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ASSEMBLY BILL NO. 51—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE SECRETARY OF STATE)

PREFILED DECEMBER 20, 2014

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to securities.  
(BDR 7-449)

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.

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AN ACT relating to securities; requiring broker-dealers and investment advisers to provide training to certain persons concerning identifying the suspected exploitation of an older person or vulnerable person; requiring certain persons who work for broker-dealers and investment advisers to report the suspected or known exploitation of an older person or vulnerable person; authorizing the Administrator of the Securities Division of the Office of the Secretary of State to adopt regulations relating to the federal Jumpstart Our Business Startups Act; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law establishes the Uniform Securities Act which sets forth provisions  
2 governing the sale and purchase of securities in this State in a manner consistent  
3 with federal laws and regulations. (Chapter 90 of NRS) **Sections 2-9** of this bill  
4 require broker-dealers and investment advisers to provide training to certain  
5 persons concerning the identification and reporting of suspected exploitation of  
6 older persons and vulnerable persons. “Older persons” are defined in existing law  
7 as persons who are 60 years of age or older. “Vulnerable persons” are defined in  
8 existing law as persons who are 18 years of age or older who: (1) suffer from a  
9 condition of physical or mental incapacitation because of a development disability,  
10 organic brain damage or mental illness; or (2) have one or more physical or  
11 mental limitations that restrict the ability of the person to perform the normal  
12 activities of daily living. (NRS 200.5092) **Section 8** specifies which sales  
13 representatives, representatives of an investment adviser and officers and



14 employees of broker-dealers or investment advisers must receive the training, when  
15 the training must be provided and the content of the training. **Section 8** further  
16 requires those persons to report incidents that reasonably appear to be exploitation  
17 of an older person or vulnerable person. **Section 9** requires each broker-dealer and  
18 investment adviser to designate a person to whom such reports must be made. The  
19 person so designated is then responsible for determining when a formal report must  
20 be reported to the appropriate agency.

21 Existing law authorizes the imposition or granting of certain actions and  
22 penalties against a person who has violated any provision of state law or a  
23 regulation or order of the Administrator of the Securities Division of the Office of  
24 the Secretary of State relating to securities, including civil penalties, restitution and  
25 costs of investigation and prosecution of such a violation. (NRS 90.630, 90.640,  
26 90.650) **Sections 11-13** of this bill revise those provisions to include, if the  
27 violation was committed against an older person or vulnerable person, the  
28 imposition or granting of civil penalties, restitution and costs of investigation and  
29 prosecution in amounts equal to twice the amounts that would otherwise have been  
30 imposed or granted.

31 **Section 10** of this bill authorizes the Administrator to adopt regulations  
32 consistent with the federal Jumpstart Our Business Startups Act (Pub. L. No.  
33 112-106), including regulations relating to the creation and oversight of funding  
34 portals for the purchase of securities.

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

1 **Section 1.** Chapter 90 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 10, inclusive, of this  
3 act.

4 **Sec. 2.** *As used in sections 2 to 9, inclusive, of this act, unless*  
5 *the context otherwise requires, the words and terms defined in*  
6 *sections 3 to 7, inclusive, of this act have the meanings ascribed to*  
7 *them in those sections.*

8 **Sec. 3.** *“Designated reporter” means a person designated by*  
9 *a broker-dealer or investment adviser to receive reports of known*  
10 *or suspected exploitation of an older person or vulnerable person*  
11 *pursuant to section 9 of this act.*

12 **Sec. 4.** *“Exploitation” has the meaning ascribed to it in*  
13 *subsection 2 of NRS 200.5092.*

14 **Sec. 5.** *“Older person” has the meaning ascribed to it in*  
15 *subsection 5 of NRS 200.5092.*

16 **Sec. 6.** *“Reasonable cause to believe” has the meaning*  
17 *ascribed to it in NRS 200.50925.*

18 **Sec. 7.** *“Vulnerable person” has the meaning ascribed to it*  
19 *in subsection 7 of NRS 200.5092.*

20 **Sec. 8. 1.** *Each broker-dealer and investment adviser shall*  
21 *provide training concerning the identification and reporting of the*  
22 *suspected exploitation of an older person or vulnerable person to*  
23 *each sales representative, representative of the investment adviser*



1 *and officer and employee of the broker-dealer or investment*  
2 *adviser who may:*

3 (a) *As part of his or her regular duties for the broker-dealer or*  
4 *investment adviser, come into direct contact with an older person*  
5 *or vulnerable person;*

6 (b) *Review or approve the financial documents, records or*  
7 *transactions of an older person or vulnerable person in*  
8 *connection with the offer, sale or purchase of securities; or*

9 (c) *Offer advice as to the value or advisability of investing in,*  
10 *purchasing or selling securities to an older person or vulnerable*  
11 *person.*

12 2. *The training required pursuant to subsection 1 must be*  
13 *provided as soon as reasonably practicable, but not later than 6*  
14 *months after the sales representative, representative of the*  
15 *investment adviser or officer or employee is employed by the*  
16 *broker-dealer or investment adviser.*

17 3. *The training required pursuant to subsection 1 must*  
18 *include, without limitation:*

19 (a) *An explanation of the conduct which constitutes*  
20 *exploitation of an older person or vulnerable person;*

21 (b) *The manner in which exploitation of an older person or*  
22 *vulnerable person may be recognized;*

23 (c) *Information concerning the manner in which reports of*  
24 *exploitation of an older person or vulnerable person are*  
25 *investigated; and*

26 (d) *Instruction concerning when and how to report known or*  
27 *suspected exploitation of an older person or vulnerable person.*

28 4. *A sales representative, representative of an investment*  
29 *adviser or officer or employee of a broker-dealer or investment*  
30 *adviser who has observed or has knowledge of an incident that is*  
31 *directly related to a transaction or matter which is within his or*  
32 *her scope of practice and which reasonably appears to be*  
33 *exploitation of an older person or vulnerable person shall report*  
34 *the known or suspected exploitation to a designated reporter*  
35 *pursuant to section 9 of this act.*

36 **Sec. 9. 1.** *Each broker-dealer and investment adviser shall*  
37 *designate a person or persons to whom a sales representative,*  
38 *representative of the investment adviser or officer or employee of*  
39 *the broker-dealer or investment adviser must report known or*  
40 *suspected exploitation of an older person or vulnerable person.*

41 2. *If a sales representative, representative of an investment*  
42 *adviser or officer or employee of a broker-dealer or investment*  
43 *adviser reports known or suspected exploitation of an older person*  
44 *to a designated reporter and, based on such a report or based on*  
45 *his or her own observations or knowledge, the designated reporter*



1 *knows or has reasonable cause to believe that an older person has*  
2 *been exploited, the designated reporter shall:*

3 *(a) Except as otherwise provided in subsection 3, report the*  
4 *known or suspected exploitation of the older person to:*

5 *(1) The local office of the Aging and Disability Services*  
6 *Division of the Department of Health and Human Services;*

7 *(2) A police department or sheriff's office;*

8 *(3) The county's office for protective services, if one exists*  
9 *in the county where the suspected exploitation occurred; or*

10 *(4) A toll-free telephone service designated by the Aging*  
11 *and Disability Services Division; and*

12 *(b) Make such a report as soon as reasonably practicable.*

13 *3. If the designated reporter knows or has reasonable cause*  
14 *to believe that the exploitation of the older person involves an act*  
15 *or omission of the Aging and Disability Services Division, another*  
16 *division of the Department of Health and Human Services or a*  
17 *law enforcement agency, the designated reporter shall make the*  
18 *report to an agency other than the agency alleged to have*  
19 *committed the act or omission.*

20 *4. If a sales representative, representative of an investment*  
21 *adviser or officer or employee of a broker-dealer or investment*  
22 *adviser reports known or suspected exploitation of a vulnerable*  
23 *person to a designated reporter and, based on such a report or*  
24 *based on his or her own observations or knowledge, the designated*  
25 *reporter knows or has reasonable cause to believe that a*  
26 *vulnerable person has been exploited, the designated reporter*  
27 *shall:*

28 *(a) Except as otherwise provided in subsection 5, report the*  
29 *known or suspected exploitation of the vulnerable person to a law*  
30 *enforcement agency; and*

31 *(b) Make such a report as soon as reasonably practicable.*

32 *5. If the designated reporter knows or has reasonable cause*  
33 *to believe that the exploitation of the vulnerable person involves*  
34 *an act or omission of a law enforcement agency, the designated*  
35 *reporter shall make the report to a law enforcement agency other*  
36 *than the agency alleged to have committed the act or omission.*

37 *6. In accordance with the provisions of subsection 3 of NRS*  
38 *239A.070, in making a report pursuant to this section, a*  
39 *designated reporter may:*

40 *(a) Disclose any fact or information that forms the basis of the*  
41 *determination that the designated reporter knows or has*  
42 *reasonable cause to believe that an older person or vulnerable*  
43 *person has been exploited, including, without limitation, the*  
44 *identity of any person believed to be involved in the exploitation of*  
45 *the older person or vulnerable person; and*



1 (b) Provide any financial records or other documentation  
2 relating to the exploitation of the older person or vulnerable  
3 person.

4 7. A sales representative, representative of an investment  
5 adviser or officer or employee of a broker-dealer or investment  
6 adviser and the designated reporter are entitled to the immunity  
7 from liability set forth in NRS 200.5096 for making a report in  
8 good faith.

9 **Sec. 10.** 1. The Administrator may adopt, by regulation or  
10 order, any filing requirements, registration exemptions and  
11 licensing requirements which are consistent with the Jumpstart  
12 Our Business Startups Act, Public Law 112-106, and any  
13 regulation adopted pursuant thereto by the United States  
14 Securities and Exchange Commission, including, without  
15 limitation, regulations relating to the creation and oversight of  
16 funding portals.

17 2. As used in this section, "funding portal" has the meaning  
18 ascribed to it in section 3(a)(80) of the Securities Exchange Act of  
19 1934, as amended, 15 U.S.C. §§ 78a et seq.

20 **Sec. 11.** NRS 90.630 is hereby amended to read as follows:

21 90.630 1. If the Administrator reasonably believes, whether  
22 or not based upon an investigation conducted under NRS 90.620,  
23 that:

24 (a) The sale of a security is subject to registration under this  
25 chapter and the security is being offered or has been offered or sold  
26 by the issuer or another person in violation of NRS 90.460; or

27 (b) A person is acting as a broker-dealer or investment adviser in  
28 violation of NRS 90.310 or 90.330,

29 ➔ the Administrator, in addition to any specific power granted  
30 under this chapter and subject to compliance with the requirements  
31 of NRS 90.820, may issue, without a prior hearing, a summary order  
32 against the person engaged in the prohibited activities, directing the  
33 person to desist and refrain from further activity until the security is  
34 registered or the person is licensed under this chapter. The summary  
35 order to cease and desist must state the section of this chapter or  
36 regulation or order of the Administrator under this chapter which the  
37 Administrator reasonably believes has been or is being violated.

38 2. If the Administrator reasonably believes, whether or not  
39 based upon an investigation conducted under NRS 90.620, that a  
40 person has violated this chapter or a regulation or order of the  
41 Administrator under this chapter, the Administrator, in addition to  
42 any specific power granted under this chapter, after giving notice by  
43 registered or certified mail and conducting a hearing in an  
44 administrative proceeding, unless the right to notice and hearing is  
45 waived by the person against whom the sanction is imposed, may:



- 1 (a) Issue an order against the person to cease and desist;
- 2 (b) Censure the person if he or she is a licensed broker-dealer,
- 3 sales representative, investment adviser or representative of an
- 4 investment adviser;
- 5 (c) Bar or suspend the person from association with a licensed
- 6 broker-dealer or investment adviser in this State;
- 7 (d) Issue an order against an applicant, licensed person or other
- 8 person who willfully violates this chapter, imposing a civil penalty
- 9 of not more than \$25,000 for each violation ~~(f)~~ or , *if the violation*
- 10 *was committed against an older person or vulnerable person, a*
- 11 *civil penalty equal to twice the amount of the civil penalty that*
- 12 *would otherwise have been imposed pursuant to this paragraph,*
- 13 *not to exceed \$50,000 for each violation; or*
- 14 (e) Initiate one or more of the actions specified in NRS 90.640.

15 3. If the person to whom the notice is addressed pursuant to  
16 subsection 2 does not request a hearing within 45 days after receipt  
17 of the notice, the person waives the right to a hearing and the  
18 Administrator shall issue a permanent order. If a hearing is  
19 requested, the Administrator shall set the matter for hearing not less  
20 than 15 days nor more than 60 days after the Administrator receives  
21 the request for a hearing. The Administrator shall promptly notify  
22 the parties by registered or certified mail of the time and place set  
23 for the hearing.

24 4. Imposition of the sanctions under this section is limited as  
25 follows:

26 (a) If the Administrator revokes the license of a broker-dealer,  
27 sales representative, investment adviser or representative of an  
28 investment adviser or bars a person from association with a licensed  
29 broker-dealer or investment adviser under this section or NRS  
30 90.420, the imposition of that sanction precludes imposition of a  
31 civil penalty under subsection 2; and

32 (b) The imposition by the Administrator of one or more  
33 sanctions under subsection 2 with respect to a specific violation  
34 precludes the Administrator from later imposing any other sanctions  
35 under paragraphs (a) to (d), inclusive, of subsection 2 with respect to  
36 the violation.

37 5. For the purposes of determining any sanction to be imposed  
38 pursuant to paragraphs (a) to (d), inclusive, of subsection 2, the  
39 Administrator shall consider, among other factors, the frequency  
40 and persistence of the conduct constituting a violation of this  
41 chapter, or a regulation or order of the Administrator under this  
42 chapter, the number of persons adversely affected by the conduct  
43 and the resources of the person committing the violation.

44 6. If a sanction is imposed pursuant to this section,  
45 reimbursement for the costs of the proceeding, including



1 investigative costs and attorney's fees incurred, may be ordered and  
2 recovered by the Administrator. Money recovered for  
3 reimbursement of the investigative costs and attorney's fees must be  
4 deposited in the State General Fund for credit to the Secretary of  
5 State's Operating General Fund Budget Account.

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

7 (a) *"Exploitation" has the meaning ascribed to it in subsection*  
8 *2 of NRS 200.5092.*

9 (b) *"Older person" has the meaning ascribed to it in*  
10 *subsection 5 of NRS 200.5092.*

11 (c) *"Vulnerable person" has the meaning ascribed to it in*  
12 *subsection 7 of NRS 200.5092.*

13 **Sec. 12.** NRS 90.640 is hereby amended to read as follows:

14 90.640 1. Upon a showing by the Administrator that a person  
15 has violated or is about to violate this chapter, or a regulation or  
16 order of the Administrator under this chapter, the appropriate district  
17 court may grant or impose one or more of the following appropriate  
18 legal or equitable remedies:

19 (a) Upon a showing that a person has violated this chapter, or a  
20 regulation or order of the Administrator under this chapter, the court  
21 may singly or in combination:

22 (1) Issue a temporary restraining order, permanent or  
23 temporary prohibitory or mandatory injunction or a writ of  
24 prohibition or mandamus;

25 (2) Impose a civil penalty of not more than \$25,000 for each  
26 violation ~~or~~ *or, if the violation was committed against an older*  
27 *person or vulnerable person, a civil penalty equal to twice the*  
28 *amount of the civil penalty that would otherwise have been*  
29 *imposed pursuant to this subparagraph, not to exceed \$50,000 for*  
30 *each violation;*

31 (3) Issue a declaratory judgment;

32 (4) Order restitution to investors ~~or~~ *which, if the violation*  
33 *was committed against an older person or vulnerable person, must*  
34 *be in an amount equal to twice the amount of restitution that*  
35 *would otherwise have been ordered pursuant to this*  
36 *subparagraph;*

37 (5) Provide for the appointment of a receiver or conservator  
38 for the defendant or the defendant's assets;

39 (6) Order payment of the Division's investigative costs ~~or~~ *which, if the violation was committed against an older person or*  
40 *vulnerable person, must be in an amount equal to twice the*  
41 *amount of the Division's investigative costs that would otherwise*  
42 *have been ordered for payment pursuant to this subparagraph; or*

43 (7) Order such other relief as the court deems just.  
44





1 (b) Upon a showing that a person is about to violate this chapter,  
2 or a regulation or order of the Administrator under this chapter, a  
3 court may issue:

- 4 (1) A temporary restraining order;
- 5 (2) A temporary or permanent injunction; or
- 6 (3) A writ of prohibition or mandamus.

7 2. In determining the appropriate relief to grant, the court shall  
8 consider enforcement actions taken and sanctions imposed by the  
9 Administrator under NRS 90.630 in connection with the  
10 transactions constituting violations of this chapter or a regulation or  
11 order of the Administrator under this chapter. If a remedial action is  
12 imposed pursuant to this section, the costs of the proceeding,  
13 including investigative costs and attorney's fees, may be recovered  
14 by the Administrator.

15 3. The court shall not require the Administrator to post a bond  
16 in an action under this section.

17 4. Upon a showing by the administrator or securities agency of  
18 another state that a person has violated the securities act of that state  
19 or a regulation or order of the administrator or securities agency of  
20 that state, the appropriate district court may grant, in addition to any  
21 other legal or equitable remedies, one or more of the following  
22 remedies:

23 (a) Appointment of a receiver, conservator or ancillary receiver  
24 or conservator for the defendant or the defendant's assets located in  
25 this State; or

26 (b) Other relief as the court deems just.

27 **5. As used in this section:**

28 (a) *"Exploitation" has the meaning ascribed to it in subsection*  
29 *2 of NRS 200.5092.*

30 (b) *"Older person" has the meaning ascribed to it in*  
31 *subsection 5 of NRS 200.5092.*

32 (c) *"Vulnerable person" has the meaning ascribed to it in*  
33 *subsection 7 of NRS 200.5092.*

34 **Sec. 13.** NRS 90.650 is hereby amended to read as follows:

35 90.650 1. A person who willfully violates:

36 (a) A provision of this chapter, except NRS 90.600 ~~§~~ **and**  
37 ***sections 2 to 9, inclusive, of this act*** or who violates NRS 90.600  
38 knowing that the statement made is false or misleading in any  
39 material respect;

40 (b) A regulation adopted pursuant to this chapter; or

41 (c) An order denying, suspending or revoking the effectiveness  
42 of registration or an order to cease and desist issued by the  
43 Administrator pursuant to this chapter,

44 ➔ is guilty of a category B felony and shall be punished by  
45 imprisonment in the state prison for a minimum term of not less





1 than 1 year and a maximum term of not more than 20 years, or by a  
2 fine of not more than \$500,000, or by both fine and imprisonment,  
3 for each violation. In addition to any other penalty, the court shall  
4 order the person to pay restitution and may order the person to repay  
5 the costs of investigation and prosecution incurred by the Division  
6 and the Office of the Attorney General. *If the violation was*  
7 *committed against an older person or vulnerable person, any*  
8 *restitution and costs of investigation and prosecution imposed by*  
9 *the court must be in an amount equal to twice the amount that*  
10 *would otherwise have been imposed by the court.* Money recovered  
11 for reimbursement of the costs of investigation and prosecution must  
12 be deposited in the State General Fund for credit to the Secretary of  
13 State's Operating General Fund Budget Account.

14 2. A person convicted of violating a regulation or order under  
15 this chapter may be fined, but must not be imprisoned, if the person  
16 proves lack of knowledge of the regulation or order.

17 3. This chapter does not limit the power of the State to punish a  
18 person for conduct which constitutes a crime under other law.

19 **Sec. 14.** This act becomes effective on July 1, 2015.







