

SENATE BILL NO. 48—COMMITTEE ON JUDICIARY

PREFILED JANUARY 24, 2001

(ON BEHALF OF ENCOURAGING BUSINESSES TO ORGANIZE AND  
CONDUCT BUSINESS IN NEVADA (SCR 19))

Referred to Committee on Judiciary

SUMMARY—Prohibits various acts related to Internet, networks, computers and electronic mail. (BDR 15-259)

FISCAL NOTE: Effect on Local Government: Yes.  
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 technology; prohibiting various acts related to the Internet, networks, computers and electronic mail; prohibiting, under certain circumstances, persons who own, operate, administer or control an Internet or network site from collecting personal identifying information from persons who access the site; prohibiting a person from committing certain acts that prevent, impede, delay or disrupt the normal operation or use of any Internet or network site, electronic mail address, computer, system or network; allowing victims of certain technological crimes to recover response costs in a civil action; 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:

**Section 1.** Chapter 205 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

**Sec. 2. 1. “Internet or network site” means any identifiable site on the Internet or on a network.**

**2. The term includes, without limitation:**

- (a) A website or other similar site on the World Wide Web;**
- (b) A site that is identifiable through a Uniform Resource Location;**
- (c) A site on a network that is owned, operated, administered or controlled by a provider of Internet service;**
- (d) An electronic bulletin board;**
- (e) A listserv;**
- (f) A newsgroup; or**
- (g) A chat room.**

1     **Sec. 3. 1.** *"Response costs" means any reasonable costs that arise*  
2 *in response to and as a proximate result of a crime described in NRS*  
3 *205.473 to 205.513, inclusive, and sections 2, 3 and 4 of this act.*

4     **2.** *The term includes, without limitation, any reasonable costs to:*

5     **(a)** *Investigate the facts surrounding the crime;*

6     **(b)** *Ascertain or calculate any past or future loss, injury or other*  
7 *damage;*

8     **(c)** *Remedy, mitigate or prevent any past or future loss, injury or other*  
9 *damage; or*

10    **(d)** *Test, examine, restore or verify the integrity of or the normal*  
11 *operation or use of any Internet or network site, electronic mail address,*  
12 *computer, system, network, component, device, equipment, data,*  
13 *information, image, program, signal or sound.*

14    **Sec. 4. 1.** *If a person:*

15    **(a)** *Is physically present within this state, is incorporated or organized*  
16 *under the laws of this state, or subscribes to the services of a provider of*  
17 *Internet service who is physically present within this state or is*  
18 *incorporated or organized under the laws of this state;*

19    **(b)** *Owns, operates, administers or controls an Internet or network*  
20 *site; and*

21    **(c)** *Uses, attempts to use or intends to use the Internet or network site*  
22 *to advertise or sell any product or service,*  
23 *the person shall not collect any personal identifying information from or*  
24 *about another person who accesses the Internet or network site, unless*  
25 *there is posted on the Internet or network site a statement of privacy*  
26 *practices that complies with the provisions of subsection 2.*

27    **2.** *A statement of privacy practices must:*

28    **(a)** *Appear conspicuously at the home page on the Internet or network*  
29 *site and at each location on the Internet or network site at which*  
30 *personal identifying information is collected, or a link to the statement of*  
31 *privacy practices must appear conspicuously at the home page and at*  
32 *each such location; and*

33    **(b)** *Include a clear statement explaining:*

34    **(1)** *The type of personal identifying information collected at the*  
35 *Internet or network site;*

36    **(2)** *Whether any personal identifying information is collected*  
37 *automatically when a person accesses the Internet or network site and, if*  
38 *so, the type of personal identifying information collected in this manner;*

39    **(3)** *Each intended purpose or use for the personal identifying*  
40 *information collected at the Internet or network site, and each third party*  
41 *to whom the personal identifying information may be disclosed;*

42    **(4)** *Whether a person who accesses the Internet or network site may*  
43 *review the personal identifying information collected from or about him,*  
44 *whether he may have such personal identifying information removed*  
45 *permanently from databases and other records where the personal*  
46 *identifying information is stored and, if so, the means by which such a*  
47 *review or removal may be requested; and*

48    **(5)** *Whether a cookie or any other data, information, image,*  
49 *program, signal or sound is placed, saved or stored automatically on the*

1 *computer or system of a person who accesses the Internet or network site*  
2 *and, if so, each intended purpose or use for the cookie or other data,*  
3 *information, image, program, signal or sound.*

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

6 **4. As used in this section, “personal identifying information” means**  
7 **any information designed, commonly used or capable of being used,**  
8 **alone or in conjunction with any other information, to identify a person,**  
9 **including, without limitation, the name, telephone number, postal**  
10 **address, electronic mail address, driver’s license number, social security**  
11 **number, savings account number, credit card number, debit card**  
12 **number, date of birth, place of employment or maiden name of the**  
13 **mother of a person.**

14 **Sec. 5.** NRS 205.473 is hereby amended to read as follows:

15 205.473 As used in NRS 205.473 to 205.513, inclusive, *and sections*  
16 *2, 3 and 4 of this act*, unless the context otherwise requires, the words and  
17 terms defined in NRS 205.4732 to 205.476, inclusive, *and sections 2 and 3*  
18 *of this act* have the meanings ascribed to them in those sections.

19 **Sec. 6.** NRS 205.4765 is hereby amended to read as follows:

20 205.4765 1. Except as otherwise provided in subsection 6, a person  
21 who knowingly, willfully and without authorization:

- 22 (a) Modifies;
- 23 (b) Damages;
- 24 (c) Destroys;
- 25 (d) Discloses;
- 26 (e) Uses;
- 27 (f) Transfers;
- 28 (g) Conceals;
- 29 (h) Takes;
- 30 (i) Retains possession of;
- 31 (j) Copies;
- 32 (k) Obtains or attempts to obtain access to, permits access to or causes
- 33 to be accessed; or
- 34 (l) Enters,
- 35 data, a program or any supporting documents which exist inside or outside
- 36 a computer, system or network is guilty of a misdemeanor.

37 2. Except as otherwise provided in subsection 6, a person who  
38 knowingly, willfully and without authorization:

- 39 (a) Modifies;
- 40 (b) Destroys;
- 41 (c) Uses;
- 42 (d) Takes;
- 43 (e) Damages;
- 44 (f) Transfers;
- 45 (g) Conceals;
- 46 (h) Copies;
- 47 (i) Retains possession of; or
- 48 (j) Obtains or attempts to obtain access to, permits access to or causes to
- 49 be accessed,

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

3 3. Except as otherwise provided in subsection 6, a person who  
4 knowingly, willfully and without authorization:

5 (a) Destroys;

6 (b) Damages;

7 (c) Takes;

8 (d) Alters;

9 (e) Transfers;

10 (f) Discloses;

11 (g) Conceals;

12 (h) Copies;

13 (i) Uses;

14 (j) Retains possession of; or

15 (k) Obtains or attempts to obtain access to, permits access to or causes  
16 to be accessed,

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

18 4. Except as otherwise provided in subsection 6, a person who  
19 knowingly, willfully and without authorization:

20 (a) Obtains and discloses;

21 (b) Publishes;

22 (c) Transfers; or

23 (d) Uses,

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

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

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

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

33 (b) Caused *response costs, loss, injury or other* damage in excess of  
34 \$500; or

35 (c) Caused an interruption or impairment of a public service, including,  
36 without limitation, a governmental operation, a system of public  
37 communication or transportation or a supply of water, gas or  
38 electricity,

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

43 **Sec. 7.** NRS 205.477 is hereby amended to read as follows:

44 205.477 1. Except as otherwise provided in subsections 3 and 4, a  
45 person who knowingly, willfully and without authorization interferes with,  
46 denies or causes the denial of access to or use of a computer, system or  
47 network to a person who has the duty and right to use it is guilty of a  
48 misdemeanor.

2. Except as otherwise provided in subsections 3 and 4, a person who knowingly, willfully and without authorization uses, causes the use of, accesses, attempts to gain access to or causes access to be gained to a computer, system, network, telecommunications device, telecommunications service or information service is guilty of a misdemeanor.

3. If the violation of ~~subsection 1 or 2 was~~ *any provision of this section:*

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

(b) *Caused response costs, loss, injury or other damage in excess of \$500; or*

(c) *Caused an interruption or impairment of a public service, 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.

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. 8.** NRS 205.492 is hereby amended to read as follows:

205.492 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 *any Internet or network site or 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 ~~5.5~~ 7, a person shall not willfully transmit or cause to be transmitted an item of electronic mail to *any Internet or network site or to* the electronic mail address of one or

1 more recipients without their knowledge of or consent to the transmission  
2 if the person knows or has reason to know that the item of electronic mail  
3 contains or has been generated or formatted with:

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

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

9 (1) The identity of the sender; or

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

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

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

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

21 4. ~~[(A)]~~ *Except as otherwise provided in subsection 7, a person shall*  
22 *not willfully and without authorization transmit or cause to be*  
23 *transmitted an item of electronic mail or any other data, information,*  
24 *image, program, signal or sound to any Internet or network site, to the*  
25 *electronic mail address of one or more recipients or to any other*  
26 *computer, system or network:*

27 (a) *With the intent to prevent, impede, delay or disrupt the normal*  
28 *operation or use of the Internet or network site, electronic mail address,*  
29 *computer, system or network, whether or not such a result actually*  
30 *occurs; or*

31 (b) *Under circumstances in which such conduct is reasonably likely to*  
32 *prevent, impede, delay or disrupt the normal operation or use of the*  
33 *Internet or network site, electronic mail address, computer, system or*  
34 *network, whether or not such a result actually occurs.*

35 5. *Except as otherwise provided in subsection 6, a* person who  
36 violates any provision of this section is guilty of a misdemeanor.

37 ~~[(S)]~~ 6. *If the violation of any provision of subsection 4:*

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

40 (b) *Caused response costs, loss, injury or other damage in excess of*  
41 *\$500; or*

42 (c) *Caused an interruption or impairment of a public service,*  
43 *including, without limitation, a governmental operation, a system of*  
44 *public communication or transportation or a supply of water, gas or*  
45 *electricity,*

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

7. The provisions of ~~[subsection]~~ *subsections 2 and 4* 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.

8. *As used in this section, "item of electronic mail" includes, without limitation:*

(a) *A single item of electronic mail;*

(b) *Multiple copies of one or more items of electronic mail;*

(c) *A collection, group or bulk aggregation of one or more items of electronic mail;*

(d) *A constant, continual or recurring pattern or series of one or more items of electronic mail; or*

(e) *Any other data, information, image, program, signal or sound that is included or embedded in or attached or connected to one or more items of electronic mail.*

**Sec. 9.** NRS 205.511 is hereby amended to read as follows:

205.511 1. Any victim of a crime described in NRS 205.473 to 205.513, inclusive, *and sections 2, 3 and 4 of this act* may bring a civil action to recover:

(a) Damages for any *response costs*, 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. *A victim of a crime described in NRS 205.473 to 205.513, inclusive, and sections 2, 3 and 4 of this act may bring a civil action pursuant to this section whether or not the person who committed the crime is or has been charged with or convicted or acquitted of the crime or any other offense arising out of the facts surrounding the crime.*

3. The provisions of this section do not abrogate or limit the right of a victim of a crime described in NRS 205.473 to 205.513, inclusive, *and sections 2, 3 and 4 of this act* to bring a civil action pursuant to any other statute or the common law.

**Sec. 10.** NRS 205.513 is hereby amended to read as follows:

205.513 1. If it appears that a person has engaged in or is about to engage in any act or practice which violates any provision of NRS 205.473 to 205.513, inclusive, *and sections 2, 3 and 4 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. 11.** The amendatory provisions of sections 4, 6, 7 and 8 of this act do not apply to offenses committed before October 1, 2001.