



# OFFICE OF THE ATTORNEY GENERAL

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## **Assembly Bill 90 Protects Businesses Investigated for Deceptive Trade Violations By Attorney General Catherine Cortez Masto**

The headlines read: ABC Company is being investigated for fraud. The news story includes a disclaimer the company is assumed to be innocent until proven guilty.

While the disclaimer helps the business with public perception, the competitors of that business begin to pay attention. What if the complaint is ultimately found to be without merit and the complaint was made and leaked to the media by a competitor or someone with a grudge against ABC Company for the sole purpose of hurting the company?

Information revealed during an investigation can cause a business considerable discomfort. Businesses under investigation can have some reticence with fully cooperating with the investigation against them because a public records request for a completed investigation file may provide sensitive information about a business to their competitors.

To protect the businesses that have done nothing wrong, our laws needed improvement so that an investigation could be fairly completed without a business running the risk of losing its trade secrets to competitors.

The 2009 Nevada Legislature took a step in that direction with the unanimous passage of Assembly Bill 90. This legislation, drafted by the Nevada Attorney General's Office, sought to better define existing law concerning targets of deceptive trade investigation and the assurance of confidentiality during subsequent investigations.

AB 90 allows the Attorney General to assure confidentiality in investigations up to the point of filing a lawsuit. Experience has shown that by assuring confidentiality, a business under investigation is much more likely to cooperate in the investigation with the assurance that its business practices will not be made public unless and until either a civil or criminal action is filed.

Assembly Bill 90 also allows the state Attorney General's Office to partner with other states' Attorneys General offices and federal agencies, such as the Federal Trade Commission, in deceptive trade investigations. This will allow our state to stretch its personnel resources and share information so that Nevada can be protected from large scale scams which would be too large or too complex for any one agency to handle.

The confidentiality provisions of Assembly Bill 90 assure these other governmental agencies that any information received by the Nevada Attorney General will be kept confidential. Other state and federal agencies must be assured that shared information will be kept confidential in order to not only provide information, but to engage in joint enforcement efforts. States without assured confidentiality provisions are often left out of multistate investigations and must proceed on their own to protect their constituents.

Our laws need to assure the highest standard of ethics and fairness in the effort to protect citizens. Assembly Bill 90 helps to meet those standards.