

SENATE BILL NO. 267—SENATOR WIENER

MARCH 18, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing personal information.
(BDR 52-110)

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

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to personal information; revising provisions governing the protection of personal information collected by a data collector; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prohibits a data collector from moving any data storage device
2 containing personal information beyond the control of the data collector or its data
3 storage contractor unless the data collector uses encryption to ensure the security of
4 the information. (NRS 603A.215) **Section 6** of this bill additionally prohibits a data
5 collector from moving a data storage device which is used by or is a component of
6 a multifunctional device beyond the control of the data collector, its data storage
7 contractor or a person who assumes the obligation of the data collector to protect
8 personal information unless the data collector uses encryption to ensure the security
9 of the information.

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

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 2.** (Deleted by amendment.)

3 **Sec. 3.** (Deleted by amendment.)

4 **Sec. 4.** (Deleted by amendment.)

5 **Sec. 5.** (Deleted by amendment.)

6 **Sec. 6.** NRS 603A.215 is hereby amended to read as follows:

7 603A.215 1. If a data collector doing business in this State
8 accepts a payment card in connection with a sale of goods or
9 services, the data collector shall comply with the current version of



1 the Payment Card Industry (PCI) Data Security Standard, as adopted
2 by the PCI Security Standards Council or its successor organization,
3 with respect to those transactions, not later than the date for
4 compliance set forth in the Payment Card Industry (PCI) Data
5 Security Standard or by the PCI Security Standards Council or its
6 successor organization.

7 2. A data collector doing business in this State to whom
8 subsection 1 does not apply shall not:

9 (a) Transfer any personal information through an electronic,
10 nonvoice transmission other than a facsimile to a person outside of
11 the secure system of the data collector unless the data collector uses
12 encryption to ensure the security of electronic transmission; or

13 (b) Move any data storage device containing personal
14 information beyond the logical or physical controls of the data
15 collector, ~~to~~ its data storage contractor *or, if the data storage
16 device is used by or is a component of a multifunctional device, a
17 person who assumes the obligation of the data collector to protect
18 personal information,* unless the data collector uses encryption to
19 ensure the security of the information.

20 3. A data collector shall not be liable for damages for a breach
21 of the security of the system data if:

22 (a) The data collector is in compliance with this section; and

23 (b) The breach is not caused by the gross negligence or
24 intentional misconduct of the data collector, its officers, employees
25 or agents.

26 4. The requirements of this section do not apply to:

27 (a) A telecommunication provider acting solely in the role of
28 conveying the communications of other persons, regardless of the
29 mode of conveyance used, including, without limitation:

30 (1) Optical, wire line and wireless facilities;

31 (2) Analog transmission; and

32 (3) Digital subscriber line transmission, voice over Internet
33 protocol and other digital transmission technology.

34 (b) Data transmission over a secure, private communication
35 channel for:

36 (1) Approval or processing of negotiable instruments,
37 electronic fund transfers or similar payment methods; or

38 (2) Issuance of reports regarding account closures due to
39 fraud, substantial overdrafts, abuse of automatic teller machines or
40 related information regarding a customer.

41 5. As used in this section:

42 (a) "Data storage device" means any device that stores
43 information or data from any electronic or optical medium,
44 including, but not limited to, computers, cellular telephones,



1 magnetic tape, electronic computer drives and optical computer
2 drives, and the medium itself.

3 (b) "Encryption" means the protection of data in electronic or
4 optical form, in storage or in transit, using:

5 (1) An encryption technology that has been adopted by an
6 established standards setting body, including, but not limited to, the
7 Federal Information Processing Standards issued by the National
8 Institute of Standards and Technology, which renders such data
9 indecipherable in the absence of associated cryptographic keys
10 necessary to enable decryption of such data; and

11 (2) Appropriate management and safeguards of
12 cryptographic keys to protect the integrity of the encryption using
13 guidelines promulgated by an established standards setting body,
14 including, but not limited to, the National Institute of Standards and
15 Technology.

16 (c) "Facsimile" means an electronic transmission between two
17 dedicated fax machines using Group 3 or Group 4 digital formats
18 that conform to the International Telecommunications Union T.4 or
19 T.38 standards or computer modems that conform to the
20 International Telecommunications Union T.31 or T.32 standards.
21 The term does not include onward transmission to a third device
22 after protocol conversion, including, but not limited to, any data
23 storage device.

24 (d) *"Multifunctional device" means a machine that*
25 *incorporates the functionality of devices, which may include,*
26 *without limitation, a printer, copier, scanner, facsimile machine or*
27 *electronic mail terminal, to provide for the centralized*
28 *management, distribution or production of documents.*

29 (e) "Payment card" has the meaning ascribed to it in
30 NRS 205.602.

31 ~~(e)~~ (f) "Telecommunication provider" has the meaning
32 ascribed to it in NRS 704.027.

