

Senate Bill No. 485—Committee on Judiciary

CHAPTER.....

AN ACT relating to technology; creating the advisory board for the Nevada task force for technological crime; prohibiting various acts related to computers, networks and electronic mail; requiring providers of Internet service to keep certain information confidential under certain circumstances; prohibiting prisoners from having access to telecommunications devices except under certain circumstances; prohibiting certain deceptive trade practices by providers of telecommunications service; making various other changes to provisions governing the use of technology; providing penalties; authorizing certain expenditures; and providing other matters properly relating thereto.

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

Section 1. Title 15 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 11, inclusive, of this act.

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

Sec. 3. *“Board” means the advisory board for the Nevada task force for technological crime created pursuant to section 5 of this act.*

Sec. 4. *“Technological crime” means any crime that involves, directly or indirectly, any component, device, equipment, system or network that, alone or in conjunction with any other component, device, equipment, system or network, is designed or has the capability to:*

- 1. Be programmed; or*
- 2. Generate, process, store, retrieve, convey, emit, transmit, receive, relay, record or reproduce any data, information, image, program, signal or sound in a technological format, including, without limitation, a format that involves analog, digital, electronic, electromagnetic, magnetic or optical technology.*

Sec. 5. 1. *The advisory board for the Nevada task force for technological crime is hereby created.*

2. The board consists of nine members as follows:

- (a) The attorney general.*
- (b) The director of the department of information technology.*
- (c) One member of the senate appointed by the majority leader of the senate.*
- (d) One member of the assembly appointed by the speaker of the assembly.*
- (e) Five other persons appointed by the governor as follows:*
 - (1) Two persons who represent major sectors of the economy of this state that are impacted significantly by technological crimes.*

(2) One person who is an employee of a law enforcement agency of this state.

(3) One person who is an employee of a public educational institution within this state.

(4) One person who is a resident of this state and who is employed by the Federal Government.

3. Each member of the board who is appointed to the board serves for a term of 4 years. A vacancy on the board in an appointed position must be filled in the same manner as the original appointment. A member may be reappointed to the board.

4. The members of the board shall elect a chairman and vice chairman by majority vote. After the initial election, the chairman and vice chairman shall hold office for a term of 1 year beginning on July 1 of each year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the board shall elect a chairman or vice chairman, as appropriate, from among its members for the remainder of the unexpired term.

5. The members of the board:

(a) Serve without compensation; and

(b) May, upon written request, receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the business of the board.

6. A member of the board who is an officer or employee of this state or a political subdivision of this state must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the board and perform any work necessary to carry out the duties of the board in the most timely manner practicable. A state agency or political subdivision of this state shall not require an officer or employee who is a member of the board to make up the time he is absent from work to carry out his duties as a member of the board or use annual vacation or compensatory time for the absence.

Sec. 6. 1. The board shall meet at least once every quarter and at the times and places specified by a call of the chairman or a majority of the members of the board.

2. Except as otherwise provided in subsection 3, a member of the board may designate in writing a person to represent him at a meeting of the board. A representative who has been so designated:

(a) Shall be deemed to be a member of the board for the purpose of determining a quorum at the meeting; and

(b) May vote on any matter that is voted on by the regular members of the board at the meeting.

3. The attorney general may designate a representative to serve in his place on the board or attend a meeting of the board in his place. The director of the department of information technology may designate a representative to serve in his place on the board or attend a meeting of the board in his place.

4. Five members of the board constitute a quorum. A quorum may exercise all the power and authority conferred on the board.

5. Notwithstanding any other provision of law, a member of the board:

(a) Is not disqualified from public employment or holding a public office because of his membership on the board; and

(b) Does not forfeit his public office or public employment because of his membership on the board.

Sec. 7. The board shall:

1. Facilitate cooperation between state, local and federal officers in detecting, investigating and prosecuting technological crimes.

2. Establish two multi-agency task forces on technological crime, one based in Reno for northern Nevada and one based in Las Vegas for southern Nevada, consisting of:

(a) Investigators and prosecutors who are specifically trained to investigate and prosecute technological crimes; and

(b) Persons from the private sector who are knowledgeable in the area of information technology or the prevention or detection of technological crimes.

3. Coordinate and provide training and education for members of the general public, private industry and governmental agencies, including, without limitation, law enforcement agencies, concerning the statistics and methods of technological crimes and how to prevent and detect technological crimes.

4. Administer, with the assistance of members of private industry, a program to secure governmental information systems against illegal intrusions and other criminal activities.

5. Evaluate and recommend changes to the existing civil and criminal laws relating to technological crimes in response to current and projected changes in technology and law enforcement techniques.

6. Authorize the payment of expenses incurred by the board in carrying out its duties pursuant to this chapter.

Sec. 8. 1. Upon unanimous approval of the members of the board, the board shall appoint an executive director of technological crime within the office of the attorney general.

2. The executive director is in the unclassified service of the state and serves at the pleasure of the board.

3. The board shall establish the qualifications, powers and duties of the executive director.

Sec. 9. Upon unanimous approval of the members of the board, the board shall appoint a full-time secretary who is in the unclassified service of the state and serves at the pleasure of the board.

Sec. 10. 1. The board may apply for any available grants and accept gifts, grants, appropriations or donations to assist the board in carrying out its duties pursuant to the provisions of this chapter.

2. Any money received by the board must be deposited in the account for the advisory board for the Nevada task force for technological crime created pursuant to section 11 of this act.

Sec. 11. 1. The account for the advisory board for the Nevada task force for technological crime is hereby created in the state general fund. The board shall administer the account.

2. The money in the account must only be used to carry out the provisions of this chapter and pay the expenses incurred by the board in the discharge of its duties, including, without limitation, the payment of any expenses related to the creation and subsequent activities of the task forces on technological crime.

3. Claims against the account must be paid as other claims against the state are paid.

4. The money in the account must remain in the account and must not revert to the state general fund at the end of any fiscal year.

Sec. 12. Chapter 205 of NRS is hereby amended by adding thereto the provisions set forth as sections 13 to 22, inclusive, of this act.

Sec. 13. “Intangible property” means property that lacks a physical existence yet possesses value, including, without limitation, customer lists, trade secrets, copyrighted material or other confidential information.

Sec. 14. 1. “Computer contaminant” means any data, information, image, program, signal or sound that is designed or has the capability to:

(a) Contaminate, corrupt, consume, damage, destroy, disrupt, modify, record or transmit; or

(b) Cause to be contaminated, corrupted, consumed, damaged, destroyed, disrupted, modified, recorded or transmitted, any other data, information, image, program, signal or sound contained in a computer, system or network without the knowledge or consent of the person who owns the other data, information, image, program, signal or sound or the computer, system or network.

2. The term includes, without limitation:

(a) A virus, worm or trojan horse; or

(b) Any other similar data, information, image, program, signal or sound that is designed or has the capability to prevent, impede, delay or disrupt the normal operation or use of any component, device, equipment, system or network.

Sec. 15. “Encryption” means the use of any protective or disruptive measure, including, without limitation, cryptography, enciphering, encoding or a computer contaminant, to:

1. Prevent, impede, delay or disrupt access to any data, information, image, program, signal or sound;

2. Cause or make any data, information, image, program, signal or sound unintelligible or unusable; or

3. Prevent, impede, delay or disrupt the normal operation or use of any component, device, equipment, system or network.

Sec. 16. 1. *“Information service” means a service that is designed or has the capability to generate, process, store, retrieve, convey, emit, transmit, receive, relay, record or reproduce any data, information, image, program, signal or sound by means of any component, device, equipment, system or network, including, without limitation, by means of:*

(a) A computer, computer system, computer network, modem or scanner.

(b) A telephone, cellular phone, satellite phone, pager, personal communications device or facsimile machine.

(c) Any type of transmitter or receiver.

(d) Any other component, device, equipment, system or network that uses analog, digital, electronic, electromagnetic, magnetic or optical technology.

2. The term does not include a community antenna television company, as defined in NRS 711.030.

Sec. 17. *“Provider” means any person who provides an information service.*

Sec. 18. *“Provider of Internet service” means any provider who provides subscribers with access to the Internet or an electronic mail address, or both.*

Sec. 19. 1. *A person shall not willfully use or attempt to use encryption, directly or indirectly, to:*

(a) Commit, facilitate, further or promote any criminal offense;

(b) Aid, assist or encourage another person to commit any criminal offense;

(c) Conceal the commission of any criminal offense;

(d) Conceal or protect the identity of a person who has committed any criminal offense; or

(e) Delay, hinder or obstruct the administration of the law.

2. A person who violates any provision of this section:

(a) Is guilty of a gross misdemeanor; and

(b) Commits a criminal offense that is separate and distinct from any other criminal offense and may be prosecuted and convicted pursuant to this section whether or not the person or any other person is or has been prosecuted or convicted for any other criminal offense arising out of the same facts as the violation of this section.

Sec. 20. 1. *A person shall not willfully falsify or forge any data, information, image, program, signal or sound that:*

(a) Is contained in the header, subject line or routing instructions of an item of electronic mail; or

(b) Describes or identifies the sender, source, point of origin or path of transmission of an item of electronic mail, with the intent to transmit or cause to be transmitted the item of electronic mail to the electronic mail address of one or more recipients without their knowledge of or consent to the transmission.

2. Except as otherwise provided in subsection 5, a person shall not willfully transmit or cause to be transmitted an item of electronic mail to the electronic mail address of one or more recipients without their knowledge of or consent to the transmission if person knows or has reason to know that the item of electronic mail contains or has been generated or formatted with:

(a) An Internet domain name that is being used without the consent of the person who holds the Internet domain name; or

(b) Any data, information, image, program, signal or sound that has been used intentionally in the header, subject line or routing instructions of the item of electronic mail to falsify or misrepresent:

(1) The identity of the sender; or

(2) The source, point of origin or path of transmission of the item of electronic mail.

3. A person shall not knowingly sell, give or otherwise distribute or possess with the intent to sell, give or otherwise distribute any data, information, image, program, signal or sound which is designed or intended to be used to falsify or forge any data, information, image, program, signal or sound that:

(a) Is contained in the header, subject line or routing instructions of an item of electronic mail; or

(b) Describes or identifies the sender, source, point of origin or path of transmission of an item of electronic mail.

4. A person who violates any provision of this section is guilty of a misdemeanor.

5. The provisions of subsection 2 do not apply to a provider of Internet service who, in the course of providing service, transmits or causes to be transmitted an item of electronic mail on behalf of another person, unless the provider of Internet service is the person who first generates the item of electronic mail.

Sec. 21. 1. A provider of Internet service shall keep confidential:

(a) All information concerning a subscriber, other than the electronic mail address of the subscriber, unless the subscriber gives permission, in writing or by electronic mail, to the provider of Internet service to disclose the information.

(b) The electronic mail address of a subscriber, if the subscriber requests, in writing or by electronic mail, to have the electronic mail address of the subscriber kept confidential. Upon receiving such a request from a subscriber, a provider of Internet service shall keep confidential the electronic mail address of the subscriber, unless the subscriber gives permission, in writing or by electronic mail, to the provider of Internet service to disclose the electronic mail address of the subscriber.

2. A provider of Internet service shall provide notice of the requirements of subsection 1 to each of its subscribers. The notice must include, without limitation, a conspicuous statement that a subscriber

may request, in writing or by electronic mail, to have the electronic mail address of the subscriber kept confidential.

3. A provider of Internet service who violates any provision of this section is guilty of a misdemeanor and shall be punished by a fine of not less than \$50 or more than \$500 for each violation.

4. As used in this section, "provider of Internet service" means a provider of Internet service who charges a subscriber for access to the Internet or the electronic mail address of the subscriber.

Sec. 22. *1. Any victim of a crime described in NRS 205.473 to 205.506, inclusive, and sections 14 to 22, inclusive, of this act, may bring a civil action to recover:*

(a) Damages for any loss or injury suffered as a result of the crime;

(b) Punitive damages; and

(c) Costs and reasonable attorney's fees incurred in bringing the civil action.

2. The provisions of this section do not abrogate or limit the right of a victim of a crime described in NRS 205.473 to 205.506, inclusive, and sections 14 to 22, inclusive, of this act, to bring a civil action pursuant to any other statute or the common law.

Sec. 23. NRS 205.0821 is hereby amended to read as follows:

205.0821 As used in NRS 205.0821 to 205.0835, inclusive, *and section 13 of this act*, unless the context otherwise requires, the words and terms defined in NRS 205.0822 to 205.0831, inclusive, *and section 13 of this act* have the meanings ascribed to them in those sections.

Sec. 24. NRS 205.0828 is hereby amended to read as follows:

205.0828 "Property of another person" means *real, personal or intangible* property in which any person other than the defendant has an interest which the defendant is not privileged to infringe, including , *without limitation*, property in which the defendant also has an interest, notwithstanding that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in the possession of the defendant in which another person has only a security interest shall be deemed not to be the property of that other person, even if that person holds legal title to the property pursuant to a security agreement.

Sec. 25. NRS 205.0832 is hereby amended to read as follows:

205.0832 A person commits theft if, without lawful authority, he knowingly:

1. Controls any property of another person with the intent to deprive that person of the property.

2. Converts, makes an unauthorized transfer of an interest in, or without authorization controls any property of another person, or uses the services or property of another person entrusted to him or placed in his possession for a limited, authorized period of determined or prescribed duration or for a limited use.

3. Obtains real, ~~for~~ personal *or intangible* property or the services of another person by a material misrepresentation with intent to deprive that person of the property or services. As used in this subsection, “material misrepresentation” means the use of any pretense, or the making of any promise, representation or statement of present, past or future fact which is fraudulent and which, when used or made, is instrumental in causing the wrongful control or transfer of property or services. The pretense may be verbal or it may be a physical act.

4. Comes into control of lost, mislaid or misdelivered property of another person under circumstances providing means of inquiry as to the true owner and appropriates that property to his own use or that of another person without reasonable efforts to notify the true owner.

5. Controls property of another person knowing or having reason to know that the property was stolen. ~~It~~

6. Obtains services which he knows are available only for compensation without paying or agreeing to pay compensation or diverts the services of another person to his own benefit or that of another person without lawful authority to do so.

7. Takes, destroys, conceals or disposes of property in which another person has a security interest, with intent to defraud that person.

8. Commits any act that is declared to be theft by a specific statute.

9. Draws or passes a check, and in exchange obtains property or services, if he knows that the check will not be paid when presented.

Sec. 26. NRS 205.473 is hereby amended to read as follows:

205.473 As used in NRS 205.473 to ~~[205.491,]~~ *205.506*, inclusive, *and sections 14 to 22, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 205.4732 to 205.476, inclusive, *and sections 14 to 18, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 27. NRS 205.4745 is hereby amended to read as follows:

205.4745 “Network” means a set of related, remotely connected devices and facilities, including more than one system, with the capability to transmit data among ~~[them.]~~ *any of the devices and facilities. The term includes, without limitation, a local, regional or global computer network.*

Sec. 28. NRS 205.4765 is hereby amended to read as follows:

205.4765 1. Except as otherwise provided in subsection ~~[5.]~~ *6*, a person who knowingly, ~~[willingly]~~ *willfully* and without authorization:

- (a) Modifies;
- (b) Damages;
- (c) Destroys;
- (d) Discloses;
- (e) Uses;
- (f) Transfers;
- (g) Conceals;
- (h) Takes

;

- (i) Retains possession of;
- (j) Copies;
- (k) Obtains or attempts to obtain access to, permits access to or causes to be accessed; or
- (l) Enters,

data, a program or any supporting documents which exist inside or outside a computer, system or network is guilty of a misdemeanor.

2. Except as otherwise provided in subsection ~~{5,}~~ 6, a person who knowingly, ~~{willingly}~~ **willfully** and without authorization:

- (a) Modifies;
- (b) Destroys;
- (c) Uses;
- (d) Takes;
- (e) Damages;
- (f) Transfers;
- (g) Conceals;
- (h) Copies;
- (i) Retains possession of; or
- (j) Obtains or attempts to obtain access to, permits access to or causes to be accessed,

equipment or supplies that are used or intended to be used in a computer, system or network is guilty of a misdemeanor.

3. Except as otherwise provided in subsection ~~{5,}~~ 6, a person who knowingly, ~~{willingly}~~ **willfully** and without authorization:

- (a) Destroys;
- (b) Damages;
- (c) Takes;
- (d) Alters;
- (e) Transfers;
- (f) Discloses;
- (g) Conceals;
- (h) Copies;
- (i) Uses;
- (j) Retains possession of; or
- (k) Obtains or attempts to obtain access to, permits access to or causes to be accessed,

a computer, system or network is guilty of a misdemeanor.

4. Except as otherwise provided in subsection ~~{5,}~~ 6, a person who knowingly, ~~{willingly}~~ **willfully** and without authorization:

- (a) Obtains and discloses;
- (b) Publishes;
- (c) Transfers; or
- (d) Uses,

a device used to access a computer, network or data is guilty of a misdemeanor.

5. *Except as otherwise provided in subsection 6, a person who knowingly, willfully and without authorization introduces, causes to be introduced or attempts to introduce a computer contaminant into a computer, system or network is guilty of a misdemeanor.*

6. If the violation of any provision of this section:

(a) Was committed to devise or execute a scheme to defraud or illegally obtain property;

(b) Caused damage in excess of \$500; or

(c) Caused an interruption or impairment of a public service, ~~[such as]~~ *including, without limitation*, a governmental operation, *a* system of public communication or transportation or *a* supply of water, gas or electricity,

the person is guilty of a category C felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than \$100,000. In addition to any other penalty, the court shall order the person to pay restitution.

Sec. 29. NRS 205.477 is hereby amended to read as follows:

205.477 1. Except as otherwise provided in ~~[subsection 3,]~~ *subsections 3 and 4*, a person who knowingly, willfully and without authorization interferes with, denies or causes the denial of access to or ~~[the]~~ use of a computer, system or network to a person who has the duty and right to use it is guilty of a misdemeanor.

2. Except as otherwise provided in ~~[subsection 3,]~~ *subsections 3 and 4*, a person who knowingly, ~~[willingly]~~ *willfully* and without authorization uses, ~~[or]~~ causes the use of, *accesses, attempts to gain access to or causes access to be gained to* a computer, system ~~[or network to:]~~ *—(a) Obtain personal information about another person; or*
—(b) Enter false information about another person to wrongfully damage or enhance that person's credit rating, is], *network, telecommunications device, telecommunications service or information service is* guilty of a misdemeanor.

3. If the violation of subsection 1 or 2 was committed to devise or execute a scheme to defraud or illegally obtain property, the person is guilty of a category C felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than \$100,000. In addition to any other penalty, the court shall order the person to pay restitution.

4. *It is an affirmative defense to a charge made pursuant to this section that at the time of the alleged offense the defendant reasonably believed that:*

(a) *He was authorized to use or access the computer, system, network, telecommunications device, telecommunications service or information service and such use or access by the defendant was within the scope of that authorization; or*

(b) *The owner or other person authorized to give consent would authorize the defendant to use or access the computer, system, network,*

telecommunications device, telecommunications service or information service.

5. A defendant who intends to offer an affirmative defense described in subsection 4 at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

Sec. 30. NRS 205.481 is hereby amended to read as follows:

205.481 A person who knowingly, willfully and without authorization creates, alters or deletes any data, *information, image, program, signal or sound* contained in any computer, system or network which, if done on a written or printed document or instrument, would constitute forgery pursuant to NRS 205.090 or 205.095, is guilty of forgery which is a category D felony and shall be punished as provided in NRS 193.130.

Sec. 31. NRS 205.485 is hereby amended to read as follows:

205.485 An employee is presumed to have the authority to access and use ~~any~~ :

1. A computer, *system or* network ~~[-, supporting documents, program or data]~~ owned or operated by his employer ; *and*

2. *Any supporting document to and any data, information, image, program, signal or sound contained in such a computer, system or network,*

unless the presumption is overcome by clear and convincing evidence to the contrary.

Sec. 32. NRS 205.491 is hereby amended to read as follows:

205.491 1. If it appears that a person has engaged in or is about to engage in any act or practice which violates any ~~[of the provisions]~~ *provision* of NRS 205.473 to ~~[205.485,]~~ *205.506*, inclusive, *or sections 14 to 22, inclusive, of this act*, the attorney general or the appropriate district attorney may file an action in any court of competent jurisdiction to prevent the occurrence or continuance of that act or practice.

2. An injunction:

(a) May be issued without proof of actual damage sustained by any person.

(b) Does not preclude the criminal prosecution and punishment of a violator.

Sec. 33. NRS 205.506 is hereby amended to read as follows:

205.506 1. It is unlawful for a person knowingly ~~[or]~~ *and* with the intent to avoid payment in full for the service obtained to:

~~[1-]~~ (a) Obtain or attempt to obtain ~~[mobile telephone]~~ *an information* service from a ~~[supplier]~~ *provider* by deception, use of an illegal device ~~[-]~~ or other fraudulent means. The requisite intent may be inferred from the presence on the property or in the possession of the ~~[accused]~~ *person* of a device, not authorized by the ~~[supplier,]~~ *provider*, the major purpose of which is to permit or facilitate use of ~~[mobile telephone]~~ *an information*

service without payment. The inference is rebutted if the ~~{accused}~~ **person** shows that he purchased the device for a legitimate purpose.

~~{2.}~~ (b) Give **to another person** technical assistance or instruction ~~{to another}~~ in obtaining ~~{mobile-telephone}~~ **an information** service without full payment to a ~~{supplier}~~.

~~—3.}~~ **provider.**

(c) Maintain an ability to connect, by physical, electronic or other means, with facilities, components or devices used in ~~{mobile-telephone}~~ **an information** service for the purpose of obtaining ~~{mobile-telephone}~~ **the information** service without payment of all lawful compensation to the ~~{supplier}~~.

~~—4.}~~ **provider.**

(d) Make or maintain a modification of a device installed with the authorization of a ~~{supplier}~~ **provider** to obtain any service that the ~~{accused}~~ **person** is not authorized by the ~~{supplier}~~ **provider** to obtain. The requisite intent may be inferred from proof that the ~~{supplier's}~~ standard procedure **of the provider** is to place labels on its devices warning that modifying the device is a violation of law and that the device has been modified without the ~~{supplier's permission}~~.

~~—5.}~~ **permission of the provider.**

(e) Possess , **manufacture, deliver, offer to deliver or advertise**, without ~~{a supplier's}~~ permission **from the provider**, a device or a kit for a device designed to ~~{receive}~~ :

(1) **Receive** from the ~~{supplier}~~ **provider** a service offered for sale by the ~~{supplier}~~ **provider**, whether or not the service is encoded or otherwise made unintelligible ~~{, or designed to perform}~~ ; or

(2) **Perform** or facilitate an act prohibited by ~~{subsections 1 to 4,}~~ **paragraphs (a) to (d)**, inclusive.

Intent to violate this ~~{subsection}~~ **paragraph** for commercial advantage or financial gain may be inferred if the circumstances, including , **without limitation**, quantity or volume, indicate possession for resale.

~~{6.}~~ (f) Manufacture, import, distribute, advertise, sell, lease, or offer to sell or lease a device or a plan or kit for a device designed to receive ~~{mobile-telephone}~~ **an information** service offered for sale by a ~~{supplier}~~ **provider**, whether or not the service is encoded or otherwise made unintelligible, without full payment. The requisite intent may be inferred from proof that the ~~{accused}~~ **person** has sold, leased or offered to sell or lease any such device, plan or kit and stated or implied to the buyer or lessee that it will enable him to obtain ~~{mobile-telephone}~~ **an information** service without charge.

~~{7.}~~ (g) Possess any other materials for the purpose of creating a device or a kit for a device designed to obtain ~~{mobile-telephone}~~ **an information** service in any manner prohibited pursuant to this section.

2. This section does not prohibit or restrict a holder of an amateur service license issued by the Federal Communications Commission from possessing or using a radio receiver or transceiver that is intended

primarily for use in the amateur radio service and is used for lawful purposes.

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

Sec. 34. NRS 179.121 is hereby amended to read as follows:

179.121 1. All personal property, including , ***without limitation***, any tool, substance, weapon, machine, ***computer***, money or security, which is used as an instrumentality in ~~it~~ ***any of the following crimes, is subject to forfeiture:***

(a) The commission of or attempted commission of the crime of murder, robbery, kidnaping, burglary, invasion of the home, grand larceny , ***theft if it is punishable as a felony***, or pandering;

(b) The commission of any crime by a criminal gang, as defined in NRS 213.1263; or

(c) A violation of NRS 200.465, 202.265, 202.287 , ***205.473 to 205.506, inclusive, and sections 14 to 22, inclusive, of this act, NRS 205.610 to 205.810, inclusive***, or 465.070 to 465.085, inclusive . ~~it is subject to forfeiture.~~

2. Except as otherwise provided for conveyances forfeitable pursuant to NRS 453.301 or 501.3857, all conveyances, including aircraft, vehicles or vessels, which are used or intended for use during the commission of a felony or a violation of NRS 202.287, 202.300 or 465.070 to 465.085, inclusive, are subject to forfeiture except that:

(a) A conveyance used by any person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to the felony or violation;

(b) A conveyance is not subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge, consent or willful blindness;

(c) A conveyance is not subject to forfeiture for a violation of NRS 202.300 if the firearm used in the violation of that section was not loaded at the time of the violation; and

(d) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the felony. If a conveyance is forfeited the appropriate law enforcement agency may pay the existing balance and retain the conveyance for official use.

3. For the purposes of this section, a firearm is loaded if:

(a) There is a cartridge in the chamber of the firearm;

(b) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver; or

(c) There is a cartridge in the magazine and the magazine is in the firearm or there is a cartridge in the chamber, if the firearm is a semiautomatic firearm.

Sec. 35. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, the warden or manager of an institution or facility shall ensure that no offender in the institution or facility has access to a telecommunications device.

2. An offender may use a telephone subject to the limitations set forth in NRS 209.419.

3. As used in this section, "telecommunications device" means a device that can be used by an offender to communicate with a person outside of the institution or facility at which the offender is incarcerated. The term includes, without limitation, a telephone, a cellular telephone or a computer that is connected to a computer network or is otherwise capable of communicating with a person or device outside of the facility.

Sec. 36. NRS 209.461 is hereby amended to read as follows:

209.461 1. The director shall:

(a) To the greatest extent possible, approximate the normal conditions of training and employment in the community.

(b) Except as otherwise provided in this ~~{paragraph,}~~ **section**, to the extent practicable, require each offender, except those whose behavior is found by the director to preclude participation, to spend 40 hours each week in vocational training or employment, unless excused for a medical reason or to attend educational classes in accordance with NRS 209.396. The director shall require as a condition of employment that an offender sign an authorization for the deductions from his wages made pursuant to NRS 209.463. Authorization to make the deductions pursuant to NRS 209.463 is implied from the employment of an offender and a signed authorization from the offender is not required for the director to make the deductions pursuant to NRS 209.463.

(c) Use the earnings from services and manufacturing conducted by the institutions and the money paid by private employers who employ the offenders to offset the costs of operating the prison system and to provide wages for the offenders being trained or employed.

(d) Provide equipment, space and management for services and manufacturing by offenders.

(e) Employ craftsmen and other personnel to supervise and instruct offenders.

(f) Except as otherwise provided in NRS 209.383, contract with governmental agencies and private employers for the employment of offenders, including their employment on public works projects under contracts with the state and with local governments.

(g) Contract for the use of offenders' services and for the sale of goods manufactured by offenders.

2. Every program for the employment of offenders established by the director must:

(a) Employ the maximum number of offenders possible

;

(b) Except as otherwise provided in NRS 209.192, provide for the use of money produced by the program to reduce the cost of maintaining the offenders in the institutions;

(c) Have an insignificant effect on the number of jobs available to the residents of this state; and

(d) Provide occupational training for offenders.

3. *An offender may not engage in vocational training, employment or a business that requires or permits the offender to:*

(a) *Telemarket or conduct opinion polls by telephone; or*

(b) *Acquire, review, use or have control over or access to personal information concerning any person who is not incarcerated.*

4. Each fiscal year, the cumulative profits and losses, if any, of the programs for the employment of offenders established by the director must result in a profit for the department. The following must not be included in determining whether there is a profit for the department:

(a) Fees credited to the fund for prison industries pursuant to NRS 482.268, any revenue collected by the department for the leasing of space, facilities or equipment within the institutions or facilities of the department and any interest or income earned on the money in the fund for prison industries.

(b) The selling expenses of the central administrative office of the programs for the employment of offenders. As used in this paragraph, "selling expenses" means delivery expenses, salaries of sales personnel and related payroll taxes and costs, the costs of advertising and the costs of display models.

(c) The general and administrative expenses of the central administrative office of the programs for the employment of offenders. As used in this paragraph, "general and administrative expenses" means the salary of the assistant director of industrial programs and the salaries of any other personnel of the central administrative office and related payroll taxes and costs, the costs of telephone usage and the costs of office supplies used and postage used.

~~{4.—The}~~

5. *Except as otherwise provided in subsection 3, the* director may, with the approval of the board:

(a) Lease spaces and facilities within any institution of the department to private employers to be used for the vocational training and employment of offenders.

(b) Grant to reliable offenders the privilege of leaving institutions or facilities of the department at certain times for the purpose of vocational training or employment.

~~{5.}~~ 6. The provisions of this chapter do not create a right on behalf of the offender to employment or to receive the federal or state minimum wage for any employment and do not establish a basis for any cause of action against the state or its officers or employees for employment of an

offender or for payment of the federal or state minimum wage to an offender.

Sec. 37. NRS 209.4814 is hereby amended to read as follows:

209.4814 The advisory board shall:

1. Be informed on issues and developments relating to industrial programs for correctional institutions;
2. Submit a semiannual report to the interim finance committee before July 1 and December 1 of each year on the status of current and proposed industrial programs for correctional institutions;
3. Report to the legislature on any other matter relating to industrial programs for correctional institutions which it deems appropriate;
4. Meet at least quarterly and at the call of the chairman to review the operation of current and proposed industrial programs;
5. Recommend three persons to the director for appointment as the assistant director for industrial programs whenever a vacancy exists; and
6. Before any new industrial program is established by the director in an institution of the department, review the proposed program for compliance with the requirements of subsections 2, ~~and~~ 3 and 4 of NRS 209.461 and submit to the director its recommendations concerning the proposed program.
7. Review each industry program established pursuant to subsection 2 of NRS 209.461 to determine whether the program is operating profitably within 3 years after its establishment. If the advisory board determines that a program is not operating profitably within 3 years after its establishment, the advisory board shall report its finding to the director with recommendation regarding whether the program should be continued or terminated.

Sec. 38. Chapter 242 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A state agency that uses at least one computer in the course of its work shall:

(a) Create a written policy setting forth the appropriate uses of the computers of the state agency; and

(b) Provide all employees of the state agency with a copy of the written policy.

2. As used in this section, "state agency" means an agency, bureau, board, commission, department, division or any other unit of the executive department of the government of this state.

Sec. 39. NRS 244A.7641 is hereby amended to read as follows:

244A.7641 As used in NRS 244A.7641 to 244A.7647, inclusive, unless the context otherwise requires ~~["mobile"]~~ :

1. "Mobile telephone service" ~~and "supplier" have the meanings ascribed to them in NRS 205.505.~~ means cellular or other service to a telephone installed in a vehicle or otherwise portable.

2. "Supplier" means a person authorized by the Federal Communications Commission to provide mobile telephone service.

Sec. 40. Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 41 to 46, inclusive, of this act.

Sec. 41. *As used in sections 41 to 46, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 42 and 43 of this act have the meanings ascribed to them in those sections.*

Sec. 42. *“Provider” means:*

1. A person who is in the business of providing a telecommunications service;

2. An agent, employee, independent contractor or representative of a person who is in the business of providing a telecommunications service; or

3. A person who originates a charge for a telecommunications service and directly or indirectly bills a customer for the charge.

Sec. 43. *“Telecommunications service” means a service that is designed or has the capability to generate, process, store, retrieve, convey, emit, transmit, receive, relay, record or reproduce any data, information, image, program, signal or sound over a communications system or network, including, without limitation, a communications system or network that uses analog, digital, electronic, electromagnetic, magnetic or optical technology.*

Sec. 44. *A provider shall not:*

1. Make a statement or representation regarding the provision of a telecommunications service, including, without limitation, a statement regarding the rates, terms or conditions of a telecommunications service, that:

(a) Is false, misleading or deceptive; or

(b) Fails to include material information which makes the statement or representation false, misleading or deceptive.

2. Misrepresent his identity.

3. Falsely state to a person that the person has subscribed or authorized a subscription to or has received a telecommunications service.

4. Omit, when explaining the terms and conditions of a subscription to a telecommunications service, a material fact concerning the subscription.

5. Fail to provide a customer with timely written notice containing:

(a) A clear and detailed description relating directly to the services for which the customer is being billed and the amount the customer is being charged for each service;

(b) All terms and conditions relating directly to the services provided; and

(c) The name, address and telephone number of the provider.

6. Fail to honor, within a reasonable period, a request of a customer to cancel a telecommunications service pursuant to the terms and conditions for the service.

7. Bill a customer for a telecommunications service after the customer has canceled the telecommunications service pursuant to the terms and conditions of the service.

8. Bill a customer for services that the provider knows the customer has not authorized, unless the service is required to be provided by law. The failure of a customer to refuse a proposal from a provider does not constitute specific authorization.

9. Change a customer's subscription to a local exchange carrier or an interexchange carrier unless:

(a) The customer has authorized the change within the 30 days immediately preceding the date of the change; and

(b) The provider complies with the provisions of 47 U.S.C. § 258, as amended, and the verification procedures set forth in 47 C.F.R. part 64, subpart K, as amended.

10. Fail to provide to a customer who has authorized the provider to change his subscription to a local exchange carrier or an interexchange carrier a written confirmation of the change within 30 days after the date of the change.

11. Propose or enter into a contract with a person that purports to:

(a) Waive the protection afforded to the person by any provision of this section; or

(b) Authorize the provider or an agent, employee, independent contractor or representative of the provider to violate any provision of this section.

Sec. 45. A provider who is a local exchange carrier shall, in a competitively neutral manner, offer to each customer the opportunity to freeze the interexchange carrier selected by the customer.

Sec. 46. 1. The remedies, duties and prohibitions of sections 41 to 46, inclusive, are not exclusive and are in addition to any other remedies provided by law.

2. A violation of any provision of sections 41 to 46, inclusive, of this act constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Sec. 47. NRS 711.040 is hereby amended to read as follows:

711.040 1. "Community antenna television system" means any facility within this state which is constructed in whole or in part in, on, under or over any highway or other public place and ~~[which]~~ is operated to perform for hire the service of ~~[receiving]~~ :

(a) **Receiving** and amplifying the signals broadcast by one or more television stations or provided for public, educational or governmental purposes and redistributing those signals by wire, cable or other means of closed transmission ~~[to members of the public who subscribe to the service.] ; or~~

(b) Providing two-way interactive services by wire, cable or other means of closed transmission, including, without limitation, Internet services, intranet services and electronic mail, to members of the public who subscribe to the service.

2. Such a system does not include any system which serves:

(a) Fewer than 50 subscribers; or

(b) Only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of those dwellings if the buildings are separated by not more than one public street or right of way.

3. As used in this section, "apartment dwelling" does not include a hotel, motel, condominium, town house or other similar dwelling.

Sec. 48. NRS 711.270 is hereby amended to read as follows:

711.270 1. ~~[Any person who knowingly:~~

~~—(a) Makes or maintains]~~ *It is unlawful for a person knowingly and with the intent to intercept or receive a program or other service provided by a community antenna television company without the authorization of the company to:*

(a) Make a connection or ~~[attaches any]~~ *attach a device to* ~~[any]~~ *a line or other component of a community antenna television company;*

(b) ~~[Purchases or possesses any device; or~~

~~—(c) Makes or maintains any]~~ *Purchase or possess a device or kit designed to intercept or receive a program or other service provided by the community antenna television company;*

(c) Make or maintain a modification to ~~[any]~~ *a device installed* ~~[for]~~ *by or with the authorization of* a community antenna television company ~~to intercept or receive any program or other service provided by a community antenna television company without the authorization of the company is guilty of a misdemeanor.~~

~~—2. Any person who knowingly and without the authorization of a community antenna television company:~~

~~—(a) Imports into this state;~~

~~—(b) Distributes; or~~

~~—(c) Sells, offers or advertises to sell, or possesses with the intent to sell, any]~~ *to intercept or receive a program or other service provided by the community antenna television company; or*

(d) Manufacture, import, distribute, advertise, sell, lease, offer to sell or lease, or possess with the intent to sell or lease a device designed to decode , descramble, intercept or otherwise make intelligible a signal encoded by ~~[the]~~ *a community antenna television company .*

2. *Except as otherwise provided in subsection 3, a person who violates paragraph (a), (b) or (c) of subsection 1 is guilty of a misdemeanor.*

3. ~~[Any]~~ *A person who* ~~[willfully violates subsection 1 or 2]~~ *violates paragraph (a), (b) or (c) of subsection 1 for commercial advantage, whether direct or indirect, is guilty of a gross misdemeanor.*

4. A person who violates paragraph (d) of subsection 1:
(a) If the violation involves nine or fewer devices, is guilty of a gross misdemeanor.

(b) If the violation involves 10 or more devices, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 49. NRS 711.280 is hereby amended to read as follows:

711.280 1. ~~Any~~ A person who violates paragraph (a) , **(b)** or (c) of subsection 1 ~~for any provision of subsection 2~~ of NRS 711.270 is , **in addition to being criminally liable pursuant to NRS 711.270, civilly** liable to the community antenna television company injured by ~~such~~ **the** conduct for **\$3,500 or** three times any actual damages incurred by the company , **whichever is greater**, and reasonable attorney's fees . ~~[-, but not more than the amount provided in NRS 73.010 as the jurisdictional limit for small claims in justices' courts.]~~

2. A person who violates paragraph (d) of subsection 1 of NRS 711.270 is, in addition to being criminally liable pursuant to NRS 711.270, civilly liable to the community antenna television company injured by the conduct for \$5,000 or three times any actual damages incurred by the company, whichever is greater, and reasonable attorney's fees.

3. In any action brought ~~under~~ **pursuant to** this section, proof that any of the acts prohibited in subsection 1 were committed on or about the premises occupied by the defendant is prima facie evidence that such acts were committed by the defendant.

~~[-]~~ **4.** An owner or operator of a community antenna television company may bring an action to enjoin any violation of NRS 711.270.

Sec. 50. NRS 711.285 is hereby amended to read as follows:

711.285 A local government may recover from a person who is convicted pursuant to subsection 3 **or 4** of NRS 711.270 a civil penalty of not more than \$50,000 for the first violation, and for the second or subsequent violation a civil penalty of not more than \$100,000. This penalty is in addition to any other civil or criminal penalty provided in NRS 711.270 or 711.280.

Sec. 51. Section 5 of Senate Bill No. 27 of this session is hereby amended to read as follows:

Sec. 5. NRS 711.270 is hereby amended to read as follows:

711.270 1. It is unlawful for a person knowingly and with the intent to intercept or receive a program or other service provided by a community antenna television company without the authorization of the company to:

- (a) Make a connection or attach a device to a line or other component of a community antenna television company;
- (b) Purchase or possess a device or kit designed to intercept or receive a program or other service provided by the community antenna television company;

(c) Make or maintain a modification to a device installed by or with the authorization of a community antenna television company to intercept or receive a program or other service provided by the community antenna television company; or

(d) Manufacture, import, distribute, advertise, sell, lease, offer to sell or lease, or possess with the intent to sell or lease a device designed to decode, descramble, intercept or otherwise make intelligible a signal encoded by a community antenna television company.

2. ***Unless a greater penalty is provided in section 4 of this act:***

(a) Except as otherwise provided in ~~subsection 3,~~ ***paragraph (b),*** a person who violates paragraph (a), (b) or (c) of subsection 1 is guilty of a misdemeanor.

~~3.~~ ***(b)*** A person who violates paragraph (a), (b) or (c) of subsection 1 for commercial advantage, whether direct or indirect, is guilty of a gross misdemeanor.

~~4.~~ ***(c)*** A person who violates paragraph (d) of subsection 1:

~~(a)~~ ***(1)*** If the violation involves nine or fewer devices, is guilty of a gross misdemeanor.

~~(b)~~ ***(2)*** If the violation involves 10 or more devices, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 52. NRS 205.505, 205.507 and 205.508 are hereby repealed.

Sec. 53. Expenditure of the following sums not appropriated from the state general fund or the state highway fund is hereby authorized during the fiscal years beginning July 1, 1999, and ending June 30, 2000, and beginning July 1, 2000, and ending June 30, 2001, by the office of the attorney general:

	<u>1999-2000</u>	<u>2000-2001</u>
Office of the executive director of technological crime created pursuant to section 8 of this act.....	\$81,429	\$78,572
Computer forensic lab expenses.	\$75,478	\$21,500

Sec. 54. The amendatory provisions of this act do not apply to offenses committed before the effective date of this act.

Sec. 55. 1. This act becomes effective upon passage and approval.

2. Section 39 of this act expires by limitation on December 31, 2001.