

SENATE BILL NO. 297—SENATORS WIENER, AMODEI, TITUS,
CARE, MCGINNESS, NOLAN AND WASHINGTON

MARCH 17, 2003

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to personal identifying information. (BDR 15-28)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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 personal identifying information; making various changes relating to personal identifying information; prohibiting a person from unlawfully possessing or using a scanning device or reencoder to acquire certain personal identifying information; clarifying the applicability of certain crimes relating to personal identifying information; prohibiting a public officer or public employee from committing certain unlawful acts relating to personal identifying information; restricting the type of credit card or debit card information that may be printed electronically on a receipt; providing penalties; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 205 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 19, 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, 4 and 5 of this act have the meanings ascribed to them*
7 *in those sections.*



* S B 2 9 7 R 1 *

- 1 **Sec. 3.** *“Payment card” means a credit card, charge card,*
2 *debit card or any other card that:*
3 1. *Is issued to an authorized card user; and*
4 2. *Allows the user to obtain, purchase or receive credit,*
5 *money, a good, a service or anything of value.*
6 **Sec. 4.** *“Reencoder” means an electronic device that places*
7 *encoded information from the magnetic strip or stripe of a*
8 *payment card onto the magnetic strip or stripe of a different*
9 *payment card.*
10 **Sec. 5.** *“Scanning device” means a scanner, reader or any*
11 *other electronic device that is used to access, read, scan, obtain,*
12 *memorize or store, temporarily or permanently, information*
13 *encoded on the magnetic strip or stripe of a payment card.*
14 **Sec. 6.** 1. *A person shall not:*
15 (a) *Use a scanning device to access, read, obtain, memorize or*
16 *store, temporarily or permanently, information encoded on the*
17 *magnetic strip or stripe of a payment card:*
18 (1) *Without the permission of the authorized user of the*
19 *payment card; and*
20 (2) *With the intent to defraud the authorized user, the*
21 *issuer of the payment card or any other person.*
22 (b) *Use a reencoder to place information encoded on the*
23 *magnetic strip or stripe of a payment card onto the magnetic strip*
24 *or stripe of a different card:*
25 (1) *Without the permission of the authorized user of the*
26 *card from which the information is being reencoded; and*
27 (2) *With the intent to defraud the authorized user, the*
28 *issuer of the payment card or any other person.*
29 2. *A person who violates any provision of this section is guilty*
30 *of a category B felony and shall be punished by imprisonment in*
31 *the state prison for a minimum term of not less than 1 year and a*
32 *maximum term of not more than 20 years, and may be further*
33 *punished by a fine of not more than \$100,000.*
34 3. *In addition to any other penalty, the court shall order a*
35 *person who violates any provision of this section to pay restitution,*
36 *including, without limitation, any attorney’s fees and costs*
37 *incurred to:*
38 (a) *Repair the credit history or rating of each person who is a*
39 *victim of the violation; and*
40 (b) *Satisfy a debt, lien or other obligation incurred by each*
41 *person who is a victim of the violation.*
42 **Sec. 7.** 1. *A person shall not possess a scanning device or*
43 *reencoder with the intent to use the scanning device or reencoder*
44 *for an unlawful purpose.*



1 2. A person who violates any provision of this section is guilty
2 of a category C felony and shall be punished as provided in
3 NRS 193.130.

4 **Sec. 8.** The provisions of sections 2 to 9, inclusive, of this act
5 do not apply to any person who, without the intent to defraud or
6 commit an unlawful act, possesses or uses a scanning device or
7 reencoder:

- 8 1. In the ordinary course of his business or employment; or
- 9 2. Pursuant to a financial transaction entered into with an
10 authorized user of a payment card who has given permission for
11 the financial transaction.

12 **Sec. 9.** In any prosecution for a violation of any provision of
13 sections 2 to 9, inclusive, of this act, the State is not required to
14 establish and it is no defense that:

- 15 1. An accessory has not been convicted, apprehended or
16 identified; or
- 17 2. Some of the acts constituting elements of the crime did not
18 occur in this state or that where such acts did occur they were not
19 a crime or elements of a crime.

20 **Sec. 10.** As used in NRS 205.463 and 205.465 and sections
21 10 to 19, inclusive, of this act, unless the context otherwise
22 requires, the words and terms defined in sections 11 to 15,
23 inclusive, of this act have the meanings ascribed to them in those
24 sections.

25 **Sec. 11.** "Document" includes, without limitation, a
26 photocopy print, photostat and other replica of a document.

27 **Sec. 12.** "Personal identifying information" means any
28 information designed, commonly used or capable of being used,
29 alone or in conjunction with any other information, to identify a
30 living or deceased person, including, without limitation:

- 31 1. The name, driver's license number, social security number,
32 savings account number, credit card number, debit card number,
33 date of birth, place of employment and maiden name of the mother
34 of a person; and
- 35 2. The fingerprints, voiceprint, retina image and iris image of
36 a person.

37 **Sec. 13.** "Public body" means:

- 38 1. The State of Nevada, or any agency, instrumentality or
39 corporation thereof;
- 40 2. The University and Community College System of Nevada;
- 41 3. Any municipality, county, school district or other type of
42 district, or a city or town, incorporated or unincorporated; or
- 43 4. Any other body corporate and politic comprising a political
44 subdivision of this state or acting on behalf thereof.



1 **Sec. 14.** *“Public employee” means any person who is an*
2 *employee or independent contractor of a public body.*

3 **Sec. 15.** *“Public officer” means a person who:*
4 *1. Is elected or appointed to a position which is established by*
5 *the Constitution or a statute of this state, or by a charter or*
6 *ordinance of a political subdivision of this state; or*
7 *2. Otherwise serves as an officer for a public body.*

8 **Sec. 16.** *A person who violates any provision of NRS 205.463*
9 *and 205.465 and sections 10 to 19, inclusive, of this act may be*
10 *prosecuted for the violation whether or not the person whose*
11 *personal identifying information forms a part of the violation is*
12 *living or deceased during the course of the violation or the*
13 *prosecution.*

14 **Sec. 17. 1.** *A public officer or public employee who*
15 *knowingly:*

16 *(a) Obtains any personal identifying information of another*
17 *person from any document, file, database, source or process used*
18 *by a public body to collect, store, maintain, transfer, reproduce,*
19 *manage or administer personal identifying information; and*

20 *(b) Uses the personal identifying information to harm that*
21 *other person or for any unlawful purpose, including, without*
22 *limitation, to obtain credit, a good, a service or anything of value*
23 *in the name of that person,*
24 *is guilty of a category B felony and shall be punished by*
25 *imprisonment in the state prison for a minimum term of not less*
26 *than 5 years and a maximum term of not more than 20 years, and*
27 *may be further punished by a fine of not more than \$100,000.*

28 *2. In addition to any other penalty, the court shall order a*
29 *public officer or public employee convicted of violating subsection*
30 *1 to pay restitution, including, without limitation, any attorney’s*
31 *fees and costs incurred to:*

32 *(a) Repair the credit history or rating of the person whose*
33 *personal identifying information the public officer or public*
34 *employee obtained and used in violation of subsection 1; and*

35 *(b) Satisfy a debt, lien or other obligation incurred by the*
36 *person whose personal identifying information the public officer*
37 *or public employee obtained and used in violation of subsection 1.*

38 **3.** *A public officer or public employee who knowingly:*

39 *(a) Obtains any personal identifying information of another*
40 *person from any document, file, database, source or process used*
41 *by a public body to collect, store, maintain, transfer, reproduce,*
42 *manage or administer personal identifying information; and*

43 *(b) Possesses, sells or transfers the personal identifying*
44 *information for the purpose of establishing a false status,*



1 *occupation, membership, license or identity for himself or any*
2 *other person,*
3 *is guilty of a category C felony and shall be punished as provided*
4 *in NRS 193.130.*

5 *4. A public officer or public employee who knowingly aids*
6 *another public officer or public employee to commit a violation of*
7 *any provision of this section is guilty of a category C felony and*
8 *shall be punished as provided in NRS 193.130.*

9 *5. The provisions of this section do not prohibit the*
10 *possession or use of any personal identifying information by*
11 *officers of local police, sheriff and metropolitan police*
12 *departments and by agents of the Investigation Division of the*
13 *Department of Public Safety while engaged in undercover*
14 *investigations related to the lawful discharge of their duties.*

15 **Sec. 18.** *The provisions of NRS 205.463 and 205.465 and*
16 *sections 10 to 19, inclusive, of this act do not apply to any person*
17 *who, without the intent to defraud or commit an unlawful act,*
18 *possesses or uses any personal identifying information of another*
19 *person:*

- 20 *1. In the ordinary course of his business or employment; or*
- 21 *2. Pursuant to a financial transaction entered into with an*
22 *authorized user of a payment card who has given permission for*
23 *the financial transaction.*

24 **Sec. 19.** *In any prosecution for a violation of any provision*
25 *of NRS 205.463 and 205.465 and sections 10 to 19, inclusive, of*
26 *this act, the State is not required to establish and it is no defense*
27 *that:*

- 28 *1. An accessory has not been convicted, apprehended or*
29 *identified; or*
- 30 *2. Some of the acts constituting elements of the crime did not*
31 *occur in this state or that where such acts did occur they were not*
32 *a crime or elements of a crime.*

33 **Sec. 20.** NRS 205.463 is hereby amended to read as follows:

34 205.463 1. Except as otherwise provided in subsection 2, a
35 person who knowingly:

- 36 (a) Obtains any personal identifying information of another
37 person; and
- 38 (b) Uses the personal identifying information to harm that other
39 person or for any unlawful purpose, including, without limitation, to
40 obtain credit, a good, a service or anything of value in the name of
41 that person,

42 is guilty of a category B felony and shall be punished by
43 imprisonment in the state prison for a minimum term of not less
44 than 1 year and a maximum term of not more than 20 years, and
45 may be further punished by a fine of not more than \$100,000.



1 2. A person who knowingly:
2 (a) Obtains any personal identifying information of another
3 person; and

4 (b) Uses the personal identifying information to avoid or delay
5 being prosecuted for an unlawful act,
6 is guilty of a category E felony and shall be punished as provided in
7 NRS 193.130.

8 3. In addition to any other penalty, the court shall order a
9 person convicted of violating subsection 1 to pay restitution,
10 including, without limitation, any attorney's fees and costs incurred
11 to:

12 (a) Repair the credit history or rating of the person whose
13 personal identifying information he obtained and used in violation
14 of subsection 1; and

15 (b) Satisfy a debt, lien or other obligation incurred by the person
16 whose personal identifying information he obtained and used in
17 violation of subsection 1.

18 ~~[4. As used in this section, "personal identifying information"~~
19 ~~has the meaning ascribed to it in NRS 205.465.]~~

20 **Sec. 21.** NRS 205.465 is hereby amended to read as follows:

21 205.465 1. It is unlawful for a person to possess, sell or
22 transfer any document or personal identifying information for the
23 purpose of establishing a false status, occupation, membership,
24 license or identity for himself or any other person.

25 2. A person who:

26 (a) Sells or transfers any such document or personal identifying
27 information in violation of subsection 1; or

28 (b) Possesses any such document or personal identifying
29 information in violation of subsection 1 to commit any of the crimes
30 set forth in NRS 205.085 to 205.217, inclusive, 205.473 to 205.513,
31 inclusive, or 205.610 to 205.810, inclusive,
32 is guilty of a category C felony and shall be punished as provided in
33 NRS 193.130.

34 3. Except as otherwise provided in subsection 2, a person who
35 possesses any such document or personal identifying information in
36 violation of subsection 1 is guilty of a misdemeanor.

37 4. Subsection 1 does not:

38 (a) Preclude the adoption by a city or county of an ordinance
39 prohibiting the possession of any such document or personal
40 identifying information; or

41 (b) Prohibit the possession or use of any such document or
42 personal identifying information by officers of local police, sheriff
43 and metropolitan police departments and by agents of the
44 Investigation Division of the Department of Public Safety while



1 engaged in undercover investigations related to the lawful discharge
2 of their duties.

3 ~~[5.—As used in this section:~~

4 ~~—(a) “Document” includes, without limitation, a photocopy print,~~
5 ~~photostat and other replica of a document.~~

6 ~~—(b) “Personal identifying information” means any information~~
7 ~~designed, commonly used or capable of being used, alone or in~~
8 ~~conjunction with any other information, to identify a person,~~
9 ~~including, without limitation:~~

10 ~~—(1) The name, driver’s license number, social security~~
11 ~~number, savings account number, credit card number, debit card~~
12 ~~number, date of birth, place of employment and maiden name of the~~
13 ~~mother of a person; and~~

14 ~~—(2) The fingerprints, voiceprint, retina image and iris image~~
15 ~~of a person.]~~

16 **Sec. 22.** Chapter 597 of NRS is hereby amended by adding
17 thereto a new section to read as follows:

18 *1. Except as otherwise provided in this section, if a person*
19 *accepts credit cards or debit cards for the transaction of business,*
20 *the person shall not do any of the following:*

21 *(a) Print the expiration date of the credit card or debit card on*
22 *any receipt provided to the cardholder.*

23 *(b) Print more than the last five digits of the account number*
24 *of the credit card or debit card on any receipt provided to the*
25 *cardholder.*

26 *2. This section:*

27 *(a) Applies only to receipts that are electronically printed.*

28 *(b) Does not apply to transactions in which the only means of*
29 *recording the credit card or debit card number is:*

30 *(1) By handwriting the credit card or debit card number; or*

31 *(2) By imprinting or copying the credit card or debit card.*

32 *3. If any cash register or other machine or device that*
33 *electronically prints receipts for credit card or debit card*
34 *transactions was first put into use before October 1, 2003, the*
35 *provisions of this section do not apply to any transaction that*
36 *occurs with regard to that cash register or other machine or device*
37 *before January 1, 2008.*

38 *4. As used in this section:*

39 *(a) “Credit card” means any instrument or device, whether*
40 *known as a credit card, credit plate, or by any other name, issued*
41 *with or without fee by an issuer for the use of the cardholder in*
42 *obtaining money, property, goods, services or anything else of*
43 *value on credit.*

44 *(b) “Debit card” means any instrument or device, whether*
45 *known as a debit card or by any other name, that is issued with or*



- 1 *without a fee by an issuer for the use of the cardholder in*
- 2 *obtaining money, property, goods, services or anything else of*
- 3 *value, subject to the issuer removing money from the checking*
- 4 *account or savings account of the cardholder.*

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