume
46 marketplace seller demonstrates to the online marketplace that the high-volume
47 marketplace seller:

48 (a) Does not have a business address and only has a residential address. If
49 the online marketplace decides to allow a partial disclosure due to the lack of a
50 business address, the online marketplace shall disclose to consumers on the
51 listing of the consumer product that is offered for sale by the high-volume
52 marketplace seller in the manner described in subsection 2:

1 (1) *The country and, if applicable, the district, state or territory in which*
2 *the high-volume marketplace seller resides; and*

3 (2) *That there is no business address available for the high-volume*
4 *marketplace seller and that inquiries by the consumer should be submitted to the*
5 *high-volume marketplace seller by use of the telephone number or electronic*
6 *mail address of the high-volume marketplace seller.*

7 (b) *Is a business that has an address solely for the return of consumer*
8 *products. If the online marketplace decides to allow a partial disclosure due to the*
9 *lack of a business address, the online marketplace shall disclose to consumers on*
10 *the listing of the consumer product that is offered for sale by the high-volume*
11 *marketplace seller the address of the high-volume marketplace seller for the*
12 *return of consumer products.*

13 (c) *Does not have a business telephone number and only has a personal*
14 *telephone number. If the online marketplace decides to allow a partial disclosure*
15 *due to the lack of a business telephone number, the online marketplace shall*
16 *disclose to consumers on the listing of the consumer product that is offered for*
17 *sale by the high-volume marketplace seller in the manner described in subsection*
18 *2 that there is no business telephone number available for the high-volume*
19 *marketplace seller and that inquiries by the consumer should be submitted to the*
20 *high-volume marketplace seller by use of the business address or electronic mail*
21 *address of the high-volume marketplace seller.*

22 4. *If a high-volume marketplace seller makes a false representation to the*
23 *online marketplace to justify the provision of a partial disclosure pursuant to*
24 *subsection 3 or if a high-volume marketplace seller who has requested a partial*
25 *disclosure pursuant to subsection 3 but has not provided answers to inquiries by a*
26 *consumer that are submitted to the high-volume marketplace seller by use of the*
27 *business address, telephone number or electronic mail address of the high-*
28 *volume marketplace seller, as applicable, within a reasonable amount of time, the*
29 *online marketplace shall:*

30 (a) *Withdraw the partial disclosure; and*

31 (b) *Notify the high-volume marketplace seller of the withdrawal; and*

32 (c) *Within 3 business days after providing the notice pursuant to paragraph*
33 *(b), disclose the information described in subsection 2 to consumers on the listing*
34 *of the consumer product that is offered for sale by the high-volume marketplace*
35 *seller in the manner described in subsection 2.*

36 **Sec. 12.** *In addition to the information listed in section 11 of this act that is*
37 *required to be disclosed or partially disclosed, an online marketplace that*
38 *warehouses, distributes or otherwise fulfills an order for a consumer product*
39 *shall disclose to the consumer the identification of any high-volume marketplace*
40 *seller that supplies the consumer product if such a high-volume marketplace*
41 *seller is different from what is listed as the seller on the listing of the consumer*
42 *product.*

43 **Sec. 13.** *A county, city, local government or other political subdivision of*
44 *this State or agency thereof may not establish or continue any requirement on an*
45 *online marketplace or high-volume marketplace seller that is not identical to the*
46 *provisions set forth in sections 3 to 16, inclusive, of this act.*

47 **Sec. 14.** *The Commissioner may adopt such regulations as the*
48 *Commissioner determines necessary to carry out the intent of sections 3 to 16,*
49 *inclusive, of this act.*

50 **Sec. 15.** *A person may file a complaint with the Attorney General, the*
51 *Commissioner of Consumer Affairs or the Director of the Department of*
52 *Business and Industry relating to a suspected violation of sections 3 to 16,*
53 *inclusive, of this act.*

1 **Sec. 15.5.** *The provisions of sections 3 to 16, inclusive, of this act do not*
2 *establish a private right of action against a marketplace seller, a high-volume*
3 *marketplace seller or an online marketplace.*

4 **Sec. 16.** *A person who knowingly violates a provision of sections 3 to 16,*
5 *inclusive, of this act has engaged in a deceptive trade practice for the purposes of*
6 *NRS 598.0903 to 598.0999, and section 2 of this act.*

7 **Sec. 17.** NRS 598.0903 is hereby amended to read as follows:

8 598.0903 As used in NRS 598.0903 to 598.0999, inclusive, *and section 2 of*
9 *this act*, unless the context otherwise requires, the words and terms defined in NRS
10 598.0905 to 598.0947, inclusive, *and section 2 of this act* have the meanings
11 ascribed to them in those sections.

12 **Sec. 18.** NRS 598.0953 is hereby amended to read as follows:

13 598.0953 1. Evidence that a person has engaged in a deceptive trade
14 practice is prima facie evidence of intent to injure competitors and to destroy or
15 substantially lessen competition.

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

20 **Sec. 19.** NRS 598.0955 is hereby amended to read as follows:

21 598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, *and*
22 *section 2 of this act* do not apply to:

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

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

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

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

36 **Sec. 20.** NRS 598.0963 is hereby amended to read as follows:

37 598.0963 1. Whenever the Attorney General is requested in writing by the
38 Commissioner or the Director to represent him or her in instituting a legal
39 proceeding against a person who has engaged or is engaging in a deceptive trade
40 practice, the Attorney General may bring an action in the name of the State of
41 Nevada against that person on behalf of the Commissioner or Director.

42 2. The Attorney General may institute criminal proceedings to enforce the
43 provisions of NRS 598.0903 to 598.0999, inclusive **[H]**, *and section 2 of this act.*
44 The Attorney General is not required to obtain leave of the court before instituting
45 criminal proceedings pursuant to this subsection.

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

50 4. If the Attorney General has cause to believe that a person has engaged or is
51 engaging in a deceptive trade practice, the Attorney General may issue a subpoena
52 to require the testimony of any person or the production of any documents, and may
53 administer an oath or affirmation to any person providing such testimony. The

1 subpoena must be served upon the person in the manner required for service of
2 process in this State or by certified mail with return receipt requested. An employee
3 of the Attorney General may personally serve the subpoena.

4 **Sec. 21.** NRS 598.0967 is hereby amended to read as follows:

5 598.0967 1. The Commissioner and the Director, in addition to other
6 powers conferred upon them by NRS 598.0903 to 598.0999, inclusive, **and section**
7 **2 of this act** may issue subpoenas to require the attendance of witnesses or the
8 production of documents, conduct hearings in aid of any investigation or inquiry
9 and prescribe such forms and adopt such regulations as may be necessary to
10 administer the provisions of NRS 598.0903 to 598.0999, inclusive **§**, **and section**
11 **2 of this act**. Such regulations may include, without limitation, provisions
12 concerning the applicability of the provisions of NRS 598.0903 to 598.0999,
13 inclusive, **and section 2 of this act** to particular persons or circumstances.

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

19 **Sec. 22.** NRS 598.0971 is hereby amended to read as follows:

20 598.0971 1. If, after an investigation, the Commissioner has reasonable
21 cause to believe that any person has been engaged or is engaging in any deceptive
22 trade practice in violation of NRS 598.0903 to 598.0999, inclusive, **and section 2**
23 **of this act**, the Commissioner may issue an order directed to the person to show
24 cause why the Director should not order the person to cease and desist from
25 engaging in the practice and to pay an administrative fine. The order must contain a
26 statement of the charges and a notice of a hearing to be held thereon. The order
27 must be served upon the person directly or by certified or registered mail, return
28 receipt requested.

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

31 3. If, after conducting a hearing pursuant to the provisions of subsection 2, the
32 Director or his or her designee determines that the person has violated any of the
33 provisions of NRS 598.0903 to 598.0999, inclusive, **and section 2 of this act**, or if
34 the person fails to appear for the hearing after being properly served with the
35 statement of charges and notice of hearing, the Director or his or her designee shall
36 issue an order setting forth his or her findings of fact concerning the violation and
37 cause to be served a copy thereof upon the person and any intervener at the hearing.
38 If the Director or his or her designee determines in the report that such a violation
39 has occurred, he or she may order the violator to:

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

42 (b) Pay the costs of conducting the investigation, costs of conducting the
43 hearing, costs of reporting services, fees for experts and other witnesses, charges
44 for the rental of a hearing room if such a room is not available to the Director or his
45 or her designee free of charge, charges for providing an independent hearing
46 officer, if any, and charges incurred for any service of process, if the violator is
47 adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive
48 **§**, **and section 2 of this act**;

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

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

1 ↳ The order must be served upon the person directly or by certified or registered
2 mail, return receipt requested. The order becomes effective upon service in the
3 manner provided in this subsection.

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

9 5. If a person fails to comply with any provision of an order issued pursuant
10 to subsection 3, the Commissioner or the Director may, through the Attorney
11 General, at any time after 30 days after the service of the order, cause an action to
12 be instituted in the district court of the county wherein the person resides or has his
13 or her principal place of business requesting the court to enforce the provisions of
14 the order or to provide any other appropriate injunctive relief.

15 6. If the court finds that:

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

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

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

22 ↳ the court shall issue an order enforcing the provisions of the order of the Director
23 or his or her designee.

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

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

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

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

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

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

36 **Sec. 23.** NRS 598.0985 is hereby amended to read as follows:

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

45 **Sec. 24.** NRS 598.0993 is hereby amended to read as follows:

46 598.0993 The court in which an action is brought pursuant to NRS 598.0979
47 and 598.0985 to 598.099, inclusive, may make such additional orders or judgments
48 as may be necessary to restore to any person in interest any money or property, real
49 or personal, which may have been acquired by means of any deceptive trade
50 practice which violates any of the provisions of NRS 598.0903 to 598.0999,
51 inclusive, **and section 2 of this act**, but such additional orders or judgments may be
52 entered only after a final determination has been made that a deceptive trade
53 practice has occurred.

1 **Sec. 25.** NRS 598.0999 is hereby amended to read as follows:

2 598.0999 1. Except as otherwise provided in NRS 598.0974, a person who
3 violates a court order or injunction issued pursuant to the provisions of NRS
4 598.0903 to 598.0999, inclusive, *and section 2 of this act*, upon a complaint
5 brought by the Commissioner, the Director, the district attorney of any county of
6 this State or the Attorney General shall forfeit and pay to the State General Fund a
7 civil penalty of not more than \$10,000 for each violation. For the purpose of this
8 section, the court issuing the order or injunction retains jurisdiction over the action
9 or proceeding. Such civil penalties are in addition to any other penalty or remedy
10 available for the enforcement of the provisions of NRS 598.0903 to 598.0999,
11 inclusive, *and section 2 of this act*.

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

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

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

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

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

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

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

33 5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive,
34 *and section 2 of this act*, 598.100 to 598.2801, inclusive, 598.405 to 598.525,
35 inclusive, 598.741 to 598.787, inclusive, 598.840 to 598.966, inclusive, or
36 598.9701 to 598.9718, inclusive, fails to comply with a judgment or order of any
37 court in this State concerning a violation of such a provision, or fails to comply
38 with an assurance of discontinuance or other agreement concerning an alleged
39 violation of such a provision, the Commissioner or the district attorney of any
40 county may bring an action in the name of the State of Nevada seeking:

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

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

44 ↳ The court may grant or deny the relief sought or may order other appropriate
45 relief.

46 6. If a person violates any provision of NRS 228.500 to 228.640, inclusive,
47 fails to comply with a judgment or order of any court in this State concerning a
48 violation of such a provision, or fails to comply with an assurance of
49 discontinuance or other agreement concerning an alleged violation of such a
50 provision, the Attorney General may bring an action in the name of the State of
51 Nevada seeking:

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

1 (b) If the defendant is a corporation, dissolution of the corporation.
2 ➤ The court may grant or deny the relief sought or may order other appropriate
3 relief.

4 **Sec. 26.** NRS 11.190 is hereby amended to read as follows:

5 11.190 Except as otherwise provided in NRS 40.4639, 125B.050 and
6 217.007, actions other than those for the recovery of real property, unless further
7 limited by specific statute, may only be commenced as follows:

8 1. Within 6 years:

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

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

15 2. Within 4 years:

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

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

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

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

26 3. Within 3 years:

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

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

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

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

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

50 4. Within 2 years:

51 (a) An action against a sheriff, coroner or constable upon liability incurred by
52 acting in his or her official capacity and in virtue of his or her office, or by the

1 omission of an official duty, including the nonpayment of money collected upon an
2 execution.

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

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

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

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

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

16 5. Within 1 year:

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

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

26 **Sec. 27.** ~~[NRS 41.600 is hereby amended to read as follows:~~

27 ~~41.600 1. An action may be brought by any person who is a victim of~~
28 ~~consumer fraud.~~

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

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

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

32 ~~(c) An act prohibited by NRS 482.36655 to 482.36667, inclusive;~~

33 ~~(d) An act prohibited by NRS 482.351; or~~

34 ~~(e) A deceptive trade practice as defined in NRS 598.0915 to 598.0925,~~
35 ~~inclusive [], and section 2 of this act.~~

36 ~~3. If the claimant is the prevailing party, the court shall award the claimant:~~

37 ~~(a) Any damages that the claimant has sustained;~~

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

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

40 ~~4. Any action brought pursuant to this section is not an action upon any~~
41 ~~contract underlying the original transaction.] (Deleted by amendment.)~~

42 **Sec. 28.** NRS 482.554 is hereby amended to read as follows:

43 482.554 1. The Department may impose an administrative fine of not more
44 than \$10,000 against any person who engages in a deceptive trade practice. The
45 Department shall afford to any person so fined an opportunity for a hearing
46 pursuant to the provisions of NRS 233B.121.

47 2. For the purposes of this section, a person shall be deemed to be engaged in
48 a "deceptive trade practice" if, in the course of his or her business or occupation,
49 the person:

50 (a) Enters into a contract for the sale of a vehicle on credit with a customer,
51 exercises a valid option to cancel the vehicle sale and then, after the customer
52 returns the vehicle with no damage other than reasonable wear and tear, the seller:

1 (1) Fails to return any down payment or other consideration in full,
2 including, returning a vehicle accepted in trade;

3 (2) Knowingly makes a false representation to the customer that the
4 customer must sign another contract for the sale of the vehicle on less favorable
5 terms; or

6 (3) Fails to use the disclosure as required in subsection 3.

7 (b) Uses a contract for the sale of the vehicle or a security agreement that
8 materially differs from the form prescribed by law.

9 (c) Engages in any deceptive trade practice, as defined in NRS 598.0915 to
10 598.0925, inclusive, *and section 2 of this act* that involves the purchase and sale or
11 lease of a motor vehicle.

12 (d) Engages in any other acts prescribed by the Department by regulation as a
13 deceptive trade practice.

14 3. If a seller of a vehicle exercises a valid option to cancel the sale of a
15 vehicle to a customer, the seller must provide a disclosure, and the customer must
16 sign that disclosure, before the seller and customer may enter into a new agreement
17 for the sale of the same vehicle on different terms, or for the sale of a different
18 vehicle. The Department shall prescribe the form of the disclosure by regulation.

19 4. All administrative fines collected by the Department pursuant to this
20 section must be deposited with the State Treasurer to the credit of the State
21 Highway Fund.

22 5. The administrative remedy provided in this section is not exclusive and is
23 in addition to any other remedy provided by law. The provisions of this section do
24 not deprive a person injured by a deceptive trade practice from resorting to any
25 other legal remedy.

26 **Sec. 29.** NRS 487.6889 is hereby amended to read as follows:

27 487.6889 A person shall be deemed to be engaged in a “deceptive trade
28 practice” if, in the course of his or her business or occupation, the person:

29 1. Engages in any deceptive trade practice, as defined in NRS 598.0915 to
30 598.0925, inclusive, *and section 2 of this act* that involves the repair of a motor
31 vehicle; or

32 2. Engages in any other acts prescribed by the Director by regulation as a
33 deceptive trade practice.

34 **Sec. 30.** *This act becomes effective on July 1, 2021.*