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## Consumer Protection; deceptive trade practices

The University of the Pacific, McGeorge School of Law

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If the advertisement lists several prizes, the advertiser must state the odds of winning each prize,<sup>9</sup> the date the prizes will be awarded, and indicate that a list of winners will be available upon request.<sup>10</sup>

Chapter 889 further prohibits advertisements which state that the recipient has a chance to win a prize in exchange for hearing a sales presentation unless the advertisement clearly states who is conducting the promotion.<sup>11</sup> The retail value and number of prizes to be awarded and the odds of winning must be stated.<sup>12</sup> Additionally, Chapter 889 prohibits advertisements which falsely represent that the recipient was specially selected.<sup>13</sup>

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9. *Id.* If the advertisement is printed, the odds must appear in the same size print as the body of the advertisement. *Id.*

10. *Id.*

11. *Id.* sec. 10, at 2195 (enacting NEV. REV. STAT. § 598.\_\_\_\_). See *id.* sec 8, at \_\_\_\_ (enacting NEV. REV. STAT. § 598.\_\_\_\_) (definition of sales presentation).

12. *Id.* sec. 10, at 2195 (enacting NEV. REV. STAT. § 598.\_\_\_\_). The information need not be stated if the advertisement is broadcast over the radio or television. *Id.* Unless the media knew the advertisement was in violation of Chapter 889, the media is not liable. *Id.* The advertisement is illegal if the advertiser has predetermined which prize the recipient will be awarded. *Id.*

13. *Id.* sec. 11, at 2196 (enacting NEV. REV. STAT. § 598.\_\_\_\_). The advertiser may not use a mass source such as phone books or city directories as a source of names for persons to be solicited. *Id.* No more than 10 percent of those considered may be selected for solicitation. *Id.*

## Consumer Protection; deceptive trade practices

NEV. REV. STAT. § 598.\_\_\_\_ (new);

§§ 41.600, 119A.710, 119B.430, 489.401, 598.360, 598.490 (amended).

AB 275 (Wisdom); 1989 STAT. Ch. 307

(Effective July 1, 1989)

Existing law prohibits a person from engaging in deceptive trade practices.<sup>1</sup> Chapter 307 expands the definition of deceptive trade

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1. NEV. REV. STAT. §§ 598.410-413 (1985) (definition of deceptive trade practices). See also *State ex rel. List v. AAA Auto Leasing & Rental, Inc.*, 93 Nev. 483, 487, 568 P.2d 1230, 1232 (1977) (regulation of unfair trade practices by the legislature is a valid exercise of police

practices to include a representation of fact in an advertisement<sup>2</sup> which a reasonable person would believe is true, when: 1) That representation is made without a reasonable basis in fact,<sup>3</sup> or 2) the person making the representation fails to provide evidence of a reasonable basis in fact upon request by the commissioner<sup>4</sup> of consumer affairs.<sup>5</sup> Chapter 307 further provides that this new definition of a deceptive trade practice applies to statutes regulating unfair competition,<sup>6</sup> consumer fraud,<sup>7</sup> and sales of timeshares,<sup>8</sup> memberships,<sup>9</sup> or manufactured homes.<sup>10</sup>

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power; statutes prohibiting deceptive trade practices allow injunctions against the deceptive practice but do not permit injunctions which prohibit the individual from engaging in a particular business or profession).

2. See NEV. REV. STAT. § 598.370 (1973) (definition of advertisement).

3. 1989 Nev. Stat. ch. 307, sec. 1, at 649 (enacting NEV. REV. STAT. § 598.\_\_\_\_). A person's representation must be based on reasonable clinical or scientific data or other reliable evidence supporting the representation. *Id.* Chapter 307 does not apply to statements of opinion made with no intent to mislead another person. *Id.* (enacting NEV. REV. STAT. § 598.\_\_\_\_). *Cf.* RESTATEMENT (SECOND) OF CONTRACTS §§ 160, 162 (1979) (definition and effect of misrepresentation).

4. See NEV. REV. STAT. § 598.400 (definition of commissioner). See also *id.* § 232.270 (1977) (defining commissioner's duties).

5. 1989 Nev. Stat. ch. 307, sec. 1, at 649 (enacting NEV. REV. STAT. § 598.\_\_\_\_).

6. See *id.* sec. 3, at 649 (amending NEV. REV. STAT. § 598.490) (deceptive trade practices are prima facie evidence of intent to injure competitors).

7. See *id.* sec. 4, at 649 (amending NEV. REV. STAT. § 41.600) (definition of consumer fraud).

8. See *id.* sec. 5, at 650 (amending NEV. REV. STAT. § 119A.710) (regulation of sales of timeshares).

9. See *id.* sec. 6, at 650 (amending NEV. REV. STAT. § 119B.430) (regulation of sales of memberships).

10. See *id.* sec. 7, at 651 (amending NEV. REV. STAT. § 489.401) (regulation of sales of mobile and manufactured homes).