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FIRST REPRINT

A.B. 195

ASSEMBLY BILL NO. 195—ASSEMBLYMEN FLORES, NEAL;
DALY, HAFEN, KRAMER, KRASNER AND TORRES

FEBRUARY 18, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing crimes against property. (BDR 15-130)

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 crimes; making it unlawful to install or affix a scanning device within or upon a machine used for financial transactions under certain circumstances; making it unlawful to access a scanning device under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law makes it a crime for a person to use a scanning device to access,
2 read, obtain, memorize or store information encoded on the magnetic strip of a
3 payment card: (1) without the permission of the authorized user of the card; and (2)
4 with the intent to defraud the user or issuer of the card or any other person. (NRS
5 205.605) Existing law also makes it a crime for a person to possess a scanning
6 device with the intent to use it for an unlawful purpose. (NRS 205.606) **Section 1**
7 of this bill makes it a crime for a person to install or affix a scanning device within
8 or upon a machine used for financial transactions with the intent to use the scanning
9 device for an unlawful purpose. **Section 1** also makes it a crime for a person to
10 access, by electronic or any other means, a scanning device with the intent to use
11 the scanning device for an unlawful purpose. **Section 1** provides that a person who
12 installs, affixes or accesses a scanning device in such an unlawful manner is guilty
13 of a category C felony.

14 Existing law exempts certain persons from the provisions governing the
15 unlawful use or possession of scanning devices. Existing law provides that a person
16 is exempt from these provisions if he or she uses or possesses a scanning device
17 without the intent to defraud or commit an unlawful act: (1) in the ordinary course
18 of his or her business; or (2) with the consent of the authorized user of a payment
19 card to complete a financial transaction using that card. (NRS 205.607) **Section 2**
20 of this bill expands this exemption to include a person who installs, affixes or
21 accesses a scanning device without the intent to commit an unlawful act: (1) in the



22 ordinary course of his or her business; or (2) to complete such a financial
23 transaction.

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

1 **Section 1.** NRS 205.606 is hereby amended to read as follows:

2 205.606 1. A person shall not ~~possess~~ :

3 (a) *Install or affix, temporarily or permanently, a scanning*
4 *device within or upon a machine with the intent to use the*
5 *scanning device for an unlawful purpose;*

6 (b) *Access, by electronic or any other means, a scanning*
7 *device with the intent to use the scanning device for an unlawful*
8 *purpose; or*

9 (c) *Possess* a scanning device or reencoder with the intent to use
10 the scanning device or reencoder for an unlawful purpose.

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

14 3. *As used in this section, "machine" means a machine used*
15 *to conduct financial transactions, including, without limitation, an*
16 *automated teller or fuel pump. As used in this subsection,*
17 *"automated teller" means an electronic device that dispenses cash*
18 *in connection with an account maintained in a financial*
19 *institution or with another business.*

20 **Sec. 2.** NRS 205.607 is hereby amended to read as follows:

21 205.607 The provisions of NRS 205.601 to 205.608, inclusive,
22 do not apply to any person who, without the intent to defraud or
23 commit an unlawful act, *installs, affixes, accesses,* possesses or
24 uses a scanning device or reencoder:

25 1. In the ordinary course of his or her business or employment;
26 or

27 2. Pursuant to a financial transaction entered into with an
28 authorized user of a payment card who has given permission for the
29 financial transaction.

