

SENATE BILL NO. 314—SENATOR NEAL

MARCH 22, 2021

Referred to Committee on Commerce and Labor

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

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

~

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

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

Legislative Counsel’s Digest:

1 Existing law provides that engaging in certain acts constitutes a deceptive trade
2 practice, including contriving, preparing, setting up, proposing, operating,
3 advertising or promoting a pyramid scheme and violating certain requirements
4 relating to charitable solicitations, sales promotions, door-to-door sales and grant
5 writing services. (NRS 598.110, 598.1305, 598.139, 598.2801, 598.595) Existing
6 law authorizes the Attorney General, the Commissioner of Consumer Affairs and
7 the Director of the Department of Business and Industry to investigate an allegation
8 of a deceptive trade practice and authorizes the Attorney General to prosecute



9 deceptive trade practices on behalf of the Commissioner or the Director, which may
10 include criminal prosecution or the imposition of certain civil penalties. (NRS
11 598.0903-598.0999) **Sections 2 and 16** of this bill provide that knowingly violating
12 any of the provisions of **sections 3-16** of this bill relating to high-volume
13 marketplace sellers providing certain information to online marketplaces and the
14 disclosure of certain other information by an online marketplace constitutes a
15 deceptive trade practice. **Section 15** of this bill authorizes a person to file a
16 complaint with the Attorney General, the Commissioner or the Director relating to
17 a suspected violation of the provisions of **sections 3-16** relating to certain sellers
18 providing and disclosing certain information relating to online marketplaces.
19 **Sections 17-29** of this bill make conforming changes by indicating the placement
20 of **section 2** in the Nevada Revised Statutes. Specifically, **section 18** of this bill
21 provides that the deceptive trade practice described in **section 2** is in addition to
22 and does not limit the types of unfair trade practices actionable at common law or
23 defined as such in statute. **Section 19** of this bill provides that the deceptive trade
24 practice described in **section 2** does not apply to certain situations and persons.
25 **Section 20** of this bill authorizes the Attorney General to institute criminal
26 proceedings to enforce the provisions of **section 2**. **Section 21** of this bill authorizes
27 the Commissioner and Director to issue subpoenas, conduct hearings and adopt
28 regulations to administer the provisions of **section 2**. **Section 22** of this bill
29 provides that certain orders of enforcement may be issued by the Commissioner
30 and Director against a person who has engaged in a deceptive trade practice
31 described in **section 2**. **Sections 23-25** of this bill authorize a district attorney to
32 seek injunctive relief, provide for the relief of injured persons and provide certain
33 civil and criminal penalties in response to a person engaging in a deceptive trade
34 practice described in **section 2**.

35 **Section 10** of this bill requires an online marketplace to require a high-volume
36 marketplace seller to provide certain types of identifying information to the online
37 marketplace within 24 hours after the marketplace seller becomes a
38 high-volume marketplace seller. **Section 10** requires the online marketplace to
39 notify each high-volume marketplace seller not less than once each year that the
40 high-volume marketplace seller is required to inform the online marketplace if any
41 identifying information has changed within a certain period of time. Additionally,
42 except for certain government records and tax documents, **section 10** requires the
43 online marketplace to verify the identifying information.

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

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

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



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

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

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

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

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

16 **2.** *The term includes, without limitation, any tangible*
17 *personal property that is intended to be attached to or installed in*
18 *any real property without regard to whether it is so attached or*
19 *installed.*

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

- 21 **1.** *The address of the person;*
22 **2.** *The telephone number of the person; and*
23 **3.** *An electronic mail address of the person.*

24 **Sec. 6.** *“High-volume marketplace seller” means a*
25 *marketplace seller who, in any continuous 12-month period*
26 *during the previous 24 months, makes or enters into 200 or more*
27 *separate retail sales transactions of new or unused consumer*
28 *products that result in the cumulative gross receipts from the retail*
29 *sales transactions exceeding \$5,000.*

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

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

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

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

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

40 **(b)** *Has a contractual relationship with the owner of the online*
41 *marketplace that is ongoing in which the person provides for the*



1 *manufacturing, distribution, wholesaling or fulfillment of*
2 *shipments of consumer products; and*

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

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

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

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

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

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

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

21 **Sec. 10. 1. An online marketplace shall require any high-**
22 **volume marketplace seller on the online marketplace to provide**
23 **the online marketplace with the following information within 24**
24 **hours after the marketplace seller becomes a high-volume**
25 **marketplace seller:**

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

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

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

37 **(b) If the high-volume marketplace seller does not have a bank**
38 **account and cannot provide the information required pursuant to**
39 **paragraph (a), the name of the payee for payments issued by the**
40 **online marketplace to the high-volume marketplace seller. The**
41 **high-volume marketplace seller may provide the payee**
42 **information to:**

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

44 **(2) A payment processor or other third party that is**
45 **contracted by the online marketplace to maintain such**



1 *information. The online marketplace may obtain such information*
2 *upon request from the payment processor or other third party.*

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

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

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

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

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

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

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

22 *(1) Exclusively advertising or offering consumer products*
23 *on the online marketplace; or*

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

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

29 *(a) Inform the online marketplace of any changes to the*
30 *information provided pursuant to subsection 1 within 3 business*
31 *days after receiving the notification from the online marketplace;*
32 *and*

33 *(b) Electronically certify:*

34 *(1) If there are not any changes to the information provided*
35 *pursuant to subsection 1, that the information provided pursuant*
36 *to subsection 1 has not changed; or*

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

40 *↳ If a high-volume marketplace seller has not provided the*
41 *electronic certification pursuant to paragraph (b) or, if applicable,*
42 *has not provided the changed information within 3 business days*
43 *after receiving the notification from the online marketplace, the*
44 *online marketplace shall suspend the participation of the high-*
45 *volume marketplace seller on the online marketplace until the*



1 *high-volume marketplace seller provides the electronic*
2 *certification pursuant to paragraph (b) or, if applicable, provides*
3 *the changed information and the online marketplace verifies the*
4 *changed information pursuant to subsection 3.*

5 3. *Except as otherwise provided in subsection 4, the online*
6 *marketplace shall verify:*

7 (a) *The information provided pursuant to subsection 1 within*
8 *3 business days after receiving the information; and*

9 (b) *The changed information provided pursuant to subsection*
10 *2 within 3 business days after receiving the changed information.*

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

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

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

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

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

28 (d) *Whether the high-volume marketplace seller also engages*
29 *in the manufacturing, importing or reselling of consumer*
30 *products; and*

31 (e) *Any other information determined to be necessary by the*
32 *online marketplace to address circumvention or evasion of the*
33 *requirements of sections 3 to 16, inclusive, of this act, provided*
34 *that the additional information is limited to what is necessary to*
35 *address the circumvention or evasion.*

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

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

41 (b) *The information described in paragraphs (b) to (e),*
42 *inclusive, of subsection 1. The online marketplace may disclose*
43 *the information by use of an Internet link on the listing of the*
44 *consumer product.*



1 (c) *A reporting mechanism that allows a consumer to report to*
2 *the online marketplace electronically and by use of a telephone*
3 *any suspicious activity conducted by the high-volume marketplace*
4 *seller.*

5 (d) *A message encouraging consumers to report to the online*
6 *marketplace any suspicious activity conducted by the high-volume*
7 *marketplace seller.*

8 3. *Upon request from a high-volume marketplace seller, an*
9 *online marketplace may allow for a partial disclosure of the*
10 *information required pursuant to paragraphs (a) to (d), inclusive,*
11 *of subsection 1 if the high-volume marketplace seller demonstrates*
12 *to the online marketplace that the high-volume marketplace seller:*

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

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

21 (2) *That there is no business address available for the high-*
22 *volume marketplace seller and that inquiries by the consumer*
23 *should be submitted to the high-volume marketplace seller by use*
24 *of the telephone number or electronic mail address of the high-*
25 *volume marketplace seller.*

26 (b) *Is a business that has an address solely for the return of*
27 *consumer products. If the online marketplace decides to allow a*
28 *partial disclosure due to the lack of a business address, the online*
29 *marketplace shall disclose to consumers on the listing of the*
30 *consumer product that is offered for sale by the high-volume*
31 *marketplace seller the address of the high-volume marketplace*
32 *seller for the return of consumer products.*

33 (c) *Does not have a business telephone number and only has a*
34 *personal telephone number. If the online marketplace decides to*
35 *allow a partial disclosure due to the lack of a business telephone*
36 *number, the online marketplace shall disclose to consumers on the*
37 *listing of the consumer product that is offered for sale by the high-*
38 *volume marketplace seller in the manner described in subsection 2*
39 *that there is no business telephone number available for the high-*
40 *volume marketplace seller and that inquiries by the consumer*
41 *should be submitted to the high-volume marketplace seller by use*
42 *of the business address or electronic mail address of the high-*
43 *volume marketplace seller.*

44 4. *If a high-volume marketplace seller makes a false*
45 *representation to the online marketplace to justify the provision of*



1 *a partial disclosure pursuant to subsection 3 or if a high-volume*
2 *marketplace seller who has requested a partial disclosure pursuant*
3 *to subsection 3 but has not provided answers to inquiries by a*
4 *consumer that are submitted to the high-volume marketplace*
5 *seller by use of the business address, telephone number or*
6 *electronic mail address of the high-volume marketplace seller, as*
7 *applicable, within a reasonable amount of time, the online*
8 *marketplace shall:*

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

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

12 (c) *Within 3 business days after providing the notice pursuant*
13 *to paragraph (b), disclose the information described in subsection*
14 *2 to consumers on the listing of the consumer product that is*
15 *offered for sale by the high-volume marketplace seller in the*
16 *manner described in subsection 2.*

17 **Sec. 12.** *In addition to the information listed in section 11 of*
18 *this act that is required to be disclosed or partially disclosed, an*
19 *online marketplace that warehouses, distributes or otherwise*
20 *fulfills an order for a consumer product shall disclose to the*
21 *consumer the identification of any high-volume marketplace seller*
22 *that supplies the consumer product if such a high-volume*
23 *marketplace seller is different from what is listed as the seller on*
24 *the listing of the consumer product.*

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

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

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

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

41 **Sec. 17.** *NRS 598.0903 is hereby amended to read as follows:*
42 *598.0903 As used in NRS 598.0903 to 598.0999, inclusive,*
43 *and section 2 of this act, unless the context otherwise requires, the*
44 *words and terms defined in NRS 598.0905 to 598.0947, inclusive,*



1 **and section 2 of this act** have the meanings ascribed to them in
2 those sections.

3 **Sec. 18.** NRS 598.0953 is hereby amended to read as follows:
4 598.0953 1. Evidence that a person has engaged in a
5 deceptive trade practice is prima facie evidence of intent to injure
6 competitors and to destroy or substantially lessen competition.

7 2. The deceptive trade practices listed in NRS 598.0915 to
8 598.0925, inclusive, **and section 2 of this act** are in addition to and
9 do not limit the types of unfair trade practices actionable at common
10 law or defined as such in other statutes of this State.

11 **Sec. 19.** NRS 598.0955 is hereby amended to read as follows:
12 598.0955 1. The provisions of NRS 598.0903 to 598.0999,
13 inclusive, **and section 2 of this act** do not apply to:

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

17 (b) Publishers, including outdoor advertising media, advertising
18 agencies, broadcasters or printers engaged in the dissemination of
19 information or reproduction of printed or pictorial matter who
20 publish, broadcast or reproduce material without knowledge of its
21 deceptive character.

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

23 2. The provisions of NRS 598.0903 to 598.0999, inclusive, **and**
24 **section 2 of this act** do not apply to the use by a person of any
25 service mark, trademark, certification mark, collective mark, trade
26 name or other trade identification which was used and not
27 abandoned prior to July 1, 1973, if the use was in good faith and is
28 otherwise lawful except for the provisions of NRS 598.0903 to
29 598.0999, inclusive **§**, **and section 2 of this act**.

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

31 598.0963 1. Whenever the Attorney General is requested in
32 writing by the Commissioner or the Director to represent him or her
33 in instituting a legal proceeding against a person who has engaged
34 or is engaging in a deceptive trade practice, the Attorney General
35 may bring an action in the name of the State of Nevada against that
36 person on behalf of the Commissioner or Director.

37 2. The Attorney General may institute criminal proceedings to
38 enforce the provisions of NRS 598.0903 to 598.0999, inclusive **§**,
39 **and section 2 of this act**. The Attorney General is not required to
40 obtain leave of the court before instituting criminal proceedings
41 pursuant to this subsection.

42 3. If the Attorney General has reason to believe that a person
43 has engaged or is engaging in a deceptive trade practice, the
44 Attorney General may bring an action in the name of the State of



1 Nevada against that person to obtain a temporary restraining order, a
2 preliminary or permanent injunction, or other appropriate relief.

3 4. If the Attorney General has cause to believe that a person
4 has engaged or is engaging in a deceptive trade practice, the
5 Attorney General may issue a subpoena to require the testimony of
6 any person or the production of any documents, and may administer
7 an oath or affirmation to any person providing such testimony. The
8 subpoena must be served upon the person in the manner required for
9 service of process in this State or by certified mail with return
10 receipt requested. An employee of the Attorney General may
11 personally serve the subpoena.

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

13 598.0967 1. The Commissioner and the Director, in addition
14 to other powers conferred upon them by NRS 598.0903 to
15 598.0999, inclusive, *and section 2 of this act* may issue subpoenas
16 to require the attendance of witnesses or the production of
17 documents, conduct hearings in aid of any investigation or inquiry
18 and prescribe such forms and adopt such regulations as may be
19 necessary to administer the provisions of NRS 598.0903 to
20 598.0999, inclusive **H**, *and section 2 of this act*. Such regulations
21 may include, without limitation, provisions concerning the
22 applicability of the provisions of NRS 598.0903 to 598.0999,
23 inclusive, *and section 2 of this act* to particular persons or
24 circumstances.

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

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

32 598.0971 1. If, after an investigation, the Commissioner has
33 reasonable cause to believe that any person has been engaged or is
34 engaging in any deceptive trade practice in violation of NRS
35 598.0903 to 598.0999, inclusive, *and section 2 of this act*, the
36 Commissioner may issue an order directed to the person to show
37 cause why the Director should not order the person to cease and
38 desist from engaging in the practice and to pay an administrative
39 fine. The order must contain a statement of the charges and a notice
40 of a hearing to be held thereon. The order must be served upon the
41 person directly or by certified or registered mail, return receipt
42 requested.

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



1 3. If, after conducting a hearing pursuant to the provisions of
2 subsection 2, the Director or his or her designee determines that the
3 person has violated any of the provisions of NRS 598.0903 to
4 598.0999, inclusive, *and section 2 of this act*, or if the person fails
5 to appear for the hearing after being properly served with the
6 statement of charges and notice of hearing, the Director or his or her
7 designee shall issue an order setting forth his or her findings of fact
8 concerning the violation and cause to be served a copy thereof upon
9 the person and any intervener at the hearing. If the Director or his or
10 her designee determines in the report that such a violation has
11 occurred, he or she may order the violator to:

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

14 (b) Pay the costs of conducting the investigation, costs of
15 conducting the hearing, costs of reporting services, fees for experts
16 and other witnesses, charges for the rental of a hearing room if such
17 a room is not available to the Director or his or her designee free of
18 charge, charges for providing an independent hearing officer, if any,
19 and charges incurred for any service of process, if the violator is
20 adjudicated to have committed a violation of NRS 598.0903 to
21 598.0999, inclusive ~~§~~, *and section 2 of this act*;

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

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

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

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

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

43 6. If the court finds that:

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



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

4 (c) The findings of the Director or his or her designee are
5 supported by the weight of the evidence,
6 ↪ the court shall issue an order enforcing the provisions of the order
7 of the Director or his or her designee.

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

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

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

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

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

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

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

25 598.0985 Notwithstanding the requirement of knowledge as an
26 element of a deceptive trade practice, and notwithstanding the
27 enforcement powers granted to the Commissioner or Director
28 pursuant to NRS 598.0903 to 598.0999, inclusive, *and section 2 of*
29 *this act*, whenever the district attorney of any county has reason to
30 believe that any person is using, has used or is about to use any
31 deceptive trade practice, knowingly or otherwise, he or she may
32 bring an action in the name of the State of Nevada against that
33 person to obtain a temporary or permanent injunction against the
34 deceptive trade practice.

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

36 598.0993 The court in which an action is brought pursuant to
37 NRS 598.0979 and 598.0985 to 598.0999, inclusive, may make such
38 additional orders or judgments as may be necessary to restore to any
39 person in interest any money or property, real or personal, which
40 may have been acquired by means of any deceptive trade practice
41 which violates any of the provisions of NRS 598.0903 to 598.0999,
42 inclusive, *and section 2 of this act*, but such additional orders or
43 judgments may be entered only after a final determination has been
44 made that a deceptive trade practice has occurred.



1 **Sec. 25.** NRS 598.0999 is hereby amended to read as follows:
2 598.0999 1. Except as otherwise provided in NRS 598.0974,
3 a person who violates a court order or injunction issued pursuant to
4 the provisions of NRS 598.0903 to 598.0999, inclusive, *and section*
5 *2 of this act*, upon a complaint brought by the Commissioner, the
6 Director, the district attorney of any county of this State or the
7 Attorney General shall forfeit and pay to the State General Fund a
8 civil penalty of not more than \$10,000 for each violation. For the
9 purpose of this section, the court issuing the order or injunction
10 retains jurisdiction over the action or proceeding. Such civil
11 penalties are in addition to any other penalty or remedy available for
12 the enforcement of the provisions of NRS 598.0903 to 598.0999,
13 inclusive ~~H~~, *and section 2 of this act*.

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

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

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

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

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

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

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

42 5. If a person violates any provision of NRS 598.0903 to
43 598.0999, inclusive, *and section 2 of this act*, 598.100 to 598.2801,
44 inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787,
45 inclusive, 598.840 to 598.966, inclusive, or 598.9701 to 598.9718,



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

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

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

11 ➤ The court may grant or deny the relief sought or may order other
12 appropriate relief.

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

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

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

24 ➤ The court may grant or deny the relief sought or may order other
25 appropriate relief.

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

27 11.190 Except as otherwise provided in NRS 40.4639,
28 125B.050 and 217.007, actions other than those for the recovery of
29 real property, unless further limited by specific statute, may only be
30 commenced as follows:

31 1. Within 6 years:

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

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

39 2. Within 4 years:

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

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

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



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

7 3. Within 3 years:

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

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

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

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

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

35 4. Within 2 years:

36 (a) An action against a sheriff, coroner or constable upon
37 liability incurred by acting in his or her official capacity and in
38 virtue of his or her office, or by the omission of an official duty,
39 including the nonpayment of money collected upon an execution.

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

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



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

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

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

10 5. Within 1 year:

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

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

22 **Sec. 27.** NRS 41.600 is hereby amended to read as follows:

23 41.600 1. An action may be brought by any person who is a
24 victim of consumer fraud.

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

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

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

28 (c) An act prohibited by NRS 482.36655 to 482.36667,
29 inclusive;

30 (d) An act prohibited by NRS 482.351; or

31 (e) A deceptive trade practice as defined in NRS 598.0915 to
32 598.0925, inclusive **[H]**, **and section 2 of this act.**

33 3. If the claimant is the prevailing party, the court shall award
34 the claimant:

35 (a) Any damages that the claimant has sustained;

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

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

39 4. Any action brought pursuant to this section is not an action
40 upon any contract underlying the original transaction.

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

42 482.554 1. The Department may impose an administrative
43 fine of not more than \$10,000 against any person who engages in a
44 deceptive trade practice. The Department shall afford to any person



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

3 2. For the purposes of this section, a person shall be deemed to
4 be engaged in a “deceptive trade practice” if, in the course of his or
5 her business or occupation, the person:

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

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

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

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

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

18 (c) Engages in any deceptive trade practice, as defined in NRS
19 598.0915 to 598.0925, inclusive, *and section 2 of this act* that
20 involves the purchase and sale or lease of a motor vehicle.

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

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

29 4. All administrative fines collected by the Department
30 pursuant to this section must be deposited with the State Treasurer
31 to the credit of the State Highway Fund.

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

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

37 487.6889 A person shall be deemed to be engaged in a
38 “deceptive trade practice” if, in the course of his or her business or
39 occupation, the person:

40 1. Engages in any deceptive trade practice, as defined in NRS
41 598.0915 to 598.0925, inclusive, *and section 2 of this act* that
42 involves the repair of a motor vehicle; or



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

Ⓢ

