

SENATE BILL NO. 260—SENATOR CANNIZZARO

MARCH 16, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to Internet privacy. (BDR 52-253)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. 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 Internet privacy; prohibiting a data broker from making any sale of certain information collected about a consumer in this State if so directed by the consumer; revising provisions relating to the sale of certain information collected about a consumer in this State; revising the circumstances under which operators of certain Internet websites or online services are authorized to remedy a failure to comply with certain requirements relating to the collection and sale of certain information about consumers in this State; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires an operator of an Internet website which collects certain
2 items of personally identifiable information about consumers in this State to
3 establish a designated address through which a consumer may submit a verified
4 request directing the operator not to make any sale of covered information collected
5 about the consumer. An operator that receives such a request is prohibited from
6 making any sale of any covered information collected about the consumer. (NRS
7 603A.345) **Section 3** of this bill imposes similar requirements upon a data broker,
8 which is generally defined in **section 2** of this bill to mean a person engaged in the
9 business of purchasing covered information about consumers in this State from
10 operators and other data brokers and making sales of or disseminating such
11 information. **Sections 4 and 5** of this bill make conforming changes to properly
12 place the new language of **sections 2 and 3** in the Nevada Revised Statutes.
13 **Sections 6 and 7** of this bill revise certain definitions to reflect the requirements
14 imposed on data brokers by **section 3**.

15 Existing law authorizes the Attorney General to seek an injunction or a civil
16 penalty against an operator who violates the provisions of existing law requiring the
17 establishment of a designated request address and prohibiting the sale of covered



18 information about a consumer who has made a verified request. (NRS 603A.360)
19 **Section 12** of this bill similarly authorizes the Attorney General to seek an
20 injunction or a civil penalty against a data broker who violates the provisions of
21 **section 3**.

22 Existing law defines "sale" for the purposes of the provisions of existing law
23 governing the sale of covered information by operators as the exchange of covered
24 information for monetary consideration by the operator to a person for the person to
25 license or sell the covered information to additional persons. (NRS 603A.333)
26 **Section 8** of this bill revises that definition to define "sale" as the exchange of
27 covered information for monetary consideration by an operator or data broker to
28 another person.

29 Existing law requires an operator to make available to consumers a notice
30 containing certain information relating to the collection and sale of covered
31 information collected through its Internet website or online service. An operator
32 who fails to comply with that requirement is authorized to remedy the failure to
33 comply within 30 days after being informed of such a failure. (NRS 603A.340)
34 **Sections 10 and 11** of this bill: (1) authorize an operator to remedy such a failure
35 only if it is the first failure of the operator to comply with the requirement; and (2)
36 reduce the amount of time in which an operator is authorized to remedy such a
37 failure to 10 days.

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

1 **Section 1.** Chapter 603A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *"Data broker" means a person engaged in the*
4 *business of purchasing covered information about consumers who*
5 *reside in this State from operators or other data brokers and*
6 *making sales of or disseminating such covered information.*

7 **Sec. 3. 1.** *Each data broker shall establish a designated*
8 *request address through which a consumer may submit a verified*
9 *request pursuant to this section.*

10 **2.** *A consumer may, at any time, submit a verified request*
11 *through a designated request address to a data broker directing*
12 *the data broker not to make any sale of any covered information*
13 *about the consumer that the data broker has purchased or will*
14 *purchase.*

15 **3.** *A data broker that has received a verified request*
16 *submitted by a consumer pursuant to subsection 2 shall not make*
17 *any sale of any covered information about that consumer that the*
18 *data broker has purchased or will purchase.*

19 **4.** *A data broker shall respond to a verified request submitted*
20 *by a consumer pursuant to subsection 2 within 60 days after*
21 *receipt thereof. A data broker may extend by not more than 30*
22 *days the period prescribed by this subsection if the data broker*
23 *determines that such an extension is reasonably necessary. A data*



1 *broker who extends the period prescribed by this subsection shall*
2 *notify the consumer of such an extension.*

3 **Sec. 4.** NRS 603A.100 is hereby amended to read as follows:

4 603A.100 1. The provisions of NRS 603A.010 to 603A.290,
5 inclusive, do not apply to the maintenance or transmittal of
6 information in accordance with NRS 439.581 to 439.595, inclusive,
7 and the regulations adopted pursuant thereto.

8 2. A data collector who is also an operator, as defined in NRS
9 603A.330, shall comply with the provisions of NRS 603A.300 to
10 603A.360, inclusive ~~§~~ *and sections 2 and 3 of this act.*

11 3. Any waiver of the provisions of NRS 603A.010 to
12 603A.290, inclusive, is contrary to public policy, void and
13 unenforceable.

14 **Sec. 5.** NRS 603A.300 is hereby amended to read as follows:

15 603A.300 As used in NRS 603A.300 to 603A.360, inclusive,
16 *and sections 2 and 3 of this act*, unless the context otherwise
17 requires, the words and terms defined in NRS 603A.310 to
18 603A.337, inclusive, *and section 2 of this act* have the meanings
19 ascribed to them in those sections.

20 **Sec. 6.** NRS 603A.320 is hereby amended to read as follows:

21 603A.320 "Covered information" means any one or more of
22 the following items of personally identifiable information about a
23 consumer collected by an operator through an Internet website or
24 online service and maintained by the operator *or a data broker* in an
25 accessible form:

26 1. A first and last name.

27 2. A home or other physical address which includes the name
28 of a street and the name of a city or town.

29 3. An electronic mail address.

30 4. A telephone number.

31 5. A social security number.

32 6. An identifier that allows a specific person to be contacted
33 either physically or online.

34 7. Any other information concerning a person collected from
35 the person through the Internet website or online service of the
36 operator and maintained by the operator *or data broker* in
37 combination with an identifier in a form that makes the information
38 personally identifiable.

39 **Sec. 7.** NRS 603A.325 is hereby amended to read as follows:

40 603A.325 "Designated request address" means an electronic
41 mail address, toll-free telephone number or Internet website
42 established by an operator *or data broker* through which a consumer
43 may submit to an operator *or data broker* a verified request.



1 **Sec. 8.** NRS 603A.333 is hereby amended to read as follows:

2 603A.333 1. “Sale” means the exchange of covered
3 information for monetary consideration by ~~the~~ *an operator or data*
4 *broker* to ~~a~~ *another* person . ~~for the person to license or sell the~~
5 ~~covered information to additional persons.~~

6 2. The term does not include:

7 (a) The disclosure of covered information by an operator *or data*
8 *broker* to a person who processes the covered information on behalf
9 of the operator ~~or~~ *or data broker*;

10 (b) The disclosure of covered information by an operator to a
11 person with whom the consumer has a direct relationship for the
12 purposes of providing a product or service requested by the
13 consumer;

14 (c) The disclosure of covered information by an operator to a
15 person for purposes which are consistent with the reasonable
16 expectations of a consumer considering the context in which the
17 consumer provided the covered information to the operator;

18 (d) The disclosure of covered information *by an operator or*
19 *data broker* to a person who is an affiliate, as defined in NRS
20 686A.620, of the operator ~~or~~ *or data broker*; or

21 (e) The disclosure or transfer of covered information *by an*
22 *operator or data broker* to a person as an asset that is part of a
23 merger, acquisition, bankruptcy or other transaction in which the
24 person assumes control of all or part of the assets of the operator ~~or~~
25 *or data broker*.

26 **Sec. 9.** NRS 603A.337 is hereby amended to read as follows:

27 603A.337 “Verified request” means a request:

28 1. Submitted by a consumer to an operator *or data broker* for
29 the purposes set forth in NRS 603A.345 ~~or~~ *or section 3 of this act,*
30 *as applicable*; and

31 2. For which an operator *or data broker* can reasonably verify
32 the authenticity of the request and the identity of the consumer using
33 commercially reasonable means.

34 **Sec. 10.** NRS 603A.340 is hereby amended to read as follows:

35 603A.340 1. Except as otherwise provided in subsection 3,
36 an operator shall make available, in a manner reasonably calculated
37 to be accessible by consumers whose covered information the
38 operator collects through its Internet website or online service, a
39 notice that:

40 (a) Identifies the categories of covered information that the
41 operator collects through its Internet website or online service about
42 consumers who use or visit the Internet website or online service
43 and the categories of third parties with whom the operator may share
44 such covered information;



1 (b) Provides a description of the process, if any such process
2 exists, for an individual consumer who uses or visits the Internet
3 website or online service to review and request changes to any of his
4 or her covered information that is collected through the Internet
5 website or online service;

6 (c) Describes the process by which the operator notifies
7 consumers who use or visit the Internet website or online service of
8 material changes to the notice required to be made available by this
9 subsection;

10 (d) Discloses whether a third party may collect covered
11 information about an individual consumer's online activities over
12 time and across different Internet websites or online services when
13 the consumer uses the Internet website or online service of the
14 operator; and

15 (e) States the effective date of the notice.

16 2. An operator *who has not previously failed to comply with*
17 *the provisions of subsection 1* may remedy any failure to comply
18 with the provisions of subsection 1 within ~~[30]~~ 10 days after being
19 informed of such a failure.

20 3. The provisions of subsection 1 do not apply to an operator:

21 (a) Who is located in this State;

22 (b) Whose revenue is derived primarily from a source other than
23 the sale or lease of goods, services or credit on Internet websites or
24 online services; and

25 (c) Whose Internet website or online service has fewer than
26 20,000 unique visitors per year.

27 **Sec. 11.** NRS 603A.350 is hereby amended to read as follows:

28 603A.350 An operator violates NRS 603A.340 if the operator:

29 1. ~~[Knowingly]~~ *Has not previously failed to comply with the*
30 *provisions of subsection 1 of that section and knowingly*
31 *and willfully fails to remedy a failure to comply with [the] such*
32 *provisions [of subsection 1 of that section] within [30] 10 days after*
33 *being informed of such a failure; [or]*

34 2. *Knowingly and willfully fails to comply with the provisions*
35 *of subsection 1 of that section after having previously failed to*
36 *comply with such provisions; or*

37 3. Makes available a notice pursuant to that section which
38 contains information which constitutes a knowing and material
39 misrepresentation or omission that is likely to mislead a consumer
40 acting reasonably under the circumstances, to the detriment of the
41 consumer.

42 **Sec. 12.** NRS 603A.360 is hereby amended to read as follows:

43 603A.360 1. The Attorney General shall enforce the
44 provisions of NRS 603A.300 to 603A.360, inclusive ~~[]~~ , *and*
45 *sections 2 and 3 of this act.*



1 2. If the Attorney General has reason to believe that an
2 operator, either directly or indirectly, has violated or is violating
3 NRS 603A.340 or 603A.345, the Attorney General may institute an
4 appropriate legal proceeding against the operator. The district court,
5 upon a showing that the operator, either directly or indirectly, has
6 violated or is violating NRS 603A.340 or 603A.345, may:

7 (a) Issue a temporary or permanent injunction; or

8 (b) Impose a civil penalty not to exceed \$5,000 for each
9 violation.

10 3. *If the Attorney General has reason to believe that a data*
11 *broker, either directly or indirectly, has violated or is violating*
12 *section 3 of this act, the Attorney General may institute an*
13 *appropriate legal proceeding against the data broker. The district*
14 *court, upon a showing that the data broker, either directly or*
15 *indirectly, has violated or is violating section 3 of this act, may:*

16 (a) *Issue a temporary or permanent injunction; or*

17 (b) *Impose a civil penalty not to exceed \$5,000 for each*
18 *violation.*

19 4. The provisions of NRS 603A.300 to 603A.360, inclusive,
20 *and sections 2 and 3 of this act* do not establish a private right of
21 action against an operator.

22 ~~[4.]~~ 5. The provisions of NRS 603A.300 to 603A.360,
23 inclusive, *and sections 2 and 3 of this act* are not exclusive and are
24 in addition to any other remedies provided by law.

