

Amendment No. 246

Assembly Amendment to Assembly Bill No. 173	(BDR 54-758)
Proposed by: Assembly Committee on Commerce and Labor	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

JMM/MSN



Date: 4/9/2015

A.B. No. 173—Revises provisions governing private investigators. (BDR 54-758)



ASSEMBLY BILL NO. 173—ASSEMBLYMEN HICKEY,
O'NEILL AND KIRNER

FEBRUARY 18, 2015

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing private investigators. (BDR 54-758)

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 private investigations; exempting **certain professionals who provide** information security ~~professionals, while engaging in certain activities,~~ from regulation as a private investigator; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person engaging in the business of a private investigator must be licensed by and is subject to the regulation of the Private Investigator's Licensing Board. (NRS 648.060) Existing law defines a private investigator to include a person who conducts an investigation through the review or analysis of computerized data not available to the public. (NRS 648.012) **Section 1** of this bill defines the term "information ~~security professional~~" for the purpose of exempting information security professionals from existing law governing private investigators. **Section 2.5** of this bill **revises the definition of "private investigator" to exclude from the definition certain professionals who provide information security.** **Section 3** of this bill exempts ~~from~~ **certain professionals who provide** information security ~~professionals~~ from the provisions ~~of chapter 648~~ of NRS ~~which is the existing law~~ governing private investigators. ~~while the information security professional is engaged in those activities specified in the definition of an information security professional.~~

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

Section 1. Chapter 648 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. "Information security professional" means a person with expertise in computer systems who engages in the business of establishing, maintaining and restoring the confidentiality, integrity and availability of information assets by:~~

~~(a) Participating in the design, installation and configuration of information assets;~~

~~(b) Auditing, monitoring and testing the confidentiality, integrity and availability of information assets;~~

~~(c) Responding to and rectifying data breaches or failures of the confidentiality, integrity and availability of information assets;~~

~~(d) Analyzing information assets to determine the causes of data breaches and failures or to prevent future data breaches and failures; or~~

~~(e) Ensuring compliance with regulations or mandates regarding the confidentiality, integrity and availability of information assets.~~

~~2. The term includes, without limitation, a person commonly referred to in the information security industry by any of the following job titles:~~

~~(a) Data network forensic analyst;~~

~~(b) Data security incident handler;~~

~~(c) Data system intrusion analyst;~~

~~(d) Data system penetration tester;~~

~~(e) Data system perimeter protection analyst;~~

~~(f) Data system security administrator;~~

~~(g) Data system security auditor;~~

~~(h) Data system security controls auditor;~~

~~(i) Digital forensic analyst;~~

~~(j) Industrial control system data security analyst;~~

~~(k) Information governance professional;~~

~~(l) Information security analyst;~~

~~(m) Malware reverse engineer; or~~

~~(n) Mobile device security analyst.~~

~~3. As used in this section:~~

~~(a) "Availability" means the process by which information assets are rendered accessible to authorized persons when requested.~~

~~(b) "Confidentiality" means the process of protecting information assets so that data is accessible only by persons authorized to access such data.~~

~~(c) "Information asset" means private data and the hardware upon which the data is stored or moved.~~

~~(d) "Integrity" means the process of protecting information assets so the content of the data is not changed, altered or deleted by unauthorized persons.~~

"Information security" has the meaning ascribed to it in 44 U.S.C. § 3552. The term includes restoring the integrity, confidentiality and availability of information and information systems after a data breach, suspected data breach or other data security incident.

Sec. 2. NRS 648.005 is hereby amended to read as follows:

648.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 648.006 to 648.016, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 2.5. NRS 648.012 is hereby amended to read as follows:

648.012 1. "Private investigator" means any person who for any consideration engages in business or accepts employment to furnish, or agrees to make or makes any investigation for the purpose of obtaining ~~1.~~ including, without limitation, through the review, analysis and investigation of computerized data not available to the public, information with reference to:

~~1-1~~ (a) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation or character of any person;

~~1-2~~ (b) The location, disposition or recovery of lost or stolen property;

~~1-3~~ (c) The cause or responsibility for fires, libels, losses, accidents or damage or injury to persons or to property;

~~144~~ (d) A crime or tort that has been committed, attempted, threatened or suspected, except an expert witness or a consultant who is retained for litigation or a trial, or in anticipation of litigation or a trial, and who performs duties and tasks within his or her field of expertise that are necessary to form his or her opinion;

~~145~~ (e) Securing evidence to be used before any court, board, officer or investigating committee; or

~~146~~ (f) The prevention, detection and removal of surreptitiously installed devices for eavesdropping or observation.

2. The term does not include:

(a) Any person who is accessing exclusively public records, public databases or any other public information; or

(b) Any person who for any consideration engages in business or accepts employment to provide information security.

Sec. 3. NRS 648.018 is hereby amended to read as follows:

648.018 Except as to polygraphic examiners and interns, this chapter does not apply:

1. To any detective or officer belonging to the law enforcement agencies of the State of Nevada or the United States, or of any county or city of the State of Nevada, while the detective or officer is engaged in the performance of his or her official duties.

2. To special police officers appointed by the police department of any city, county, or city and county within the State of Nevada while the officer is engaged in the performance of his or her official duties.

3. To insurance adjusters and their associate adjusters licensed pursuant to the Nevada Insurance Adjusters Law who are not otherwise engaged in the business of private investigators.

4. To any private investigator, private patrol officer, process server, dog handler or security consultant employed by an employer regularly in connection with the affairs of that employer if a bona fide employer-employee relationship exists, except as otherwise provided in NRS 648.060, 648.140 and 648.203.

5. To a reposessor employed exclusively by one employer regularly in connection with the affairs of that employer if a bona fide employer-employee relationship exists, except as otherwise provided in NRS 648.060, 648.140 and 648.203.

6. To a person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

7. To a charitable philanthropic society or association incorporated under the laws of this State which is organized and maintained for the public good and not for private profit.

8. To an attorney at law in performing his or her duties as such.

9. To a collection agency unless engaged in business as a reposessor, licensed by the Commissioner of Financial Institutions, or an employee thereof while acting within the scope of his or her employment while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his or her assets and of property which the client has an interest in or lien upon.

10. To admitted insurers and agents and insurance brokers licensed by the State, performing duties in connection with insurance transacted by them.

11. To any bank organized pursuant to the laws of this State or to any national bank engaged in banking in this State.

12. To any person employed to administer a program of supervision for persons who are serving terms of residential confinement.

1 13. To any commercial registered agent, as defined in NRS 77.040, who
2 obtains copies of, examines or extracts information from public records maintained
3 by any foreign, federal, state or local government, or any agency or political
4 subdivision of any foreign, federal, state or local government.

5 14. To any holder of a certificate of certified public accountant issued by the
6 Nevada State Board of Accountancy pursuant to chapter 628 of NRS while
7 performing his or her duties pursuant to the certificate.

8 15. To a person performing the repair or maintenance of a computer who
9 performs a review or analysis of data contained on a computer solely for the
10 purposes of diagnosing a computer hardware or software problem and who is not
11 otherwise engaged in the business of a private investigator.

12 16. ~~To an information security professional while engaged in an activity~~
13 ~~described in section 1 of this act.~~ any person who for any consideration engages
14 in business or accepts employment to provide information security.