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FIRST REPRINT

S.B. 155

SENATE BILL NO. 155—SENATORS CANNIZZARO, SPEARMAN,
CANCELA, WOODHOUSE, DENIS; BROOKS, DONDERO LOOP,
D. HARRIS, PARKS, RATTI AND SCHEIBLE

FEBRUARY 14, 2019

Referred to Committee on Judiciary

SUMMARY—Establishes provisions regarding the possession and use of personal identifying information and fictitious personal identifying information. (BDR 15-917)

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; establishing provisions regarding the possession and use of fictitious personal identifying information; establishing provisions regarding the possession and use of personal identifying information or fictitious personal identifying information by certain persons for certain specified purposes; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law establishes various unlawful acts relating to the possession and use
2 of the personal identifying information of a person. (NRS 205.461-205.4657) This
3 bill establishes various unlawful acts relating to the possession and use of the
4 fictitious personal identifying information of a fictitious person. **Section 1** of this
5 bill provides that a person who knowingly possesses any fictitious personal
6 identifying information of a fictitious person and, with the intent to commit an
7 unlawful act, uses such information for an unlawful purpose is guilty of a category
8 B felony and shall be punished by imprisonment in the state prison for a minimum
9 term of not less than 1 year and a maximum term of not more than 20 years, and
10 may be further punished by a fine of not more than \$100,000. **Section 1** also
11 provides that a person who knowingly possesses any fictitious personal identifying
12 information of a fictitious person and uses such information to avoid or delay being
13 prosecuted for an unlawful act is guilty of a category C felony. **Section 1**
14 additionally provides that a person who violates either such provision by possessing
15 and using the fictitious personal identifying information of five or more fictitious
16 persons is guilty of a category B felony and shall be punished by imprisonment in
17 the state prison for a minimum term of not less than 3 years and a maximum term



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18 of not more than 20 years, and may be further punished by a fine of not more than
19 \$100,000.

20 **Section 1** further provides that if a person possesses and uses any personal
21 identifying information of a person or fictitious personal identifying information of
22 a fictitious person for the sole purpose of falsely establishing that the person meets
23 the respective age requirement established by law to engage in gambling or
24 purchase alcohol or cigarettes or related products, the person, depending on his or
25 her actual age, is guilty of a misdemeanor or commits a delinquent act.

26 **Section 2** of this bill prohibits a person from possessing, selling or transferring
27 any fictitious personal identifying information for certain purposes. Any person
28 who violates such a provision by: (1) possessing fictitious personal identifying
29 information for the sole purpose of establishing false proof of age is guilty of a
30 misdemeanor; (2) possessing fictitious personal identifying information is guilty of
31 a category E felony; (3) selling or transferring fictitious personal identifying
32 information or possessing such information for the purpose of committing certain
33 crimes is guilty of a category C felony; or (4) selling or transferring the fictitious
34 personal identifying information of five or more fictitious persons is guilty of a
35 category B felony.

36 **Section 5** of this bill provides that the unlawful acts relating to the possession
37 and use of fictitious personal identifying information do not apply to any person
38 who, without the intent to defraud or commit an unlawful act, possesses or uses any
39 fictitious personal identifying information of a fictitious person: (1) in the ordinary
40 course of his or her business or employment; or (2) for any other purpose
41 authorized by law.

42 **Sections 3, 4, 6 and 7** of this bill make conforming changes.

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

1 **Section 1.** NRS 205.463 is hereby amended to read as follows:

2 205.463 1. Except as otherwise provided in subsections 2 ,
3 ~~and~~ 3 ~~;~~ and 4, a person who : ~~knowingly;~~

4 (a) **Knowingly:**

5 (I) Obtains any personal identifying information of another
6 person; and

7 ~~(b)~~ (2) With the intent to commit an unlawful act, uses the
8 personal identifying information:

9 ~~(1)~~ (I) To harm that other person;

10 ~~(2)~~ (II) To represent or impersonate that other person to
11 obtain access to any personal identifying information of that other
12 person without the prior express consent of that other person;

13 ~~(3)~~ (III) To obtain access to any nonpublic record of the
14 actions taken, communications made or received by, or other
15 activities or transactions of that other person without the prior
16 express consent of that other person; or

17 ~~(4)~~ (IV) For any other unlawful purpose, including,
18 without limitation, to obtain credit, a good, a service or anything of
19 value in the name of that other person ~~;~~ ; or

20 (b) **Knowingly:**



1 (1) Possesses any fictitious personal identifying
2 information of a fictitious person; and

3 (2) With the intent to commit an unlawful act, uses the
4 fictitious personal identifying information:

5 (I) To represent or impersonate the fictitious person for
6 any unlawful purpose; or

7 (II) For any other unlawful purpose,

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

12 2. If the personal identifying information of another person is
13 obtained and used or the fictitious personal identifying
14 information of a fictitious person is possessed and used by a
15 person in violation of subsection 1 for the sole purpose of falsely
16 establishing that the person:

17 (a) Is 21 years of age or older for the purpose of engaging in
18 gambling or purchasing any alcoholic beverage, the person:

19 (1) Is guilty of a misdemeanor if the person is 18 years of
20 age or older but less than 21 years of age; and

21 (2) Commits a delinquent act if the person is less than 18
22 years of age, and the court may order the detention of the person
23 in the same manner as if the person had committed an act that
24 would have been a misdemeanor if committed by an adult; or

25 (b) Is 18 years of age or older for the purpose of purchasing
26 any cigarettes, cigarette paper, tobacco of any description,
27 products made or derived from tobacco, vapor products or
28 alternative nicotine products, the person commits a delinquent act,
29 and the court may order the detention of the person in the same
30 manner as if the person had committed an act that would have
31 been a misdemeanor if committed by an adult.

32 3. Except as otherwise provided in subsection ~~3-3~~ 4, a person
33 who knowingly:

34 (a) Obtains any personal identifying information of another
35 person ~~3-3~~ or possesses any fictitious personal identifying
36 information of a fictitious person; and

37 (b) Uses the personal identifying information or fictitious
38 personal identifying information to avoid or delay being prosecuted
39 for an unlawful act,

40 ➔ is guilty of a category C felony and shall be punished as provided
41 in NRS 193.130.

42 ~~3-3~~ 4. A person who violates:

43 (a) ~~Subsection~~ Paragraph (a) of subsection 1 or subsection
44 ~~2-2~~ 3 by obtaining and using the personal identifying information of
45 an older person or a vulnerable person;



1 (b) ~~[Subsection]~~ *Paragraph (a) of subsection 1 or subsection*
2 ~~[2] 3~~ by obtaining and using the personal identifying information of
3 five or more persons;

4 (c) ~~[Subsection]~~ *Paragraph (a) of subsection 1 or subsection*
5 ~~[2] 3~~ by causing another person to suffer a financial loss or injury of
6 \$3,000 or more as a result of the violation; ~~[or]~~

7 (d) *Paragraph (b) of subsection 1 or subsection 3 by possessing*
8 *and using the fictitious personal identifying information of five or*
9 *more fictitious persons; or*

10 (e) Subsection ~~[2] 3~~ to avoid or delay being prosecuted for an
11 unlawful act that is punishable as a category A felony or category B
12 felony,

13 ↪ is guilty of a category B felony and shall be punished by
14 imprisonment in the state prison for a minimum term of not less
15 than 3 years and a maximum term of not more than 20 years, and
16 may be further punished by a fine of not more than \$100,000.

17 ~~[4.] 5.~~ In addition to any other penalty, the court shall order a
18 person convicted of violating *paragraph (a) of subsection 1* to pay
19 restitution, including, without limitation, any attorney's fees and
20 costs incurred to:

21 (a) Repair the credit history or rating of the person whose
22 personal identifying information the convicted person obtained and
23 used in violation of *paragraph (a) of subsection 1*; and

24 (b) Satisfy a debt, lien or other obligation incurred by the person
25 whose personal identifying information the convicted person
26 obtained and used in violation of *paragraph (a) of subsection 1*.

27 ~~[5.] 6.~~ Proof of possession of the personal identifying
28 information of five or more persons *or the fictitious personal*
29 *identifying information of five or more fictitious persons, as*
30 *applicable*, in a manner not set forth in NRS 205.4655 permits a
31 rebuttable inference that the possessor intended to use such
32 information in violation of this section.

33 **Sec. 2.** NRS 205.465 is hereby amended to read as follows:

34 205.465 1. It is unlawful for a person to possess, sell or
35 transfer any document , ~~[or]~~ personal identifying information *or*
36 *fictitious personal identifying information* for the purpose of
37 establishing a false status, occupation, membership, license or
38 identity for himself or herself or any other person.

39 2. Except as otherwise provided in subsection 3, a person who:

40 (a) Sells or transfers any such document , ~~[or]~~ personal
41 identifying information *or fictitious personal identifying*
42 *information* in violation of subsection 1; or

43 (b) Possesses any such document , ~~[or]~~ personal identifying
44 information *or fictitious personal identifying information* in
45 violation of subsection 1 to commit any of the crimes set forth in



1 NRS 205.085 to 205.217, inclusive, 205.473 to 205.513, inclusive,
2 or 205.610 to 205.810, inclusive,
3 ➔ is guilty of a category C felony and shall be punished as provided
4 in NRS 193.130.

5 3. A person who violates subsection 2 by:

6 (a) Selling or transferring the personal identifying information
7 of an older person or a vulnerable person;

8 (b) Selling or transferring ~~the~~ :

9 (1) *The* personal identifying information of five or more
10 persons; or

11 (2) *The fictitious personal identifying information of five or*
12 *more fictitious persons; or*

13 (c) Causing another person to suffer a financial loss or injury of
14 \$3,000 or more as a result of the violation,

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

19 4. Except as otherwise provided in this subsection and
20 subsections 2 and 3, a person who possesses any such document ,
21 ~~or~~ personal identifying information *or fictitious personal*
22 *identifying information* in violation of subsection 1 is guilty of a
23 category E felony and shall be punished as provided in NRS
24 193.130. If a person possesses any such document , ~~or~~ personal
25 identifying information *or fictitious personal identifying*
26 *information* in violation of subsection 1 for the sole purpose of
27 establishing false proof of age, including, without limitation,
28 establishing false proof of age to game, purchase alcoholic
29 beverages or purchase cigarettes or other tobacco products, the
30 person is guilty of a misdemeanor.

31 5. Subsection 1 does not:

32 (a) Preclude the adoption by a city or county of an ordinance
33 prohibiting the possession of any such document , ~~or~~ personal
34 identifying information ~~or~~ *or fictitious personal identifying*
35 *information*; or

36 (b) Prohibit the possession or use of any such document , ~~or~~
37 personal identifying information *or fictitious personal identifying*
38 *information* by officers of local police, sheriff and metropolitan
39 police departments and by agents of the Investigation Division of
40 the Department of Public Safety while engaged in undercover
41 investigations related to the lawful discharge of their duties.

42 6. Proof of possession of the personal identifying information
43 of five or more persons *or the fictitious personal identifying*
44 *information of five or more fictitious persons, as applicable*, in a
45 manner not set forth in NRS 205.4655 permits a rebuttable inference



1 that the possessor intended to use such information in violation of
2 this section.

3 **Sec. 3.** NRS 205.46517 is hereby amended to read as follows:

4 205.46517 In any case in which a person is convicted of
5 violating any provision of NRS 205.461 to 205.4657, inclusive,
6 *concerning the personal identifying information of another*
7 *person*, the court records must clearly reflect that the violation was
8 committed by the person convicted of the violation and not by the
9 person whose personal identifying information forms a part of the
10 violation.

11 **Sec. 4.** NRS 205.4653 is hereby amended to read as follows:

12 205.4653 A person who violates any provision of NRS
13 205.461 to 205.4657, inclusive, *concerning the personal*
14 *identifying information of another person* may be prosecuted for
15 the violation whether or not the person whose personal identifying
16 information forms a part of the violation:

17 1. Is living or deceased during the course of the violation or the
18 prosecution.

19 2. Is an artificial person.

20 3. Suffers financial loss or injury as the result of the violation.

21 **Sec. 5.** NRS 205.4655 is hereby amended to read as follows:

22 205.4655 The provisions of NRS 205.461 to 205.4657,
23 inclusive, do not apply to any person who, without the intent to
24 defraud or commit an unlawful act, possesses or uses ~~any~~:

25 1. *Any* personal identifying information of another person:

26 ~~1-1~~ (a) In the ordinary course of his or her business or
27 employment; or

28 ~~1-2~~ (b) Pursuant to a financial transaction entered into with an
29 authorized user of a payment card.

30 2. *Any fictitious personal identifying information of a*
31 *fictitious person*:

32 (a) *In the ordinary course of his or her business or*
33 *employment*; or

34 (b) *For any other purpose authorized by law.*

35 **Sec. 6.** NRS 205.4657 is hereby amended to read as follows:

36 205.4657 1. In any prosecution for a violation of any
37 provision of NRS 205.461 to 205.4657, inclusive, the State is not
38 required to establish and it is no defense that:

39 (a) An accessory has not been convicted, apprehended or
40 identified; or

41 (b) Some of the acts constituting elements of the crime did not
42 occur in this State or that where such acts did occur they were not a
43 crime or elements of a crime.

44 2. In any prosecution for a violation of any provision of NRS
45 205.461 to 205.4657, inclusive, the violation shall be deemed to



1 have been committed and may be prosecuted in any jurisdiction in
2 this State in which:

3 (a) ~~[(The person whose]~~ *If the* personal identifying information
4 *of another person* forms a part of the violation , *the person*
5 currently resides or is found; or

6 (b) Any act constituting an element of the crime occurred,
7 regardless of whether the defendant was ever physically present in
8 that jurisdiction.

9 **Sec. 7.** NRS 207.360 is hereby amended to read as follows:

10 207.360 “Crime related to racketeering” means the commission
11 of, attempt to commit or conspiracy to commit any of the following
12 crimes:

- 13 1. Murder;
- 14 2. Manslaughter, except vehicular manslaughter as described in
15 NRS 484B.657;
- 16 3. Mayhem;
- 17 4. Battery which is punished as a felony;
- 18 5. Kidnapping;
- 19 6. Sexual assault;
- 20 7. Arson;
- 21 8. Robbery;
- 22 9. Taking property from another under circumstances not
23 amounting to robbery;
- 24 10. Extortion;
- 25 11. Statutory sexual seduction;
- 26 12. Extortionate collection of debt in violation of
27 NRS 205.322;
- 28 13. Forgery, including, without limitation, forgery of a credit
29 card or debit card in violation of NRS 205.740;
- 30 14. ~~[(Obtaining and using personal identifying information of~~
31 ~~another person in]~~ *Any* violation of NRS 205.463 ~~;~~ *which is*
32 *punished as a felony;*
- 33 15. Establishing or possessing a financial forgery laboratory in
34 violation of NRS 205.46513;
- 35 16. Any violation of NRS 199.280 which is punished as a
36 felony;
- 37 17. Burglary;
- 38 18. Grand larceny;
- 39 19. Bribery or asking for or receiving a bribe in violation of
40 chapter 197 or 199 of NRS which is punished as a felony;
- 41 20. Battery with intent to commit a crime in violation of
42 NRS 200.400;
- 43 21. Assault with a deadly weapon;



- 1 22. Any violation of NRS 453.232, 453.316 to 453.3395,
2 inclusive, except a violation of NRS 453.3393, or NRS 453.375 to
3 453.401, inclusive;
- 4 23. Receiving or transferring a stolen vehicle;
- 5 24. Any violation of NRS 202.260, 202.275 or 202.350 which
6 is punished as a felony;
- 7 25. Any violation of subsection 2 or 3 of NRS 463.360 or
8 chapter 465 of NRS;
- 9 26. Receiving, possessing or withholding stolen goods valued
10 at \$650 or more;
- 11 27. Embezzlement of money or property valued at \$650 or
12 more;
- 13 28. Obtaining possession of money or property valued at \$650
14 or more, or obtaining a signature by means of false pretenses;
- 15 29. Perjury or subornation of perjury;
- 16 30. Offering false evidence;
- 17 31. Any violation of NRS 201.300, 201.320 or 201.360;
- 18 32. Any violation of NRS 90.570, 91.230 or 686A.290, or
19 insurance fraud pursuant to NRS 686A.291;
- 20 33. Any violation of NRS 205.506, 205.920 or 205.930;
- 21 34. Any violation of NRS 202.445 or 202.446;
- 22 35. Any violation of NRS 205.377;
- 23 36. Involuntary servitude in violation of any provision of NRS
24 200.463 or 200.464 or a violation of any provision of NRS 200.465;
25 or
- 26 37. Trafficking in persons in violation of any provision of NRS
27 200.467 or 200.468.

