

**A.B. 561**

## ASSEMBLY BILL NO. 561—COMMITTEE ON WAYS AND MEANS

(ON BEHALF OF THE DEPARTMENT OF ADMINISTRATION)

MAY 20, 2009

Referred to Committee on Ways and Means

SUMMARY—Eliminates the Consumer Affairs Division of the Department of Business and Industry and transfers certain duties and powers of the Division. (BDR 18-1201)

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

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

AN ACT relating to reorganization of State Government; eliminating the Consumer Affairs Division of the Department of Business and Industry; eliminating the position of Commissioner of Consumer Affairs; transferring certain duties and powers of the Division and the Commissioner; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law requires the chief of each division of the Department of Business  
2 and Industry to administer the provisions of law relating to his division, subject to  
3 the administrative supervision of the Director of the Department. (NRS 232.530)  
4 **Sections 3 and 4** of this bill eliminate the Consumer Affairs Division of the  
5 Department and the position of Commissioner of Consumer Affairs.  
6 Existing law provides for the regulation of garages, garagemen and body shops  
7 by the Commissioner of Consumer Affairs and for the registration or licensure of  
8 garages, garagemen and body shops with the Department of Motor Vehicles. (NRS  
9 487.530-487.570, 487.600-487.690, 597.480-597.590) **Sections 8-26** of this bill  
10 transfer authority for the regulation of garages, garagemen and body shops to the  
11 Department of Motor Vehicles and provide for the enforcement of those provisions  
12 by the Director of the Department. **Section 6** of this bill allows the Department of  
13 Motor Vehicles to impose a fine on a person who engages in certain deceptive trade  
14 practices relating to the sale or lease of a vehicle under certain circumstances.  
15 **Section 1** of this bill creates a revolving account administered by the Consumer's  
16 Advocate, to be used to pay the costs of conducting certain undercover  
17 investigations.



\* A B 5 6 1 \*

18       **Sections 36-47 and 49** of this bill transfer the powers and duties of the  
19 Commissioner of Consumer Affairs relating to deceptive trade practices to the  
20 Attorney General.

21       Existing law requires the Consumer Affairs Division to administer certain  
22 provisions of law governing sellers of travel, sightseeing tours, credit service  
23 organizations, organizations for buying goods or services, and dance studios and  
24 health clubs. (NRS 598.305-598.966) **Section 51** of this bill provides that  
25 complaints concerning the charges for a sightseeing tour may be directed to the  
26 Attorney General. **Sections 52-56** of this bill transfer the powers and duties of the  
27 Consumer Affairs Division relating to credit service organizations to the Division  
28 of Mortgage Lending of the Department of Business and Industry. **Sections 57-61**  
29 of this bill authorize the Attorney General to enforce certain provisions relating to  
30 organizations for buying goods or services at a discount, dance studios and health  
31 clubs.

32       **Section 62** of this bill transfers the duty to administer chapter 598C of NRS  
33 relating to consumer reporting from the Commissioner of Consumer Affairs to the  
34 Attorney General.

35       **Sections 63-75** of this bill authorize the Attorney General to enforce certain  
36 provisions relating to solicitation by telephone.

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

1       **Section 1.** Chapter 228 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3       1. *There is hereby created a revolving account for the Bureau*  
4 *of Consumer Protection in the sum of \$7,500, which must be used*  
5 *for the payment of expenses relating to conducting an undercover*  
6 *investigation of a person who is allegedly engaging in a deceptive*  
7 *trade practice or violating any provision of sections 10 to 26,*  
8 *inclusive, of this act.*

9       2. *The Consumer's Advocate shall deposit the money in the*  
10 *revolving account in a bank or credit union qualified to receive*  
11 *deposits of public money as provided by law, and the deposit must*  
12 *be secured by a depository bond satisfactory to the State Board of*  
13 *Examiners.*

14       3. *The Consumer's Advocate or his designee may:*

15       (a) *Sign all checks drawn upon the revolving account; and*

16       (b) *Make withdrawals of cash from the revolving account.*

17       4. *Payments made from the revolving account must be*  
18 *promptly reimbursed from the legislative appropriation, if any, to*  
19 *the Consumer's Advocate for the expenses relating to conducting*  
20 *an undercover investigation of a person who is allegedly engaging*  
21 *in a deceptive trade practice or violating any provision of sections*  
22 *10 to 26, inclusive, of this act. The claim for reimbursement must*  
23 *be processed and paid as other claims against the State are paid.*

24       5. *The Consumer's Advocate shall:*

25       (a) *Approve any disbursement from the revolving account; and*



1 **(b) Maintain records of any such disbursement.**

2 **Sec. 2.** NRS 228.300 is hereby amended to read as follows:

3 228.300 As used in NRS 228.300 to 228.390, inclusive, **and**  
4 **section 1 of this act**, unless the context otherwise requires, the  
5 words and terms defined in NRS 228.302 to 228.308, inclusive,  
6 have the meanings ascribed to them in those sections.

7 **Sec. 3.** NRS 232.510 is hereby amended to read as follows:

8 232.510 1. The Department of Business and Industry is  
9 hereby created.

10 2. The Department consists of a Director and the following:

11 (a) ~~Consumer Affairs Division.~~

12 ~~(b)~~ Division of Financial Institutions.

13 ~~(c)~~ (b) Housing Division.

14 ~~(d)~~ (c) Manufactured Housing Division.

15 ~~(e)~~ (d) Real Estate Division.

16 ~~(f)~~ (e) Division of Insurance.

17 ~~(g)~~ (f) Division of Industrial Relations.

18 ~~(h)~~ (g) Office of Labor Commissioner.

19 ~~(i)~~ (h) Taxicab Authority.

20 ~~(j)~~ (i) Nevada Athletic Commission.

21 ~~(k)~~ (j) Office of the Nevada Attorney for Injured Workers.

22 ~~(l)~~ (k) Nevada Transportation Authority.

23 ~~(m)~~ (l) Division of Mortgage Lending.

24 ~~(n)~~ (m) Any other office, commission, board, agency or entity  
25 created or placed within the Department pursuant to a specific  
26 statute, the budget approved by the Legislature or an executive  
27 order, or an entity whose budget or activities have been placed  
28 within the control of the Department by a specific statute.

29 **Sec. 4.** NRS 232.520 is hereby amended to read as follows:

30 232.520 The Director:

31 1. Shall appoint a chief or executive director, or both of them,  
32 of each of the divisions, offices, commissions, boards, agencies or  
33 other entities of the Department, unless the authority to appoint such  
34 a chief or executive director, or both of them, is expressly vested in  
35 another person, board or commission by a specific statute. In  
36 making the appointments, the Director may obtain lists of qualified  
37 persons from professional organizations, associations or other  
38 groups recognized by the Department, if any. The ~~chief of the~~  
39 ~~Consumer Affairs Division is the Commissioner of Consumer~~  
40 ~~Affairs, the~~ chief of the Division of Financial Institutions is the  
41 Commissioner of Financial Institutions, the chief of the Housing  
42 Division is the Administrator of the Housing Division, the chief of  
43 the Manufactured Housing Division is the Administrator of the  
44 Manufactured Housing Division, the chief of the Real Estate  
45 Division is the Real Estate Administrator, the chief of the Division



1 of Insurance is the Commissioner of Insurance, the chief of the  
2 Division of Industrial Relations is the Administrator of the Division  
3 of Industrial Relations, the chief of the Office of Labor  
4 Commissioner is the Labor Commissioner, the chief of the Taxicab  
5 Authority is the Taxicab Administrator, the chief of the Nevada  
6 Transportation Authority is the Chairman of the Authority, the chief  
7 of the Division of Mortgage Lending is the Commissioner of  
8 Mortgage Lending and the chief of any other entity of the  
9 Department has the title specified by the Director, unless a different  
10 title is specified by a specific statute.

11 2. Is responsible for the administration of all provisions of law  
12 relating to the jurisdiction, duties and functions of all divisions and  
13 other entities within the Department. The Director may, if he deems  
14 it necessary to carry out his administrative responsibilities, be  
15 considered as a member of the staff of any division or other entity of  
16 the Department for the purpose of budget administration or for  
17 carrying out any duty or exercising any power necessary to fulfill  
18 the responsibilities of the Director pursuant to this subsection. This  
19 subsection does not allow the Director to preempt any authority or  
20 jurisdiction granted by statute to any division or other entity within  
21 the Department or to act or take on a function that would contravene  
22 a rule of court or a statute.

23 3. May:

24 (a) Establish uniform policies for the Department, consistent  
25 with the policies and statutory responsibilities and duties of the  
26 divisions and other entities within the Department, relating to  
27 matters concerning budgeting, accounting, planning, program  
28 development, personnel, information services, dispute resolution,  
29 travel, workplace safety, the acceptance of gifts or donations, the  
30 management of records and any other subject for which a uniform  
31 departmental policy is necessary to ensure the efficient operation of  
32 the Department.

33 (b) Provide coordination among the divisions and other entities  
34 within the Department, in a manner which does not encroach upon  
35 their statutory powers and duties, as they adopt and enforce  
36 regulations, execute agreements, purchase goods, services or  
37 equipment, prepare legislative requests and lease or use office space.

38 (c) Define the responsibilities of any person designated to carry  
39 out the duties of the Director relating to financing, industrial  
40 development or business support services.

41 4. May, within the limits of the financial resources made  
42 available to him, promote, participate in the operation of, and create  
43 or cause to be created, any nonprofit corporation, pursuant to  
44 chapter 82 of NRS, which he determines is necessary or convenient  
45 for the exercise of the powers and duties of the Department. The



1 purposes, powers and operation of the corporation must be  
2 consistent with the purposes, powers and duties of the Department.

3 5. For any bonds which he is otherwise authorized to issue,  
4 may issue bonds the interest on which is not exempt from federal  
5 income tax or excluded from gross revenue for the purposes of  
6 federal income tax.

7 6. May, except as otherwise provided by specific statute, adopt  
8 by regulation a schedule of fees and deposits to be charged in  
9 connection with the programs administered by him pursuant to  
10 chapters 348A and 349 of NRS. Except as otherwise provided by  
11 specific statute, the amount of any such fee or deposit must not  
12 exceed 2 percent of the principal amount of the financing.

13 7. May designate any person within the Department to perform  
14 any of the duties or responsibilities, or exercise any of the authority,  
15 of the Director on his behalf.

16 8. May negotiate and execute agreements with public or private  
17 entities which are necessary to the exercise of the powers and duties  
18 of the Director or the Department.

19 9. May establish a trust account in the State Treasury for  
20 depositing and accounting for money that is held in escrow or is on  
21 deposit with the Department for the payment of any direct expenses  
22 incurred by the Director in connection with any bond programs  
23 administered by the Director. The interest and income earned on  
24 money in the trust account, less any amount deducted to pay for  
25 applicable charges, must be credited to the trust account. Any  
26 balance remaining in the account at the end of a fiscal year may be:

27 (a) Carried forward to the next fiscal year for use in covering the  
28 expense for which it was originally received; or

29 (b) Returned to any person entitled thereto in accordance with  
30 agreements or regulations of the Director relating to those bond  
31 programs.

32 **Sec. 5.** NRS 482.5434 is hereby amended to read as follows:

33 482.5434 "Body shop" has the meaning ascribed to it in ~~NRS~~  
34 ~~487.600.]~~ *section 8 of this act.*

35 **Sec. 6.** NRS 482.554 is hereby amended to read as follows:

36 482.554 1. The Department may impose an administrative  
37 fine of not more than \$10,000 against any person who engages in a  
38 deceptive trade practice. The Department shall afford to any person  
39 so fined an opportunity for a hearing pursuant to the provisions of  
40 NRS 233B.121.

41 2. For the purposes of this section, a person shall be deemed to  
42 be engaged in a "deceptive trade practice" if, in the course of his  
43 business or occupation, he:

44 (a) Enters into a contract for the sale of a vehicle on credit with  
45 a customer, exercises a valid option to cancel the vehicle sale and



1 then, after the customer returns the vehicle with no damage other  
2 than reasonable wear and tear, the seller:

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

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

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

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

11 (c) Engages in any deceptive trade practice, as defined in NRS  
12 598.0915 to 598.0925, inclusive, that involves the purchase and sale  
13 or lease of a motor vehicle.

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

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

22 4. All administrative fines collected by the Department  
23 pursuant to this section must be deposited with the State Treasurer  
24 to the credit of the State Highway Fund.

25 5. ~~[Except as otherwise provided in this subsection, the]~~ *The*  
26 administrative remedy provided in this section is not exclusive and  
27 is ~~[intended to supplement existing law. The Department may not~~  
28 ~~impose a fine pursuant to this section against any person who~~  
29 ~~engages in a deceptive trade practice if a fine has previously been~~  
30 ~~imposed against that person pursuant to NRS 598.0903 to 598.0999,~~  
31 ~~inclusive, for the same act.]~~ *in addition to any other remedy*  
32 *provided by law.* The provisions of this section do not deprive a  
33 person injured by a deceptive trade practice from resorting to any  
34 other legal remedy.

35 **Sec. 7.** Chapter 487 of NRS is hereby amended by adding  
36 thereto the provisions set forth as sections 8 to 26, inclusive, of this  
37 act.

38 **Sec. 8.** *“Body shop” means any place where the body of a*  
39 *motor vehicle is painted, fixed, repaired or replaced for*  
40 *compensation.*

41 **Sec. 9.** *“Person authorizing repairs” means a person who*  
42 *uses the services of a garage. The term includes an insurance*  
43 *company, its agents or its representatives authorizing repairs to*  
44 *motor vehicles under a policy of insurance.*



1     **Sec. 10. 1. Each garageman shall display conspicuously in**  
2 *those areas of his place of business frequented by persons seeking*  
3 *repairs on motor vehicles a sign, not less than 22 inches by 28*  
4 *inches in size, setting forth in boldface letters the following:*

5  
6                   **STATE OF NEVADA**

7  
8                   **REGISTERED GARAGE**

9  
10           **THIS GARAGE IS REGISTERED WITH THE**  
11           **DEPARTMENT OF MOTOR VEHICLES**

12  
13                   **NEVADA AUTOMOTIVE REPAIR**  
14                   **CUSTOMER BILL OF RIGHTS**

15  
16                   **AS A CUSTOMER IN NEVADA:**

17  
18     ***YOU have the right to receive repairs from a business that is***  
19 ***REGISTERED with the Department of Motor Vehicles that will***  
20 ***ensure the proper repair of your vehicle. (cite to this section of this***  
21 ***act)***

22  
23     ***YOU have the right to receive a WRITTEN ESTIMATE of***  
24 ***charges for repairs made to your vehicle which exceed \$50. (cite to***  
25 ***section 12 of this act)***

26  
27     ***YOU have the right to read and understand all documents and***  
28 ***warranties BEFORE YOU SIGN THEM. (cite to this section of***  
29 ***this act)***

30  
31     ***YOU have the right to INSPECT ALL REPLACED PARTS and***  
32 ***accessories that are covered by a warranty and for which a charge***  
33 ***is made. (cite to section 17 of this act)***

34  
35     ***YOU have the right to request that all replaced parts and***  
36 ***accessories that are not covered by a warranty BE RETURNED***  
37 ***TO YOU AT THE TIME OF SERVICE. (cite to section 17 of this***  
38 ***act)***

39  
40     ***YOU have the right to require authorization BEFORE any***  
41 ***additional repairs are made to your vehicle if the charges for those***  
42 ***repairs exceed 20% of the original estimate or \$100, whichever is***  
43 ***less. (cite to section 13 of this act)***



1 *YOU have the right to receive a COMPLETED STATEMENT OF*  
2 *CHARGES for repairs made to your vehicle. (cite to section 23 of*  
3 *this act)*

4  
5 **FOR MORE INFORMATION PLEASE CONTACT:**

6  
7 **THE DEPARTMENT OF MOTOR VEHICLES**

8  
9 *2. Each body shop shall display conspicuously in those areas*  
10 *of its place of business frequented by persons seeking repairs on*  
11 *motor vehicles a sign, not less than 22 inches by 28 inches in size,*  
12 *setting forth in boldface letters the following:*

13 **STATE OF NEVADA**

14 **LICENSED BODY SHOP**

15  
16  
17 **THIS BODY SHOP IS LICENSED BY THE**  
18 **DEPARTMENT OF MOTOR VEHICLES**

19  
20  
21 **NEVADA AUTOMOTIVE REPAIR**  
22 **CUSTOMER BILL OF RIGHTS**

23  
24 **AS A CUSTOMER IN NEVADA:**

25  
26 *YOU have the right to receive repairs from a business that is*  
27 *LICENSED with the Department of Motor Vehicles that will*  
28 *ensure the proper repair of your vehicle. (cite to this section of this*  
29 *act)*

30  
31 *YOU have the right to receive a WRITTEN ESTIMATE of*  
32 *charges for repairs made to your vehicle which exceed \$50. (cite to*  
33 *section 12 of this act)*

34  
35 *YOU have the right to read and understand all documents and*  
36 *warranties BEFORE YOU SIGN THEM. (cite to this section of*  
37 *this act)*

38  
39 *YOU have the right to INSPECT ALL REPLACED PARTS and*  
40 *accessories that are covered by a warranty and for which a charge*  
41 *is made. (cite to section 17 of this act)*

42  
43 *YOU have the right to request that all replaced parts and*  
44 *accessories that are not covered by a warranty BE RETURNED*



1 TO YOU AT THE TIME OF SERVICE. (cite to section 17 of this  
2 act)

3  
4 YOU have the right to require authorization BEFORE any  
5 additional repairs are made to your vehicle if the charges for those  
6 repairs exceed 20% of the original estimate or \$100, whichever is  
7 less. (cite to section 13 of this act)

8  
9 YOU have the right to receive a COMPLETED STATEMENT OF  
10 CHARGES for repairs made to your vehicle. (cite to section 23 of  
11 this act)

12  
13 **FOR MORE INFORMATION PLEASE CONTACT:**

14  
15 **THE DEPARTMENT OF MOTOR VEHICLES**

16  
17 3. The sign required pursuant to the provisions of subsection  
18 1 or 2 must include a replica of the Great Seal of the State of  
19 Nevada. The Seal must be 2 inches in diameter and be centered on  
20 the face of the sign directly above the words "STATE OF  
21 NEVADA."

22 4. Any person who violates the provisions of this section is  
23 guilty of a misdemeanor.

24 **Sec. 11.** Whenever any body shop or garageman accepts or  
25 assumes control of a motor vehicle for the purpose of making or  
26 completing any repair, the body shop or garageman shall comply  
27 with the provisions of sections 12 to 24, inclusive, of this act.

28 **Sec. 12.** 1. Except as otherwise provided in section 14 of  
29 this act, a person requesting or authorizing the repair of a motor  
30 vehicle that is more than \$50 must be furnished a written estimate  
31 or statement signed by the person making the estimate or  
32 statement on behalf of the body shop or garageman indicating the  
33 total charge for the performance of the work necessary to  
34 accomplish the repair, including the charge for labor and all parts  
35 and accessories necessary to perform the work.

36 2. If the estimate is for the purpose of diagnosing a  
37 malfunction, the estimate must include the cost of:

38 (a) Diagnosis and disassembly; and

39 (b) Reassembly, if the person does not authorize the repair.

40 3. The provisions of this section do not require a body shop or  
41 garageman to reassemble a motor vehicle if the body shop or  
42 garageman determines that the reassembly of the motor vehicle  
43 would render the vehicle unsafe to operate.

44 **Sec. 13.** Except as otherwise provided in section 14 of this  
45 act, if it is determined that additional charges are required to



1 *perform the repair authorized, and those additional charges*  
2 *exceed, by 20 percent or \$100, whichever is less, the amount set*  
3 *forth in the estimate or statement required to be furnished*  
4 *pursuant to the provisions of section 12 of this act, the body shop*  
5 *or garageman shall notify the owner and insurer of the motor*  
6 *vehicle of the amount of those additional charges.*

7 **Sec. 14.** *The person authorizing the repairs may waive the*  
8 *estimate or statement required pursuant to the provisions of*  
9 *section 12 of this act or the notification required by section 13 of*  
10 *this act by executing a written waiver of that requirement or*  
11 *notification. The waiver must be executed by the person*  
12 *authorizing the repairs at the time he authorizes those repairs.*

13 **Sec. 15.** *If a body shop or garage performs repairs on a*  
14 *motor vehicle, the body shop or garage shall perform the repairs*  
15 *in accordance with any specifications of the manufacturer of the*  
16 *motor vehicle and the written estimate or statement of the cost of*  
17 *the repairs that is most recently agreed upon by the body shop or*  
18 *garage and the person authorizing the repairs.*

19 **Sec. 16.** 1. *An owner and the insurer of a motor vehicle*  
20 *who have been notified of additional charges pursuant to section*  
21 *13 of this act shall:*

22 (a) *Authorize the performance of the repair at the additional*  
23 *expense; or*

24 (b) *Without delay, and upon payment of the authorized*  
25 *charges, take possession of the motor vehicle.*

26 2. *Until the election provided for in subsection 1 has been*  
27 *made, the body shop or garageman shall not undertake any repair*  
28 *which would involve such additional charges.*

29 3. *If the owner or insurer of the motor vehicle elects to take*  
30 *possession of the motor vehicle but fails to take possession within*  
31 *24 hours after the election, the body shop or garageman may*  
32 *charge for storage of the vehicle.*

33 **Sec. 17.** 1. *Whenever the repair work performed on a*  
34 *motor vehicle requires the replacement of any parts or accessories,*  
35 *the body shop or garageman shall, at the request of the person*  
36 *authorizing the repairs or any person entitled to possession of the*  
37 *motor vehicle, deliver to the person all parts and accessories*  
38 *replaced as a result of the work done.*

39 2. *The provisions of subsection 1 do not apply to parts or*  
40 *accessories which must be returned to a manufacturer or*  
41 *distributor under a warranty arrangement or which are subject to*  
42 *exchange, but the customer, on request, is entitled to be shown the*  
43 *warranty parts for which a charge is made.*

44 **Sec. 18.** *The body shop or garageman shall retain copies of*  
45 *any estimate, statement or waiver required by sections 12 to 24,*



1 *inclusive, of this act as an ordinary business record of the body*  
2 *shop or garage, for a period of not less than 1 year after the date*  
3 *the estimate, statement or waiver is signed.*

4 **Sec. 19.** *In every instance where charges are made for the*  
5 *repair of a motor vehicle by a garageman, the garageman making*  
6 *the repairs shall comply with the provisions of sections 12 to 24,*  
7 *inclusive, of this act. A garageman is not entitled to detain a motor*  
8 *vehicle by virtue of any common law or statutory lien, or otherwise*  
9 *enforce such a lien, or to sue on any contract for repairs made by*  
10 *him unless he has complied with the requirements of sections 12*  
11 *to 24, inclusive, of this act.*

12 **Sec. 20.** *A person shall be deemed to be engaged in a*  
13 *“deceptive trade practice” if, in the course of his business or*  
14 *occupation, he:*

15 *1. Engages in any deceptive trade practice, as defined in NRS*  
16 *598.0915 to 598.0925, inclusive, that involves the repair of a motor*  
17 *vehicle; or*

18 *2. Engages in any other acts prescribed by the Director by*  
19 *regulation as a deceptive trade practice.*

20 **Sec. 21.** *1. The Director may request an undercover*  
21 *investigation of a person who is allegedly engaging in a deceptive*  
22 *trade practice or violating the provisions of sections 10 to 26,*  
23 *inclusive, of this act.*

24 *2. The Bureau of Consumer Protection in the Office of the*  
25 *Attorney General may conduct an undercover investigation of a*  
26 *person who is allegedly engaging in a deceptive trade practice or*  
27 *violating the provisions of sections 10 to 26, inclusive, of this act*  
28 *on its own motion or upon a request received pursuant to*  
29 *subsection 1. Nothing in this subsection requires the Bureau to*  
30 *conduct an undercover investigation.*

31 **Sec. 22.** *1. In addition to any other remedy or penalty, the*  
32 *Director may impose an administrative fine of not more than*  
33 *\$10,000 against any person who engages in a deceptive trade*  
34 *practice as set forth in section 20 of this act. The Director shall*  
35 *provide to any person so fined an opportunity for a hearing*  
36 *pursuant to the provisions of NRS 233B.121.*

37 *2. All administrative fines collected by the Director pursuant*  
38 *to this section must be deposited with the State Treasurer to the*  
39 *credit of the State Highway Fund.*

40 *3. The administrative remedy provided in this section is not*  
41 *exclusive and is in addition to any other remedy provided by law.*  
42 *The provisions of this section do not deprive a person injured by a*  
43 *deceptive trade practice from resorting to any other legal remedy.*

44 **Sec. 23.** *1. If charges are made for the repair of a motor*  
45 *vehicle, the garageman or body shop making the charges shall*



1 *present to the person authorizing repairs or the person entitled to*  
2 *possession of the motor vehicle a statement of the charges setting*  
3 *forth the following information:*

- 4 (a) *The name and signature of the person authorizing repairs;*
- 5 (b) *A statement of the total charges;*
- 6 (c) *An itemization and description of all parts used to repair*  
7 *the motor vehicle indicating the charges made for labor; and*
- 8 (d) *A description of all other charges.*

9 2. *Any person violating this section is guilty of a*  
10 *misdemeanor.*

11 3. *In the case of a motor vehicle registered in this State, no*  
12 *lien for labor or materials provided under NRS 108.265 to*  
13 *108.367, inclusive, may be enforced by sale or otherwise unless a*  
14 *statement as described in subsection 1 has been given by delivery*  
15 *in person or by certified mail to the last known address of the*  
16 *registered and the legal owner of the motor vehicle. In all other*  
17 *cases, the notice must be made to the last known address of the*  
18 *registered owner and any other person known to have or to claim*  
19 *an interest in the motor vehicle.*

20 **Sec. 24.** 1. *On or before December 31 of each year, the*  
21 *Director shall prepare a report concerning garages, garagemen*  
22 *and body shops. The report must include:*

23 (a) *The number of complaints relating to garages, garagemen*  
24 *and body shops made to and acted upon by the Department during*  
25 *the year for which the report is prepared;*

26 (b) *The number of investigations conducted during that year*  
27 *by the Department relating to garages, garagemen and body*  
28 *shops; and*

29 (c) *The outcome of each investigation specified in paragraph*  
30 *(b) and the extent to which any information relating to each*  
31 *investigation is subject to disclosure to the members of the public.*

32 2. *On or before December 31 of each odd-numbered year, the*  
33 *Director shall submit the report required pursuant to subsection 1*  
34 *to the Legislative Commission. On or before December 31 of each*  
35 *even-numbered year, the Director of the Department shall submit*  
36 *the report to the Director of the Legislative Counsel Bureau for*  
37 *transmittal to:*

38 (a) *The Senate Standing Committee on Transportation; and*

39 (b) *The Assembly Standing Committee on Transportation.*

40 **Sec. 25.** *The Attorney General or any district attorney may*  
41 *bring an action in any court of competent jurisdiction in the name*  
42 *of the State of Nevada on the complaint of the Director, or of any*  
43 *person allegedly aggrieved by a violation of the provisions of*  
44 *sections 12 to 24, inclusive, of this act, to enjoin any violation of*  
45 *the provisions of sections 12 to 24, inclusive, of this act.*



1       **Sec. 26.** *Any person who knowingly violates any provision of*  
2 *sections 11 to 24, inclusive, of this act is liable, in addition to any*  
3 *other penalty or remedy which may be provided by law, to a civil*  
4 *penalty of not more than \$500 for each offense, which may be*  
5 *recovered by civil action on complaint of the Director or the*  
6 *district attorney.*

7       **Sec. 27.** NRS 487.002 is hereby amended to read as follows:

8       487.002 1. The Advisory Board on Automotive Affairs,  
9 consisting of seven members appointed by the Governor, is hereby  
10 created within the Department.

11       2. The Governor shall appoint to the Board:

- 12       (a) One representative of the Department;
- 13       (b) One representative of licensed operators of body shops;
- 14       (c) One representative of licensed automobile wreckers;
- 15       (d) One representative of registered garagemen;
- 16       (e) One representative of licensed operators of salvage pools;

17 and

18       (f) Two representatives of the general public.

19       3. After the initial terms, each member of the Board serves a  
20 term of 4 years. The members of the Board shall annually elect from  
21 among their number a Chairman and a Vice Chairman. The  
22 Department shall provide secretarial services for the Board.

23       4. The Board shall meet regularly at least twice each year and  
24 may meet at other times upon the call of the Chairman. Each  
25 member of the Board is entitled to the per diem allowance and travel  
26 expenses provided for state officers and employees generally.

27       5. The Board shall:

28       (a) Study the regulation of garagemen, automobile wreckers and  
29 operators of body shops and salvage pools, including, without  
30 limitation, the registration or licensure of such persons and the  
31 methods of disciplinary action against such persons;

32       (b) Analyze and advise the Department relating to any consumer  
33 complaints ~~[provided to the Department by the Consumer Affairs~~  
34 ~~Division of the Department of Business and Industry pursuant to~~  
35 ~~NRS 598.985 or otherwise]~~ received by the Department concerning  
36 garagemen, automobile wreckers or operators of body shops or  
37 salvage pools;

38       (c) Make recommendations to the Department for any necessary  
39 regulations or proposed legislation pertaining to paragraph (a) or  
40 (b);

41       (d) On or before January 15 of each odd-numbered year, prepare  
42 and submit a report concerning its activities and recommendations  
43 to the Governor and to the Director of the Legislative Counsel  
44 Bureau for transmission to the Legislature; and

45       (e) Perform any other duty assigned by the Department.



1     **Sec. 28.** NRS 487.530 is hereby amended to read as follows:  
2     487.530 As used in NRS 487.530 to ~~[487.570,]~~ **487.690,**  
3 inclusive, **and sections 8 to 26, inclusive, of this act,** unless the  
4 context otherwise requires, the words and terms defined in NRS  
5 ~~[487.535]~~ **487.540** to 487.550, inclusive, **and sections 8 and 9 of**  
6 **this act** have the meanings ascribed to them in those sections.

7     **Sec. 29.** NRS 487.555 is hereby amended to read as follows:  
8     487.555 The provisions of NRS 487.530 to ~~[487.570,]~~ **487.690,**  
9 inclusive, **and sections 8 to 26, inclusive, of this act** do not apply to  
10 a service station that is exclusively engaged in the business of  
11 selling motor vehicle fuel, lubricants or goods unrelated to the repair  
12 of motor vehicles.

13     **Sec. 30.** NRS 487.563 is hereby amended to read as follows:  
14     487.563 1. Each person who submits an application for  
15 registration pursuant to the provisions of NRS 487.560 shall file  
16 with the Department a bond in the amount of \$5,000, with a  
17 corporate surety for the bond that is licensed to do business in this  
18 State. The form of the bond must be approved by the Attorney  
19 General and be conditioned upon whether the applicant conducts his  
20 business as an owner or operator of a garage without fraud or  
21 fraudulent representation and in compliance with the provisions of  
22 **sections 10 to 26, inclusive, of this act and** NRS 487.530 to  
23 ~~[487.570,]~~ **487.567,** inclusive . ~~[, and 597.480 to 597.590,~~  
24 ~~inclusive.]~~

25     2. The bond must be continuous in form and the total aggregate  
26 liability on the bond must be limited to the payment of the total  
27 amount of the bond.

28     3. The bond must provide that any person injured by the action  
29 of the garageman may:

30     (a) Apply to the Director for compensation from the bond. The  
31 Director, for good cause shown and after notice and opportunity for  
32 hearing, may determine the amount of compensation and the person  
33 to whom it is to be paid. The surety shall then make payment.

34     (b) Present to the Director an order of a court requiring the  
35 Director to pay to the person an amount of compensation from the  
36 bond. The Director shall inform the surety, and the surety shall then  
37 make payment.

38     4. In lieu of a bond required to be filed pursuant to the  
39 provisions of subsection 1, a person may deposit with the  
40 Department, pursuant to the terms prescribed by the Department:

41     (a) A like amount of money or bonds of the United States or of  
42 the State of Nevada of an actual market value of not less than the  
43 amount fixed by the Department; or

44     (b) A savings certificate of a bank or savings and loan  
45 association located in this State, which must indicate an account of



1 an amount equal to the amount of the bond that would otherwise be  
2 required pursuant to this section and that the amount is unavailable  
3 for withdrawal except upon order of the Department. Interest earned  
4 on the certificate accrues to the account of the applicant.

5 5. A deposit made pursuant to subsection 4 may be disbursed  
6 by the Director, for good cause shown and after notice and  
7 opportunity for hearing, in an amount determined by him to  
8 compensate a person injured by an action of the garageman or  
9 released upon receipt of:

10 (a) An order of a court requiring the Director to release all or a  
11 specified portion of the deposit; or

12 (b) A statement signed by the person under whose name the  
13 deposit is made and acknowledged before any person authorized to  
14 take acknowledgments in this State, requesting that the Director  
15 release the deposit, or a specified portion thereof, and stating the  
16 purpose for which the release is requested.

17 6. If a person fails to comply with an order of a court that  
18 relates to the repair of a motor vehicle, or fails to pay or otherwise  
19 discharge any final judgment rendered and entered against him or  
20 any court order issued and arising out of the repair of a motor  
21 vehicle in the operation of a garage, the Department shall revoke or  
22 refuse to renew the certificate of registration of the person who  
23 failed to comply with the order or satisfy the judgment.

24 7. The Department may reinstate or renew a certificate of  
25 registration that is revoked pursuant to the provisions of subsection  
26 6 if the person whose certificate of registration is revoked complies  
27 with the order of the court.

28 8. A garageman whose registration has been revoked pursuant  
29 to the provisions of subsection 6 shall furnish to the Department a  
30 bond in the amount specified in subsection 1 before the  
31 reinstatement of his registration.

32 **Sec. 31.** NRS 487.564 is hereby amended to read as follows:

33 487.564 1. The Department may refuse to issue a registration  
34 or may suspend, revoke or refuse to renew a registration to operate a  
35 garage upon any of the following grounds:

36 (a) A false statement of a material fact in a certification for a  
37 salvage vehicle required pursuant to NRS 487.800.

38 (b) A false statement or certification for an inspection pursuant  
39 to NRS 487.800 which attests to the mechanical fitness or safety of  
40 a salvage vehicle.

41 (c) The Director determines that the garage or garageman has  
42 engaged in a deceptive trade practice or violated the provisions of  
43 ~~[NRS 597.480 to 597.590, inclusive.]~~ *sections 10 to 26, inclusive,*  
44 *of this act.*



1 (d) Evidence of unfitness of the applicant or registrant pursuant  
2 to NRS 487.165.

3 (e) A violation of any regulation adopted by the Department  
4 governing the operation of a garage.

5 (f) A violation of any statute or regulation that constitutes fraud  
6 in conjunction with the repair of a motor vehicle or operation of a  
7 garage.

8 2. A person for whom a certificate of registration has been  
9 suspended or revoked pursuant to the provisions of this section,  
10 subsection 6 of NRS 487.563 or similar provisions of the laws of  
11 any other state or territory of the United States shall not be  
12 employed by, or in any manner affiliated with, the operation of a  
13 garage subject to registration in this State.

14 3. As used in this section, "salvage vehicle" has the meaning  
15 ascribed to it in NRS 487.770.

16 **Sec. 32.** NRS 487.600 is hereby amended to read as follows:

17 487.600 As used in NRS 487.600 to ~~[487.690,]~~ **487.687,**  
18 inclusive, unless the context otherwise requires, the words and terms  
19 defined in NRS ~~[487.602]~~ **487.604** to 487.608, inclusive, have the  
20 meanings ascribed to them in those sections.

21 **Sec. 33.** NRS 487.640 is hereby amended to read as follows:

22 487.640 1. No license may be issued to an operator of a body  
23 shop until he procures and files with the Department a good and  
24 sufficient bond in the amount of \$10,000, with a corporate surety  
25 thereon licensed to do business in the State of Nevada, approved as  
26 to form by the Attorney General, and conditioned that the applicant  
27 shall conduct his business as an operator of a body shop without  
28 fraud or fraudulent representation, and in compliance with the  
29 provisions of *sections 10 to 26, inclusive, of this act and* NRS  
30 487.600 to ~~[487.690,]~~ **487.687,** inclusive. ~~[, and 597.480 to~~  
31 ~~597.590, inclusive.]~~ The Department may, by agreement with any  
32 operator of a body shop who has been licensed by the Department  
33 for 5 years or more, allow a reduction in the amount of the bond of  
34 the operator, if the business of the operator has been conducted  
35 satisfactorily for the preceding 5 years, but no bond may be in an  
36 amount less than \$1,000.

37 2. The bond may be continuous in form and the total aggregate  
38 liability on the bond must be limited to the payment of the total  
39 amount of the bond.

40 3. The bond must provide that any person injured by the action  
41 of the operator of the body shop in violation of any of the provisions  
42 of *sections 10 to 26, inclusive, of this act and* NRS 487.600 to  
43 ~~[487.690,]~~ **487.687,** inclusive, ~~[and 597.480 to 597.590, inclusive,]~~  
44 may apply to the Director for compensation from the bond. The  
45 Director, for good cause shown and after notice and opportunity for



1 hearing, may determine the amount of compensation and the person  
2 to whom it is to be paid. The surety shall then make the payment.

3 4. In lieu of a bond an operator of a body shop may deposit  
4 with the Department, under the terms prescribed by the Department:

5 (a) A like amount of money or bonds of the United States or of  
6 the State of Nevada of an actual market value of not less than the  
7 amount fixed by the Department; or

8 (b) A savings certificate of a bank, credit union or savings and  
9 loan association situated in Nevada, which must indicate an account  
10 of an amount equal to the amount of the bond which would  
11 otherwise be required by this section and that this amount is  
12 unavailable for withdrawal except upon order of the Department.  
13 Interest earned on the certificate accrues to the account of the  
14 applicant.

15 5. A deposit made pursuant to subsection 4 may be disbursed  
16 by the Director, for good cause shown and after notice and  
17 opportunity for hearing, in an amount determined by him to  
18 compensate a person injured by an action of the licensee, or released  
19 upon receipt of:

20 (a) An order of a court requiring the Director to release all or a  
21 specified portion of the deposit; or

22 (b) A statement signed by the person under whose name the  
23 deposit is made and acknowledged before any person authorized to  
24 take acknowledgments in this State, requesting the Director to  
25 release the deposit, or a specified portion thereof, and stating the  
26 purpose for which the release is requested.

27 6. When a deposit is made pursuant to subsection 4, liability  
28 under the deposit is in the amount prescribed by the Department. If  
29 the amount of the deposit is reduced or there is an outstanding  
30 judgment of a court for which the licensee is liable under the  
31 deposit, the license is automatically suspended. The license must be  
32 reinstated if the licensee:

33 (a) Files an additional bond pursuant to subsection 1;

34 (b) Restores the deposit with the Department to the original  
35 amount required under this section; or

36 (c) Satisfies the outstanding judgment for which he is liable  
37 under the deposit.

38 7. A deposit made pursuant to subsection 4 may be refunded:

39 (a) By order of the Director, 3 years after the date the licensee  
40 ceases to be licensed by the Department, if the Director is satisfied  
41 that there are no outstanding claims against the deposit; or

42 (b) By order of court, at any time within 3 years after the date  
43 the licensee ceases to be licensed by the Department, upon evidence  
44 satisfactory to the court that there are no outstanding claims against  
45 the deposit.



1 8. Any money received by the Department pursuant to  
2 subsection 4 must be deposited with the State Treasurer for credit to  
3 the Motor Vehicle Fund.

4 **Sec. 34.** NRS 487.650 is hereby amended to read as follows:

5 487.650 1. The Department may refuse to issue a license or  
6 may suspend, revoke or refuse to renew a license to operate a body  
7 shop upon any of the following grounds:

8 (a) Failure of the applicant or licensee to have or maintain an  
9 established place of business in this State.

10 (b) Conviction of the applicant or licensee or an employee of the  
11 applicant or licensee of a felony, or of a misdemeanor or gross  
12 misdemeanor for a violation of a provision of this chapter.

13 (c) Any material misstatement in the application for the license.

14 (d) Willful failure of the applicant or licensee to comply with the  
15 motor vehicle laws of this State and *sections 10 to 26, inclusive, of*  
16 *this act or* NRS 487.600 to ~~[487.690,]~~ 487.687, inclusive . ~~[*or*~~  
17 ~~597.480 to 597.590, inclusive.]~~

18 (e) Failure or refusal by the licensee to pay or otherwise  
19 discharge any final judgment against him arising out of the  
20 operation of the body shop.

21 (f) Failure or refusal to provide to the Department an  
22 authorization for the disclosure of financial records for the business  
23 as required pursuant to subsection 2.

24 (g) A finding of guilty or guilty but mentally ill by a court of  
25 competent jurisdiction in a case involving a fraudulent inspection,  
26 purchase, sale or transfer of a salvage vehicle by the applicant or  
27 licensee or an employee of the applicant or licensee.

28 (h) An improper, careless or negligent inspection of a salvage  
29 vehicle pursuant to NRS 487.800 by the applicant or licensee or an  
30 employee of the applicant or licensee.

31 (i) A false statement of material fact in a certification of a  
32 salvage vehicle pursuant to NRS 487.800 or a record regarding a  
33 salvage vehicle by the applicant or licensee or an employee of the  
34 applicant or licensee.

35 (j) The display of evidence of unfitness for a license pursuant to  
36 NRS 487.165.

37 2. Upon the receipt of any report or complaint alleging that an  
38 applicant or a licensee has engaged in financial misconduct or has  
39 failed to satisfy financial obligations related to the operation of a  
40 body shop, the Department may require the applicant or licensee to  
41 submit to the Department an authorization for the disclosure of  
42 financial records for the business as provided in NRS 239A.090.  
43 The Department may use any information obtained pursuant to such  
44 an authorization only to determine the suitability of the applicant or  
45 licensee for initial or continued licensure. Information obtained



1 pursuant to such an authorization may be disclosed only to those  
2 employees of the Department who are authorized to issue a license  
3 to an applicant pursuant to NRS 487.600 to ~~487.690,~~ 487.687,  
4 inclusive, or to determine the suitability of an applicant or a licensee  
5 for licensure.

6 3. As used in this section, "salvage vehicle" has the meaning  
7 ascribed to it in NRS 487.770.

8 **Sec. 35.** NRS 487.690 is hereby amended to read as follows:

9 487.690 Any person who violates any of the provisions of  
10 *sections 10 to 26, inclusive, of this act or* NRS ~~487.600~~ 487.530  
11 to 487.680, inclusive, is guilty of a misdemeanor.

12 **Sec. 36.** NRS 598.0925 is hereby amended to read as follows:

13 598.0925 1. Except as otherwise provided in this section, a  
14 person engages in a "deceptive trade practice" when, in the course  
15 of his business or occupation, he:

16 (a) Makes an assertion of scientific, clinical or quantifiable fact  
17 in an advertisement which would cause a reasonable person to  
18 believe that the assertion is true, unless, at the time the assertion is  
19 made, the person making it has possession of factually objective  
20 scientific, clinical or quantifiable evidence which substantiates the  
21 assertion; or

22 (b) Fails upon request of the ~~Commissioner or~~ Attorney  
23 General to produce within 6 working days the substantiating  
24 evidence in his possession at the time the assertion of scientific,  
25 clinical or quantifiable fact was made.

26 2. This section does not apply to general assertions of opinion  
27 as to quality, value or condition made without the intent to mislead  
28 another person.

29 **Sec. 37.** NRS 598.096 is hereby amended to read as follows:

30 598.096 When the ~~Commissioner, Director or~~ Attorney  
31 General has cause to believe that any person has engaged or is  
32 engaging in any deceptive trade practice, he may:

33 1. Request the person to file a statement or report in writing  
34 under oath or otherwise, on such forms as may be prescribed by the  
35 ~~Commissioner, Director or~~ Attorney General, as to all facts and  
36 circumstances concerning the sale or advertisement of property by  
37 the person, and such other data and information as the  
38 ~~Commissioner, Director or~~ Attorney General may deem necessary.

39 2. Examine under oath any person in connection with the sale  
40 or advertisement of any property.

41 3. Examine any property or sample thereof, record, book,  
42 document, account or paper as he may deem necessary.

43 4. Make true copies, at the expense of the ~~Consumer Affairs~~  
44 ~~Division of the Department of Business and Industry,~~ *Attorney*  
45 *General*, of any record, book, document, account or paper examined



1 pursuant to subsection 3, which copies may be offered into evidence  
2 in lieu of the originals thereof in actions brought pursuant to NRS  
3 598.097 and 598.0979.

4 5. Pursuant to an order of any district court, impound any  
5 sample of property which is material to the deceptive trade practice  
6 and retain the property in his possession until completion of all  
7 proceedings as provided in NRS 598.0903 to 598.0999, inclusive.  
8 An order may not be issued pursuant to this subsection unless:

9 (a) The ~~Commissioner, Director or~~ Attorney General ~~[ ]~~ and  
10 the court give the accused full opportunity to be heard; and

11 (b) The ~~Commissioner, Director or~~ Attorney General proves  
12 by clear and convincing evidence that the business activities of the  
13 accused will not be impaired thereby.

14 **Sec. 38.** NRS 598.0963 is hereby amended to read as follows:

15 598.0963 1. ~~[Whenever the Attorney General is requested in~~  
16 ~~writing by the Commissioner or the Director to represent him in~~  
17 ~~instituting a legal proceeding against a person who has engaged or is~~  
18 ~~engaging in a deceptive trade practice, the Attorney General may~~  
19 ~~bring an action in the name of the State of Nevada against that~~  
20 ~~person on behalf of the Commissioner or Director.~~

21 ~~—2.]~~ The Attorney General may institute criminal proceedings to  
22 enforce the provisions of NRS 598.0903 to 598.0999, inclusive. The  
23 Attorney General is not required to obtain leave of the court before  
24 instituting criminal proceedings pursuant to this subsection.

25 ~~[3.]~~ 2. If the Attorney General has reason to believe that a  
26 person has engaged or is engaging in a deceptive trade practice, the  
27 Attorney General may bring an action in the name of the State of  
28 Nevada against that person to obtain a temporary restraining order, a  
29 preliminary or permanent injunction, or other appropriate relief.

30 ~~[4.]~~ 3. If the Attorney General has cause to believe that a  
31 person has engaged or is engaging in a deceptive trade practice, the  
32 Attorney General may issue a subpoena to require the testimony of  
33 any person or the production of any documents, and may administer  
34 an oath or affirmation to any person providing such testimony. The  
35 subpoena must be served upon the person in the manner required for  
36 service of process in this State or by certified mail with return  
37 receipt requested. An employee of the Attorney General may  
38 personally serve the subpoena.

39 **Sec. 39.** NRS 598.097 is hereby amended to read as follows:

40 598.097 If any person fails to cooperate with any investigation,  
41 as provided in NRS 598.096, or if any person fails to obey a  
42 subpoena issued by the ~~Commissioner, Director or~~ Attorney  
43 General pursuant to NRS 598.0963 ~~for 598.0967, the~~  
44 ~~Commissioner, Director or~~, *the* Attorney General may apply to any  
45 district court for equitable relief. The application must state



1 reasonable grounds showing that the relief is necessary to terminate  
2 or prevent a deceptive trade practice. If the court is satisfied of the  
3 reasonable grounds, the court may:

4 1. Grant injunctive relief restraining the sale or advertisement  
5 of any property by the person.

6 2. Require the attendance of or the production of documents by  
7 the person, or both.

8 3. Grant other relief necessary to compel compliance by the  
9 person.

10 **Sec. 40.** NRS 598.0971 is hereby amended to read as follows:

11 598.0971 1. If, after an investigation, the ~~Commissioner~~  
12 *Attorney General* has reasonable cause to believe that any person  
13 has been engaged or is engaging in any deceptive trade practice in  
14 violation of NRS 598.0903 to 598.0999, inclusive, the  
15 ~~Commissioner~~ *Attorney General* may issue an order directed to  
16 the person to show cause why the ~~Commissioner~~ *Attorney*  
17 *General* should not order the person to cease and desist from  
18 engaging in the practice. The order must contain a statement of the  
19 charges and a notice of a hearing to be held thereon. The order must  
20 be served upon the person directly or by certified or registered mail,  
21 return receipt requested.

22 2. If, after conducting a hearing pursuant to the provisions of  
23 subsection 1, the ~~Commissioner~~ *Attorney General* determines that  
24 the person has violated any of the provisions of NRS 598.0903 to  
25 598.0999, inclusive, or if the person fails to appear for the hearing  
26 after being properly served with the statement of charges and notice  
27 of hearing, the ~~Commissioner~~ *Attorney General* may make a  
28 written report of his findings of fact concerning the violation and  
29 cause to be served a copy thereof upon the person and any  
30 intervener at the hearing. If the ~~Commissioner~~ *Attorney General*  
31 determines in the report that such a violation has occurred, he may  
32 order the violator to:

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

35 (b) Pay the costs of conducting the investigation, costs of  
36 conducting the hearing, costs of reporting services, fees for experts  
37 and other witnesses, charges for the rental of a hearing room if such  
38 a room is not available to the ~~Commissioner~~ *Attorney General*  
39 free of charge, charges for providing an independent hearing officer,  
40 if any, and charges incurred for any service of process, if the  
41 violator is adjudicated to have committed a violation of NRS  
42 598.0903 to 598.0999, inclusive; and

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



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

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

10   4. If a person fails to comply with any provision of an order  
11 issued pursuant to subsection 2, ~~the Commissioner may, through~~  
12 the Attorney General ~~;~~ *may*, at any time after 30 days after the  
13 service of the order, cause an action to be instituted in the district  
14 court of the county wherein the person resides or has his principal  
15 place of business requesting the court to enforce the provisions of  
16 the order or to provide any other appropriate injunctive relief.

17   5. If the court finds that:

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

19   (b) The proceedings by the ~~Commissioner~~ *Attorney General*  
20 concerning the written report and any order issued pursuant to  
21 subsection 2 are in the interest of the public; and

22   (c) The findings of the ~~Commissioner~~ *Attorney General* are  
23 supported by the weight of the evidence,

24   ↳ the court shall issue an order enforcing the provisions of the order  
25 of the ~~Commissioner~~ *Attorney General*.

26   6. Except as otherwise provided in NRS 598.0974, an order  
27 issued pursuant to subsection 5 may include:

28   (a) A provision requiring the payment to the ~~Commissioner~~  
29 *Attorney General* of a penalty of not more than \$5,000 for each act  
30 amounting to a failure to comply with the ~~Commissioner's~~  
31 ~~;~~ *of the Attorney General*; or

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

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

37   8. Upon the violation of any judgment, order or decree issued  
38 pursuant to subsection 5 or 6, the ~~Commissioner,~~ *Attorney*  
39 *General*, after a hearing thereon, may proceed in accordance with  
40 the provisions of NRS 598.0999.

41   **Sec. 41.** NRS 598.0974 is hereby amended to read as follows:

42   598.0974 A civil penalty must not be imposed against any  
43 person who engages in a deceptive trade practice pursuant to NRS  
44 598.0903 to 598.0999, inclusive, in a civil proceeding brought by  
45 the ~~Commissioner, Director or~~ *Attorney General* if a fine has



1 previously been imposed against that person by the Department of  
2 Motor Vehicles pursuant to NRS 482.554 ~~(f)~~ for the same act.

3 **Sec. 42.** NRS 598.0975 is hereby amended to read as follows:

4 598.0975 1. Except as otherwise provided in subsection 3  
5 and in subsection 1 of NRS 598.0999, all fees, civil penalties and  
6 any other money collected pursuant to the provisions of NRS  
7 598.0903 to 598.0999, inclusive:

8 (a) In an action brought by the Attorney General,  
9 ~~[Commissioner or Director,]~~ must be deposited in the State General  
10 Fund and may only be used to offset the costs of administering and  
11 enforcing the provisions of NRS 598.0903 to 598.0999, inclusive.

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

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

17 (a) The investigation and prosecution of deceptive trade  
18 practices against elderly persons or persons with disabilities; and

19 (b) Programs for the education of consumers which are directed  
20 toward elderly persons or persons with disabilities, law enforcement  
21 officers, members of the judicial system, persons who provide social  
22 services and the general public.

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

24 (a) Criminal fines imposed pursuant to NRS 598.0903 to  
25 598.0999, inclusive; or

26 (b) Restitution ordered pursuant to NRS 598.0903 to 598.0999,  
27 inclusive, in an action brought by the Attorney General. Money  
28 collected for restitution ordered in such an action must be deposited  
29 by the Attorney General and credited to the appropriate account of  
30 the ~~[Consumer Affairs Division of the Department of Business and  
31 Industry or the]~~ Attorney General for distribution to the person for  
32 whom the restitution was ordered.

33 **Sec. 43.** NRS 598.0979 is hereby amended to read as follows:

34 598.0979 1. Notwithstanding the requirement of knowledge  
35 as an element of a deceptive trade practice, when the ~~[Commissioner  
36 or Director]~~ *Attorney General* has cause to believe that a person has  
37 engaged or is engaging in any deceptive trade practice, knowingly  
38 or otherwise, he may ~~[request in writing that the Attorney General  
39 represent him in instituting]~~ *institute* an appropriate legal  
40 proceeding, including, without limitation, an application for an  
41 injunction or temporary restraining order prohibiting the person  
42 from continuing the practices. The court may make orders or  
43 judgments necessary to prevent the use by the person of any such  
44 deceptive trade practice or to restore to any other person any money



1 or property which may have been acquired by the deceptive trade  
2 practice.

3 2. Where the ~~{Commissioner or Director}~~ *Attorney General*  
4 has the authority to institute a civil action or other proceeding, in  
5 lieu thereof or as a part thereof, he may accept an assurance of  
6 discontinuance of any deceptive trade practice. This assurance may  
7 include a stipulation for the payment by the alleged violator of:

8 (a) The costs of investigation and the costs of instituting the  
9 action or proceeding;

10 (b) Any amount of money which he may be required to pay  
11 pursuant to the provisions of NRS 598.0971 in lieu of any  
12 administrative fine; and

13 (c) The restitution of any money or property acquired by any  
14 deceptive trade practice.

15 ➔ Except as otherwise provided in this subsection and NRS  
16 239.0115, any assurance of discontinuance accepted by the  
17 ~~{Commissioner or Director}~~ *Attorney General* and any stipulation  
18 filed with the court is confidential to the parties to the action or  
19 proceeding and to the court and its employees. Upon final judgment  
20 by the court that an injunction or a temporary restraining order,  
21 issued as provided in subsection 1, has been violated, an assurance  
22 of discontinuance has been violated or a person has engaged in the  
23 same deceptive trade practice as had previously been enjoined, the  
24 assurance of discontinuance or stipulation becomes a public record.  
25 Proof by a preponderance of the evidence of a violation of an  
26 assurance constitutes prima facie evidence of a deceptive trade  
27 practice for the purpose of any civil action or proceeding brought  
28 thereafter by the ~~{Commissioner or Director,}~~ *Attorney General*,  
29 whether a new action or a subsequent motion or petition in any  
30 pending action or proceeding.

31 **Sec. 44.** NRS 598.098 is hereby amended to read as follows:

32 598.098 1. ~~{NRS 598.0903 to 598.0999, inclusive, do not  
33 prohibit the Commissioner or Director from disclosing to the  
34 Attorney General, any district attorney or any law enforcement  
35 officer the fact that a crime has been committed by any person, if  
36 this fact has become known as a result of any investigation  
37 conducted pursuant to the provisions of NRS 598.0903 to 598.0999,  
38 inclusive.~~

39 ~~—2.~~ Subject to the provisions of subsection 2 of NRS 598.0979  
40 and except as otherwise provided in this section, the ~~{Commissioner  
41 or Director}~~ *Attorney General* may not make public the name of any  
42 person alleged to have committed a deceptive trade practice. This  
43 subsection does not:



1 (a) Prevent the ~~[Commissioner or Director]~~ *Attorney General*  
2 from issuing public statements describing or warning of any course  
3 of conduct which constitutes a deceptive trade practice.

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

6 ~~[3.]~~ 2. Upon request, the ~~[Commissioner]~~ *Attorney General*  
7 may:

8 (a) Disclose the number of written complaints received by the  
9 ~~[Commissioner]~~ *Attorney General* during the current and  
10 immediately preceding 3 fiscal years. A disclosure made pursuant to  
11 this paragraph must include the disposition of the complaint  
12 disclosed.

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

15 ➔ This subsection does not authorize the ~~[Commissioner]~~ *Attorney*  
16 *General* to disclose or make public the contents of any complaint  
17 described in paragraph (a) or the record of or any other information  
18 concerning a hearing conducted in relation to the issuance of an  
19 order to cease and desist described in paragraph (b).

20 ~~[4. The Commissioner may adopt regulations authorizing the~~  
21 ~~disclosure of information concerning any complaint or number of~~  
22 ~~complaints received by the Commissioner or Director relating to a~~  
23 ~~person who has been convicted of violating a provision of NRS~~  
24 ~~598.0903 to 598.0999, inclusive.]~~

25 **Sec. 45.** NRS 598.0983 is hereby amended to read as follows:

26 598.0983 1. Before instituting any action pursuant to NRS  
27 598.0985 to 598.0997, inclusive, the district attorney shall ascertain  
28 whether or not the action in question is subject to the regulatory  
29 authority of any state agency, board, official or other authority  
30 established by virtue of the Nevada Revised Statutes except the  
31 regulatory or administrative authority provided to the  
32 ~~[Commissioner, Director or]~~ *Attorney General* by NRS 598.0903 to  
33 598.0999, inclusive.

34 2. If the action is subject to such regulatory authority or any  
35 regulation adopted or any statutes administered by any state  
36 regulatory agency, board, official or other authority as provided in  
37 subsection 1, the district attorney shall not institute any proceeding  
38 under NRS 598.0985 to 598.0997, inclusive, until the state agency,  
39 board, official or other state regulatory authority has had reasonable  
40 time to investigate or take any appropriate action with respect to the  
41 alleged facts.

42 3. For the purposes of this section, a reasonable time has  
43 elapsed if no final action or other disposition is made of any matter  
44 otherwise falling within the provisions of NRS 598.0903 to  
45 598.0999, inclusive, within 30 days after the matter is referred to or



1 brought to the attention of any state agency, board, official or other  
2 regulatory authority except the ~~Commissioner, Director or~~  
3 Attorney General.

4 4. This section does not prohibit the district attorney of any  
5 county from filing an action pursuant to the provisions of NRS  
6 598.0985 to 598.099, inclusive, if the referral of any matters subject  
7 to the provisions of NRS 598.0903 to 598.0999, inclusive, to any  
8 state agency, board, official or other regulatory authority would  
9 cause immediate harm to the public of this state or endanger the  
10 public health, safety or welfare, and such facts are shown by  
11 affidavit or by verified complaint.

12 **Sec. 46.** NRS 598.0985 is hereby amended to read as follows:

13 598.0985 Notwithstanding the requirement of knowledge as an  
14 element of a deceptive trade practice, and notwithstanding the  
15 enforcement powers granted to the ~~Commissioner or Director~~  
16 *Attorney General* pursuant to NRS 598.0903 to 598.0999, inclusive,  
17 whenever the district attorney of any county has reason to believe  
18 that any person is using, has used or is about to use any deceptive  
19 trade practice, knowingly or otherwise, he may bring an action in  
20 the name of the State of Nevada against that person to obtain a  
21 temporary or permanent injunction against the deceptive trade  
22 practice.

23 **Sec. 47.** NRS 598.099 is hereby amended to read as follows:

24 598.099 Whenever the district attorney or the Attorney General  
25 has reason to believe that the delay caused by complying with the  
26 notice requirement of NRS 598.0987 or the requirements of  
27 subsection ~~3~~ 2 of NRS 598.0963 would cause immediate harm to  
28 the public of this state or endanger the public welfare, he may  
29 immediately institute an action for injunctive relief, including a  
30 request for a temporary restraining order, upon proof of specific  
31 facts shown by affidavit or by verified complaint or otherwise that  
32 such immediate harm will be or is likely to be caused by the delay.  
33 ~~The Attorney General shall give written notice of the filing by him~~  
34 ~~of such an action to the Commissioner or Director.~~ The Nevada  
35 Rules of Civil Procedure pertaining to the issuance of temporary  
36 restraining orders govern all actions instituted pursuant to this  
37 section.

38 **Sec. 48.** NRS 598.0995 is hereby amended to read as follows:

39 598.0995 1. In proceeding pursuant to subsection ~~3~~ 2 of  
40 NRS 598.0963 or NRS 598.0987 to 598.0995, inclusive, the district  
41 attorney or Attorney General may accept an assurance of  
42 discontinuance with respect to any method, act or practice deemed  
43 to be a deceptive trade practice from any person who is engaged or  
44 is about to engage in the method, act or practice by following the  
45 procedures set forth in subsection 2 of NRS 598.0979.



1 2. Any assurance made pursuant to subsection 1 must be in  
2 writing and must be filed with and subject to the approval of the  
3 district court in the county in which the alleged violator resides or  
4 has his principal place of business, or the district court in any county  
5 where any deceptive trade practice has occurred or is about to occur  
6 or the district court agreed to by the parties.

7 3. An assurance of discontinuance made pursuant to  
8 subsections 1 and 2 is not an admission of violation for any purpose,  
9 but is subject to the terms, limitations and conditions of  
10 NRS 598.0979.

11 **Sec. 49.** NRS 598.0999 is hereby amended to read as follows:

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

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

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

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

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

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

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



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

6 5. If a person violates any provision of NRS 598.0903 to  
7 598.0999, inclusive, 598.100 to 598.2801, inclusive, ~~[598.305 to~~  
8 ~~598.395, inclusive, 598.405 to 598.525, inclusive,]~~ 598.475,  
9 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive,  
10 fails to comply with a judgment or order of any court in this State  
11 concerning a violation of such a provision, or fails to comply with  
12 an assurance of discontinuance or other agreement concerning an  
13 alleged violation of such a provision, ~~[the Commissioner or]~~ the  
14 district attorney of any county may bring an action in the name of  
15 the State of Nevada seeking:

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

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

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

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

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

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

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

35 **Sec. 50.** NRS 598.135 is hereby amended to read as follows:

36 598.135 The provisions of NRS 598.136, 598.137 and 598.138  
37 do not apply to:

38 1. A contest of skill that does not involve the sale or lease of  
39 any goods, property or service.

40 2. ~~[A person who is licensed as a seller or a salesman pursuant~~  
41 ~~to chapter 599B of NRS, and is engaging in an activity within the~~  
42 ~~scope of that license.~~

43 ~~—3.]~~ A sale or purchase, or solicitation or representation made in  
44 connection with the sale or purchase, of goods from a catalog or of  
45 books, recordings, videocassettes, periodicals or other similar goods



1 offered by a seller or membership group which is regulated by the  
2 Federal Trade Commission if the seller or membership group sends  
3 goods, pursuant to an agreement, to a customer or member for his  
4 inspection and, if unsatisfied after inspecting the goods, the  
5 customer or member is entitled to receive a full refund of the  
6 purchase price of the goods if the goods are returned undamaged to  
7 the seller or membership group.

8 ~~[4.]~~ 3. A solicitation, advertisement or promotion, or offer to  
9 extend credit, made by a commercial bank, bank holding company,  
10 subsidiary or affiliate of a bank holding company, trust  
11 company, savings and loan association, credit union, industrial loan  
12 company, personal property broker, consumer finance lender,  
13 commercial finance lender or insurer, or any other person engaged  
14 in the business of extending credit, who is regulated by an officer or  
15 agency of the State or of the Federal Government.

16 ~~[5.]~~ 4. A person licensed pursuant to chapter 463 of NRS and  
17 his employees.

18 **Sec. 51.** NRS 598.475 is hereby amended to read as follows:

19 598.475 1. In each advertisement for a sightseeing tour, a  
20 tour broker and a tour operator shall disclose in a clear and  
21 conspicuous manner the total price a customer is required to pay to  
22 take the sightseeing tour. Unless the inclusion of a fee or tax in the  
23 total price would violate a specific statute of this state or a federal  
24 statute or regulation, the total price must include, without limitation,  
25 all fees, taxes and other charges that a customer for a sightseeing  
26 tour is required to pay to take the sightseeing tour. If a fee or tax  
27 cannot be included in the total price because its inclusion would  
28 violate a specific statute of this state or a federal statute or  
29 regulation, the tour broker or tour operator, as applicable, shall  
30 disclose in a clear and conspicuous manner that the fee or tax is not  
31 included in the total price and must be paid in addition to the total  
32 price.

33 2. A tour broker and a tour operator shall not charge a customer  
34 for a sightseeing tour an amount that exceeds the sum of:

35 (a) The total price for the sightseeing tour which is disclosed in  
36 an advertisement for the sightseeing tour; and

37 (b) Any fee or tax that is not included in the total price for the  
38 sightseeing tour because its inclusion would violate a specific statute  
39 of this state or a federal statute or regulation.

40 3. On a billing invoice or receipt given to a customer for a  
41 sightseeing tour, a tour broker and a tour operator shall provide a  
42 clear and conspicuous notice which:

43 (a) Sets forth the provisions of subsection 2;



1 (b) States that complaints concerning the charges for a  
2 sightseeing tour may be directed to the ~~[Division;]~~ *Attorney*  
3 *General*; and

4 (c) Provides a telephone number for the ~~[Division.]~~ *Attorney*  
5 *General*.

6 4. If a tour operator issues or causes to be issued a coupon or  
7 other indicia of discount or special promotion, the tour operator  
8 shall honor the coupon or other indicia in good faith unless:

9 (a) The coupon or other indicia sets forth a date of expiration  
10 that is clearly legible; and

11 (b) The date of expiration has passed.

12 5. The failure of a tour broker or tour operator to comply with a  
13 provision of this section constitutes a deceptive trade practice for the  
14 purposes of NRS 598.0903 to 598.0999, inclusive.

15 **6. As used in this section:**

16 (a) *“Advertise” or “advertisement” means the attempt by*  
17 *publication, dissemination, solicitation or circulation to induce,*  
18 *directly or indirectly, any person to take a sightseeing tour.*

19 (b) *“Sightseeing tour” means an excursion that:*

20 (1) *Has a duration of 24 hours or less;*

21 (2) *Travels to one or more points of interest; and*

22 (3) *Is conducted using one or more means of motorized*  
23 *conveyance, including, without limitation, an airplane, bus,*  
24 *helicopter, tour boat or touring raft.*

25 (c) *“Tour broker” means a person who, in this State,*  
26 *advertises a sightseeing tour for a tour operator and collects*  
27 *money from customers for a sightseeing tour.*

28 (d) *“Tour operator” means a person who, in this State,*  
29 *engages in the business of providing a sightseeing tour to*  
30 *customers.*

31 **Sec. 52.** NRS 598.706 is hereby amended to read as follows:

32 598.706 “Commissioner” means the Commissioner of ~~the~~  
33 ~~Consumer Affairs Division]~~ *Mortgage Lending* of the Department  
34 of Business and Industry.

35 **Sec. 53.** NRS 598.711 is hereby amended to read as follows:

36 598.711 “Division” means the ~~[Consumer Affairs]~~ Division of  
37 *Mortgage Lending* of the Department of Business and Industry.

38 **Sec. 54.** NRS 598.716 is hereby amended to read as follows:

39 598.716 “Registrant” means a credit service organization ~~[, an~~  
40 ~~organization for buying goods or services at a discount, a dance~~  
41 ~~studio or a health club]~~ which is required to register and post  
42 security with the Division pursuant to the provisions of this chapter.

43 **Sec. 55.** NRS 598.721 is hereby amended to read as follows:

44 598.721 1. Each credit service organization ~~[, organization~~  
45 ~~for buying goods or services at a discount, dance studio and health~~



1 ~~club~~ regulated by the provisions of this chapter shall apply for  
2 registration on the form prescribed by the Division.

3 2. At the time of application for registration, the applicant must  
4 pay to the Division an administrative fee of \$25 and deposit the  
5 required security with the Division.

6 3. Upon receipt of the security in the proper form and the  
7 payment of the administrative fee required by this section, the  
8 Division shall issue a certificate of registration to the applicant. A  
9 certificate of registration:

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

12 4. A registrant must renew a certificate of registration issued  
13 pursuant to this section before the certificate expires by submitting  
14 to the Division an application for the renewal of the certificate on a  
15 form prescribed by the Division.

16 **Sec. 56.** NRS 598.741 is hereby amended to read as follows:

17 598.741 As used in NRS 598.741 to 598.787, inclusive, unless  
18 the context otherwise requires:

19 1. "Buyer" means a natural person who is solicited to purchase  
20 or who purchases the services of an organization which provides  
21 credit services.

22 2. "Commissioner" means the Commissioner of ~~{Consumer~~  
23 ~~Affairs.}~~ *Mortgage Lending*.

24 3. "Division" means the ~~{Consumer—Affairs}~~ Division of  
25 *Mortgage Lending of* the Department of Business and Industry.

26 4. "Extension of credit" means the right to defer payment of  
27 debt or to incur debt and defer its payment, offered or granted  
28 primarily for personal, family or household purposes.

29 5. "Organization":

30 (a) Means a person who, with respect to the extension of credit  
31 by others, sells, provides or performs, or represents that he can or  
32 will sell, provide or perform, any of the following services, in return  
33 for the payment of money or other valuable consideration:

34 (1) Improving a buyer's credit record, history or rating.

35 (2) Obtaining an extension of credit for a buyer.

36 (3) Providing counseling or assistance to a person in  
37 establishing or effecting a plan for the payment of his indebtedness,  
38 unless that counseling or assistance is provided by and is within the  
39 scope of the authorized practice of a debt adjuster licensed pursuant  
40 to chapter 676 of NRS.

41 (4) Providing advice or assistance to a buyer with regard to  
42 subparagraph (1) or (2).

43 (b) Does not include:

44 (1) A person organized, chartered or holding a license or  
45 authorization certificate to make loans or extensions of credit



1 pursuant to the laws of this state or the United States who is subject  
2 to regulation and supervision by an officer or agency of this state or  
3 the United States.

4 (2) A bank, credit union or savings and loan institution  
5 whose deposits or accounts are eligible for insurance by the Federal  
6 Deposit Insurance Corporation, the National Credit Union Share  
7 Insurance Fund or a private insurer approved pursuant to  
8 NRS 678.755.

9 (3) A person licensed as a real estate broker by this state  
10 where the person is acting within the course and scope of that  
11 license, unless the person is rendering those services in the course  
12 and scope of employment by or other affiliation with an  
13 organization.

14 (4) A person licensed to practice law in this state where the  
15 person renders services within the course and scope of his practice  
16 as an attorney at law, unless the person is rendering those services in  
17 the course and scope of employment by or other affiliation with an  
18 organization.

19 (5) A broker-dealer registered with the Securities and  
20 Exchange Commission or the Commodity Futures Trading  
21 Commission where the broker-dealer is acting within the course and  
22 scope of such regulation.

23 (6) A person licensed as a debt adjuster pursuant to chapter  
24 676 of NRS.

25 (7) A reporting agency.

26 6. "Reporting agency" means a person who, for fees, dues or  
27 on a cooperative nonprofit basis, regularly engages in whole or in  
28 part in the business of assembling or evaluating information  
29 regarding the credit of or other information regarding consumers to  
30 furnish consumer reports to third parties, regardless of the means or  
31 facility of commerce used to prepare or furnish the consumer  
32 reports. The term does not include:

33 (a) A person solely for the reason that he conveys a decision  
34 regarding whether to guarantee a check in response to a request by a  
35 third party;

36 (b) A person who obtains or creates a consumer report and  
37 provides the report or information contained in it to a subsidiary or  
38 affiliate; or

39 (c) A person licensed pursuant to chapter 463 of NRS.

40 **Sec. 57.** NRS 598.840 is hereby amended to read as follows:

41 598.840 As used in NRS 598.840 to 598.930, inclusive, unless  
42 the context otherwise requires:

43 1. "Affiliate organization" means an organization for buying  
44 goods or services at a discount that:

45 (a) Is a subsidiary of a parent business entity; or



1 (b) Operates under a franchise granted by a parent business  
2 entity.

3 2. "Business day" means any calendar day except Sunday, or  
4 the following business holidays: New Year's Day, Martin Luther  
5 King, Jr.'s Birthday, Washington's Birthday, Memorial Day,  
6 Independence Day, Labor Day, Nevada Day, Veterans' Day,  
7 Thanksgiving Day and Christmas Day.

8 3. "Buyer" means a person who purchases by contract a  
9 membership in an organization for buying goods or services at a  
10 discount.

11 4. ~~["Commissioner" means the Commissioner of the Consumer~~  
12 ~~Affairs Division.~~

13 ~~5. "Consumer Affairs Division" means the Consumer Affairs~~  
14 ~~Division of the Department of Business and Industry.~~

15 ~~6.]~~ "Franchise" has the meaning ascribed to it in 16 C.F.R. §  
16 436.2, as amended or substituted in revision by the Federal Trade  
17 Commission.

18 ~~[7.]~~ 5. "Organization for buying goods or services at a  
19 discount" or "organization" means a person who, for a  
20 consideration, provides or claims to provide a buyer with the ability  
21 to purchase goods or services at a price which is represented to be  
22 lower than the price generally charged in the area. The term  
23 includes, without limitation, an affiliate organization.

24 ~~[8.]~~ 6. "Parent business entity" or "parent" means any business  
25 entity that, directly or indirectly, has owned, operated, controlled or  
26 granted franchises to, in any combination thereof, at least 15  
27 organizations or affiliate organizations for a consecutive period of 5  
28 years or more.

29 ~~[9.]~~ 7. "Subsidiary" means an organization for buying goods or  
30 services at a discount that is owned, operated or controlled, either  
31 directly or indirectly or in whole or in part, by a parent business  
32 entity.

33 **Sec. 58.** NRS 598.875 is hereby amended to read as follows:

34 598.875 Each contract for membership in an organization  
35 must:

36 1. Be in writing, legible and have all spaces filled in before the  
37 buyer signs it;

38 2. Be in the language in which the sales presentation was  
39 given;

40 3. Contain the addresses of the buyer and the organization;

41 4. Be given to the buyer when he signs it;

42 5. ~~[Disclose that the security required by NRS 598.726,~~  
43 ~~598.851 and, if applicable, NRS 598.855 has been obtained and~~  
44 ~~deposited with the Consumer Affairs Division;~~



1 ~~—6.]~~ Specify the term of the membership of the buyer, which  
2 may not be measured by the buyer's life;  
3 ~~[7.]~~ 6. Clearly specify the buyer's right to cancel the contract  
4 pursuant to NRS 598.885;  
5 ~~[8.]~~ 7. Clearly specify the buyer's right to rescind the contract  
6 and to be given a refund pro rata pursuant to NRS 598.910 and the  
7 conditions and limitations on that right;  
8 ~~[9.]~~ 8. Clearly specify the buyer's right to a refund on the  
9 purchase of goods pursuant to NRS 598.895 and the conditions and  
10 limitations on that right; and  
11 ~~[10.]~~ 9. Clearly specify whether or not the buyer is given any  
12 other rights to a refund on the purchase of goods or services and, if  
13 so, any conditions and limitations on those rights.  
14 **Sec. 59.** NRS 598.930 is hereby amended to read as follows:  
15 598.930 1. The remedies, duties and prohibitions of NRS  
16 598.840 to 598.930, inclusive, are not exclusive and are in addition  
17 to any other remedies provided by law.  
18 2. Any violation of NRS ~~[598.851]~~ **598.870** to 598.900,  
19 inclusive, constitutes a deceptive trade practice for the purposes of  
20 NRS 598.0903 to 598.0999, inclusive.  
21 **Sec. 60.** NRS 598.948 is hereby amended to read as follows:  
22 598.948 Each contract between the buyer and the dance studio  
23 or health club must:  
24 1. Be in writing, legible and have all spaces filled in before the  
25 buyer signs it;  
26 2. Be in the language in which the sales presentation was  
27 given;  
28 3. Contain the addresses of the buyer and the studio or club;  
29 4. Be given to the buyer when he signs it;  
30 5. ~~[Disclose whether security has been obtained and deposited~~  
31 ~~with the Division pursuant to NRS 598.726;~~  
32 ~~—6.]~~ Specify the term of membership of the buyer, which must  
33 not be measured by the life of the buyer;  
34 ~~[7.]~~ 6. Clearly specify the right of the buyer to cancel the  
35 contract pursuant to NRS 598.950;  
36 ~~[8.]~~ 7. Not contain a clause by which the contract is  
37 automatically renewed; and  
38 ~~[9.]~~ 8. Specify the number of lessons and the cost of each  
39 lesson, if the contract is for dance lessons.  
40 **Sec. 61.** NRS 598.966 is hereby amended to read as follows:  
41 598.966 1. The remedies, duties and prohibitions of NRS  
42 598.940 to 598.966, inclusive, are not exclusive and are in addition  
43 to any other remedies provided by law.



1 2. Any violation of NRS ~~[598.944]~~ **598.948** to 598.958,  
2 inclusive, constitutes a deceptive trade practice for the purposes of  
3 NRS 598.0903 to 598.0999, inclusive.

4 **Sec. 62.** NRS 598C.180 is hereby amended to read as follows:  
5 598C.180 ~~[1.]~~ The provisions of this chapter must be  
6 administered by the ~~[Commissioner of Consumer Affairs.~~

7 ~~—2.— The Attorney General shall provide opinions for the~~  
8 ~~Commissioner on all questions of law relating to the construction,~~  
9 ~~interpretation or administration of this chapter.~~

10 ~~—3.— The Attorney General shall represent the Division in any~~  
11 ~~action or proceeding brought by or against the Commissioner~~  
12 ~~pursuant to any of the provisions of this chapter.]~~ **Attorney General.**

13 **Sec. 63.** NRS 599B.010 is hereby amended to read as follows:  
14 599B.010 As used in this chapter, unless the context otherwise  
15 requires:

16 1. “Chance promotion” means any plan in which premiums are  
17 distributed by random or chance selection.

18 2. ~~["Commissioner" means the Commissioner of Consumer~~  
19 ~~Affairs.~~

20 ~~—3.]~~ “Consumer” means a person who is solicited by a seller or  
21 salesman.

22 ~~[4.—“Division” means the Consumer Affairs Division of the~~  
23 ~~Department of Business and Industry.~~

24 ~~—5.]~~ 3. “Donation” means a promise, grant or pledge of money,  
25 credit, property, financial assistance or other thing of value given in  
26 response to a solicitation by telephone, including, but not limited to,  
27 a payment or promise to pay in consideration for a performance,  
28 event or sale of goods or services. The term does not include  
29 volunteer services, government grants or contracts or a payment by  
30 members of any organization of membership fees, dues, fines or  
31 assessments or for services rendered by the organization to those  
32 persons, if:

33 (a) The fees, dues, fines, assessments or services confer a bona  
34 fide right, privilege, professional standing, honor or other direct  
35 benefit upon the member; and

36 (b) Membership in the organization is not conferred solely in  
37 consideration for making a donation in response to a solicitation.

38 ~~[6.]~~ 4. “Goods or services” means any property, tangible or  
39 intangible, real, personal or mixed, and any other article, commodity  
40 or thing of value.

41 ~~[7.]~~ 5. “Premium” includes any prize, bonus, award, gift or any  
42 other similar inducement or incentive to purchase.

43 ~~[8.]~~ 6. “Recovery service” means a business or other practice  
44 whereby a person represents or implies that he will, for a fee,  
45 recover any amount of money that a consumer has provided to a



1 seller or salesman pursuant to a solicitation governed by the  
2 provisions of this chapter.

3 ~~[9.]~~ 7. "Salesman" means any person:

4 (a) Employed or authorized by a seller to sell, or to attempt to  
5 sell, goods or services by telephone;

6 (b) Retained by a seller to provide consulting services relating to  
7 the management or operation of the seller's business; or

8 (c) Who communicates on behalf of a seller with a consumer:

9 (1) In the course of a solicitation by telephone; or

10 (2) For the purpose of verifying, changing or confirming an  
11 order,

12 ➔ except that a person is not a salesman if his only function is to  
13 identify a consumer by name only and he immediately refers the  
14 consumer to a salesman.

15 ~~[10.]~~ 8. Except as otherwise provided in subsection ~~[11.]~~ 9,  
16 "seller" means any person who, on his own behalf, causes or  
17 attempts to cause a solicitation by telephone to be made through the  
18 use of one or more salesmen or any automated dialing announcing  
19 device under any of the following circumstances:

20 (a) The person initiates contact by telephone with a consumer  
21 and represents or implies:

22 (1) That a consumer who buys one or more goods or services  
23 will receive additional goods or services, whether or not of the same  
24 type as purchased, without further cost, except for actual postage or  
25 common carrier charges;

26 (2) That a consumer will or has a chance or opportunity to  
27 receive a premium;

28 (3) That the items for sale are gold, silver or other precious  
29 metals, diamonds, rubies, sapphires or other precious stones, or any  
30 interest in oil, gas or mineral fields, wells or exploration sites or any  
31 other investment opportunity;

32 (4) That the product offered for sale is information or  
33 opinions relating to sporting events;

34 (5) That the product offered for sale is the services of a  
35 recovery service; or

36 (6) That the consumer will receive a premium or goods or  
37 services if he makes a donation;

38 (b) The solicitation by telephone is made by the person in  
39 response to inquiries from a consumer generated by a notification or  
40 communication sent or delivered to the consumer that represents or  
41 implies:

42 (1) That the consumer has been in any manner specially  
43 selected to receive the notification or communication or the offer  
44 contained in the notification or communication;



- 1 (2) That the consumer will receive a premium if the recipient  
2 calls the person;
- 3 (3) That if the consumer buys one or more goods or services  
4 from the person, the consumer will also receive additional or other  
5 goods or services, whether or not the same type as purchased,  
6 without further cost or at a cost that the person represents or implies  
7 is less than the regular price of the goods or services;
- 8 (4) That the product offered for sale is the services of a  
9 recovery service; or
- 10 (5) That the consumer will receive a premium or goods or  
11 services if he makes a donation; or
- 12 (c) The solicitation by telephone is made by the person in  
13 response to inquiries generated by advertisements that represent or  
14 imply that the person is offering to sell any:
- 15 (1) Gold, silver or other metals, including coins, diamonds,  
16 rubies, sapphires or other stones, coal or other minerals or any  
17 interest in oil, gas or other mineral fields, wells or exploration sites,  
18 or any other investment opportunity;
- 19 (2) Information or opinions relating to sporting events; or
- 20 (3) Services of a recovery service.
- 21 ~~11.1~~ 9. "Seller" does not include:
- 22 (a) A person licensed pursuant to chapter 90 of NRS when  
23 soliciting offers, sales or purchases within the scope of his license.
- 24 (b) A person licensed pursuant to chapter 119A, 119B, 624, 645  
25 or 696A of NRS when soliciting sales within the scope of his  
26 license.
- 27 (c) A person licensed as an insurance broker, agent or solicitor  
28 when soliciting sales within the scope of his license.
- 29 (d) Any solicitation of sales made by the publisher of a  
30 newspaper or magazine or by an agent of the publisher pursuant to a  
31 written agreement between the agent and publisher.
- 32 (e) A broadcaster soliciting sales who is licensed by any state or  
33 federal authority, if the solicitation is within the scope of the  
34 broadcaster's license.
- 35 (f) A person who solicits a donation from a consumer when:
- 36 (1) The person represents or implies that the consumer will  
37 receive a premium or goods or services with an aggregated fair  
38 market value of 2 percent of the donation or \$50, whichever is less;  
39 or
- 40 (2) The consumer provides a donation of \$50 or less in  
41 response to the solicitation.
- 42 (g) A charitable organization which is registered or approved to  
43 conduct a lottery pursuant to chapter 462 of NRS.
- 44 (h) A public utility or motor carrier which is regulated pursuant  
45 to chapter 704 or 706 of NRS, or by an affiliate of such a utility or



1 motor carrier, if the solicitation is within the scope of its certificate  
2 or license.

3 (i) A utility which is regulated pursuant to chapter 710 of NRS,  
4 or by an affiliate of such a utility.

5 (j) A person soliciting the sale of books, recordings,  
6 videocassettes, software for computer systems or similar items  
7 through:

8 (1) An organization whose method of sales is governed by  
9 the provisions of Part 425 of Title 16 of the Code of Federal  
10 Regulations relating to the use of negative option plans by sellers in  
11 commerce;

12 (2) The use of continuity plans, subscription arrangements,  
13 arrangements for standing orders, supplements, and series  
14 arrangements pursuant to which the person periodically ships  
15 merchandise to a consumer who has consented in advance to receive  
16 the merchandise on a periodic basis and has the opportunity to  
17 review the merchandise for at least 10 days and return it for a full  
18 refund within 30 days after it is received; or

19 (3) An arrangement pursuant to which the person ships  
20 merchandise to a consumer who has consented in advance to receive  
21 the merchandise and has the opportunity to review the merchandise  
22 for at least 10 days and return it for a full refund within 30 days after  
23 it is received.

24 (k) A person who solicits sales by periodically publishing and  
25 delivering a catalog to consumers if the catalog:

26 (1) Contains a written description or illustration of each item  
27 offered for sale and the price of each item;

28 (2) Includes the business address of the person;

29 (3) Includes at least 24 pages of written material and  
30 illustrations;

31 (4) Is distributed in more than one state; and

32 (5) Has an annual circulation by mailing of not less than  
33 250,000.

34 (l) A person soliciting without the intent to complete and who  
35 does not complete, the sales transaction by telephone but completes  
36 the sales transaction at a later face-to-face meeting between the  
37 solicitor and the consumer, if the person, after soliciting a sale by  
38 telephone, does not cause another person to collect the payment  
39 from or deliver any goods or services purchased to the consumer.

40 (m) Any commercial bank, bank holding company, subsidiary or  
41 affiliate of a bank holding company, trust company, savings and  
42 loan association, credit union, industrial loan company, personal  
43 property broker, consumer finance lender, commercial finance  
44 lender, or insurer subject to regulation by an official or agency of



1 this State or of the United States, if the solicitation is within the  
2 scope of the certificate or license held by the entity.

3 (n) A person holding a certificate of authority issued pursuant to  
4 chapter 452 of NRS when soliciting sales within the scope of the  
5 certificate.

6 (o) A person licensed pursuant to chapter 689 of NRS when  
7 soliciting sales within the scope of his license.

8 (p) A person soliciting the sale of services provided by a video  
9 service provider subject to regulation pursuant to chapter 711 of  
10 NRS.

11 (q) A person soliciting the sale of agricultural products, if the  
12 solicitation is not intended to and does not result in a sale of more  
13 than \$100 that is to be delivered to one address. As used in this  
14 paragraph, "agricultural products" has the meaning ascribed to it in  
15 NRS 587.290.

16 (r) A person who has been operating, for at least 2 years, a retail  
17 business establishment under the same name as that used in  
18 connection with the solicitation of sales by telephone if, on a  
19 continuing basis:

20 (1) Goods are displayed and offered for sale or services are  
21 offered for sale and provided at the person's business establishment;  
22 and

23 (2) At least 50 percent of the person's business involves the  
24 buyer obtaining such goods or services at the person's business  
25 establishment.

26 (s) A person soliciting only the sale of telephone answering  
27 services to be provided by the person or his employer.

28 (t) A person soliciting a transaction regulated by the Commodity  
29 Futures Trading Commission, if:

30 (1) The person is registered with or temporarily licensed by  
31 the Commission to conduct that activity pursuant to the Commodity  
32 Exchange Act, 7 U.S.C. §§ 1 et seq.; and

33 (2) The registration or license has not expired or been  
34 suspended or revoked.

35 (u) A person who contracts for the maintenance or repair of  
36 goods previously purchased from the person:

37 (1) Making the solicitation; or

38 (2) On whose behalf the solicitation is made.

39 (v) A person to whom a license to operate an information  
40 service or a nonrestricted gaming license, which is current and valid,  
41 has been issued pursuant to chapter 463 of NRS when soliciting  
42 sales within the scope of his license.

43 (w) A person who solicits a previous customer of the business  
44 on whose behalf the call is made if the person making the call:



1 (1) Does not offer the customer any premium in connection  
2 with the sale;

3 (2) Is not selling an investment or an opportunity for an  
4 investment that is not registered with any state or federal authority;  
5 and

6 (3) Is not regularly engaged in telephone sales.

7 (x) A person who solicits the sale of livestock.

8 (y) An issuer which has a class of securities that is listed on the  
9 New York Stock Exchange, the American Stock Exchange or the  
10 National Market System of the National Association of Securities  
11 Dealers Automated Quotation System.

12 (z) A subsidiary of an issuer that qualifies for exemption  
13 pursuant to paragraph (y) if at least 60 percent of the voting power  
14 of the shares of the subsidiary is owned by the issuer.

15 **Sec. 64.** NRS 599B.025 is hereby amended to read as follows:

16 599B.025 1. The Attorney General may adopt regulations  
17 establishing standards of conduct for ~~[registrants]~~ *sellers and*  
18 *salesmen* and any other regulations necessary to exercise the powers  
19 and carry out the duties of the Attorney General as set forth in this  
20 chapter.

21 2. The ~~[Commissioner and the]~~ Attorney General shall ~~[jointly]~~  
22 adopt rules of practice establishing a procedure for processing  
23 complaints received concerning sellers and salesmen. ~~[, whether or~~  
24 ~~not the sellers and salesmen are registered pursuant to this chapter.~~  
25 ~~The rules of practice:~~

26 ~~—(a) Must provide for the sharing of information and for the~~  
27 ~~initial review of complaints by the Attorney General before~~  
28 ~~mediation by the Commissioner; and~~

29 ~~—(b) May provide procedures for mediation by the Commissioner~~  
30 ~~after initial review by the Attorney General.~~

31 ~~—3.— The Commissioner may adopt rules of practice necessary to~~  
32 ~~administer and carry out the provisions of this chapter pertaining to~~  
33 ~~the registration of sellers and salesmen. The rules of practice must~~  
34 ~~not restrict the powers and duties of the Attorney General as set~~  
35 ~~forth in this chapter.]~~

36 **Sec. 65.** NRS 599B.150 is hereby amended to read as follows:

37 599B.150 1. No salesman may be associated with or  
38 employed by more than one seller at the same time.

39 2. A seller shall cooperate fully with the ~~[Commissioner]~~  
40 *Attorney General* in any investigation made by him concerning an  
41 alleged violation of the provisions of this chapter by a salesman.

42 **Sec. 66.** NRS 599B.160 is hereby amended to read as follows:

43 599B.160 If any change is made to any script, outline,  
44 presentation or sales or donation information or literature used by a  
45 ~~[registrant]~~ *seller or salesman* in connection with any solicitation,



1 the new or revised material must be submitted by the ~~registrant~~  
2 *seller or salesman* to the ~~Division~~ *Attorney General* before such  
3 material is used.

4 **Sec. 67.** NRS 599B.170 is hereby amended to read as follows:

5 599B.170 1. During any solicitation or sales presentation  
6 made by him, or in any correspondence written in connection with a  
7 sale, a salesman shall:

- 8 (a) Identify himself by stating his true name;
- 9 (b) Identify the seller by whom he is employed; and
- 10 (c) State the purpose of his call.

11 2. During any solicitation or sales presentation made by him, or  
12 in any correspondence written in connection with a ~~registrant, a~~  
13 ~~registrant~~ *seller or salesman, a seller or salesman* shall disclose to  
14 a consumer:

15 (a) Any charge, including the amount associated with the use of  
16 any premium being offered;

17 (b) Any material restriction, requirement, condition, limitation  
18 or exception which is associated with the use of the premium; and

19 (c) Any charge connected with the sale of any goods or services.

20 3. A ~~registrant~~ *seller or salesman* shall not characterize a  
21 premium as a prize unless the consumer may receive the premium  
22 free of charge and without making any purchase.

23 4. A ~~registrant~~ *seller or salesman* shall inform each consumer  
24 of the time within which any premium will be delivered.

25 5. A ~~registrant~~ *seller or salesman* shall not make any  
26 representation of the number of premiums to be awarded in a sales  
27 promotion unless the representation accurately reflects the actual  
28 number of premiums that will be awarded.

29 **Sec. 68.** NRS 599B.180 is hereby amended to read as follows:

30 599B.180 If a seller expressly or impliedly represents to any  
31 consumer, directly or through a salesman, that the consumer is or  
32 may be eligible to receive any gift, premium, bonus or prize,  
33 however denominated, the seller shall:

34 1. Submit to the ~~Division~~ *Attorney General* a statement  
35 setting forth, for each item mentioned:

36 (a) A description of the item.

37 (b) The value or worth of the item and the basis for the  
38 valuation.

39 (c) All terms and conditions a consumer must satisfy in order to  
40 receive the item. The statement must be accompanied by a copy of  
41 the written statement of terms and conditions provided to consumers  
42 pursuant to subsection 3.

43 (d) If they are ascertainable, the odds, for a given consumer, of  
44 receiving the item.



1 (e) If a consumer is to receive fewer than all the items described  
2 by the seller:

3 (1) The manner in which the seller decides which item a  
4 given consumer is to receive.

5 (2) If they are ascertainable, the odds, for a given consumer,  
6 of receiving each item described.

7 (3) The name and address of each person who has, during the  
8 preceding 12 months or any portion thereof in which the seller has  
9 done business, received the item having the greatest value and the  
10 item with the smallest odds of being received.

11 2. Provide the following information to the consumer at the  
12 time of the solicitation:

13 (a) The complete address of the location and the telephone  
14 number from which the consumer is being called and, if different,  
15 the complete address of the principal location at which the seller  
16 does business.

17 (b) The information required by paragraphs (a) and (c) of  
18 subsection 1.

19 (c) If the seller elects to inform the consumer of the value or  
20 worth of the item, the information must be identical to that  
21 submitted pursuant to paragraph (b) of subsection 1, in exactly the  
22 form submitted.

23 (d) If the consumer is to receive fewer than all the items  
24 described by the seller, the information required by subparagraph  
25 (1) of paragraph (e) of subsection 1.

26 3. Advise the consumer, at the time of the solicitation, that he  
27 may obtain, without cost, a written statement of the terms and  
28 conditions he must satisfy in order to receive the item. If the  
29 consumer so requests, the seller shall send him such a statement, by  
30 mail, without cost to the consumer.

31 **Sec. 69.** NRS 599B.185 is hereby amended to read as follows:

32 599B.185 If a **[registrant] seller or salesman** solicits the sale of  
33 investments or opportunities for investment, he shall, during the oral  
34 sales presentation and in writing, inform the prospective consumer:

35 1. Of the manner in which the price of the offered item is  
36 determined;

37 2. Whether the **[registrant] seller or salesman** or his employer  
38 receives any financial advantage other than an agent's or brokerage  
39 fee; and

40 3. Of the amount of any agent's or brokerage fee.

41 **Sec. 70.** NRS 599B.187 is hereby amended to read as follows:

42 599B.187 1. A **[registrant] seller or salesman** shall not use a  
43 chance promotion unless each consumer is entitled to participate in  
44 the promotion without charge or payment of any kind.



1 2. A **[registrant] seller or salesman** shall, before describing any  
2 item offered in a chance promotion, inform each consumer that he  
3 may participate in the promotion without any obligation to purchase  
4 any goods or services.

5 3. If a consumer specifically requests the information and the  
6 odds are ascertainable, the **[registrant] seller or salesman** shall  
7 orally disclose the odds of receiving each item offered in the chance  
8 promotion. If such a request is made but the odds are not  
9 ascertainable, the **[registrant] seller or salesman** shall disclose the  
10 manner in which the items offered in the promotion are awarded.

11 4. A **[registrant] seller or salesman** shall not require or request  
12 the payment of any money as a condition of obtaining any premium  
13 offered in a chance promotion.

14 5. A **[registrant] seller or salesman** shall not require a person  
15 to perform any action or to supply any information to participate in  
16 a chance promotion, except that the **[registrant] seller or salesman**  
17 may require the person to submit a written request sent by first-class  
18 mail. A **[registrant] seller or salesman** may not require the person to  
19 supply any information other than his name, address and a list of the  
20 premiums available in the chance promotion.

21 6. If a premium is offered in a chance promotion, the  
22 **[registrant] seller or salesman** shall provide any such premium to  
23 each person who does not purchase goods or services from the  
24 **[registrant] seller or salesman** upon the same terms, including time  
25 of delivery, as are provided to the persons who do purchase goods or  
26 services from the **[registrant] seller or salesman**.

27 7. If requested, a **[registrant] seller or salesman** shall inform  
28 each person who does not purchase goods or services from the  
29 **[registrant] seller or salesman** of the manner in which the person  
30 can participate in the chance promotion.

31 8. Any **[registrant] seller or salesman** who uses a chance  
32 promotion shall:

33 (a) Furnish to the **[Division] Attorney General** information  
34 establishing the financial ability of the **[registrant] seller or**  
35 **salesman** to award all premiums to be given in the promotion.

36 (b) Award all premiums included in the promotion to bona fide  
37 recipients within 12 months after the promotion begins.

38 (c) Deliver the premiums to bona fide recipients within a  
39 reasonable time.

40 **Sec. 71.** NRS 599B.190 is hereby amended to read as follows:

41 599B.190 1. Except as otherwise provided in subsection 3, a  
42 person who purchases goods or services or makes a donation  
43 pursuant to a solicitation governed by this chapter must be given a  
44 refund or replacement, at his option, if:



1 (a) The goods or services are defective, are not as represented or  
2 if any item described pursuant to NRS 599B.180 is not received as  
3 promised; and

4 (b) He returns the unused goods, if any, or makes a written  
5 request for the refund or replacement within 30 days after he  
6 receives:

7 (1) The goods or services; or

8 (2) Any item described pursuant to NRS 599B.180,

9 ↪ whichever is received later. A return or request is timely if  
10 shipment is made or the request is postmarked, properly addressed  
11 and postage prepaid, within the time provided by this paragraph.

12 2. A ~~registrant~~ *seller or salesman* who receives a written  
13 request for a refund or replacement shall not require prior  
14 authorization for a return of goods and shall give a refund or  
15 replacement within 14 days after receipt of the request.

16 3. If a consumer of goods returns only a portion of the goods,  
17 the refund or replacement required by subsection 1 may be prorated  
18 accordingly.

19 4. The refund or replacement required by subsection 1 must be  
20 given by the seller, regardless of whether payment for the goods or  
21 services is made to the seller or some other person.

22 5. Except for any proration permitted by subsection 3, a  
23 ~~registrant~~ *seller or salesman* shall not impose any charge in  
24 connection with a return of goods or a request for a refund or  
25 replacement.

26 6. If a ~~registrant~~ *seller or salesman* receives payment by  
27 credit card, he may issue a refund in the form of a credit to the credit  
28 card account of the consumer in lieu of a cash refund.

29 7. Within 3 days after any purchase of goods or services or  
30 upon delivery of the goods or services, whichever is later, or within  
31 3 days after receiving a donation, the seller shall provide the  
32 consumer with a written summary of the provisions of this section.  
33 The summary must:

34 (a) ~~Be made in a form prescribed by the Division.~~

35 ~~(b)~~ Include the address to which returned goods or a request for  
36 refund may be sent.

37 ~~(e)~~ (b) Be accompanied by a statement containing the  
38 information required by paragraph (e) of subsection 1 of NRS  
39 599B.180, if the provisions of that section apply.

40 ~~(d)~~ (c) If the provisions of paragraph (c) of subsection 2 of  
41 NRS 599B.180 apply, be accompanied by a statement concerning  
42 the number of persons who have, during the 12 months preceding  
43 the solicitation or any portion thereof in which the seller has done  
44 business, received the item having the greatest value and the item  
45 with the smallest odds of being received.



1   ↳ A summary is timely if it is postmarked, properly addressed and  
2   postage prepaid, within the time provided by this subsection.

3   **Sec. 72.** NRS 599B.200 is hereby amended to read as follows:

4   599B.200 A salesman or seller shall not disclose the name or  
5   address of any person who purchases goods or services pursuant to a  
6   solicitation governed by this chapter. Nothing in this section  
7   prohibits the disclosure of this information to:

8   1. Any person employed by or associated with the seller; *or*

9   2. ~~[The Commissioner or any employee of the Division; or~~  
10 ~~—3.]~~ Any law enforcement officer or agency that requires the  
11 information for investigative purposes.

12 **Sec. 73.** NRS 599B.210 is hereby amended to read as follows:

13 599B.210 1. Every ~~[registrant,]~~ *seller or salesman*, other  
14 than a ~~[registrant]~~ *seller or salesman* incorporated in this state, shall  
15 file with the Secretary of State an irrevocable consent appointing the  
16 Secretary of State as his agent to receive service of any lawful  
17 process in any action or proceeding against him arising pursuant to  
18 this chapter. Any lawful process against the ~~[registrant]~~ *seller or*  
19 *salesman* served upon the Secretary of State as provided in  
20 subsection 2 has the same force and validity as if served upon the  
21 ~~[registrant]~~ *seller or salesman* personally.

22 2. Service of process authorized by subsection 1 must be made  
23 by filing with the Secretary of State:

24 (a) Two copies of the process. The copies must include a  
25 specific citation to the provisions of this section. The Secretary of  
26 State may refuse to accept such service if the proper citation is not  
27 included in each copy.

28 (b) A fee of \$10.

29 ↳ The Secretary of State shall forthwith forward one copy of the  
30 process by registered or certified mail prepaid to the ~~[registrant,]~~  
31 *seller or salesman*, or in the case of a ~~[registrant]~~ *seller or salesman*  
32 organized under the laws of a foreign government, to the United  
33 States manager or last appointed United States general agent of the  
34 ~~[registrant,]~~ *seller or salesman*, giving the day and the hour of the  
35 service.

36 3. Service of process is not complete until the copy thereof has  
37 been mailed and received by the ~~[registrant,]~~ *seller or salesman*, and  
38 the receipt of the addressee is prima facie evidence of the  
39 completion of the service.

40 4. If service of summons is made upon the Secretary of State in  
41 accordance with the provisions of this section, the time within which  
42 the ~~[registrant]~~ *seller or salesman* is required to appear is extended  
43 10 days.



1       **Sec. 74.** NRS 599B.255 is hereby amended to read as follows:  
2       599B.255 1. Except as otherwise provided in NRS 599B.213,  
3 the Attorney General or the district attorney of any county in this  
4 state may prosecute a person who willfully violates, either directly  
5 or indirectly, the provisions of this chapter. ~~Except as otherwise~~  
6 ~~provided in subsection 3, such~~ **Such** a person:

7       (a) For the first offense within 10 years, is guilty of a  
8 misdemeanor.

9       (b) For the second offense within 10 years, is guilty of a gross  
10 misdemeanor.

11       (c) For the third and all subsequent offenses within 10 years, is  
12 guilty of a category D felony and shall be punished as provided in  
13 NRS 193.130, or by a fine of not more than \$50,000, or by both fine  
14 and the punishment provided in NRS 193.130.

15       2. Any offense which occurs within 10 years immediately  
16 preceding the date of the principal offense or after the principal  
17 offense constitutes a prior offense for the purposes of subsection 1  
18 when evidenced by a conviction, without regard to the sequence of  
19 the offenses and convictions.

20       3. ~~A person who violates any provision of NRS 599B.080 is~~  
21 ~~guilty of a category D felony and shall be punished as provided in~~  
22 ~~NRS 193.130, or by a fine of not more than \$50,000, or by both fine~~  
23 ~~and the punishment provided in NRS 193.130.~~

24 ~~—4.]~~ Property or proceeds attributable to any violation pursuant  
25 to the provisions of this section are subject to forfeiture in the  
26 manner provided by NRS 179.1156 to 179.121, inclusive.

27       **Sec. 75.** NRS 599B.260 is hereby amended to read as follows:

28       599B.260 1. Except as otherwise provided in subsection 2,  
29 all fees, civil penalties and any other money collected pursuant to  
30 this chapter in an action brought by the Attorney General must be  
31 deposited in the State General Fund and may only be used to defray  
32 the costs of:

33       (a) Administering and enforcing the provisions of this chapter.

34       (b) Enforcing the provisions of chapter 598 of NRS as they  
35 relate to the conduct of sellers and salesmen. ~~Whether or not the~~  
36 ~~sellers and salesmen are registered pursuant to this chapter.]~~

37       2. The provisions of this section do not apply to:

38       (a) Criminal fines imposed pursuant to the provisions of this  
39 chapter; or

40       (b) Restitution ordered in an action brought by the Attorney  
41 General pursuant to the provisions of this chapter. Money collected  
42 for restitution ordered in such an action must be deposited by the  
43 Attorney General and credited to the appropriate account of ~~the~~  
44 ~~Division of~~ the Attorney General for distribution to the person for  
45 whom the restitution was ordered.



1 **Sec. 76.** NRS 686A.300 is hereby amended to read as follows:

2 686A.300 1. An insurer who issues insurance covering  
3 damage to a motor vehicle shall not delay making payment for any  
4 claim involving damage to a motor vehicle after receiving a  
5 statement of charges [;] pursuant to the provisions of [~~NRS~~  
6 ~~597.5705;~~] *section 23 of this act* from any garage or licensed body  
7 shop previously authorized by the insured to perform the repairs  
8 required by that claim.

9 2. A delay, within the meaning of this section, is failure to  
10 issue a check or draft, payable to the garage or licensed body shop  
11 or jointly to the insured and the garage or licensed body shop, within  
12 30 days after the insurer's receipt of the statement of charges for  
13 repairs which have been satisfactorily completed.

14 3. If the damaged vehicle is subject to a security interest or the  
15 legal owner of the damaged vehicle is different from the registered  
16 owner, the vehicle must be repaired by a garage or licensed body  
17 shop unless:

18 (a) The insurer has declared the vehicle a total loss; or

19 (b) The total charge for the repair of the vehicle, as set forth in  
20 the statement of charges presented pursuant to [~~NRS 597.5705;~~]  
21 *section 23 of this act*, is \$300 or less.

22 4. Except as otherwise provided in subsection 3, nothing in this  
23 section shall be deemed to prohibit an insurer and insured from  
24 settling a claim involving damage to a motor vehicle without  
25 providing for the repair of the vehicle.

26 5. As used in this section, "licensed body shop" means a body  
27 shop for which a license has been issued pursuant to chapter 487 of  
28 NRS.

29 **Sec. 77.** NRS 487.535, 487.568, 487.570, 487.602, 597.480,  
30 597.490, 597.500, 597.510, 597.520, 597.530, 597.535, 597.540,  
31 597.550, 597.560, 597.570, 597.5701, 597.5702, 597.5703,  
32 597.5704, 597.5705, 597.5706, 597.580, 597.590, 598.0913,  
33 598.0927, 598.0957, 598.0959, 598.0965, 598.0966, 598.0967,  
34 598.305, 598.307, 598.315, 598.317, 598.325, 598.335, 598.345,  
35 598.356, 598.361, 598.365, 598.366, 598.367, 598.371, 598.372,  
36 598.373, 598.374, 598.375, 598.385, 598.395, 598.405, 598.416,  
37 598.425, 598.435, 598.445, 598.455, 598.465, 598.471, 598.485,  
38 598.495, 598.506, 598.515, 598.525, 598.845, 598.851, 598.855,  
39 598.860, 598.865, 598.915, 598.9407, 598.9413, 598.944, 598.946,  
40 598.971, 598.975, 598.981, 598.985, 598.990, 598C.030, 599B.015,  
41 599B.080, 599B.090, 599B.100, 599B.105, 599B.110, 599B.115,  
42 599B.120, 599B.125, 599B.130, 599B.140, 599B.143, 599B.145  
43 and 599B.195 are hereby repealed.

44 **Sec. 78.** 1. Any regulations adopted by the Commissioner of  
45 the Consumer Affairs Division of the Department of Business and



1 Industry or by the Division before July 1, 2009, remain in force until  
2 amended by the officer or agency to which the responsibility for the  
3 adoption of the regulations is transferred. The regulations may be  
4 enforced by the officer or agency to which the responsibility for the  
5 enforcement of the regulations is transferred.

6 2. Any contract or other agreement entered into by the  
7 Commissioner of the Consumer Affairs Division of the Department  
8 of Business and Industry or by the Division before July 1, 2009, is  
9 binding upon the officer or agency to which the responsibility for  
10 administration of the contract or other agreement is transferred. Any  
11 such contract or other agreement may be enforced by the officer or  
12 agency to which the responsibility for the enforcement of the  
13 provisions of the contract or other agreement is transferred.

14 **Sec. 79.** 1. As soon as practicable after July 1, 2009, at the  
15 time the Revolving Account for the Consumer Affairs Division of  
16 the Department of Business and Industry established by NRS  
17 598.0966 is abolished, the State Treasurer shall ensure that any  
18 money in the Revolving Account is transferred to the revolving  
19 account for the Bureau of Consumer Protection created by section 1  
20 of this act.

21 2. As soon as practicable after July 1, 2009, at the time the  
22 Recovery Fund established pursuant to NRS 598.371 is abolished,  
23 the State Treasurer shall ensure that any money in the Recovery  
24 Fund is transferred to the State General Fund.

25 **Sec. 80.** This act becomes effective on July 1, 2009.

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## LEADLINES OF REPEALED SECTIONS

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- 487.535** "Division" defined.
- 487.568** Penalty.
- 487.570** Garageman to comply with certain provisions relating to trade practices.
- 487.602** "Body shop" defined.
- 597.480** Definitions.
- 597.490** Display of sign required; contents of sign; penalty.
- 597.500** Duties of body shop or garageman on acceptance of vehicle for repair.
- 597.510** Estimate of costs required for certain repairs.
- 597.520** Notice of additional charges over estimate required in certain cases.
- 597.530** Waiver of estimate of costs or notice of additional charges; execution of waiver.



**597.535** Duty of body shop and garage to repair vehicle in accordance with manufacturer's specifications and estimate of costs required for repair.

**597.540** Duties of owner and insurer upon receipt of notice of additional charges.

**597.550** Replaced parts to be delivered to person authorizing repairs if requested; exception.

**597.560** Records to be retained by body shop or garageman.

**597.570** Compliance with NRS 597.510 to 597.5706, inclusive; enforcement of liens and contracts.

**597.5701** Certain acts deemed to be deceptive trade practice.

**597.5702** Revolving account for Bureau of Consumer Protection: Creation; use; deposits; claims.

**597.5703** Commissioner or Director authorized to request undercover investigation of alleged deceptive trade practice; Bureau of Consumer Protection authorized to conduct such investigation.

**597.5704** Administrative fine for engaging in deceptive trade practice; deposit and use of money collected as administrative fine.

**597.5705** Statement of charges required for repair of vehicle; violation constitutes misdemeanor; statement required for enforcement of lien.

**597.5706** Submission of annual report by Commissioner to Legislative Commission.

**597.580** Violations: Injunctive relief.

**597.590** Violations: Civil penalties.

**598.0913** "Commissioner" defined.

**598.0927** "Director" defined.

**598.0957** Director may delegate powers and duties.

**598.0959** Advisory committees: Creation and appointment; membership; compensation.

**598.0965** Commissioner or Director to provide investigative assistance to Attorney General; legal advice and guidance by Attorney General.

**598.0966** Revolving Account for Consumer Affairs Division: Creation; use; deposits; withdrawals; reimbursement; duties of Commissioner.

**598.0967** Commissioner and Director: Subpoenas; hearings; regulations.

**598.305** Definitions.

**598.307** "Account" defined.

**598.315** "Commissioner" defined.



- 598.317 "Consumer" defined.
- 598.325 "Division" defined.
- 598.335 "Seller of travel" defined.
- 598.345 "Travel services" defined.
- 598.356 "Vacation certificate" defined.
- 598.361 Seller to maintain trust account; exception.
- 598.365 Seller to register, deposit security and pay fees before advertising services or conducting business in this State; certificate of registration; renewal of certificate.
- 598.366 Seller to include registration number in advertising; form.
- 598.367 Seller to display notice of Recovery Fund; penalty.
- 598.371 Administration of Fund: Separate accounting; limitations on use.
- 598.372 Administration of Fund: Report to Legislature; employment of persons; interest on money; limitations on balance; regulations.
- 598.373 Recovery from Fund: Deadline for complaint; hearing; judgment of court; action by Division.
- 598.374 Recovery from Fund: Eligibility; limitations on payment; subrogation of claim.
- 598.375 Security required for registration: Form; term; amount; records; rejection for nonconformance; change in form; inadequate amount; exception.
- 598.385 Rights and remedies of injured consumers; resolution by Division of claims against security; regulations.
- 598.395 Release of security if seller ceases to operate or registration expires.
- 598.405 Definitions.
- 598.416 "Advertise" and "advertisement" defined.
- 598.425 "Commissioner" defined.
- 598.435 "Division" defined.
- 598.445 "Sightseeing tour" defined.
- 598.455 "Tour broker" defined.
- 598.465 "Tour operator" defined.
- 598.471 Tour broker and tour operator to register, pay fee and, if applicable, deposit security before advertising services or conducting business in this State; certificate of registration; renewal of certificate.
- 598.485 Applicability of provisions limited to tour brokers and tour operators operating in certain counties.
- 598.495 Security required to be deposited by tour broker and tour operator: Form; term; amount; records; rejection for nonconformance; change in form; inadequate amount.



**598.506** Rights and remedies of injured consumers; resolution by Division of claims against security; regulations.

**598.515** Release of security if tour broker or tour operator ceases to operate.

**598.525** Regulations.

**598.845** Scope.

**598.851** Organization to register and post security before advertising services or conducting business in this State.

**598.855** Trust account required for payments on contracts.

**598.860** Trust account required for payments on goods and services.

**598.865** Administration of trust accounts; audits.

**598.915** Waiver of statutory rights is void.

**598.9407** "Commissioner" defined.

**598.9413** "Division" defined.

**598.944** Registration of dance studio or health club required.

**598.946** Owner of dance studio or health club to register and deposit security before advertising services or conducting business in this State; Amount of security; adjustment of security; exception from requirement to deposit security.

**598.971** Definitions.

**598.975** "Department" defined.

**598.981** "Division" defined.

**598.985** Division and Department to cooperate to protect persons who authorize repair of motor vehicles.

**598.990** Division to establish and maintain toll-free telephone number concerning alleged violations and develop program to provide certain information to public.

**598C.030** "Commissioner" defined.

**599B.015** Duties of Attorney General and Commissioner.

**599B.080** Registration required.

**599B.090** Registration of seller: Application; confidentiality of certain information; security; fee.

**599B.100** Registration of seller: Form and amount of security; release of security.

**599B.105** Rights and remedies of injured consumer; resolution by Division of claims against security; regulations.

**599B.110** Registration of seller: Disclosure of certain convictions, judgments and orders concerning responsible persons.

**599B.115** Registration of seller: Work card required for applicant and certain other persons; exceptions; issuance and renewal of work card; fingerprints.



**599B.120 Registration of salesman: Application; statement of seller; fee.**

**599B.125 Statement regarding payment of child support by applicant for registration certificate; grounds for denial of registration certificate; duty of Division.**

**599B.130 Issuance and display of registration certificate.**

**599B.140 Renewal of registration.**

**599B.143 Suspension of registration certificate for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of registration certificate.**

**599B.145 Payment and refund of fees for registration.**

**599B.195 Delivery of goods or services must be accompanied by form.**

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