

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 for the 2009-2011 biennium 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; temporarily eliminating the Consumer Affairs Division of the Department of Business and Industry; temporarily eliminating the position of Commissioner of Consumer Affairs; transferring certain duties and powers of the Division and the Commissioner; providing for administration of the Uniform Debt-Management Services Act by the Commissioner of Mortgage Lending; 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 temporarily eliminate the Consumer Affairs Division
- 5 of the Department and the position of Commissioner of Consumer Affairs for the
- 6 2009-2011 biennium.
- 7 Existing law provides for the regulation of garages, garagemen and body shops
- 8 by the Commissioner of Consumer Affairs and for the registration or licensure of
- 9 garages, garagemen and body shops with the Department of Motor Vehicles. (NRS
- 10 487.530-487.570, 487.600-487.690, 597.480-597.590) **Sections 8-26** of this bill
- 11 transfer authority for the regulation of garages, garagemen and body shops to the
- 12 Department of Motor Vehicles and provide for the enforcement of those provisions
- 13 by the Director of the Department. **Section 6** of this bill allows the Department of
- 14 Motor Vehicles to impose a fine on a person who engages in certain deceptive trade



15 practices relating to the sale or lease of a vehicle under certain circumstances.
16 **Section 1** of this bill creates a revolving account administered by the Consumer's
17 Advocate, to be used to pay the costs of conducting certain undercover
18 investigations.

19 Existing law requires the Consumer Affairs Division to administer certain
20 provisions of law governing credit service organizations. (NRS 598.701-598.787)
21 **Sections 52-56** of this bill transfer the powers and duties of the Consumer Affairs
22 Division relating to credit service organizations to the Division of Mortgage
23 Lending of the Department of Business and Industry.

24 **Sections 36-47 and 49** of this bill temporarily transfer the powers and duties of
25 the Commissioner of Consumer Affairs relating to deceptive trade practices to the
26 Attorney General.

27 Existing law requires the Consumer Affairs Division to administer certain
28 provisions of law governing sellers of travel, sightseeing tours, organizations for
29 buying goods or services, and dance studios and health clubs. (NRS 598.305-
30 598.966) **Section 51** of this bill provides that complaints concerning the charges for
31 a sightseeing tour may be directed to the Attorney General. **Sections 57-61** of this
32 bill temporarily authorize the Attorney General solely to enforce certain provisions
33 relating to organizations for buying goods or services at a discount, dance studios
34 and health clubs.

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

37 **Section 76.5** of this bill amends Senate Bill No. 355 of this session to provide
38 for the administration of the Uniform Debt-Management Services Act by the
39 Commissioner of Mortgage Lending.

40 **Section 80** of this bill restores the Consumer Affairs Division, the position of
41 the Commissioner of Consumer Affairs and the powers and duties of the Division
42 and the Commissioner relating to deceptive trade practices, sellers of travel,
43 sightseeing tours, organizations for buying goods or services, and dance studios and
44 health clubs effective July 1, 2011.

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.*



1 **4. Payments made from the revolving account must be**
2 **promptly reimbursed from the legislative appropriation, if any, to**
3 **the Consumer's Advocate for the expenses relating to conducting**
4 **an undercover investigation of a person who is allegedly engaging**
5 **in a deceptive trade practice or violating any provision of sections**
6 **10 to 26, inclusive, of this act. The claim for reimbursement must**
7 **be processed and paid as other claims against the State are paid.**

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

- 9 **(a) Approve any disbursement from the revolving account; and**
- 10 **(b) Maintain records of any such disbursement.**

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

12 228.300 As used in NRS 228.300 to 228.390, inclusive, **and**
13 **section 1 of this act**, unless the context otherwise requires, the
14 words and terms defined in NRS 228.302 to 228.308, inclusive,
15 have the meanings ascribed to them in those sections.

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

17 232.510 1. The Department of Business and Industry is
18 hereby created.

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

- 20 (a) ~~Consumer Affairs Division.~~
- 21 ~~(b)~~ Division of Financial Institutions.
- 22 ~~(c)~~ (b) Housing Division.
- 23 ~~(d)~~ (c) Manufactured Housing Division.
- 24 ~~(e)~~ (d) Real Estate Division.
- 25 ~~(f)~~ (e) Division of Insurance.
- 26 ~~(g)~~ (f) Division of Industrial Relations.
- 27 ~~(h)~~ (g) Office of Labor Commissioner.
- 28 ~~(i)~~ (h) Taxicab Authority.
- 29 ~~(j)~~ (i) Nevada Athletic Commission.
- 30 ~~(k)~~ (j) Office of the Nevada Attorney for Injured Workers.
- 31 ~~(l)~~ (k) Nevada Transportation Authority.
- 32 ~~(m)~~ (l) Division of Mortgage Lending.
- 33 ~~(n)~~ (m) Any other office, commission, board, agency or entity
34 created or placed within the Department pursuant to a specific
35 statute, the budget approved by the Legislature or an executive
36 order, or an entity whose budget or activities have been placed
37 within the control of the Department by a specific statute.

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

39 232.520 The Director:

40 1. Shall appoint a chief or executive director, or both of them,
41 of each of the divisions, offices, commissions, boards, agencies or
42 other entities of the Department, unless the authority to appoint such
43 a chief or executive director, or both of them, is expressly vested in
44 another person, board or commission by a specific statute. In
45 making the appointments, the Director may obtain lists of qualified



1 persons from professional organizations, associations or other
2 groups recognized by the Department, if any. The ~~chief of the~~
3 ~~Consumer Affairs Division is the Commissioner of Consumer~~
4 ~~Affairs, the~~ chief of the Division of Financial Institutions is the
5 Commissioner of Financial Institutions, the chief of the Housing
6 Division is the Administrator of the Housing Division, the chief of
7 the Manufactured Housing Division is the Administrator of the
8 Manufactured Housing Division, the chief of the Real Estate
9 Division is the Real Estate Administrator, the chief of the Division
10 of Insurance is the Commissioner of Insurance, the chief of the
11 Division of Industrial Relations is the Administrator of the Division
12 of Industrial Relations, the chief of the Office of Labor
13 Commissioner is the Labor Commissioner, the chief of the Taxicab
14 Authority is the Taxicab Administrator, the chief of the Nevada
15 Transportation Authority is the Chairman of the Authority, the chief
16 of the Division of Mortgage Lending is the Commissioner of
17 Mortgage Lending and the chief of any other entity of the
18 Department has the title specified by the Director, unless a different
19 title is specified by a specific statute.

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

32 3. May:

33 (a) Establish uniform policies for the Department, consistent
34 with the policies and statutory responsibilities and duties of the
35 divisions and other entities within the Department, relating to
36 matters concerning budgeting, accounting, planning, program
37 development, personnel, information services, dispute resolution,
38 travel, workplace safety, the acceptance of gifts or donations, the
39 management of records and any other subject for which a uniform
40 departmental policy is necessary to ensure the efficient operation of
41 the Department.

42 (b) Provide coordination among the divisions and other entities
43 within the Department, in a manner which does not encroach upon
44 their statutory powers and duties, as they adopt and enforce



1 regulations, execute agreements, purchase goods, services or
2 equipment, prepare legislative requests and lease or use office space.

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

6 4. May, within the limits of the financial resources made
7 available to him, promote, participate in the operation of, and create
8 or cause to be created, any nonprofit corporation, pursuant to
9 chapter 82 of NRS, which he determines is necessary or convenient
10 for the exercise of the powers and duties of the Department. The
11 purposes, powers and operation of the corporation must be
12 consistent with the purposes, powers and duties of the Department.

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

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

23 7. May designate any person within the Department to perform
24 any of the duties or responsibilities, or exercise any of the authority,
25 of the Director on his behalf.

26 8. May negotiate and execute agreements with public or private
27 entities which are necessary to the exercise of the powers and duties
28 of the Director or the Department.

29 9. May establish a trust account in the State Treasury for
30 depositing and accounting for money that is held in escrow or is on
31 deposit with the Department for the payment of any direct expenses
32 incurred by the Director in connection with any bond programs
33 administered by the Director. The interest and income earned on
34 money in the trust account, less any amount deducted to pay for
35 applicable charges, must be credited to the trust account. Any
36 balance remaining in the account at the end of a fiscal year may be:

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

39 (b) Returned to any person entitled thereto in accordance with
40 agreements or regulations of the Director relating to those bond
41 programs.

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

43 482.5434 "Body shop" has the meaning ascribed to it in **NRS**
44 **487.600.] section 8 of this act.**



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

2 482.554 1. The Department may impose an administrative
3 fine of not more than \$10,000 against any person who engages in a
4 deceptive trade practice. The Department shall afford to any person
5 so fined an opportunity for a hearing pursuant to the provisions of
6 NRS 233B.121.

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

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

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

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

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

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

22 (c) Engages in any deceptive trade practice, as defined in NRS
23 598.0915 to 598.0925, inclusive, that involves the purchase and sale
24 or lease of a motor vehicle.

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

27 3. If a seller of a vehicle exercises a valid option to cancel the
28 sale of a vehicle to a customer, the seller must provide a disclosure,
29 and the customer must sign that disclosure, before the seller and
30 customer may enter into a new agreement for the sale of the same
31 vehicle on different terms, or for the sale of a different vehicle. The
32 Department shall prescribe the form of the disclosure by regulation.

33 4. All administrative fines collected by the Department
34 pursuant to this section must be deposited with the State Treasurer
35 to the credit of the State Highway Fund.

36 5. ~~[Except as otherwise provided in this subsection, the]~~ *The*
37 administrative remedy provided in this section is not exclusive and
38 is ~~[intended to supplement existing law. The Department may not~~
39 ~~impose a fine pursuant to this section against any person who~~
40 ~~engages in a deceptive trade practice if a fine has previously been~~
41 ~~imposed against that person pursuant to NRS 598.0903 to 598.0999,~~
42 ~~inclusive, for the same act.]~~ *in addition to any other remedy*
43 *provided by law.* The provisions of this section do not deprive a
44 person injured by a deceptive trade practice from resorting to any
45 other legal remedy.



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

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

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

14
15 **FOR MORE INFORMATION PLEASE CONTACT:**

16
17 **THE DEPARTMENT OF MOTOR VEHICLES**

18
19 **2. Each body shop shall display conspicuously in those areas**
20 **of its place of business frequented by persons seeking repairs on**
21 **motor vehicles a sign, not less than 22 inches by 28 inches in size,**
22 **setting forth in boldface letters the following:**

23
24 **STATE OF NEVADA**

25
26 **LICENSED BODY SHOP**

27
28 **THIS BODY SHOP IS LICENSED BY THE**
29 **DEPARTMENT OF MOTOR VEHICLES**

30
31 **NEVADA AUTOMOTIVE REPAIR**
32 **CUSTOMER BILL OF RIGHTS**

33
34 **AS A CUSTOMER IN NEVADA:**

35
36 *YOU have the right to receive repairs from a business that is*
37 *LICENSED with the Department of Motor Vehicles that will*
38 *ensure the proper repair of your vehicle. (cite to this section of this*
39 *act)*

40
41 *YOU have the right to receive a WRITTEN ESTIMATE of*
42 *charges for repairs made to your vehicle which exceed \$50. (cite to*
43 *section 12 of this act)*



* A B 5 6 1 R 2 *

1 *YOU have the right to read and understand all documents and*
2 *warranties BEFORE YOU SIGN THEM. (cite to this section of*
3 *this act)*

4
5 *YOU have the right to INSPECT ALL REPLACED PARTS and*
6 *accessories that are covered by a warranty and for which a charge*
7 *is made. (cite to section 17 of this act)*

8
9 *YOU have the right to request that all replaced parts and*
10 *accessories that are not covered by a warranty BE RETURNED*
11 *TO YOU AT THE TIME OF SERVICE. (cite to section 17 of this*
12 *act)*

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

18
19 *YOU have the right to receive a COMPLETED STATEMENT OF*
20 *CHARGES for repairs made to your vehicle. (cite to section 23 of*
21 *this act)*

22
23 **FOR MORE INFORMATION PLEASE CONTACT:**

24
25 **THE DEPARTMENT OF MOTOR VEHICLES**

26
27 *3. The sign required pursuant to the provisions of subsection*
28 *1 or 2 must include a replica of the Great Seal of the State of*
29 *Nevada. The Seal must be 2 inches in diameter and be centered on*
30 *the face of the sign directly above the words "STATE OF*
31 *NEVADA."*

32 *4. Any person who violates the provisions of this section is*
33 *guilty of a misdemeanor.*

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

38 **Sec. 12.** *1. Except as otherwise provided in section 14 of*
39 *this act, a person requesting or authorizing the repair of a motor*
40 *vehicle that is more than \$50 must be furnished a written estimate*
41 *or statement signed by the person making the estimate or*
42 *statement on behalf of the body shop or garageman indicating the*
43 *total charge for the performance of the work necessary to*
44 *accomplish the repair, including the charge for labor and all parts*
45 *and accessories necessary to perform the work.*



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

3 (a) *Diagnosis and disassembly; and*

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

5 3. *The provisions of this section do not require a body shop or*
6 *garage to reassemble a motor vehicle if the body shop or*
7 *garage determines that the reassembly of the motor vehicle*
8 *would render the vehicle unsafe to operate.*

9 **Sec. 13.** *Except as otherwise provided in section 14 of this*
10 *act, if it is determined that additional charges are required to*
11 *perform the repair authorized, and those additional charges*
12 *exceed, by 20 percent or \$100, whichever is less, the amount set*
13 *forth in the estimate or statement required to be furnished*
14 *pursuant to the provisions of section 12 of this act, the body shop*
15 *or garage shall notify the owner and insurer of the motor*
16 *vehicle of the amount of those additional charges.*

17 **Sec. 14.** *The person authorizing the repairs may waive the*
18 *estimate or statement required pursuant to the provisions of*
19 *section 12 of this act or the notification required by section 13 of*
20 *this act by executing a written waiver of that requirement or*
21 *notification. The waiver must be executed by the person*
22 *authorizing the repairs at the time he authorizes those repairs.*

23 **Sec. 15.** *If a body shop or garage performs repairs on a*
24 *motor vehicle, the body shop or garage shall perform the repairs*
25 *in accordance with any specifications of the manufacturer of the*
26 *motor vehicle and the written estimate or statement of the cost of*
27 *the repairs that is most recently agreed upon by the body shop or*
28 *garage and the person authorizing the repairs.*

29 **Sec. 16.** 1. *An owner and the insurer of a motor vehicle*
30 *who have been notified of additional charges pursuant to section*
31 *13 of this act shall:*

32 (a) *Authorize the performance of the repair at the additional*
33 *expense; or*

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

36 2. *Until the election provided for in subsection 1 has been*
37 *made, the body shop or garage shall not undertake any repair*
38 *which would involve such additional charges.*

39 3. *If the owner or insurer of the motor vehicle elects to take*
40 *possession of the motor vehicle but fails to take possession within*
41 *24 hours after the election, the body shop or garage may*
42 *charge for storage of the vehicle.*

43 **Sec. 17.** 1. *Whenever the repair work performed on a*
44 *motor vehicle requires the replacement of any parts or accessories,*
45 *the body shop or garage shall, at the request of the person*



1 *authorizing the repairs or any person entitled to possession of the*
2 *motor vehicle, deliver to the person all parts and accessories*
3 *replaced as a result of the work done.*

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

9 **Sec. 18.** *The body shop or garageman shall retain copies of*
10 *any estimate, statement or waiver required by sections 12 to 24,*
11 *inclusive, of this act as an ordinary business record of the body*
12 *shop or garage, for a period of not less than 1 year after the date*
13 *the estimate, statement or waiver is signed.*

14 **Sec. 19.** *In every instance where charges are made for the*
15 *repair of a motor vehicle by a garageman, the garageman making*
16 *the repairs shall comply with the provisions of sections 12 to 24,*
17 *inclusive, of this act. A garageman is not entitled to detain a motor*
18 *vehicle by virtue of any common law or statutory lien, or otherwise*
19 *enforce such a lien, or to sue on any contract for repairs made by*
20 *him unless he has complied with the requirements of sections 12*
21 *to 24, inclusive, of this act.*

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

25 1. *Engages in any deceptive trade practice, as defined in NRS*
26 *598.0915 to 598.0925, inclusive, that involves the repair of a motor*
27 *vehicle; or*

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

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

34 2. *The Bureau of Consumer Protection in the Office of the*
35 *Attorney General may conduct an undercover investigation of a*
36 *person who is allegedly engaging in a deceptive trade practice or*
37 *violating the provisions of sections 10 to 26, inclusive, of this act*
38 *on its own motion or upon a request received pursuant to*
39 *subsection 1. Nothing in this subsection requires the Bureau to*
40 *conduct an undercover investigation.*

41 **Sec. 22.** 1. *In addition to any other remedy or penalty, the*
42 *Director may impose an administrative fine of not more than*
43 *\$10,000 against any person who engages in a deceptive trade*
44 *practice as set forth in section 20 of this act. The Director shall*



1 *provide to any person so fined an opportunity for a hearing*
2 *pursuant to the provisions of NRS 233B.121.*

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

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

10 **Sec. 23.** 1. *If charges are made for the repair of a motor*
11 *vehicle, the garageman or body shop making the charges shall*
12 *present to the person authorizing repairs or the person entitled to*
13 *possession of the motor vehicle a statement of the charges setting*
14 *forth the following information:*

15 (a) *The name and signature of the person authorizing repairs;*

16 (b) *A statement of the total charges;*

17 (c) *An itemization and description of all parts used to repair*
18 *the motor vehicle indicating the charges made for labor; and*

19 (d) *A description of all other charges.*

20 2. *Any person violating this section is guilty of a*
21 *misdemeanor.*

22 3. *In the case of a motor vehicle registered in this State, no*
23 *lien for labor or materials provided under NRS 108.265 to*
24 *108.367, inclusive, may be enforced by sale or otherwise unless a*
25 *statement as described in subsection 1 has been given by delivery*
26 *in person or by certified mail to the last known address of the*
27 *registered and the legal owner of the motor vehicle. In all other*
28 *cases, the notice must be made to the last known address of the*
29 *registered owner and any other person known to have or to claim*
30 *an interest in the motor vehicle.*

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

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

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

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

43 2. *On or before December 31 of each odd-numbered year, the*
44 *Director shall submit the report required pursuant to subsection 1*
45 *to the Legislative Commission. On or before December 31 of each*



1 *even-numbered year, the Director of the Department shall submit*
2 *the report to the Director of the Legislative Counsel Bureau for*
3 *transmittal to:*

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

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

6 **Sec. 25.** *The Attorney General or any district attorney may*
7 *bring an action in any court of competent jurisdiction in the name*
8 *of the State of Nevada on the complaint of the Director, or of any*
9 *person allegedly aggrieved by a violation of the provisions of*
10 *sections 12 to 24, inclusive, of this act, to enjoin any violation of*
11 *the provisions of sections 12 to 24, inclusive, of this act.*

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

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

19 487.002 1. The Advisory Board on Automotive Affairs,
20 consisting of seven members appointed by the Governor, is hereby
21 created within the Department.

22 2. The Governor shall appoint to the Board:

23 (a) One representative of the Department;

24 (b) One representative of licensed operators of body shops;

25 (c) One representative of licensed automobile wreckers;

26 (d) One representative of registered garagemen;

27 (e) One representative of licensed operators of salvage pools;

28 and

29 (f) Two representatives of the general public.

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

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

38 5. The Board shall:

39 (a) Study the regulation of garagemen, automobile wreckers and
40 operators of body shops and salvage pools, including, without
41 limitation, the registration or licensure of such persons and the
42 methods of disciplinary action against such persons;

43 (b) Analyze and advise the Department relating to any consumer
44 complaints ~~provided to the Department by the Consumer Affairs~~
45 ~~Division of the Department of Business and Industry pursuant to~~



1 ~~NRS 598.985 or otherwise~~ received by the Department concerning
2 garagemen, automobile wreckers or operators of body shops or
3 salvage pools;

4 (c) Make recommendations to the Department for any necessary
5 regulations or proposed legislation pertaining to paragraph (a)
6 or (b);

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

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

12 **Sec. 28.** NRS 487.530 is hereby amended to read as follows:

13 487.530 As used in NRS 487.530 to ~~[487.570,]~~ **487.690,**
14 inclusive, **and sections 8 to 26, inclusive, of this act,** unless the
15 context otherwise requires, the words and terms defined in NRS
16 ~~[487.535]~~ **487.540** to 487.550, inclusive, **and sections 8 and 9 of**
17 **this act** have the meanings ascribed to them in those sections.

18 **Sec. 29.** NRS 487.555 is hereby amended to read as follows:

19 487.555 The provisions of NRS 487.530 to ~~[487.570,]~~ **487.690,**
20 inclusive, **and sections 8 to 26, inclusive, of this act** do not apply to
21 a service station that is exclusively engaged in the business of
22 selling motor vehicle fuel, lubricants or goods unrelated to the repair
23 of motor vehicles.

24 **Sec. 30.** NRS 487.563 is hereby amended to read as follows:

25 487.563 1. Each person who submits an application for
26 registration pursuant to the provisions of NRS 487.560 shall file
27 with the Department a bond in the amount of \$5,000, with a
28 corporate surety for the bond that is licensed to do business in this
29 State. The form of the bond must be approved by the Attorney
30 General and be conditioned upon whether the applicant conducts his
31 business as an owner or operator of a garage without fraud or
32 fraudulent representation and in compliance with the provisions of
33 **sections 10 to 26, inclusive, of this act and** NRS 487.530 to
34 ~~[487.570,]~~ **487.567,** inclusive . ~~[, and 597.480 to 597.590,~~
35 ~~inclusive.]~~

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

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

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



1 (b) Present to the Director an order of a court requiring the
2 Director to pay to the person an amount of compensation from the
3 bond. The Director shall inform the surety, and the surety shall then
4 make payment.

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

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

11 (b) A savings certificate of a bank or savings and loan
12 association located in this State, which must indicate an account of
13 an amount equal to the amount of the bond that would otherwise be
14 required pursuant to this section and that the amount is unavailable
15 for withdrawal except upon order of the Department. Interest earned
16 on the certificate accrues to the account of the applicant.

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

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

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

29 6. If a person fails to comply with an order of a court that
30 relates to the repair of a motor vehicle, or fails to pay or otherwise
31 discharge any final judgment rendered and entered against him or
32 any court order issued and arising out of the repair of a motor
33 vehicle in the operation of a garage, the Department shall revoke or
34 refuse to renew the certificate of registration of the person who
35 failed to comply with the order or satisfy the judgment.

36 7. The Department may reinstate or renew a certificate of
37 registration that is revoked pursuant to the provisions of subsection
38 6 if the person whose certificate of registration is revoked complies
39 with the order of the court.

40 8. A garageman whose registration has been revoked pursuant
41 to the provisions of subsection 6 shall furnish to the Department a
42 bond in the amount specified in subsection 1 before the
43 reinstatement of his registration.



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

2 487.564 1. The Department may refuse to issue a registration
3 or may suspend, revoke or refuse to renew a registration to operate a
4 garage upon any of the following grounds:

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

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

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

14 (d) Evidence of unfitness of the applicant or registrant pursuant
15 to NRS 487.165.

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

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

21 2. A person for whom a certificate of registration has been
22 suspended or revoked pursuant to the provisions of this section,
23 subsection 6 of NRS 487.563 or similar provisions of the laws of
24 any other state or territory of the United States shall not be
25 employed by, or in any manner affiliated with, the operation of a
26 garage subject to registration in this State.

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

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

30 487.600 As used in NRS 487.600 to ~~[487.690,]~~ *487.687,*
31 inclusive, unless the context otherwise requires, the words and terms
32 defined in NRS ~~[487.602]~~ *487.604* to 487.608, inclusive, have the
33 meanings ascribed to them in those sections.

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

35 487.640 1. No license may be issued to an operator of a body
36 shop until he procures and files with the Department a good and
37 sufficient bond in the amount of \$10,000, with a corporate surety
38 thereon licensed to do business in the State of Nevada, approved as
39 to form by the Attorney General, and conditioned that the applicant
40 shall conduct his business as an operator of a body shop without
41 fraud or fraudulent representation, and in compliance with the
42 provisions of *sections 10 to 26, inclusive, of this act and* NRS
43 487.600 to ~~[487.690,]~~ *487.687,* inclusive. ~~[, and 597.480 to~~
44 ~~597.590, inclusive.]~~ The Department may, by agreement with any
45 operator of a body shop who has been licensed by the Department



1 for 5 years or more, allow a reduction in the amount of the bond of
2 the operator, if the business of the operator has been conducted
3 satisfactorily for the preceding 5 years, but no bond may be in an
4 amount less than \$1,000.

5 2. The bond may be continuous in form and the total aggregate
6 liability on the bond must be limited to the payment of the total
7 amount of the bond.

8 3. The bond must provide that any person injured by the action
9 of the operator of the body shop in violation of any of the provisions
10 of *sections 10 to 26, inclusive, of this act and* NRS 487.600 to
11 ~~[487.690,] 487.687, inclusive, [and 597.480 to 597.590, inclusive,]~~
12 may apply to the Director for compensation from the bond. The
13 Director, for good cause shown and after notice and opportunity for
14 hearing, may determine the amount of compensation and the person
15 to whom it is to be paid. The surety shall then make the payment.

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

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

21 (b) A savings certificate of a bank, credit union or savings and
22 loan association situated in Nevada, which must indicate an account
23 of an amount equal to the amount of the bond which would
24 otherwise be required by this section and that this amount is
25 unavailable for withdrawal except upon order of the Department.
26 Interest earned on the certificate accrues to the account of the
27 applicant.

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

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

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

40 6. When a deposit is made pursuant to subsection 4, liability
41 under the deposit is in the amount prescribed by the Department. If
42 the amount of the deposit is reduced or there is an outstanding
43 judgment of a court for which the licensee is liable under the
44 deposit, the license is automatically suspended. The license must be
45 reinstated if the licensee:



- 1 (a) Files an additional bond pursuant to subsection 1;
- 2 (b) Restores the deposit with the Department to the original
- 3 amount required under this section; or
- 4 (c) Satisfies the outstanding judgment for which he is liable
- 5 under the deposit.

- 6 7. A deposit made pursuant to subsection 4 may be refunded:
- 7 (a) By order of the Director, 3 years after the date the licensee
 - 8 ceases to be licensed by the Department, if the Director is satisfied
 - 9 that there are no outstanding claims against the deposit; or
 - 10 (b) By order of court, at any time within 3 years after the date
 - 11 the licensee ceases to be licensed by the Department, upon evidence
 - 12 satisfactory to the court that there are no outstanding claims against
 - 13 the deposit.

14 8. Any money received by the Department pursuant to

15 subsection 4 must be deposited with the State Treasurer for credit to

16 the Motor Vehicle Fund.

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

18 487.650 1. The Department may refuse to issue a license or

19 may suspend, revoke or refuse to renew a license to operate a body

20 shop upon any of the following grounds:

- 21 (a) Failure of the applicant or licensee to have or maintain an
- 22 established place of business in this State.
- 23 (b) Conviction of the applicant or licensee or an employee of the
- 24 applicant or licensee of a felony, or of a misdemeanor or gross
- 25 misdemeanor for a violation of a provision of this chapter.
- 26 (c) Any material misstatement in the application for the license.
- 27 (d) Willful failure of the applicant or licensee to comply with the
- 28 motor vehicle laws of this State and *sections 10 to 26, inclusive, of*
- 29 *this act or* NRS 487.600 to ~~[487.690,]~~ *487.687, inclusive . [~~or~~*
- 30 *597.480 to 597.590, inclusive.]*

31 (e) Failure or refusal by the licensee to pay or otherwise

32 discharge any final judgment against him arising out of the

33 operation of the body shop.

34 (f) Failure or refusal to provide to the Department an

35 authorization for the disclosure of financial records for the business

36 as required pursuant to subsection 2.

37 (g) A finding of guilty or guilty but mentally ill by a court of

38 competent jurisdiction in a case involving a fraudulent inspection,

39 purchase, sale or transfer of a salvage vehicle by the applicant or

40 licensee or an employee of the applicant or licensee.

41 (h) An improper, careless or negligent inspection of a salvage

42 vehicle pursuant to NRS 487.800 by the applicant or licensee or an

43 employee of the applicant or licensee.

44 (i) A false statement of material fact in a certification of a

45 salvage vehicle pursuant to NRS 487.800 or a record regarding a



1 salvage vehicle by the applicant or licensee or an employee of the
2 applicant or licensee.

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

5 2. Upon the receipt of any report or complaint alleging that an
6 applicant or a licensee has engaged in financial misconduct or has
7 failed to satisfy financial obligations related to the operation of a
8 body shop, the Department may require the applicant or licensee to
9 submit to the Department an authorization for the disclosure of
10 financial records for the business as provided in NRS 239A.090.
11 The Department may use any information obtained pursuant to such
12 an authorization only to determine the suitability of the applicant or
13 licensee for initial or continued licensure. Information obtained
14 pursuant to such an authorization may be disclosed only to those
15 employees of the Department who are authorized to issue a license
16 to an applicant pursuant to NRS 487.600 to ~~487.690,~~ 487.687,
17 inclusive, or to determine the suitability of an applicant or a licensee
18 for licensure.

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

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

22 487.690 Any person who violates any of the provisions of
23 *sections 10 to 26, inclusive, of this act or* NRS ~~487.600~~ 487.530
24 to 487.680, inclusive, is guilty of a misdemeanor.

25 **Sec. 35.1.** Chapter 598 of NRS is hereby amended by adding
26 thereto the provisions set forth as sections 35.2 to 35.95, inclusive,
27 of this act.

28 **Sec. 35.2. 1.** *Each organization for buying goods or*
29 *services at a discount regulated by the provisions of this section,*
30 *NRS 598.840 to 598.930, inclusive, and sections 35.3, 35.4 and*
31 *35.5 of this act shall apply for registration on the form prescribed*
32 *by the Division.*

33 *2. At the time of application for registration, the applicant*
34 *must pay to the Division an administrative fee of \$25 and deposit*
35 *the required security with the Division.*

36 *3. Upon receipt of the security in the proper form and the*
37 *payment of the administrative fee required by this section, the*
38 *Division shall issue a certificate of registration to the applicant. A*
39 *certificate of registration:*

40 *(a) Is not transferable or assignable; and*

41 *(b) Expires 1 year after it is issued.*

42 *4. A registrant must renew a certificate of registration issued*
43 *pursuant to this section before the certificate expires by submitting*
44 *to the Division an application for the renewal of the certificate on*
45 *a form prescribed by the Division.*



1 **Sec. 35.3. 1. Each registrant shall deposit with the**
2 **Division:**

3 (a) *A bond executed by a corporate surety approved by the*
4 *Commissioner and licensed to do business in this State;*

5 (b) *An irrevocable letter of credit for which the registrant is*
6 *the obligor, issued by a bank whose deposits are federally insured;*
7 *or*

8 (c) *A certificate of deposit in a financial institution which is*
9 *doing business in this State and which is federally insured or*
10 *insured by a private insurer approved pursuant to NRS 678.755.*
11 *The certificate of deposit may be withdrawn only on the order of*
12 *the Commissioner, except that the interest may accrue to the*
13 *registrant.*

14 2. *The term of the bond, letter of credit or certificate of*
15 *deposit, or any renewal thereof, must be not less than 1 year.*

16 3. *If the registrant deposits a bond, the registrant shall keep*
17 *accurate records of the bond and the payments made on the*
18 *premium. The records must be open to inspection by the Division*
19 *during business hours. The registrant shall notify the Division*
20 *not later than 30 days before the date of expiration of the bond and*
21 *provide written proof of the renewal of the bond to the Division.*

22 4. *The Commissioner may reject any bond, letter of credit or*
23 *certificate of deposit which fails to conform to the requirements of*
24 *this section, NRS 598.840 to 598.930, inclusive, and sections 35.2,*
25 *35.4 and 35.5 of this act.*

26 5. *A registrant may change the form of security which he has*
27 *deposited with the Division. If the registrant changes the form of*
28 *the security, the Commissioner may retain for not more than 1*
29 *year any portion of the security previously deposited by the*
30 *registrant as security for claims arising during the time the*
31 *previous security was in effect.*

32 6. *If the amount of the deposited security falls below the*
33 *amount required by this section, NRS 598.840 to 598.930,*
34 *inclusive, and sections 35.2, 35.4 and 35.5 of this act for that*
35 *security, the registrant shall be deemed not to be registered as*
36 *required by section 35.2 of this act for the purposes of this section,*
37 *NRS 598.840 to 598.930, inclusive, and sections 35.2, 35.4 and*
38 *35.5 of this act.*

39 **Sec. 35.4. 1. The security required to be deposited by a**
40 **registrant pursuant to section 35.3 of this act must be held in trust**
41 **for consumers injured by the bankruptcy of the registrant or the**
42 **registrant's breach of any agreement entered into in his capacity**
43 **as a registrant.**



* A B 5 6 1 R 2 *

1 2. A consumer so injured may bring and maintain an action
2 in any court of competent jurisdiction to recover against the
3 security.

4 3. The Division may bring an action for interpleader against
5 all claimants upon the security. If the Division brings such an
6 action, the Division shall publish notice of the action at least once
7 each week for 2 weeks in a newspaper of general circulation in the
8 county in which the organization has its principal place of
9 business. The Division may deduct its costs of the action,
10 including the costs of the publication of the notice, from the
11 amount of the security. All claims against the security have equal
12 priority. If the security is insufficient to pay all the claims in full,
13 the claims must be paid pro rata. If the registrant has posted a
14 bond with the Division, the surety is then relieved of all liability
15 under the bond.

16 4. The Division may, in lieu of bringing an action for
17 interpleader pursuant to subsection 3, conduct a hearing to
18 determine the distribution of the security to claimants. The
19 Division shall adopt regulations to provide for adequate notice and
20 the conduct of the hearing. If the registrant has posted a bond
21 with the Division, distribution pursuant to this subsection relieves
22 the surety of all liability under the bond.

23 5. If the security is sufficient to pay all claims against the
24 security in full, the Division may deduct from the amount of the
25 security, the cost of any investigation or hearing it conducted to
26 determine the distribution of the security.

27 **Sec. 35.5.** 1. If no claims have been filed against the
28 security deposited with the Division pursuant to section 35.3 of
29 this act within 6 months after the registrant ceases to operate or
30 his registration expires, whichever occurs later, the Commissioner
31 shall release the security to the registrant and shall not audit any
32 claims filed against the security thereafter by consumers.

33 2. If one or more claims have been filed against the security
34 within 6 months after the registrant ceases to operate or his
35 registration expires, whichever occurs later, the proceeds must not
36 be released to the registrant or distributed to any consumer earlier
37 than 1 year after the registrant ceases to operate or his registration
38 expires, whichever occurs later.

39 3. For the purposes of this section, the Commissioner shall
40 determine the date on which a registrant ceases to operate.

41 **Sec. 35.6.** "Registrant" means a dance studio or a health
42 club which is required to register and post security with the
43 Division pursuant to the provisions of this section, NRS 598.940 to
44 598.966, inclusive, and sections 35.7 to 35.95, inclusive, of this act.



1 **Sec. 35.7. 1. Each dance studio and health club regulated**
2 **by the provisions of this section, NRS 598.940 to 598.966,**
3 **inclusive, and sections 35.6, 35.8, 35.9 and 35.95 of this act shall**
4 **apply for registration on the form prescribed by the Division.**

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

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

12 **(a) Is not transferable or assignable; and**

13 **(b) Expires 1 year after it is issued.**

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

18 **Sec. 35.8. 1. Each registrant shall deposit with the**
19 **Division:**

20 **(a) A bond executed by a corporate surety approved by the**
21 **Commissioner and licensed to do business in this State;**

22 **(b) An irrevocable letter of credit for which the registrant is**
23 **the obligor, issued by a bank whose deposits are federally insured;**
24 **or**

25 **(c) A certificate of deposit in a financial institution which is**
26 **doing business in this State and which is federally insured or**
27 **insured by a private insurer approved pursuant to NRS 678.755.**
28 **The certificate of deposit may be withdrawn only on the order of**
29 **the Commissioner, except that the interest may accrue to the**
30 **registrant.**

31 **2. The term of the bond, letter of credit or certificate of**
32 **deposit, or any renewal thereof, must be not less than 1 year.**

33 **3. If the registrant deposits a bond, the registrant shall keep**
34 **accurate records of the bond and the payments made on the**
35 **premium. The records must be open to inspection by the Division**
36 **during business hours. The registrant shall notify the Division not**
37 **later than 30 days before the date of expiration of the bond and**
38 **provide written proof of the renewal of the bond to the Division.**

39 **4. The Commissioner may reject any bond, letter of credit or**
40 **certificate of deposit which fails to conform to the requirements of**
41 **this section, NRS 598.940 to 598.966, inclusive, and sections 35.6,**
42 **35.7, 35.9 and 35.95 of this act.**

43 **5. A registrant may change the form of security which he has**
44 **deposited with the Division. If the registrant changes the form of**
45 **the security, the Commissioner may retain for not more than 1**



1 *year any portion of the security previously deposited by the*
2 *registrant as security for claims arising during the time the*
3 *previous security was in effect.*

4 *6. If the amount of the deposited security falls below the*
5 *amount required by this chapter for that security, the registrant*
6 *shall be deemed not to be registered as required by section 35.7 of*
7 *this act for the purposes of this section, NRS 598.940 to 598.966,*
8 *inclusive, and sections 35.6, 35.7, 35.9 and 35.95 of this act.*

9 **Sec. 35.9.** *1. The security required to be deposited by a*
10 *registrant pursuant to section 35.8 of this act must be held in trust*
11 *for consumers injured by the bankruptcy of the registrant or the*
12 *registrant's breach of any agreement entered into in his capacity*
13 *as a registrant.*

14 *2. A consumer so injured may bring and maintain an action*
15 *in any court of competent jurisdiction to recover against the*
16 *security.*

17 *3. The Division may bring an action for interpleader against*
18 *all claimants upon the security. If the Division brings such an*
19 *action, the Division shall publish notice of the action at least once*
20 *each week for 2 weeks in a newspaper of general circulation in the*
21 *county in which the organization has its principal place of*
22 *business. The Division may deduct its costs of the action,*
23 *including the costs of the publication of the notice, from the*
24 *amount of the security. All claims against the security have equal*
25 *priority. If the security is insufficient to pay all the claims in full,*
26 *the claims must be paid pro rata. If the registrant has posted a*
27 *bond with the Division, the surety is then relieved of all liability*
28 *under the bond.*

29 *4. The Division may, in lieu of bringing an action for*
30 *interpleader pursuant to subsection 3, conduct a hearing to*
31 *determine the distribution of the security to claimants. The*
32 *Division shall adopt regulations to provide for adequate notice and*
33 *the conduct of the hearing. If the registrant has posted a bond*
34 *with the Division, distribution pursuant to this subsection relieves*
35 *the surety of all liability under the bond.*

36 *5. If the security is sufficient to pay all claims against the*
37 *security in full, the Division may deduct from the amount of the*
38 *security, the cost of any investigation or hearing it conducted to*
39 *determine the distribution of the security.*

40 **Sec. 35.95.** *1. If no claims have been filed against the*
41 *security deposited with the Division pursuant to section 35.8 of*
42 *this act within 6 months after the registrant ceases to operate or*
43 *his registration expires, whichever occurs later, the Commissioner*
44 *shall release the security to the registrant and shall not audit any*
45 *claims filed against the security thereafter by consumers.*



1 2. *If one or more claims have been filed against the security*
2 *within 6 months after the registrant ceases to operate or his*
3 *registration expires, whichever occurs later, the proceeds must not*
4 *be released to the registrant or distributed to any consumer earlier*
5 *than 1 year after the registrant ceases to operate or his registration*
6 *expires, whichever occurs later.*

7 3. *For the purposes of this section, the Commissioner shall*
8 *determine the date on which a registrant ceases to operate.*

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

10 598.0925 1. Except as otherwise provided in this section, a
11 person engages in a “deceptive trade practice” when, in the course
12 of his business or occupation, he:

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

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

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

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

27 598.096 When the ~~{Commissioner, Director or}~~ Attorney
28 General has cause to believe that any person has engaged or is
29 engaging in any deceptive trade practice, he may:

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

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

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

40 4. Make true copies, at the expense of the ~~{Consumer Affairs~~
41 ~~Division of the Department of Business and Industry,}~~ *Attorney*
42 *General*, of any record, book, document, account or paper examined
43 pursuant to subsection 3, which copies may be offered into evidence
44 in lieu of the originals thereof in actions brought pursuant to NRS
45 598.097 . ~~{and 598.0979.}~~



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

6 (a) The ~~{Commissioner, Director or}~~ Attorney General ~~{}~~ and
7 the court give the accused full opportunity to be heard; and

8 (b) The ~~{Commissioner, Director or}~~ Attorney General proves
9 by clear and convincing evidence that the business activities of the
10 accused will not be impaired thereby.

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

12 598.0963 1. ~~{Whenever the Attorney General is requested in~~
13 ~~writing by the Commissioner or the Director to represent him in~~
14 ~~instituting a legal proceeding against a person who has engaged or is~~
15 ~~engaging in a deceptive trade practice, the Attorney General may~~
16 ~~bring an action in the name of the State of Nevada against that~~
17 ~~person on behalf of the Commissioner or Director.~~

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

22 ~~{3.}~~ 2. If the Attorney General has reason to believe that a
23 person has engaged or is engaging in a deceptive trade practice, the
24 Attorney General may bring an action in the name of the State of
25 Nevada against that person to obtain a temporary restraining order, a
26 preliminary or permanent injunction, or other appropriate relief.

27 ~~{4.}~~ 3. If the Attorney General has cause to believe that a
28 person has engaged or is engaging in a deceptive trade practice, the
29 Attorney General may issue a subpoena to require the testimony of
30 any person or the production of any documents, and may administer
31 an oath or affirmation to any person providing such testimony. The
32 subpoena must be served upon the person in the manner required for
33 service of process in this State or by certified mail with return
34 receipt requested. An employee of the Attorney General may
35 personally serve the subpoena.

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

37 598.097 If any person fails to cooperate with any investigation,
38 as provided in NRS 598.096, or if any person fails to obey a
39 subpoena issued by the ~~{Commissioner, Director or}~~ Attorney
40 General pursuant to NRS 598.0963 ~~{or 598.0967, the~~
41 ~~Commissioner, Director or}~~, *the* Attorney General may apply to any
42 district court for equitable relief. The application must state
43 reasonable grounds showing that the relief is necessary to terminate
44 or prevent a deceptive trade practice. If the court is satisfied of the
45 reasonable grounds, the court may:



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

3 2. Require the attendance of or the production of documents by
4 the person, or both.

5 3. Grant other relief necessary to compel compliance by the
6 person.

7 **Sec. 40.** (Deleted by amendment.)

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

9 598.0974 A civil penalty must not be imposed against any
10 person who engages in a deceptive trade practice pursuant to
11 NRS 598.0903 to 598.0999, inclusive, in a civil proceeding brought
12 by the ~~[Commissioner, Director or]~~ Attorney General if a fine has
13 previously been imposed against that person by the Department of
14 Motor Vehicles pursuant to NRS 482.554 ~~[]~~ for the same act.

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

16 598.0975 1. Except as otherwise provided in subsection 3
17 and in subsection 1 of NRS 598.0999, all fees, civil penalties and
18 any other money collected pursuant to the provisions of NRS
19 598.0903 to 598.0999, inclusive:

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

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

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

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

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

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

36 (a) Criminal fines imposed pursuant to NRS 598.0903 to
37 598.0999, inclusive; or

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

45 **Sec. 43.** (Deleted by amendment.)



1 **Sec. 44.** (Deleted by amendment.)

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

3 598.0983 1. Before instituting any action pursuant to NRS
4 598.0985 to 598.0997, inclusive, the district attorney shall ascertain
5 whether or not the action in question is subject to the regulatory
6 authority of any state agency, board, official or other authority
7 established by virtue of the Nevada Revised Statutes except the
8 regulatory or administrative authority provided to the
9 ~~[Commissioner, Director or]~~ Attorney General by NRS 598.0903 to
10 598.0999, inclusive.

11 2. If the action is subject to such regulatory authority or any
12 regulatory adopted or any statutes administered by any state
13 regulatory agency, board, official or other authority as provided in
14 subsection 1, the district attorney shall not institute any proceeding
15 under NRS 598.0985 to 598.0997, inclusive, until the state agency,
16 board, official or other state regulatory authority has had reasonable
17 time to investigate or take any appropriate action with respect to the
18 alleged facts.

19 3. For the purposes of this section, a reasonable time has
20 elapsed if no final action or other disposition is made of any matter
21 otherwise falling within the provisions of NRS 598.0903 to
22 598.0999, inclusive, within 30 days after the matter is referred to or
23 brought to the attention of any state agency, board, official or other
24 regulatory authority except the ~~[Commissioner, Director or]~~
25 Attorney General.

26 4. This section does not prohibit the district attorney of any
27 county from filing an action pursuant to the provisions of NRS
28 598.0985 to 598.099, inclusive, if the referral of any matters subject
29 to the provisions of NRS 598.0903 to 598.0999, inclusive, to any
30 state agency, board, official or other regulatory authority would
31 cause immediate harm to the public of this state or endanger the
32 public health, safety or welfare, and such facts are shown by
33 affidavit or by verified complaint.

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

35 598.0985 Notwithstanding the requirement of knowledge as an
36 element of a deceptive trade practice, and notwithstanding the
37 enforcement powers granted to the ~~[Commissioner or Director]~~
38 *Attorney General* pursuant to NRS 598.0903 to 598.0999, inclusive,
39 whenever the district attorney of any county has reason to believe
40 that any person is using, has used or is about to use any deceptive
41 trade practice, knowingly or otherwise, he may bring an action in
42 the name of the State of Nevada against that person to obtain a
43 temporary or permanent injunction against the deceptive trade
44 practice.



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

2 598.099 Whenever the district attorney or the Attorney General
3 has reason to believe that the delay caused by complying with the
4 notice requirement of NRS 598.0987 or the requirements of
5 subsection ~~3~~ 2 of NRS 598.0963 would cause immediate harm to
6 the public of this state or endanger the public welfare, he may
7 immediately institute an action for injunctive relief, including a
8 request for a temporary restraining order, upon proof of specific
9 facts shown by affidavit or by verified complaint or otherwise that
10 such immediate harm will be or is likely to be caused by the delay.
11 ~~[The Attorney General shall give written notice of the filing by him~~
12 ~~of such an action to the Commissioner or Director.]~~ The Nevada
13 Rules of Civil Procedure pertaining to the issuance of temporary
14 restraining orders govern all actions instituted pursuant to this
15 section.

16 **Sec. 47.5.** NRS 598.0993 is hereby amended to read as
17 follows:

18 598.0993 The court in which an action is brought pursuant to
19 NRS ~~598.0979 and~~ 598.0985 to 598.099, inclusive, may make
20 such additional orders or judgments as may be necessary to restore
21 to any person in interest any money or property, real or personal,
22 which may have been acquired by means of any deceptive trade
23 practice which violates any of the provisions of NRS 598.0903 to
24 598.0999, inclusive, but such additional orders or judgments may be
25 entered only after a final determination has been made that a
26 deceptive trade practice has occurred.

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

28 598.0995 1. In proceeding pursuant to subsection ~~3~~ 2 of
29 NRS 598.0963 or NRS 598.0987 to 598.0995, inclusive, the district
30 attorney or Attorney General may accept an assurance of
31 discontinuance with respect to any method, act or practice deemed
32 to be a deceptive trade practice from any person who is engaged or
33 is about to engage in the method, act or practice. ~~[by following the~~
34 ~~procedures set forth in subsection 2 of NRS 598.0979.]~~

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

41 3. An assurance of discontinuance made pursuant to
42 subsections 1 and 2 is not an admission of violation for any purpose
43 ~~. [but is subject to the terms, limitations and conditions of~~
44 ~~NRS 598.0979.]~~



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

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

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

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

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

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

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

30 ↪ The court may require the natural person, firm, or officer or
31 managing agent of the corporation or association to pay to the
32 aggrieved party damages on all profits derived from the knowing
33 and willful engagement in a deceptive trade practice and treble
34 damages on all damages suffered by reason of the deceptive trade
35 practice.

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

41 5. If a person violates any provision of NRS 598.0903 to
42 598.0999, inclusive, 598.100 to 598.2801, inclusive, ~~[598.305 to~~
43 ~~598.395, inclusive, 598.405 to 598.525, inclusive,]~~ **598.475,**
44 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive,
45 fails to comply with a judgment or order of any court in this State



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

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

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

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

12 6. If a person violates any provision of NRS 228.500 to
13 228.640, inclusive, fails to comply with a judgment or order of any
14 court in this State concerning a violation of such a provision, or fails
15 to comply with an assurance of discontinuance or other agreement
16 concerning an alleged violation of such a provision, the Attorney
17 General may bring an action in the name of the State of Nevada
18 seeking:

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

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

23 ➔ The court may grant or deny the relief sought or may order other
24 appropriate relief.

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

26 598.135 The provisions of NRS 598.136, 598.137 and 598.138
27 do not apply to:

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

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

33 ~~—3.]~~ A sale or purchase, or solicitation or representation made in
34 connection with the sale or purchase, of goods from a catalog or of
35 books, recordings, videocassettes, periodicals or other similar goods
36 offered by a seller or membership group which is regulated by the
37 Federal Trade Commission if the seller or membership group sends
38 goods, pursuant to an agreement, to a customer or member for his
39 inspection and, if unsatisfied after inspecting the goods, the
40 customer or member is entitled to receive a full refund of the
41 purchase price of the goods if the goods are returned undamaged to
42 the seller or membership group.

43 ~~[4.]~~ 3. A solicitation, advertisement or promotion, or offer to
44 extend credit, made by a commercial bank, bank holding company,
45 subsidiary or affiliate of a bank holding company, trust



1 company, savings and loan association, credit union, industrial loan
2 company, personal property broker, consumer finance lender,
3 commercial finance lender or insurer, or any other person engaged
4 in the business of extending credit, who is regulated by an officer or
5 agency of the State or of the Federal Government.

6 ~~5.1~~ 4. A person licensed pursuant to chapter 463 of NRS and
7 his employees.

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

9 598.475 1. In each advertisement for a sightseeing tour, a
10 tour broker and a tour operator shall disclose in a clear and
11 conspicuous manner the total price a customer is required to pay to
12 take the sightseeing tour. Unless the inclusion of a fee or tax in the
13 total price would violate a specific statute of this state or a federal
14 statute or regulation, the total price must include, without limitation,
15 all fees, taxes and other charges that a customer for a sightseeing
16 tour is required to pay to take the sightseeing tour. If a fee or tax
17 cannot be included in the total price because its inclusion would
18 violate a specific statute of this state or a federal statute or
19 regulation, the tour broker or tour operator, as applicable, shall
20 disclose in a clear and conspicuous manner that the fee or tax is not
21 included in the total price and must be paid in addition to the total
22 price.

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

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

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

30 3. On a billing invoice or receipt given to a customer for a
31 sightseeing tour, a tour broker and a tour operator shall provide a
32 clear and conspicuous notice which ~~is~~

33 ~~—(a) Sets~~ sets forth the provisions of subsection 2. ~~is~~

34 ~~—(b) States that complaints concerning the charges for a~~
35 ~~sightseeing tour may be directed to the Division; and~~

36 ~~—(c) Provides a telephone number for the Division.]~~

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

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

42 (b) The date of expiration has passed.

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



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

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

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

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

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

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

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

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

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

18 598.706 “Commissioner” means the Commissioner of ~~the~~
19 ~~Consumer Affairs Division~~ **Mortgage Lending** of the Department
20 of Business and Industry.

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

22 598.711 “Division” means the ~~Consumer Affairs~~ Division of
23 **Mortgage Lending** of the Department of Business and Industry.

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

25 598.716 “Registrant” means a credit service organization ~~an~~
26 ~~organization for buying goods or services at a discount, a dance~~
27 ~~studio or a health club~~ which is required to register and post
28 security with the Division pursuant to the provisions of this chapter.

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

30 598.721 1. Each credit service organization ~~an~~
31 ~~organization for buying goods or services at a discount, dance studio and health~~
32 ~~club~~ regulated by the provisions of this chapter shall apply for
33 registration on the form prescribed by the Division.

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

37 3. Upon receipt of the security in the proper form and the
38 payment of the administrative fee required by this section, the
39 Division shall issue a certificate of registration to the applicant. A
40 certificate of registration:

41 (a) Is not transferable or assignable; and

42 (b) Expires 1 year after it is issued.

43 4. A registrant must renew a certificate of registration issued
44 pursuant to this section before the certificate expires by submitting



1 to the Division an application for the renewal of the certificate on a
2 form prescribed by the Division.

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

4 598.741 As used in NRS 598.741 to 598.787, inclusive, unless
5 the context otherwise requires:

6 1. "Buyer" means a natural person who is solicited to purchase
7 or who purchases the services of an organization which provides
8 credit services.

9 2. "Commissioner" means the Commissioner of ~~[Consumer~~
10 ~~Affairs.]~~ *Mortgage Lending.*

11 3. "Division" means the ~~[Consumer—Affairs]~~ Division of
12 *Mortgage Lending of* the Department of Business and Industry.

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

16 5. "Organization":

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

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

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

23 (3) Providing counseling or assistance to a person in
24 establishing or effecting a plan for the payment of his indebtedness,
25 unless that counseling or assistance is provided by and is within the
26 scope of the authorized practice of a debt adjuster licensed pursuant
27 to chapter 676 of NRS.

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

30 (b) Does not include:

31 (1) A person organized, chartered or holding a license or
32 authorization certificate to make loans or extensions of credit
33 pursuant to the laws of this state or the United States who is subject
34 to regulation and supervision by an officer or agency of this state or
35 the United States.

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

41 (3) A person licensed as a real estate broker by this state
42 where the person is acting within the course and scope of that
43 license, unless the person is rendering those services in the course
44 and scope of employment by or other affiliation with an
45 organization.



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

6 (5) A broker-dealer registered with the Securities and
7 Exchange Commission or the Commodity Futures Trading
8 Commission where the broker-dealer is acting within the course and
9 scope of such regulation.

10 (6) A person licensed as a debt adjuster pursuant to chapter
11 676 of NRS.

12 (7) A reporting agency.

13 6. "Reporting agency" means a person who, for fees, dues or
14 on a cooperative nonprofit basis, regularly engages in whole or in
15 part in the business of assembling or evaluating information
16 regarding the credit of or other information regarding consumers to
17 furnish consumer reports to third parties, regardless of the means or
18 facility of commerce used to prepare or furnish the consumer
19 reports. The term does not include:

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

23 (b) A person who obtains or creates a consumer report and
24 provides the report or information contained in it to a subsidiary or
25 affiliate; or

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

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

28 598.840 As used in NRS 598.840 to 598.930, inclusive, unless
29 the context otherwise requires:

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

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

33 (b) Operates under a franchise granted by a parent business
34 entity.

35 2. "Business day" means any calendar day except Sunday, or
36 the following business holidays: New Year's Day, Martin Luther
37 King, Jr.'s Birthday, Washington's Birthday, Memorial Day,
38 Independence Day, Labor Day, Nevada Day, Veterans' Day,
39 Thanksgiving Day and Christmas Day.

40 3. "Buyer" means a person who purchases by contract a
41 membership in an organization for buying goods or services at a
42 discount.

43 4. ~~["Commissioner" means the Commissioner of the Consumer~~
44 ~~Affairs Division.~~



1 ~~5. “Consumer Affairs Division” means the Consumer Affairs~~
2 ~~Division of the Department of Business and Industry.~~

3 ~~6.] “Franchise” has the meaning ascribed to it in 16 C.F.R. §~~
4 ~~436.2, as amended or substituted in revision by the Federal Trade~~
5 ~~Commission.~~

6 ~~[7.] 5.~~ “Organization for buying goods or services at a
7 discount” or “organization” means a person who, for a
8 consideration, provides or claims to provide a buyer with the ability
9 to purchase goods or services at a price which is represented to be
10 lower than the price generally charged in the area. The term
11 includes, without limitation, an affiliate organization.

12 ~~[8.] 6.~~ “Parent business entity” or “parent” means any business
13 entity that, directly or indirectly, has owned, operated, controlled or
14 granted franchises to, in any combination thereof, at least 15
15 organizations or affiliate organizations for a consecutive period of 5
16 years or more.

17 ~~[9.] 7.~~ “Subsidiary” means an organization for buying goods or
18 services at a discount that is owned, operated or controlled, either
19 directly or indirectly or in whole or in part, by a parent business
20 entity.

21 **Sec. 57.5.** NRS 598.840 is hereby amended to read as follows:

22 598.840 As used in NRS 598.840 to 598.930, inclusive, *and*
23 *sections 35.2 to 35.5, inclusive, of this act*, unless the context
24 otherwise requires:

25 1. “Affiliate organization” means an organization for buying
26 goods or services at a discount that:

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

28 (b) Operates under a franchise granted by a parent business
29 entity.

30 2. “Business day” means any calendar day except Sunday, or
31 the following business holidays: New Year’s Day, Martin Luther
32 King, Jr.’s Birthday, Washington’s Birthday, Memorial Day,
33 Independence Day, Labor Day, Nevada Day, Veterans’ Day,
34 Thanksgiving Day and Christmas Day.

35 3. “Buyer” means a person who purchases by contract a
36 membership in an organization for buying goods or services at a
37 discount.

38 4. *“Commissioner” means the Commissioner of the*
39 *Consumer Affairs Division.*

40 5. *“Division” means the Consumer Affairs Division of the*
41 *Department of Business and Industry.*

42 6. “Franchise” has the meaning ascribed to it in 16 C.F.R. §
43 436.2, as amended or substituted in revision by the Federal Trade
44 Commission.



1 ~~[5.]~~ 7. “Organization for buying goods or services at a
2 discount” or “organization” means a person who, for a
3 consideration, provides or claims to provide a buyer with the ability
4 to purchase goods or services at a price which is represented to be
5 lower than the price generally charged in the area. The term
6 includes, without limitation, an affiliate organization.

7 ~~[6.]~~ 8. “Parent business entity” or “parent” means any business
8 entity that, directly or indirectly, has owned, operated, controlled or
9 granted franchises to, in any combination thereof, at least 15
10 organizations or affiliate organizations for a consecutive period of 5
11 years or more.

12 ~~[7.]~~ 9. *“Registrant” means an organization for buying goods
13 or services at a discount which is required to register and post
14 security with the Division pursuant to the provisions of NRS
15 598.840 to 598.930, inclusive, and sections 35.2 to 35.5, inclusive,
16 of this act.*

17 10. “Subsidiary” means an organization for buying goods or
18 services at a discount that is owned, operated or controlled, either
19 directly or indirectly or in whole or in part, by a parent business
20 entity.

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

22 598.875 Each contract for membership in an organization
23 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 organization;

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

30 5. ~~[Disclose that the security required by NRS 598.726,
31 598.851 and, if applicable, NRS 598.855 has been obtained and
32 deposited with the Consumer Affairs Division;~~

33 ~~—6.]~~ Specify the term of the membership of the buyer, which
34 may not be measured by the buyer’s life;

35 ~~[7.]~~ 6. Clearly specify the buyer’s right to cancel the contract
36 pursuant to NRS 598.885;

37 ~~[8.]~~ 7. Clearly specify the buyer’s right to rescind the contract
38 and to be given a refund pro rata pursuant to NRS 598.910 and the
39 conditions and limitations on that right;

40 ~~[9.]~~ 8. Clearly specify the buyer’s right to a refund on the
41 purchase of goods pursuant to NRS 598.895 and the conditions and
42 limitations on that right; and

43 ~~[10.]~~ 9. Clearly specify whether or not the buyer is given any
44 other rights to a refund on the purchase of goods or services and, if
45 so, any conditions and limitations on those rights.



1 **Sec. 59.** NRS 598.930 is hereby amended to read as follows:
2 598.930 1. The remedies, duties and prohibitions of NRS
3 598.840 to 598.930, inclusive, are not exclusive and are in addition
4 to any other remedies provided by law.

5 2. Any violation of NRS ~~[598.854]~~ **598.870** to 598.900,
6 inclusive, constitutes a deceptive trade practice for the purposes of
7 NRS 598.0903 to 598.0999, inclusive.

8 **Sec. 60.** NRS 598.948 is hereby amended to read as follows:
9 598.948 Each contract between the buyer and the dance studio
10 or health club must:

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

13 2. Be in the language in which the sales presentation was
14 given;

15 3. Contain the addresses of the buyer and the studio or club;

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

17 5. ~~[Disclose whether security has been obtained and deposited~~
18 ~~with the Division pursuant to NRS 598.726;~~

19 ~~—6.]~~ Specify the term of membership of the buyer, which must
20 not be measured by the life of the buyer;

21 ~~[7.]~~ 6. Clearly specify the right of the buyer to cancel the
22 contract pursuant to NRS 598.950;

23 ~~[8.]~~ 7. Not contain a clause by which the contract is
24 automatically renewed; and

25 ~~[9.]~~ 8. Specify the number of lessons and the cost of each
26 lesson, if the contract is for dance lessons.

27 **Sec. 61.** NRS 598.966 is hereby amended to read as follows:

28 598.966 1. The remedies, duties and prohibitions of NRS
29 598.940 to 598.966, inclusive, are not exclusive and are in addition
30 to any other remedies provided by law.

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

34 **Sec. 62.** (Deleted by amendment.)

35 **Sec. 63.** NRS 599B.010 is hereby amended to read as follows:

36 599B.010 As used in this chapter, unless the context otherwise
37 requires:

38 1. "Chance promotion" means any plan in which premiums are
39 distributed by random or chance selection.

40 2. ~~["Commissioner" means the Commissioner of Consumer~~
41 ~~Affairs.~~

42 ~~—3.]~~ "Consumer" means a person who is solicited by a seller or
43 salesman.

44 ~~[4. "Division" means the Consumer Affairs Division of the~~
45 ~~Department of Business and Industry.~~



1 ~~5.1~~ 3. "Donation" means a promise, grant or pledge of money,
2 credit, property, financial assistance or other thing of value given in
3 response to a solicitation by telephone, including, but not limited to,
4 a payment or promise to pay in consideration for a performance,
5 event or sale of goods or services. The term does not include
6 volunteer services, government grants or contracts or a payment by
7 members of any organization of membership fees, dues, fines or
8 assessments or for services rendered by the organization to those
9 persons, if:

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

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

15 ~~6.1~~ 4. "Goods or services" means any property, tangible or
16 intangible, real, personal or mixed, and any other article, commodity
17 or thing of value.

18 ~~7.1~~ 5. "Premium" includes any prize, bonus, award, gift or any
19 other similar inducement or incentive to purchase.

20 ~~8.1~~ 6. "Recovery service" means a business or other practice
21 whereby a person represents or implies that he will, for a fee,
22 recover any amount of money that a consumer has provided to a
23 seller or salesman pursuant to a solicitation governed by the
24 provisions of this chapter.

25 ~~9.1~~ 7. "Salesman" means any person:

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

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

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

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

32 (2) For the purpose of verifying, changing or confirming an
33 order,

34 ➔ except that a person is not a salesman if his only function is to
35 identify a consumer by name only and he immediately refers the
36 consumer to a salesman.

37 ~~10.1~~ 8. Except as otherwise provided in subsection ~~11.1~~ 9,
38 "seller" means any person who, on his own behalf, causes or
39 attempts to cause a solicitation by telephone to be made through the
40 use of one or more salesmen or any automated dialing announcing
41 device under any of the following circumstances:

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

44 (1) That a consumer who buys one or more goods or services
45 will receive additional goods or services, whether or not of the same



1 type as purchased, without further cost, except for actual postage or
2 common carrier charges;

3 (2) That a consumer will or has a chance or opportunity to
4 receive a premium;

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

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

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

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

15 (b) The solicitation by telephone is made by the person in
16 response to inquiries from a consumer generated by a notification or
17 communication sent or delivered to the consumer that represents or
18 implies:

19 (1) That the consumer has been in any manner specially
20 selected to receive the notification or communication or the offer
21 contained in the notification or communication;

22 (2) That the consumer will receive a premium if the recipient
23 calls the person;

24 (3) That if the consumer buys one or more goods or services
25 from the person, the consumer will also receive additional or other
26 goods or services, whether or not the same type as purchased,
27 without further cost or at a cost that the person represents or implies
28 is less than the regular price of the goods or services;

29 (4) That the product offered for sale is the services of a
30 recovery service; or

31 (5) That the consumer will receive a premium or goods or
32 services if he makes a donation; or

33 (c) The solicitation by telephone is made by the person in
34 response to inquiries generated by advertisements that represent or
35 imply that the person is offering to sell any:

36 (1) Gold, silver or other metals, including coins, diamonds,
37 rubies, sapphires or other stones, coal or other minerals or any
38 interest in oil, gas or other mineral fields, wells or exploration sites,
39 or any other investment opportunity;

40 (2) Information or opinions relating to sporting events; or

41 (3) Services of a recovery service.

42 ~~11.1~~ 9. "Seller" does not include:

43 (a) A person licensed pursuant to chapter 90 of NRS when
44 soliciting offers, sales or purchases within the scope of his license.



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1 (b) A person licensed pursuant to chapter 119A, 119B, 624, 645
2 or 696A of NRS when soliciting sales within the scope of his
3 license.

4 (c) A person licensed as an insurance broker, agent or solicitor
5 when soliciting sales within the scope of his license.

6 (d) Any solicitation of sales made by the publisher of a
7 newspaper or magazine or by an agent of the publisher pursuant to a
8 written agreement between the agent and publisher.

9 (e) A broadcaster soliciting sales who is licensed by any state or
10 federal authority, if the solicitation is within the scope of the
11 broadcaster's license.

12 (f) A person who solicits a donation from a consumer when:

13 (1) The person represents or implies that the consumer will
14 receive a premium or goods or services with an aggregated fair
15 market value of 2 percent of the donation or \$50, whichever is less;
16 or

17 (2) The consumer provides a donation of \$50 or less in
18 response to the solicitation.

19 (g) A charitable organization which is registered or approved to
20 conduct a lottery pursuant to chapter 462 of NRS.

21 (h) A public utility or motor carrier which is regulated pursuant
22 to chapter 704 or 706 of NRS, or by an affiliate of such a utility or
23 motor carrier, if the solicitation is within the scope of its certificate
24 or license.

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

27 (j) A person soliciting the sale of books, recordings,
28 videocassettes, software for computer systems or similar items
29 through:

30 (1) An organization whose method of sales is governed by
31 the provisions of Part 425 of Title 16 of the Code of Federal
32 Regulations relating to the use of negative option plans by sellers in
33 commerce;

34 (2) The use of continuity plans, subscription arrangements,
35 arrangements for standing orders, supplements, and series
36 arrangements pursuant to which the person periodically ships
37 merchandise to a consumer who has consented in advance to receive
38 the merchandise on a periodic basis and has the opportunity to
39 review the merchandise for at least 10 days and return it for a full
40 refund within 30 days after it is received; or

41 (3) An arrangement pursuant to which the person ships
42 merchandise to a consumer who has consented in advance to receive
43 the merchandise and has the opportunity to review the merchandise
44 for at least 10 days and return it for a full refund within 30 days after
45 it is received.



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

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

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

6 (3) Includes at least 24 pages of written material and
7 illustrations;

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

9 (5) Has an annual circulation by mailing of not less than
10 250,000.

11 (l) A person soliciting without the intent to complete and who
12 does not complete, the sales transaction by telephone but completes
13 the sales transaction at a later face-to-face meeting between the
14 solicitor and the consumer, if the person, after soliciting a sale by
15 telephone, does not cause another person to collect the payment
16 from or deliver any goods or services purchased to the consumer.

17 (m) Any commercial bank, bank holding company, subsidiary or
18 affiliate of a bank holding company, trust company, savings and
19 loan association, credit union, industrial loan company, personal
20 property broker, consumer finance lender, commercial finance
21 lender, or insurer subject to regulation by an official or agency of
22 this State or of the United States, if the solicitation is within the
23 scope of the certificate or license held by the entity.

24 (n) A person holding a certificate of authority issued pursuant to
25 chapter 452 of NRS when soliciting sales within the scope of the
26 certificate.

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

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

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

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

41 (1) Goods are displayed and offered for sale or services are
42 offered for sale and provided at the person's business establishment;
43 and



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

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

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

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

11 (2) The registration or license has not expired or been
12 suspended or revoked.

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

15 (1) Making the solicitation; or

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

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

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

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

25 (2) Is not selling an investment or an opportunity for an
26 investment that is not registered with any state or federal authority;
27 and

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

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

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

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

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

38 599B.025 ~~[H]~~ The Attorney General may adopt regulations
39 establishing standards of conduct for ~~[registrants]~~ *sellers and*
40 *salesmen* and any other regulations necessary to exercise the powers
41 and carry out the duties of the Attorney General as set forth in this
42 chapter.

43 ~~[2. The Commissioner and the Attorney General shall jointly~~
44 ~~adopt rules of practice establishing a procedure for processing~~
45 ~~complaints received concerning sellers and salesmen, whether or not~~



1 ~~the sellers and salesmen are registered pursuant to this chapter. The~~
2 ~~rules of practice:~~

3 ~~—(a) Must provide for the sharing of information and for the~~
4 ~~initial review of complaints by the Attorney General before~~
5 ~~mediation by the Commissioner; and~~

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

8 ~~—3. The Commissioner may adopt rules of practice necessary to~~
9 ~~administer and carry out the provisions of this chapter pertaining to~~
10 ~~the registration of sellers and salesmen. The rules of practice must~~
11 ~~not restrict the powers and duties of the Attorney General as set~~
12 ~~forth in this chapter.]~~

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

14 599B.150 1. No salesman may be associated with or
15 employed by more than one seller at the same time.

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

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

20 599B.160 If any change is made to any script, outline,
21 presentation or sales or donation information or literature used by a
22 ~~[registrant]~~ *seller or salesman* in connection with any solicitation,
23 the new or revised material must be submitted by the ~~[registrant]~~
24 *seller or salesman* to the ~~[Division]~~ *Attorney General* before such
25 material is used.

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

27 599B.170 1. During any solicitation or sales presentation
28 made by him, or in any correspondence written in connection with a
29 sale, a salesman shall:

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

33 2. During any solicitation or sales presentation made by him, or
34 in any correspondence written in connection with a ~~[registrant, a~~
35 ~~registrant]~~ *seller or salesman, a seller or salesman* shall disclose to
36 a consumer:

- 37 (a) Any charge, including the amount associated with the use of
38 any premium being offered;
39 (b) Any material restriction, requirement, condition, limitation
40 or exception which is associated with the use of the premium; and
41 (c) Any charge connected with the sale of any goods or services.

42 3. A ~~[registrant]~~ *seller or salesman* shall not characterize a
43 premium as a prize unless the consumer may receive the premium
44 free of charge and without making any purchase.



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

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

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

8 599B.180 If a seller expressly or impliedly represents to any
9 consumer, directly or through a salesman, that the consumer is or
10 may be eligible to receive any gift, premium, bonus or prize,
11 however denominated, the seller shall:

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

14 (a) A description of the item.

15 (b) The value or worth of the item and the basis for the
16 valuation.

17 (c) All terms and conditions a consumer must satisfy in order to
18 receive the item. The statement must be accompanied by a copy of
19 the written statement of terms and conditions provided to consumers
20 pursuant to subsection 3.

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

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

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

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

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

33 2. Provide the following information to the consumer at the
34 time of the solicitation:

35 (a) The complete address of the location and the telephone
36 number from which the consumer is being called and, if different,
37 the complete address of the principal location at which the seller
38 does business.

39 (b) The information required by paragraphs (a) and (c) of
40 subsection 1.

41 (c) If the seller elects to inform the consumer of the value or
42 worth of the item, the information must be identical to that
43 submitted pursuant to paragraph (b) of subsection 1, in exactly the
44 form submitted.



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

4 3. Advise the consumer, at the time of the solicitation, that he
5 may obtain, without cost, a written statement of the terms and
6 conditions he must satisfy in order to receive the item. If the
7 consumer so requests, the seller shall send him such a statement, by
8 mail, without cost to the consumer.

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

10 599B.185 If a **[registrant] seller or salesman** solicits the sale of
11 investments or opportunities for investment, he shall, during the oral
12 sales presentation and in writing, inform the prospective consumer:

13 1. Of the manner in which the price of the offered item is
14 determined;

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

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

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

20 599B.187 1. A **[registrant] seller or salesman** shall not use a
21 chance promotion unless each consumer is entitled to participate in
22 the promotion without charge or payment of any kind.

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

27 3. If a consumer specifically requests the information and the
28 odds are ascertainable, the **[registrant] seller or salesman** shall
29 orally disclose the odds of receiving each item offered in the chance
30 promotion. If such a request is made but the odds are not
31 ascertainable, the **[registrant] seller or salesman** shall disclose the
32 manner in which the items offered in the promotion are awarded.

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

36 5. A **[registrant] seller or salesman** shall not require a person
37 to perform any action or to supply any information to participate in
38 a chance promotion, except that the **[registrant] seller or salesman**
39 may require the person to submit a written request sent by first-class
40 mail. A **[registrant] seller or salesman** may not require the person to
41 supply any information other than his name, address and a list of the
42 premiums available in the chance promotion.

43 6. If a premium is offered in a chance promotion, the
44 **[registrant] seller or salesman** shall provide any such premium to
45 each person who does not purchase goods or services from the



1 ~~{registrant}~~ *seller or salesman* upon the same terms, including time
2 of delivery, as are provided to the persons who do purchase goods or
3 services from the ~~{registrant}~~ *seller or salesman*.

4 7. If requested, a ~~{registrant}~~ *seller or salesman* shall inform
5 each person who does not purchase goods or services from the
6 ~~{registrant}~~ *seller or salesman* of the manner in which the person
7 can participate in the chance promotion.

8 8. Any ~~{registrant}~~ *seller or salesman* who uses a chance
9 promotion shall:

10 (a) Furnish to the ~~{Division}~~ *Attorney General* information
11 establishing the financial ability of the ~~{registrant}~~ *seller or*
12 *salesman* to award all premiums to be given in the promotion.

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

15 (c) Deliver the premiums to bona fide recipients within a
16 reasonable time.

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

18 599B.190 1. Except as otherwise provided in subsection 3, a
19 person who purchases goods or services or makes a donation
20 pursuant to a solicitation governed by this chapter must be given a
21 refund or replacement, at his option, if:

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

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

28 (1) The goods or services; or

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

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

33 2. A ~~{registrant}~~ *seller or salesman* who receives a written
34 request for a refund or replacement shall not require prior
35 authorization for a return of goods and shall give a refund or
36 replacement within 14 days after receipt of the request.

37 3. If a consumer of goods returns only a portion of the goods,
38 the refund or replacement required by subsection 1 may be prorated
39 accordingly.

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

43 5. Except for any proration permitted by subsection 3, a
44 ~~{registrant}~~ *seller or salesman* shall not impose any charge in



1 connection with a return of goods or a request for a refund or
2 replacement.

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

6 7. Within 3 days after any purchase of goods or services or
7 upon delivery of the goods or services, whichever is later, or within
8 3 days after receiving a donation, the seller shall provide the
9 consumer with a written summary of the provisions of this section.
10 The summary must:

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

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

14 ~~(e)~~ (b) Be accompanied by a statement containing the
15 information required by paragraph (e) of subsection 1 of NRS
16 599B.180, if the provisions of that section apply.

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

23 ➔ A summary is timely if it is postmarked, properly addressed and
24 postage prepaid, within the time provided by this subsection.

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

26 599B.200 A salesman or seller shall not disclose the name or
27 address of any person who purchases goods or services pursuant to a
28 solicitation governed by this chapter. Nothing in this section
29 prohibits the disclosure of this information to:

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

31 2. ~~The Commissioner or any employee of the Division; or~~

32 ~~3.~~ Any law enforcement officer or agency that requires the
33 information for investigative purposes.

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

35 599B.210 1. Every ~~registrant,~~ *seller or salesman*, other
36 than a ~~registrant~~ *seller or salesman* incorporated in this state, shall
37 file with the Secretary of State an irrevocable consent appointing the
38 Secretary of State as his agent to receive service of any lawful
39 process in any action or proceeding against him arising pursuant to
40 this chapter. Any lawful process against the ~~registrant~~ *seller or*
41 *salesman* served upon the Secretary of State as provided in
42 subsection 2 has the same force and validity as if served upon the
43 ~~registrant~~ *seller or salesman* personally.

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



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

5 (b) A fee of \$10.

6 ➔ The Secretary of State shall forthwith forward one copy of the
7 process by registered or certified mail prepaid to the ~~[registrant,]~~
8 *seller or salesman*, or in the case of a ~~[registrant]~~ *seller or salesman*
9 organized under the laws of a foreign government, to the United
10 States manager or last appointed United States general agent of the
11 ~~[registrant,]~~ *seller or salesman*, giving the day and the hour of the
12 service.

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

17 4. If service of summons is made upon the Secretary of State in
18 accordance with the provisions of this section, the time within which
19 the ~~[registrant]~~ *seller or salesman* is required to appear is extended
20 10 days.

21 **Sec. 74.** NRS 599B.255 is hereby amended to read as follows:

22 599B.255 1. Except as otherwise provided in NRS 599B.213,
23 the Attorney General or the district attorney of any county in this
24 state may prosecute a person who willfully violates, either directly
25 or indirectly, the provisions of this chapter. ~~[Except as otherwise~~
26 ~~provided in subsection 3, such]~~ *Such* a person:

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

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

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

35 2. Any offense which occurs within 10 years immediately
36 preceding the date of the principal offense or after the principal
37 offense constitutes a prior offense for the purposes of subsection 1
38 when evidenced by a conviction, without regard to the sequence of
39 the offenses and convictions.

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



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

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

5 599B.260 1. Except as otherwise provided in subsection 2,
6 all fees, civil penalties and any other money collected pursuant to
7 this chapter in an action brought by the Attorney General must be
8 deposited in the State General Fund and may only be used to defray
9 the costs of:

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

11 (b) Enforcing the provisions of chapter 598 of NRS as they
12 relate to the conduct of sellers and salesmen . ~~[, whether or not the~~
13 ~~sellers and salesmen are registered pursuant to this chapter.]~~

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

15 (a) Criminal fines imposed pursuant to the provisions of this
16 chapter; or

17 (b) Restitution ordered in an action brought by the Attorney
18 General pursuant to the provisions of this chapter. Money collected
19 for restitution ordered in such an action must be deposited by the
20 Attorney General and credited to the appropriate account of ~~the~~
21 ~~Division or] the~~ Attorney General for distribution to the person for
22 whom the restitution was ordered.

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

24 686A.300 1. An insurer who issues insurance covering
25 damage to a motor vehicle shall not delay making payment for any
26 claim involving damage to a motor vehicle after receiving a
27 statement of charges ~~[,]~~ pursuant to the provisions of ~~[NRS~~
28 ~~597.5705.]~~ *section 23 of this act* from any garage or licensed body
29 shop previously authorized by the insured to perform the repairs
30 required by that claim.

31 2. A delay, within the meaning of this section, is failure to
32 issue a check or draft, payable to the garage or licensed body shop
33 or jointly to the insured and the garage or licensed body shop, within
34 30 days after the insurer's receipt of the statement of charges for
35 repairs which have been satisfactorily completed.

36 3. If the damaged vehicle is subject to a security interest or the
37 legal owner of the damaged vehicle is different from the registered
38 owner, the vehicle must be repaired by a garage or licensed body
39 shop unless:

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

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

44 4. Except as otherwise provided in subsection 3, nothing in this
45 section shall be deemed to prohibit an insurer and insured from



1 settling a claim involving damage to a motor vehicle without
2 providing for the repair of the vehicle.

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

6 **Sec. 76.5.** Section 10 of Senate Bill No. 355 of this session is
7 hereby amended to read as follows:

8 Sec. 10. "Commissioner" means the Commissioner of
9 *Mortgage Lending.*

10 **Sec. 77.** 1. NRS 487.535, 487.568, 487.570, 487.602,
11 597.480, 597.490, 597.500, 597.510, 597.520, 597.530, 597.535,
12 597.540, 597.550, 597.560, 597.570, 597.5701, 597.5702, 597.5703,
13 597.5704, 597.5705, 597.5706, 597.580, 597.590, 598.971, 598.975,
14 598.981, 598.985 and 598.990 are hereby repealed.

15 2. NRS 598.0913, 598.0927, 598.0957, 598.0959, 598.0965,
16 598.0966, 598.0967, 598.0971, 598.0979, 598.098, 598.305,
17 598.307, 598.315, 598.317, 598.325, 598.335, 598.345, 598.356,
18 598.361, 598.365, 598.366, 598.367, 598.371, 598.372, 598.373,
19 598.374, 598.375, 598.385, 598.395, 598.405, 598.416, 598.425,
20 598.435, 598.445, 598.455, 598.465, 598.471, 598.485, 598.495,
21 598.506, 598.515, 598.525, 598.845, 598.851, 598.855, 598.860,
22 598.865, 598.915, 598.9407, 598.9413, 598.944, 598.946,
23 598C.030, 598C.180, 599B.015, 599B.080, 599B.090, 599B.100,
24 599B.105, 599B.110, 599B.115, 599B.120, 599B.125, 599B.130,
25 599B.140, 599B.143, 599B.145 and 599B.195 are hereby repealed.

26 **Sec. 78.** 1. Any regulations adopted by the Commissioner of
27 the Consumer Affairs Division of the Department of Business and
28 Industry or by the Division before July 1, 2009, remain in force until
29 amended by the officer or agency to which the responsibility for the
30 adoption of the regulations is transferred. The regulations may be
31 enforced by the officer or agency to which the responsibility for the
32 enforcement of the regulations is transferred.

33 2. Any contract or other agreement entered into by the
34 Commissioner of the Consumer Affairs Division of the Department
35 of Business and Industry or by the Division before July 1, 2009, is
36 binding upon the officer or agency to which the responsibility for
37 administration of the contract or other agreement is transferred. Any
38 such contract or other agreement may be enforced by the officer or
39 agency to which the responsibility for the enforcement of the
40 provisions of the contract or other agreement is transferred.

41 **Sec. 79.** 1. As soon as practicable after July 1, 2009, at the
42 time the Revolving Account for the Consumer Affairs Division of
43 the Department of Business and Industry established by NRS
44 598.0966 is abolished, the State Treasurer shall ensure that any
45 money in the Revolving Account is transferred to the revolving



1 account for the Bureau of Consumer Protection created by section 1
2 of this act.

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

7 **Sec. 80.** 1. This section and section 76.5 of this act become
8 effective upon passage and approval.

9 2. Sections 1 to 35, inclusive, 36 to 57, inclusive, 58 to 76,
10 inclusive, and 77 to 79, inclusive, of this act become effective on
11 July 1, 2009.

12 3. The amendatory provisions of sections 3, 4, 36 to 51,
13 inclusive, 57, 58 to 75, inclusive, and subsection 2 of section 77 of
14 this act expire by limitation on June 30, 2011.

15 4. Sections 35.1 to 35.95, inclusive, and 57.5 of this act
16 become effective on July 1, 2011.

LEADLINES OF REPEALED SECTIONS

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.



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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.

598.0971 Orders for enforcement: Authority of Commissioner; judicial review and enforcement; civil penalty and equitable relief.

598.0979 Restraining orders; injunctions; assurances of discontinuance.

598.098 Disclosure of information by Commissioner or Director; 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.
- 598C.180 Commissioner of Consumer Affairs to administer chapter; duties of Attorney General.
- 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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