

Amendment No. 185

Senate Amendment to Senate Bill No. 155	(BDR 15-917)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: Yes 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.



SENATE BILL NO. 155—SENATORS CANNIZZARO, SPEARMAN, CANCELA, WOODHOUSE, DENIS; ATKINSON, BROOKS, DONDERO LOOP, 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:

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

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

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

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

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:

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

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

(a) ***Knowingly:***

(1) Obtains any personal identifying information of another person; and
~~(b)~~ (2) With the intent to commit an unlawful act, uses the personal
identifying information:

~~(1)~~ (I) To harm that other person;
~~(2)~~ (II) To represent or impersonate that other person to obtain access to
any personal identifying information of that other person without the prior express
consent of that other person;

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

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

(b) ***Knowingly:***

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

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

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

(II) *For any other unlawful purpose,*

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

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

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

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

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

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

3. Except as otherwise provided in subsection ~~2~~ 4, a person who knowingly:

(a) Obtains any personal identifying information of another person ~~1~~ or possesses any fictitious personal identifying information of a fictitious person; and

(b) Uses the personal identifying information or fictitious personal identifying information to avoid or delay being prosecuted for an unlawful act,
➤ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

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

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

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

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

(d) Paragraph (b) of subsection 1 or subsection ~~2~~ 3 by possessing and using the fictitious personal identifying information of five or more fictitious persons; or

(e) Subsection ~~2~~ 3 to avoid or delay being prosecuted for an unlawful act that is punishable as a category A felony or category B felony,
➤ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

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

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

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

~~5~~ 6. Proof of possession of the personal identifying information of five or more persons or the fictitious personal identifying information of five or more fictitious persons, as applicable, in a manner not set forth in NRS 205.4655 permits

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

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

4 205.465 1. It is unlawful for a person to possess, sell or transfer any
5 document, ~~{or}~~ personal identifying information *or fictitious personal identifying*
6 *information* for the purpose of establishing a false status, occupation, membership,
7 license or identity for himself or herself or any other person.

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

9 (a) Sells or transfers any such document, ~~{or}~~ personal identifying information
10 *or fictitious personal identifying information* in violation of subsection 1; or

11 (b) Possesses any such document, ~~{or}~~ personal identifying information *or*
12 *fictitious personal identifying information* in violation of subsection 1 to commit
13 any of the crimes set forth in NRS 205.085 to 205.217, inclusive, 205.473 to
14 205.513, inclusive, or 205.610 to 205.810, inclusive,

15 ~~is~~ is guilty of a category C felony and shall be punished as provided in NRS
16 193.130.

17 3. A person who violates subsection 2 by:

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

20 (b) Selling or transferring ~~{the}~~ :

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

22 (2) *The fictitious personal identifying information of five or more*
23 *fictitious persons; or*

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

26 ~~is~~ is guilty of a category B felony and shall be punished by imprisonment in the
27 state prison for a minimum term of not less than 1 year and a maximum term of not
28 more than 20 years, and may be further punished by a fine of not more than
29 \$100,000.

30 4. Except as otherwise provided in this subsection and subsections 2 and 3, a
31 person who possesses any such document, ~~{or}~~ personal identifying information *or*
32 *fictitious personal identifying information* in violation of subsection 1 is guilty of
33 a category E felony and shall be punished as provided in NRS 193.130. If a person
34 possesses any such document, ~~{or}~~ personal identifying information *or fictitious*
35 *personal identifying information* in violation of subsection 1 for the sole purpose
36 of establishing false proof of age, including, without limitation, establishing false
37 proof of age to game, purchase alcoholic beverages or purchase cigarettes or other
38 tobacco products, the person is guilty of a misdemeanor.

39 5. Subsection 1 does not:

40 (a) Preclude the adoption by a city or county of an ordinance prohibiting the
41 possession of any such document, ~~{or}~~ personal identifying information ~~{or}~~ *or*
42 *fictitious personal identifying information;* or

43 (b) Prohibit the possession or use of any such document, ~~{or}~~ personal
44 identifying information *or fictitious personal identifying information* by officers
45 of local police, sheriff and metropolitan police departments and by agents of the
46 Investigation Division of the Department of Public Safety while engaged in
47 undercover investigations related to the lawful discharge of their duties.

48 6. Proof of possession of the personal identifying information of five or more
49 persons *or the fictitious personal identifying information of five or more fictitious*
50 *persons, as applicable,* in a manner not set forth in NRS 205.4655 permits a
51 rebuttable inference that the possessor intended to use such information in violation
52 of this section.

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

2 205.46517 In any case in which a person is convicted of violating any
3 provision of NRS 205.461 to 205.4657, inclusive, *concerning the personal*
4 *identifying information of another person*, the court records must clearly reflect
5 that the violation was committed by the person convicted of the violation and not
6 by the person whose personal identifying information forms a part of the violation.

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

8 205.4653 A person who violates any provision of NRS 205.461 to 205.4657,
9 inclusive, *concerning the personal identifying information of another person* may
10 be prosecuted for the violation whether or not the person whose personal
11 identifying information forms a part of the violation:

- 12 1. Is living or deceased during the course of the violation or the prosecution.
- 13 2. Is an artificial person.
- 14 3. Suffers financial loss or injury as the result of the violation.

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

16 205.4655 The provisions of NRS 205.461 to 205.4657, inclusive, do not
17 apply to any person who, without the intent to defraud or commit an unlawful act,
18 possesses or uses ~~any~~ :

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

20 ~~1-1~~ (a) In the ordinary course of his or her business or employment; or

21 ~~2-2~~ (b) Pursuant to a financial transaction entered into with an authorized user
22 of a payment card.

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

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

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

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

27 205.4657 1. In any prosecution for a violation of any provision of NRS
28 205.461 to 205.4657, inclusive, the State is not required to establish and it is no
29 defense that:

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

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

34 2. In any prosecution for a violation of any provision of NRS 205.461 to
35 205.4657, inclusive, the violation shall be deemed to have been committed and may
36 be prosecuted in any jurisdiction in this State in which:

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

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

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

42 207.360 "Crime related to racketeering" means the commission of, attempt to
43 commit or conspiracy to commit any of the following crimes:

44 1. Murder;

45 2. Manslaughter, except vehicular manslaughter as described in NRS
46 484B.657;

47 3. Mayhem;

48 4. Battery which is punished as a felony;

49 5. Kidnapping;

50 6. Sexual assault;

51 7. Arson;

52 8. Robbery;

9. Taking property from another under circumstances not amounting to robbery;
10. Extortion;
11. Statutory sexual seduction;
12. Extortionate collection of debt in violation of NRS 205.322;
13. Forgery, including, without limitation, forgery of a credit card or debit card in violation of NRS 205.740;
14. ~~Obtaining and using personal identifying information of another person in~~ Any violation of NRS 205.463 ~~in~~ which is punished as a felony;
15. Establishing or possessing a financial forgery laboratory in violation of NRS 205.46513;
16. Any violation of NRS 199.280 which is punished as a felony;
17. Burglary;
18. Grand larceny;
19. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;
20. Battery with intent to commit a crime in violation of NRS 200.400;
21. Assault with a deadly weapon;
22. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, except a violation of NRS 453.3393, or NRS 453.375 to 453.401, inclusive;
23. Receiving or transferring a stolen vehicle;
24. Any violation of NRS 202.260, 202.275 or 202.350 which is punished as a felony;
25. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of NRS;
26. Receiving, possessing or withholding stolen goods valued at \$650 or more;
27. Embezzlement of money or property valued at \$650 or more;
28. Obtaining possession of money or property valued at \$650 or more, or obtaining a signature by means of false pretenses;
29. Perjury or subornation of perjury;
30. Offering false evidence;
31. Any violation of NRS 201.300, 201.320 or 201.360;
32. Any violation of NRS 90.570, 91.230 or 686A.290, or insurance fraud pursuant to NRS 686A.291;
33. Any violation of NRS 205.506, 205.920 or 205.930;
34. Any violation of NRS 202.445 or 202.446;
35. Any violation of NRS 205.377;
36. Involuntary servitude in violation of any provision of NRS 200.463 or 200.464 or a violation of any provision of NRS 200.465; or
37. Trafficking in persons in violation of any provision of NRS 200.467 or 200.468.