

Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

Senate Committee on Commerce and Labor

This measure may be considered for action during today's work session.

SENATE BILL 370

Revises provisions relating to consumer health data. (BDR 52-42)

Sponsored By: Senators Cannizzaro, Nguyen, and Doñate, et al.

Date Heard: April 10, 2023

Fiscal Notes: Effect on Local Government: No.

Effect on the State: Yes.

Senate Bill 370 outlines protections for consumer health data maintained and used by regulated entities that produce, provide products, or services targeted to consumers in this State. The bill requires regulated entities to develop and maintain privacy policies and obtain affirmative consent from consumers before collecting or sharing health data. The bill requires a regulated entity to establish a method for consumers to request information about their data, ask for data deletion, and appeal if their request is denied. Provides requirements governing a regulated entities response to a consumer request, including the timeframe for responding and that an entity respond free of charge in most circumstance. The bill prohibits the sale of consumer health data without written authorization and restricts implementing geofencing around healthcare providers. Regulated entities are required to implement security measures and limit access to consumer health data.

Further, the bill provides that violations of provisions of the bill are considered deceptive trade practices and authorizes injured persons to bring civil action. Finally, the bill exempts consumer health data from existing provisions governing consumer information collected on the Internet from consumers.

Amendments:

Senator Cannizzaro, proposes the several amendments attached is a mock-up prepared by the Legal Division of the Legislative Counsel Bureau, as well as a document containing conceptual amendments.

MOCK-UP

PROPOSED AMENDMENT 3550 TO SENATE BILL NO. 370

*PREPARED FOR SENATOR CANNIZZARO
APRIL 7, 2023*

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

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.

Legislative Counsel's Digest:

Existing federal law and regulations contain various protections for health information maintained or used: (1) by a person or entity that provides health care, an insurer or a business associate of a person or entity that provides health care or an insurer; or (2) for scientific research. (42 U.S.C. §§ 11101 et seq.; Pub. L. No. 104-191, 100 Stat. 2548; 21 C.F.R. Parts 46, 50 and 56, 42 C.F.R. Parts 2 and 3, 45 C.F.R. Parts 160 and 164) ~~This~~ **Sections 2-34 of this bill** ~~prescribes~~ **prescribe** various protections for consumer health data that is maintained and used by other persons and nongovernmental entities and for other purposes. **Section 7** of this bill defines the term “consumer” to mean a natural person who resides in this State or whose consumer health data is collected in this State, except for a natural person acting in an employment context. **Section 8** of this bill defines the term “consumer health data” to mean personally identifiable information that is linked or reasonably capable of being linked to a consumer and is related to the health of the consumer. **Section 15** of this bill defines the term “regulated entity” to refer to a person who: (1) conducts business in this State or produces or provides products or services that are targeted to consumers in this State; and (2) determines the purpose and means of processing, sharing or selling consumer health data. **Sections 3-6, 9-14 and 16-19** of this bill define certain other terms. **Section 20** of this bill provides that the provisions of ~~this bill~~ **sections 2-34** do not apply to certain data that is collected or disclosed under certain provisions of federal law or regulations or state law.

1 **Section 21** of this bill requires a regulated entity to develop, maintain and make
2 available on the Internet a policy concerning the privacy of consumer health data. **Section**
3 **21** also prohibits a regulated entity from: (1) taking certain actions with regard to consumer

1 health data that are inconsistent with the policy without the affirmative consent of the
2 consumer; or (2) entering into a contract for the processing of consumer health data that is
3 inconsistent with the policy. **Section 22** of this bill generally prohibits a regulated entity
4 from collecting or sharing consumer health data without the affirmative consent of the
5 consumer to whom the data relates, except to the extent necessary to provide a product or
6 service that the consumer has requested from the regulated entity. **Sections 22 and 23** of
7 this bill prescribe certain requirements governing such consent.

8 **Section 24** of this bill requires a regulated entity, upon the request of a consumer, to:
9 (1) confirm whether the regulated entity is collecting, sharing or selling consumer health
10 data concerning the consumer; (2) provide the consumer with a list of all third parties and
11 affiliates with whom the regulated entity has shared or to whom the regulated entity has
12 sold consumer health data relating to the consumer; (3) cease collecting or sharing
13 consumer health data relating to the consumer; or (4) delete consumer health data
14 concerning the consumer. **Section 24** also requires a regulated entity to establish a secure
15 and reliable means of making such a request. **Section 25** of this bill prescribes requirements
16 governing the response to such a request, including a requirement that a regulated entity
17 provide information in response to such a request free of charge in most circumstances.
18 However, if a consumer submits more than two requests in a year and those requests are
19 manifestly unfounded, excessive or repetitive, **section 25** authorizes the regulated entity to
20 charge a reasonable fee to provide such information. **Section 26** of this bill prescribes
21 requirements governing the time within which a regulated entity or an affiliate, processor or
22 other third party with which a regulated entity has shared data must delete consumer health
23 data in response to a request for such deletion. **Section 27** of this bill requires a regulated
24 entity to establish a process to appeal the refusal of the regulated entity to act on a request
25 made pursuant to **section 24**. **Section 32** of this bill: (1) requires a regulated entity,
26 contractor of a regulated entity, processor or other third party to disclose consumer health
27 data where required by law, court order, subpoena or search warrant; (2) authorizes certain
28 other disclosures of consumer health data; and (3) provides that a regulated entity,
29 contractor, processor or third party who discloses consumer health data under such
30 circumstances is not required to comply with **sections 22-27**.

31 **Section 28** of this bill requires a regulated entity to limit access to and establish,
32 implement and maintain policies and procedures to protect the security of consumer health
33 data. **Section 29** of this bill requires a processor who processes consumer health data on
34 behalf of a regulated entity to only process such data in accordance with a written contract
35 between the processor and the regulated entity. **Section 29** also requires such a processor to
36 assist a regulated entity in complying with the provisions of ~~this bill~~ **sections 2-34**.

37 **Section 30** of this bill prohibits a person from selling or offering to sell consumer
38 health data without the written authorization of the consumer to whom the data pertains or
39 beyond the scope of such authorization, with certain exceptions. **Section 30** also prohibits a
40 person from conditioning the provision of goods or services on a consumer providing such
41 authorization. **Section 30** requires a person who sells consumer health data to: (1) establish
42 a means by which a consumer may revoke such written authorization; and (2) provide a
43 copy of such written authorization to the consumer. **Section 30** also requires both a seller
44 and a purchaser of consumer health data to maintain such written authorization for at least 6
45 years after the expiration of the written authorization.

46 **Section 31** of this bill prohibits a person from implementing a geofence around any
47 person or entity that provides in-person health care services or products for certain
48 purposes. **Section 33** of this bill prohibits a regulated entity from discriminating against a
49 consumer for taking any action authorized by ~~this bill~~ **sections 2-34** or to enforce ~~the~~
50 **those provisions**. ~~of this bill~~

51 Existing law provides that a variety of actions constitute deceptive trade practices.
52 (NRS 118A.275, 205.377, 228.620, 370.695, 597.997, 603.170, 604B.910, 676A.770;
53 chapter 598 of NRS) Existing law authorizes a court to impose a civil penalty of not more
54 than \$12,500 for each violation upon a person whom the court finds has engaged in a
55 deceptive trade practice directed toward an elderly person or a person with a disability.

1 (NRS 598.0973) Additionally, existing law authorizes a court to make such additional
2 orders or judgments as may be necessary to restore to any person in interest any money or
3 property which may have been acquired by means of any deceptive trade practice. (NRS
4 598.0993) In addition to these enforcement mechanisms, existing law provides that when
5 the Commissioner of Consumer Affairs or the Director of the Department of Business and
6 Industry has cause to believe that a person has engaged or is engaging in any deceptive
7 trade practice, the Commissioner or Director may request that the Attorney General
8 represent him or her in instituting an appropriate legal proceeding, including an application
9 for an injunction or temporary restraining order. (NRS 598.0979) Existing law provides that
10 if a person violates a court order or injunction resulting from a complaint brought by the
11 Commissioner, the Director, the district attorney of any county of this State or the Attorney
12 General, the person is required to pay a civil penalty of not more than \$10,000 for each
13 violation. Furthermore, if a court finds that a person has willfully engaged in a deceptive
14 trade practice, the person who committed the violation: (1) may be required to pay an
15 additional civil penalty not more than \$5,000 for each violation; and (2) is guilty of a felony
16 or misdemeanor, depending on the value of the property or services lost as a result of the
17 deceptive trade practice. (NRS 598.0999) Existing law: (1) provides that certain deceptive
18 trade practices constitute consumer fraud; and (2) authorizes a person injured by consumer
19 fraud to bring a civil action. (NRS 41.600) With certain exceptions, **section 34** of this bill:
20 (1) provides that a person who violates any provision of ~~this bill~~ **sections 2-34** is guilty of
21 a deceptive trade practice; and (2) authorizes a person injured by such a violation to bring a
22 civil action.

23 Sections 34.1-34.9 of this bill establish provisions for the protection of biometric
24 identifiers. Section 34.1 of this bill sets forth certain legislative findings concerning
25 biometric identifiers. Section 34.3 of this bill defines "biometric identifier" to mean
26 data relating to the face, fingerprint or iris of a person. Sections 34.35-34.45 of this bill
27 define certain other terms. Section 34.5 of this bill provides that the provisions of
28 sections 34.1-34.9 do not apply to: (1) certain data that is collected, possessed or
29 shared under certain provisions of federal law or regulations; (2) photographs
30 collected, possessed or shared for purposes other than verifying the identity of a
31 person; (3) information collected, possessed or shared for certain medical or scientific
32 purposes; or (4) governmental or tribal entities. Section 34.6 of this bill authorizes the
33 provision of information or consent under sections 34.1-34.9 electronically. Section
34 34.7 of this bill requires a person who possesses a biometric identifier to establish and
35 comply with a publicly available written policy setting forth a schedule for the
36 retention and destruction of biometric identifiers. Section 34.7 also establishes
37 requirements governing the storage, transmittal and protection of biometric
38 identifiers. Section 34.8 of this bill prescribes requirements governing collecting and
39 sharing biometric identifiers. Section 34.8 also prohibits the sale of biometric
40 identifiers. Section 34.9 of this bill establishes civil penalties for a violation of sections
41 34.1-34.9.

42 Section 35 of this bill exempts consumer health data and biometric identifiers from
43 provisions of existing law governing information collected on the Internet from consumers
44 because those provisions are less stringent than the provisions of ~~sections 2-34~~ 2-34.9 of
45 this bill.

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 adding
2 thereto the provisions set forth as sections 2 to ~~34,~~ 34.9, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 34, inclusive, of this act, unless the*
5 *context otherwise requires, the words and terms defined in sections 3 to*
6 *19, inclusive, of this act have the meanings ascribed to them in those*
7 *sections.*

8 **Sec. 3.** *“Affiliate” means an entity that shares common branding*
9 *with another entity and controls, is controlled by or is under common*
10 *control with the other entity. For the purposes of this section, an entity*
11 *shall be deemed to control another entity if the entity:*

12 *1. Owns or has the power to vote at least half of the outstanding*
13 *shares of any class of voting security in the other entity;*

14 *2. Controls in any manner the election of a majority of the directors*
15 *or persons exercising similar functions to directors of the other entity; or*

16 *3. Has the power to exercise controlling influence over the*
17 *management of the other entity.*

18 **Sec. 4.** *“Authenticate” means to ascertain the identity of the*
19 *originator of an electronic or physical document and establish a link*
20 *between the document and the originator.*

21 **Sec. 5.** *“Biometric data” means data which is generated from the*
22 *measurement or technical processing of the physiological, biological or*
23 *behavioral characteristics of a person and, alone or in combination with*
24 *other data, is capable of being used to identify the person. The term*
25 *includes, without limitation:*

26 *1. Imagery of the fingerprint, palm print, hand print, scar, bodily*
27 *mark, tattoo, voiceprint, face, retina, iris or vein pattern of a person; and*

28 *2. Keystroke patterns or rhythms and gait patterns or rhythms that*
29 *contain identifying information.*

30 **Sec. 6.** *“Collect” means to buy, rent, access, retain, receive,*
31 *acquire, infer, derive or otherwise process consumer health data in any*
32 *manner.*

33 **Sec. 7.** *“Consumer” means a natural person who resides in this*
34 *State or whose consumer health data is collected in this State. The term*
35 *does not include a natural person acting in an employment context.*

36 **Sec. 8.** *“Consumer health data” means personally identifiable*
37 *information that is linked or reasonably capable of being linked to a*
38 *consumer and is related to the past, present or future health of the*
39 *consumer. The term includes, without limitation:*

40 *1. Information relating to:*

41 *(a) Any health condition or status, disease or diagnosis;*

42 *(b) Social, psychological, behavioral or medical interventions;*

43 *(c) Surgeries or other health-related procedures;*

44 *(d) The use or acquisition of medication;*

45 *(e) Bodily functions, vital signs or symptoms;*

1 *(f) Reproductive or sexual health care; and*

2 *(g) Gender-affirming care;*

3 *2. Biometric data or genetic data related to information described in*
4 *subsection 1;*

5 *3. Information related to the precise location of a consumer that is*
6 *derived from technology, including, without limitation, a global*
7 *positioning system, and is reasonably capable of being used to indicate*
8 *an attempt by a consumer to receive health care services or products;*
9 *and*

10 *4. Any information described in subsection 1, 2 or 3 that is derived*
11 *or extrapolated from information that is not consumer health data,*
12 *including, without limitation, proxy, derivative, inferred or emergent*
13 *data derived through an algorithm, machine learning or any other*
14 *means.*

15 **Sec. 9.** *“Gender-affirming care” means health services or products*
16 *that support and affirm the gender identity of a person, including,*
17 *without limitation:*

18 *1. Treatments for gender dysphoria;*

19 *2. Gender-affirming hormone therapy; and*

20 *3. Gender-affirming surgery.*

21 **Sec. 10.** *“Genetic data” means any data that concerns the genetic*
22 *characteristics of a person. The term includes, without limitation:*

23 *1. Data directly resulting from the sequencing of all or a portion of*
24 *the deoxyribonucleic acid of a person;*

25 *2. Genotypic and phenotypic information that results from*
26 *analyzing the information described in subsection 1; and*

27 *3. Data concerning the health of a person that is analyzed in*
28 *connection with the information described in subsection 1.*

29 **Sec. 11.** *“Health care services or products” means any service or*
30 *product provided to a person to assess, measure, improve or learn about*
31 *the health of a person. The term includes, without limitation:*

32 *1. Services relating to any health condition or status, disease or*
33 *diagnosis;*

34 *2. Social, psychological, behavioral or medical interventions;*

35 *3. Surgeries or other health-related procedures;*

36 *4. Medication or services related to the use or acquisition of*
37 *medication; or*

38 *5. Monitoring or measurement related to bodily functions, vital*
39 *signs or symptoms.*

40 **Sec. 12.** *“Personally identifiable information” means information*
41 *that, alone or in combination with other information, may be used to*
42 *identify a person or an electronic device used by the person. The term:*

43 *1. Includes, without limitation:*

44 *(a) Data associated with an Internet protocol address, device*
45 *identifier or other form of persistent unique identifier; and*

1 ***(b) Any data about a person that is collected without the consent of***
2 ***the person.***

3 ***2. Does not include:***

4 ***(a) Information that is made lawfully available through the records***
5 ***of a federal, state or local governmental entity or widely distributed***
6 ***media and which a regulated entity has a reasonable basis to believe that***
7 ***a person has made available to the general public; or***

8 ***(b) Deidentified information.***

9 ***Sec. 13. "Process" means any operation or set of operations***
10 ***performed on consumer health data.***

11 ***Sec. 14. "Processor" means a person who processes consumer***
12 ***health data on behalf of a regulated entity.***

13 ***Sec. 15. "Regulated entity" means any person who:***

14 ***1. Conducts business in this State or produces or provides products***
15 ***or services that are targeted to consumers in this State; and***

16 ***2. Alone or with other persons, determines the purpose and means***
17 ***of processing, sharing or selling consumer health data.***

18 ***Sec. 16. "Reproductive or sexual health care" means health care***
19 ***services or products that support or relate to the reproductive system or***
20 ***sexual well-being of a person. The term includes, without limitation,***
21 ***abortion, the provision of medication to induce an abortion and any***
22 ***medical or nonmedical services associated with an abortion.***

23 ***Sec. 17. "Sell" means to exchange consumer health information***
24 ***for money or other valuable consideration.***

25 ***Sec. 18. "Share" means to release, disclose, disseminate, divulge,***
26 ***make available, provide access to, license or otherwise communicate***
27 ***consumer health data orally, in writing or by electronic or other means.***

28 ***Sec. 19. "Third party" means a person who is not a consumer,***
29 ***regulated entity, processor or affiliate of a regulated entity.***

30 ***Sec. 20. The provisions of sections 2 to 34, inclusive, of this act do***
31 ***not apply to:***

32 ***1. Information that is collected, used or shared in accordance with***
33 ***the Health Insurance Portability and Accountability Act of 1996, Public***
34 ***Law 104-191, and the regulations adopted pursuant thereto.***

35 ***2. Information originating from, and intermingled with to be***
36 ***indistinguishable from, information described in subsection 1 that is***
37 ***maintained by:***

38 ***(a) A covered entity or business associate, as those terms are defined***
39 ***in 45 C.F.R. § 160.103; or***

40 ***(b) A program or qualified service organization, as those terms are***
41 ***defined in 45 C.F.R. § 2.11.***

42 ***3. Patient identifying information, as defined in 42 C.F.R. § 2.11,***
43 ***that is collected, used or disclosed in accordance with 42 C.F.R. Part 2.***

44 ***4. Patient safety work product, as defined in 42 C.F.R. § 3.20, that is***
45 ***collected, used or disclosed in accordance with 42 C.F.R. Part 3.***

1 5. *Identifiable private information, as defined in 45 C.F.R. § 46.102,*
2 *that is collected, used or disclosed in accordance with 45 C.F.R. Part 46.*

3 6. *Information used or shared as part of research conducted*
4 *pursuant to 45 C.F.R. Part 46 or 21 C.F.R. Parts 50 and 56.*

5 7. *Information used only for public health activities and purposes,*
6 *as described in 45 C.F.R. § 164.512(b), regardless of whether such*
7 *information is subject to the Health Insurance Portability and*
8 *Accountability Act of 1996, Public Law 104-191, and the regulations*
9 *adopted pursuant thereto.*

10 8. *Personally identifiable information that is governed by and*
11 *collected, used or disclosed pursuant to:*

12 (a) *The Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801 et seq., and the*
13 *regulations adopted pursuant thereto;*

14 (b) *Part C of Title XI of the Social Security Act, 42 U.S.C. §§ 1320d*
15 *et seq.;*

16 (c) *The Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.; or*

17 (d) *The Family Educational Rights and Privacy Act of 1974, 20*
18 *U.S.C. § 1232g, and the regulations adopted pursuant thereto.*

19 9. *Information and documents created for the purposes of*
20 *compliance with the federal Health Care Quality Improvement Act of*
21 *1986, 42 U.S.C. §§ 11101 et seq., and any regulations adopted pursuant*
22 *thereto.*

23 10. *The collection or sharing of consumer health data where*
24 *expressly authorized by any provision of state law.*

25 11. *Any governmental or tribal entity or any person processing*
26 *consumer health data on behalf of a governmental or tribal entity.*

27 **Sec. 21. 1.** *A regulated entity shall develop and maintain a policy*
28 *concerning the privacy of consumer health data that clearly and*
29 *conspicuously establishes:*

30 (a) *The categories of consumer health data being collected by the*
31 *regulated entity and the manner in which the consumer health data will*
32 *be used;*

33 (b) *The categories of sources from which consumer health data is*
34 *collected;*

35 (c) *The categories of consumer health data that are shared by the*
36 *regulated entity;*

37 (d) *A list of third parties and affiliates with whom the regulated entity*
38 *shares consumer health data;*

39 (e) *The purposes of collecting, using and sharing consumer health*
40 *data;*

41 (f) *The manner in which consumer health data will be processed;*

42 (g) *The procedure for submitting a request pursuant to section 24 of*
43 *this act;*

1 *(h) The process, if any such process exists, for a consumer to review*
2 *and request changes to any of his or her consumer health data that is*
3 *collected by the regulated entity;*

4 *(i) The process by which the regulated entity notifies consumers*
5 *whose consumer health data is collected by the regulated entity of*
6 *material changes to the privacy policy;*

7 *(j) Whether a third party may collect consumer health data over time*
8 *and across different Internet websites or online services when the*
9 *consumer uses any Internet website or online service of the regulated*
10 *entity; and*

11 *(k) The effective date of the privacy policy.*

12 *2. A regulated entity shall post conspicuously on the main Internet*
13 *website maintained by the regulated entity a hyperlink to the policy*
14 *developed pursuant to subsection 1.*

15 *3. A regulated entity shall not:*

16 *(a) Collect, use or share categories of consumer health data, other*
17 *than those included in the privacy policy pursuant to paragraph (c) of*
18 *subsection 1, without disclosing those additional categories to each*
19 *consumer whose data will be collected, used or shared and obtaining the*
20 *affirmative consent of the consumer;*

21 *(b) Share consumer health data with a third party or affiliate, other*
22 *than those included in the privacy policy pursuant to paragraph (d) of*
23 *subsection 1, without disclosing those additional third parties or affiliates*
24 *to each consumer whose data will be shared and obtaining the*
25 *affirmative consent of the consumer;*

26 *(c) Collect, use or share consumer health data for purposes other*
27 *than those included in the privacy policy pursuant to paragraph (e) of*
28 *subsection 1 without disclosing those additional purposes to each*
29 *consumer whose data will be collected, used or shared and obtaining the*
30 *affirmative consent of the consumer; or*

31 *(d) Enter into a contract pursuant to section 29 of this act with a*
32 *processor to process consumer health data that is inconsistent with the*
33 *privacy policy.*

34 **Sec. 22. 1. A regulated entity shall not collect consumer health**
35 **data except:**

36 *(a) With the affirmative consent of the consumer; or*

37 *(b) To the extent necessary to provide a product or service that the*
38 *consumer to whom the consumer health data relates has requested from*
39 *the regulated entity.*

40 *2. A regulated entity shall not share consumer health data except:*

41 *(a) With the affirmative consent of the consumer to whom the*
42 *consumer health data relates, which must be separate and distinct from*
43 *the consent provided pursuant to subsection 1 for the collection of the*
44 *data;*

1 ***(b) To the extent necessary to provide a product or service that the***
2 ***consumer to whom the consumer health data relates has requested from***
3 ***the regulated entity; or***

4 ***(c) Where required or authorized by section 32 of this act.***

5 ***3. Any consent required by this section must be obtained before the***
6 ***collection or sharing, as applicable, of consumer health data. The***
7 ***request for such consent must clearly and conspicuously disclose:***

8 ***(a) The categories of consumer health data to be collected or shared,***
9 ***as applicable;***

10 ***(b) The purpose for collecting or sharing, as applicable, the***
11 ***consumer health data including, without limitation, the manner in which***
12 ***the consumer health data will be used;***

13 ***(c) If the consumer health data will be shared, the categories of***
14 ***persons and entities with whom the consumer health data will be shared;***
15 ***and***

16 ***(d) The manner in which the consumer may withdraw consent for***
17 ***the collection or sharing, as applicable, of consumer health data relating***
18 ***to the consumer and request that the regulated entity cease such***
19 ***collection or sharing pursuant to section 24 of this act.***

20 ***Sec. 23. Any consent provided pursuant to section 21 or 22 of this***
21 ***act must be an affirmative, voluntary act. Such consent may be provided***
22 ***electronically, but may not be provided through:***

23 ***1. The acceptance of a general agreement concerning terms of use***
24 ***or a similar agreement that contains descriptions of the manner in which***
25 ***personal data will be used or processed and other unrelated information;***

26 ***2. A consumer hovering over, muting, pausing or closing a piece of***
27 ***online content; or***

28 ***3. The use of a user interface designed or manipulated with the***
29 ***effect of subverting or impairing the autonomy, decision making or***
30 ***choice of the user.***

31 ***Sec. 24. 1. Except as otherwise provided in section 25 of this act,***
32 ***upon the request of a consumer, a regulated entity shall:***

33 ***(a) Confirm whether the regulated entity is collecting, sharing or***
34 ***selling consumer health data relating to the consumer.***

35 ***(b) Provide the consumer with a list of all third parties and affiliates***
36 ***with whom the regulated entity has shared consumer health data relating***
37 ***to the consumer or to whom the regulated entity has sold such consumer***
38 ***health data. The list must include, without limitation, a valid electronic***
39 ***mail address for each such third party or affiliate or another valid***
40 ***mechanism by which the consumer may contact each such third party or***
41 ***affiliate using the Internet.***

42 ***(c) Cease collecting, sharing or selling consumer health data relating***
43 ***to the consumer.***

44 ***(d) Delete consumer health data concerning the consumer.***

1 2. *A regulated entity shall establish a secure and reliable means of*
2 *making a request pursuant to this section. The means of making such a*
3 *request must not require a consumer to create a new account with the*
4 *regulated entity, but may require the consumer to use an existing*
5 *account. When establishing the means for making such a request, the*
6 *regulated entity must consider:*

7 (a) *The need for the safe and reliable communication of such*
8 *requests; and*

9 (b) *The ability of the regulated entity to authenticate the identity of*
10 *the consumer making the request.*

11 **Sec. 25.** 1. *Except as otherwise provided in this section, a*
12 *regulated entity shall respond to a request made pursuant to section 24 of*
13 *this act without undue delay and not later than 45 days after*
14 *authenticating the request. If reasonably necessary based on the*
15 *complexity and number of requests from the same consumer, the*
16 *regulated entity may extend the period prescribed by this section not*
17 *more than an additional 45 days. A regulated entity that grants itself*
18 *such an extension must, not later than 45 days after authenticating the*
19 *request, provide the consumer with notice of the extension and the*
20 *reasons therefor.*

21 2. *If a regulated entity is not able to authenticate a request made*
22 *pursuant to section 24 of this act after making commercially reasonable*
23 *efforts, the regulated entity:*

24 (a) *Is not required to comply with the request; and*

25 (b) *May request that the consumer provide such additional*
26 *information as is reasonably necessary to authenticate the request.*

27 3. *A regulated entity:*

28 (a) *Shall provide information free of charge to a consumer in*
29 *response to:*

30 (1) *Requests made pursuant to section 24 of this act at least twice*
31 *each year; and*

32 (2) *Additional requests that are not manifestly unfounded,*
33 *excessive or repetitive.*

34 (b) *Except as otherwise provided in paragraph (a), may charge a*
35 *reasonable fee to provide information to a consumer in response to*
36 *requests made pursuant to section 24 of this act that are manifestly*
37 *unfounded, excessive or repetitive.*

38 4. *In any civil proceeding challenging the validity of a fee charged*
39 *pursuant to paragraph (b) of subsection 3, the regulated entity has the*
40 *burden of demonstrating by a preponderance of the evidence that the*
41 *request to which the fee pertained was manifestly unfounded, excessive*
42 *or repetitive.*

43 5. *In any criminal proceeding to enforce the provisions of this*
44 *section, it is an affirmative defense that the regulated entity charged a*

1 *fee pursuant to paragraph (b) of subsection 3 in response to a request*
2 *that was manifestly unfounded, excessive or repetitive.*

3 **Sec. 26.** 1. *Not later than 30 days after authenticating a request*
4 *made pursuant to paragraph (d) of subsection 1 of section 24 of this act*
5 *for the deletion of consumer health data, a regulated entity shall, except*
6 *as otherwise provided in subsection 3:*

7 (a) *Delete all consumer health data described in the request from the*
8 *records and network of the regulated entity; and*

9 (b) *Notify each affiliate, processor, contractor or other third party*
10 *with which the regulated entity has shared consumer health data of the*
11 *deletion request.*

12 2. *Not later than 30 days after receiving notification of a deletion*
13 *request pursuant to paragraph (b) of subsection 1, an affiliate, processor,*
14 *contractor or other third party shall, except as otherwise provided in*
15 *subsection 3, delete the consumer health data described in the request*
16 *from the records and network of the affiliate, processor, contractor or*
17 *other third party.*

18 3. *If data described in a deletion request made pursuant to*
19 *paragraph (d) of subsection 1 of section 24 of this act is stored or*
20 *archived on backup systems, a regulated entity or an affiliate, processor,*
21 *contractor or other third party may delay the deletion of the data for not*
22 *more than 6 months after the request is authenticated, as necessary to*
23 *restore the archived or backup system.*

24 **Sec. 27.** 1. *A regulated entity shall establish a process by which a*
25 *consumer may appeal the refusal of the regulated entity to act on a*
26 *request made pursuant section 24 of this act. The process must be:*

27 (a) *Conspicuously available on the Internet website of the regulated*
28 *entity; and*

29 (b) *Similar to the process for making a request pursuant to section 24*
30 *of this act.*

31 2. *Not later than 45 days after receiving an appeal pursuant to*
32 *subsection 1, a regulated entity shall inform the consumer in writing of:*

33 (a) *Any action taken in response to the appeal or any decision not to*
34 *take such action;*

35 (b) *The reasons for any such action or decision; and*

36 (c) *If the regulated entity decided not to take the action requested in*
37 *the appeal, the contact information for the Office of the Attorney*
38 *General.*

39 **Sec. 28.** 1. *A regulated entity shall only authorize the employees,*
40 *processors and contractors of the regulated entity to access consumer*
41 *health data where necessary to:*

42 (a) *Further the purpose for which the consumer consented to the*
43 *collection or sharing of the consumer data pursuant to section 22 of this*
44 *act; or*

1 (b) Provide a product or service that the consumer to whom the
2 consumer health data relates has requested from the regulated entity.

3 2. A regulated entity shall establish, implement and maintain
4 policies and practices for the administrative, technical and physical
5 security of consumer health data. The policies must:

6 (a) Satisfy the standard of care in the industry in which the regulated
7 entity operates to protect the confidentiality, integrity and accessibility of
8 consumer health data;

9 (b) Comply with the provisions of NRS 603A.010 to 603A.290,
10 inclusive, where applicable; and

11 (c) Be reasonable, taking into account the volume and nature of the
12 consumer health data at issue.

13 **Sec. 29.** 1. A processor shall only process consumer health data
14 pursuant to a contract between the processor and a regulated entity.
15 Such a contract must set forth the applicable processing instructions and
16 the specific actions that the processor is authorized to take with regard to
17 the consumer health data it possesses on behalf of the regulated entity.

18 2. To the extent practicable, a processor shall assist a regulated
19 entity with which the processor has entered into a contract pursuant to
20 subsection 1 in complying with the provisions of sections 2 to 34,
21 inclusive, of this act.

22 3. If a processor processes consumer health data outside the scope
23 of a contract described in subsection 1 or in a manner inconsistent with
24 any provision of such a contract, the processor:

25 (a) Is not guilty of an unfair trade practice or subject to a civil action
26 pursuant to section 34 of this act solely because the processor violated
27 the requirements of this section; and

28 (b) Shall be deemed a regulated entity for the purposes of sections 2
29 to 34, inclusive, of this act.

30 **Sec. 30.** 1. A person shall not sell or offer to sell consumer health
31 data:

32 (a) Without the written authorization of the consumer to whom the
33 data pertains; or

34 (b) If the consumer provides such written authorization, in a manner
35 that is outside the scope of or inconsistent with the written authorization.

36 2. A person shall not condition the provision of goods or services on
37 a consumer authorizing the sale of consumer health data pursuant to
38 subsection 1.

39 3. Written authorization pursuant to subsection 1 must be provided
40 in a form written in plain language which includes, without limitation:

41 (a) The name and contact information of the person selling the
42 consumer health data;

43 (b) A description of the specific consumer health data that the person
44 intends to sell;

1 (c) *The name and contact information of the person purchasing the*
2 *consumer health data;*

3 (d) *A description of the purpose of the sale, including, without*
4 *limitation, the manner in which the consumer health data will be*
5 *gathered and the manner in which the person described in paragraph (c)*
6 *intends to use the consumer health data;*

7 (e) *A statement of the provisions of subsection 2;*

8 (f) *A statement that the consumer may revoke the written*
9 *authorization at any time and a description of the means established*
10 *pursuant to subsection 4 for revoking the authorization;*

11 (g) *A statement that any consumer health data sold pursuant to the*
12 *written authorization may be disclosed to additional persons and entities*
13 *by the person described in paragraph (c) and, after such disclosure, is no*
14 *longer subject to the protections of this section;*

15 (h) *The date on which the written authorization expires pursuant to*
16 *subsection 5; and*

17 (i) *The signature of the consumer to which the consumer health data*
18 *pertains.*

19 4. *A person who sells consumer health data shall establish a means*
20 *by which a consumer may revoke a written authorization made pursuant*
21 *to subsection 1.*

22 5. *Written authorization provided pursuant to subsection 1 expires 1*
23 *year after the date on which the authorization is given.*

24 6. *A written authorization provided pursuant to subsection 1 is not*
25 *valid if the written authorization:*

26 (a) *Was a condition for the provision of goods or services to the*
27 *consumer in violation of subsection 2;*

28 (b) *Does not comply with the requirements of subsection 3;*

29 (c) *Has been revoked pursuant to subsection 4; or*

30 (d) *Has expired pursuant to subsection 5.*

31 7. *A person who sells consumer health data shall provide a copy of*
32 *the written authorization provided pursuant to subsection 1 to the*
33 *consumer who signed the written authorization.*

34 8. *A seller and purchaser of consumer health data shall each retain*
35 *a copy of the written authorization provided pursuant to subsection 1 for*
36 *at least 6 years after the date on which the written authorization expired*
37 *pursuant to subsection 5.*

38 9. *The provisions of this section do not apply to the sale of*
39 *consumer health data to:*

40 (a) *A processor in a manner consistent with the purpose for which*
41 *the consumer health data was collected, as disclosed to the consumer to*
42 *whom the consumer health data pertains pursuant to section 22 of this*
43 *act; or*

44 (b) *A third party as an asset that is part of a merger, acquisition,*
45 *bankruptcy or other transaction through which the third party assumes*

1 control of all or part of the assets of the regulated entity. A third party
2 that obtains consumer health data from a regulated entity pursuant to
3 this paragraph assumes all obligations of the regulated entity to comply
4 with the provisions of sections 2 to 34, inclusive, of this act.

5 10. The provisions of this section do not authorize the sale of a
6 biometric identifier, as prohibited by section 34.8 of this act.

7 **Sec. 31. 1.** A person shall not implement a geofence within 2,000
8 feet of any medical facility, facility for the dependent or any other person
9 or entity that provides in-person health care services or products for the
10 purpose of:

11 (a) Identifying or tracking consumers seeking in-person health care
12 services or products;

13 (b) Collecting consumer health data; or

14 (c) Sending notifications, messages or advertisements to consumers
15 related to their consumer health data or health care services or products.

16 2. As used in this section:

17 (a) "Facility for the dependent" has the meaning ascribed to it in
18 NRS 449.0045.

19 (b) "Geofence" means technology that uses coordinates for global
20 positioning, connectivity to cellular towers, cellular data, radio frequency
21 identification, wireless Internet data or any other form of detecting the
22 physical location of a person to establish a virtual boundary around a
23 specific physical location.

24 (c) "Medical facility" has the meaning ascribed to it in
25 NRS 449.0151.

26 **Sec. 32. 1.** A regulated entity, contractor of a regulated entity,
27 processor or other third party that is in possession of consumer health
28 data:

29 (a) Shall disclose the consumer health data where required by law, a
30 court order, a subpoena, a search warrant or other lawful process; and

31 (b) Is not required to comply with the provisions of sections 22 to 27,
32 inclusive, of this act, when making such a disclosure.

33 2. A regulated entity may share consumer health data without
34 complying with the provisions of sections 22 to 27, inclusive, of this act:

35 (a) Directly with a processor for the purpose of providing goods or
36 services in a manner consistent with the purpose for which the consumer
37 health data was collected, as disclosed to the consumer to whom the
38 consumer health data pertains pursuant to section 22 of this act.

39 (b) With a third party with whom the consumer to whom the
40 consumer health data relates has a direct relationship if:

41 (1) The disclosure is for the purpose of providing a product or
42 service requested by the consumer;

43 (2) The regulated entity maintains control and ownership of the
44 consumer health data; and

1 (3) *The third party uses the consumer health data as directed by*
2 *the regulated entity and in a manner consistent with the purpose for*
3 *which the consumer health data was collected, as disclosed to the*
4 *consumer to whom the consumer health data relates pursuant to section*
5 *22 of this act.*

6 (c) *With a third party as an asset that is part of a merger, acquisition,*
7 *bankruptcy or other transaction through which the third party assumes*
8 *control of all or part of the assets of the regulated entity. A third party*
9 *that obtains consumer health data from a regulated entity pursuant to*
10 *this paragraph assumes all obligations of the regulated entity to comply*
11 *with the provisions of sections 2 to 34, inclusive, of this act.*

12 3. *A regulated entity or processor may collect, use or disclose*
13 *consumer health data without complying with the provisions of sections*
14 *22 to 27, inclusive, of this act to:*

15 (a) *Prevent, detect, protect against, respond to, investigate, report or*
16 *aid in the prosecution of malicious, deceptive or illegal activities, security*
17 *incidents, identity theft, fraud or harassment; or*

18 (b) *Preserve the integrity or security of electronic systems.*

19 4. *In any civil proceeding where a regulated entity or processor is*
20 *alleged to have failed to comply with the provisions of sections 22 to 27,*
21 *inclusive, of this act, a regulated entity or processor that collected, used*
22 *or disclosed the consumer health data for a purpose described in*
23 *subsection 3 has the burden of demonstrating by a preponderance of the*
24 *evidence that the collection, use or disclosure was for such a purpose.*

25 5. *In any criminal proceeding where a regulated entity or processor*
26 *is alleged to have failed to comply with the provisions of sections 22 to*
27 *27, inclusive, of this act, it is an affirmative defense that a regulated*
28 *entity or processor collected, used or disclosed consumer health data for*
29 *a purpose described in subsection 3.*

30 **Sec. 33.** *A regulated entity shall not discriminate against a*
31 *consumer for taking:*

32 1. *Any action authorized by sections 2 to 34, inclusive, of this act; or*

33 2. *Any action to enforce the provisions of sections 2 to 34, inclusive,*
34 *of this act.*

35 **Sec. 34.** 1. *Except as otherwise provided in section 29 of this act:*

36 (a) *A violation of sections 2 to 34, inclusive, of this act constitutes a*
37 *deceptive trade practice for the purposes of NRS 598.0903 to 598.0999,*
38 *inclusive.*

39 (b) *An action may be brought by any person who is a victim of a*
40 *violation of sections 2 to 34, inclusive, of this act. If the claimant is the*
41 *prevailing party, the court shall award the claimant:*

42 (1) *Any damages that the claimant has sustained;*

43 (2) *Any equitable relief that the court deems appropriate; and*

44 (3) *The claimant's costs in the action and reasonable attorney's*
45 *fees.*

1 2. Any action brought pursuant to this section is not an action upon
2 any contract underlying the original transaction.

3 Sec. 34.1. The Legislature hereby finds and declares that:

4 1. The use of biometric identifiers to verify the identity of persons in
5 personal and business settings is growing and is likely to streamline of
6 online transactions and the management of digital accounts, strengthen
7 the security of identities and reduce the risk of cybersecurity issues and
8 fraud for governmental entities, businesses and consumers.

9 2. Biometric identifiers are unlike other identifiers that are used to
10 verify the identity of a person or access a digital account because
11 biometric identifiers are unique to a person and are not capable of being
12 changed if stolen.

13 3. Without ongoing measures to protect the security of biometric
14 identifiers, persons are at a heightened risk of identity theft.

15 4. The public welfare, security and safety will be served by
16 regulating the collection, use, security, handling, storage, retention and
17 destruction of biometric identifiers.

18 Sec. 34.2. As used in sections 34.1 to 34.9, inclusive, of this act,
19 unless the context otherwise requires, the words and terms defined in
20 sections 34.3 to 34.45, inclusive, of this act have the meanings ascribed
21 to them in those sections.

22 Sec. 34.3. "Biometric identifier" means data relating to the face,
23 fingerprint or iris of a person. The term includes, without limitation, data
24 from a photo identification document that contains the image of the face
25 of a person with sufficient resolution that artificial intelligence or a
26 machine learning algorithm is able to match the data with other
27 biometric data to positively identify the person.

28 Sec. 34.35. "Collect" means to access, retain, receive, acquire,
29 infer, derive or otherwise obtain a biometric identifier in any manner.

30 Sec. 34.45. "Share" means to release, disclose, disseminate, divulge,
31 make available or provide access to a biometric identifier.

32 Sec. 34.4. "Subject" means the natural person to whom a biometric
33 identifier relates.

34 Sec. 34.5. The provisions of sections 34.1 to 34.9, inclusive, of this
35 act do not apply to:

36 1. Information that is collected, possessed or shared in accordance
37 with the Health Insurance Portability and Accountability Act of 1996,
38 Public Law 104-191, and the regulations adopted pursuant thereto.

39 2. Information originating from, and intermingled with to be
40 indistinguishable from, information described in subsection 1 that is
41 maintained by:

42 (a) A covered entity or business associate, as those terms are defined
43 in 45 C.F.R. § 160.103; or

44 (b) A program or qualified service organization, as those terms are
45 defined in 45 C.F.R. § 2.11.

1 3. Information that is governed by and collected, possessed or
2 shared pursuant to the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801 et
3 seq., and the regulations adopted pursuant thereto.

4 4. Physical or digital photographs collected, possessed or shared for
5 purposes not related to verifying the identity of the subject.

6 5. Information collected, possessed or shared for a medical purpose
7 or to validate scientific testing or screening.

8 6. Any governmental or tribal entity or any person who collects,
9 possesses or shares a biometric identifier on behalf of a governmental or
10 tribal entity.

11 Sec. 34.6. For the purposes of sections 34.1 to 34.9, inclusive, of
12 this act:

13 1. Any information required to be provided in writing may be
14 provided electronically; and

15 2. Any consent or release may be obtained electronically.

16 Sec. 34.7. A person who possesses a biometric identifier that relates
17 to another person shall:

18 1. Develop, maintain and comply with a written policy setting forth a
19 schedule for and procedures governing the retention and destruction of
20 biometric identifiers. Except where preservation of a biometric identifier
21 for a longer period of time is required by law, subpoena or an order by a
22 court of competent jurisdiction or other lawful authority, such a policy
23 must require the destruction of a biometric identifier on or before the
24 earlier of:

25 (a) The date on which the initial purpose of obtaining the biometric
26 identifier has been satisfied; or

27 (b) One year after the most recent interaction between the person in
28 possession of the biometric identifier and the subject.

29 2. Make the policy established pursuant to subsection 1 available to
30 the public.

31 3. Store and transmit biometric identifiers and protect biometric
32 identifiers from disclosure a manner that:

33 (a) Meets the standard of care in the industry in which the person
34 operates; and

35 (b) Is at least as protective as the manner in which the person stores,
36 transmits or protects from disclosure, as applicable, other personally
37 identifiable information, as defined in section 12 of this act.

38 Sec. 34.8. 1. Before collecting a biometric identifier, a person
39 shall:

40 (a) Inform the subject or his or her representative in writing:

41 (1) That the biometric identifier is being collected;

42 (2) The purpose for which the biometric identifier is being
43 collected, stored and used; and

1 (3) The length of time for which the biometric identifier will be
2 retained in accordance with the policy developed pursuant to section 34.7
3 of this act;

4 (b) Obtain the informed written consent of the subject or his or her
5 representative which may include, without limitation, a written release
6 executed as a condition of employment; and

7 (c) Verify of the identity of the subject and any representative
8 providing written consent pursuant to paragraph (b) in a manner that
9 meets the requirements of Special Publication 800-63-3 published by the
10 National Institute of Standards and Technology of the United States
11 Department of Commerce.

12 2. At the time a person collects a biometric identifier, the person
13 shall ensure that the subject is present.

14 3. A person shall not sell, lease, trade or otherwise receive
15 compensation for sharing a biometric identifier.

16 4. A person shall not share a biometric identifier unless:

17 (a) The subject or his or her representative consents to the sharing;

18 (b) The sharing completes a financial transaction requested or
19 authorized by the subject or his or her representative;

20 (c) The sharing is required by law, a court order, a subpoena, a
21 search warrant or other lawful process; or

22 (d) The sharing is performed by a person who holds a nonrestricted
23 license, as defined in NRS 463.0177, and the biometric identifier is
24 shared with a subsidiary or affiliate of the person for the purpose of
25 security or surveillance.

26 Sec. 34.9. 1. If the Attorney General has reason to believe that a
27 person has failed to comply with any provision of sections 34.1 to 34.9,
28 inclusive, of this act, the Attorney General may bring an action in the
29 name of the State of Nevada in any court of competent jurisdiction
30 against that person:

31 (a) To recover a civil penalty in the name of the State of Nevada of:

32 (1) If the violation was caused by negligence, \$1,000 or the
33 amount of the actual damages caused by the violation, whichever is
34 greater; or

35 (2) If the violation was intentional or caused by recklessness,
36 \$5,000 or the amount of the actual damages caused by the violation,
37 whichever is greater; and

38 (b) For other appropriate relief.

39 2. The Attorney General shall hall deposit any money received from
40 the civil penalty with the State Treasurer for credit to the State General
41 Fund.

42 Sec. 35. NRS 603A.338 is hereby amended to read as follows:

43 603A.338 The provisions of NRS 603A.300 to 603A.360, inclusive,
44 do not apply to:

45 1. A consumer reporting agency, as defined in 15 U.S.C. § 1681a(f);

1 2. Any personally identifiable information regulated by the Fair
2 Credit Reporting Act, 15 U.S.C. §§ 1681 et seq., and the regulations
3 adopted pursuant thereto, which is collected, maintained or sold as
4 provided in that Act;

5 3. A person who collects, maintains or makes sales of personally
6 identifiable information for the purposes of fraud prevention;

7 4. Any personally identifiable information that is publicly available;

8 5. Any personally identifiable information protected from disclosure
9 under the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. §§
10 2721 et seq., which is collected, maintained or sold as provided in that Act;

11 ~~for~~

12 6. *Any consumer health data subject to the provisions of sections 2*
13 *to 34, inclusive, of this act; ~~for~~*

14 7. *Any biometric identifiers subject to the provisions of sections 34.1*
15 *to 34.9, inclusive, of this act; or*

16 8. A financial institution or an affiliate of a financial institution that is
17 subject to the provisions of the Gramm-Leach-Bliley Act, 15 U.S.C. §§
18 6801 et seq., or any personally identifiable information regulated by that
19 Act which is collected, maintained or sold as provided in that Act.

20

H

Conceptual Amendments by the Senate Majority Leader Cannizaro
April 13, 2023

- In Sec. 7, amend the definition of “consumer” to mean “a natural person who has requested a product or service from a regulated entity who resides in this State or whose...data is collected in this State. The term does not include a natural person acting in an employment or governmental context.”
- Sec. 8. to read as follows: *“Consumer health data” means personally identifiable information that is linked or reasonably capable of being linked to a consumer and that a regulated entity uses to identify is related to the past, present or future health of the consumer. The term includes, without limitation:*
 1. Information relating to:
 - (a) Any health condition or status, disease or diagnosis;
 - (b) Social, psychological, behavioral or medical interventions;
 - (c) Surgeries or other health-related procedures;
 - (d) The use or acquisition of medication;
 - (e) Bodily functions, vital signs or symptoms;
 - (f) Reproductive or sexual health care; and
 - (g) Gender-affirming care;
 2. Biometric data or genetic data related to information described in subsection 1;
 3. Information related to the precise location of a consumer within a 1,750 foot radius that a regulated entity uses ~~that is derived from technology, including, without limitation, a global positioning system, and is reasonably capable of being used to indicate an attempt by a consumer to receive health care services or products; and~~
 4. Any information described in subsection 1, 2 or 3 that is derived or extrapolated from information that is not consumer health data, including, without limitation, proxy, derivative, inferred or emergent data derived through an algorithm, machine learning or any other means.
- Add section Sec. 8.5 “Consumer health data” does not include personal information that is used to provide access to, or enable an individual’s gameplay movements on, a video game platform.
- Amend Section 12 to read as follows: Sec. 12. *“Personally identifiable information” means information is linked or reasonably linkable to an identified or identifiable person. that, alone or in combination with other information, may be used to identify a person or an electronic device used by the person. The term:*

~~1.—Includes, without limitation:~~
~~Data associated with an Internet protocol address, device identifier or other form of persistent unique identifier; and~~

~~Any data about a person that is collected without the consent of the person.~~

- Sec. 13 to read as follows: “Precise geolocation information” means information derived from technology, including, but not limited to, global positioning level latitude and longitude coordinates or other mechanisms, that directly identifies the specific location of an individual with precision and accuracy within a radius of 1,750 feet. “Precise geolocation data” does not include the contents of communications, or any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.
- Add to the definition “sell” in section 17: “Sell” does not include the exchange of consumer health data for monetary or other valuable consideration: (1) to a third party as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the regulated entity’s assets that shall comply with the requirements and obligations in this chapter; (2) by a regulated entity to a processor that processes the consumer health data on behalf of a regulated entity; (3) the disclosure of consumer health data to a third party for purposes of providing a product or service requested by the consumer; (4) the disclosure or transfer of consumer health data to an affiliate of the controller; (5) the disclosure of consumer health data where the consumer directs the regulated entity to disclose the consumer health data or intentionally uses the controller to interact with a third party; or (6) the disclosure of consumer health data that the consumer (i) intentionally made available to the general public via a channel of mass media; and (ii) did not restrict to a specific audience.
- Amend Section 20:
 - The provisions of section 2 to 34.9, inclusive, of this act do not apply to:
 - 12. Any person who holds a non-restricted license, as defined in NRS 463.0177, or an affiliate of such a person, as defined in NRS 463.0133.
- In Section 20(10), insert a reference to federal law so that it refers to “federal or state law.”
- Amend Sec. 21.1(d) to read as “A list of *the categories of* third parties and affiliates with whom the regulated entity shares consumer health data;
- Amend Sec. 21.2 to read as “ A regulated entity shall post conspicuously on the main Internet website maintained by the regulated entity a hyperlink to the policy developed pursuant to subsection 1 *or in another manner that is clear and conspicuous to consumers.*”
- Delete Sec. 23, with exception of the first sentence, which reads, “Any consent provided pursuant to section 21 or 22 of this act must be an affirmative voluntary act.”
- Sec. 24.1(b) to read as follows: **(b)** Provide the consumer with a list of all third parties ~~and affiliates~~ with whom the regulated entity has shared consumer health data relating to

the consumer or to whom the regulated entity has sold such consumer health data. ~~The list must include, without limitation, a valid electronic mail address for each such third party or affiliate or another valid mechanism by which the consumer may contact each such third party or affiliate using the Internet.~~

- Sec. 24.2 to read as follows: 2. *A regulated entity shall establish a secure and reliable means of making a request pursuant to this section. ~~The means of making such a request must not require a consumer to create a new account with the regulated entity, but may require the consumer to use an existing account.~~ When establishing the means for making such a request, the regulated entity must consider:*

(a) The need for the safe and reliable communication of such requests; and

(b) The ability of the regulated entity to authenticate the identity of the consumer making the request.

- Delete Sec. 25.5
- Sec. 28.1 to read as follows: Sec. 28. *1. A regulated entity shall only authorize the employees and processors ~~and contractors~~ of the regulated entity to access consumer health data where reasonably necessary to:*
- Delete “a” and add “the” in Sec. 29.2. To read as “To the extent practicable, a processor shall assist the regulated entity with which the processor has entered into a contract pursuant to subsection 1 in complying with the provisions of sections 2 to 34, inclusive, of this act.
- Add “with regard to such data” to the end of Sec. 29.3(b). To read as “Shall be deemed a regulated entity for the purposes of sections 2 to 34, inclusive, of this act with regard to such data.”
- Section 31.2(b) to read as: “(b) “Geofence” means technology that uses coordinates for global positioning, connectivity to cellular towers, cellular data, radio frequency identification, wireless Internet data or any other form of detecting the physical location of a person to establish a virtual boundary of 1,750 feet or less around a specific physical location.”
- Delete Sec. 32 and replace with “Nothing in this Bill should be construed to interfere with existing law.”
- Strike “[or]” from Sec. 35.5 – line 28, pg. 18
- Strike all pieces of private rights of action
 - Add language making it clear that this will be enforced by the Attorney General under the deceptive trade practices
- Amend Sec. 34.2 to include:

- A violation of sections 34.1 to 34.8, inclusive, of this act constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.
- Amend the bill to include language that clarifies the bill does not apply to entities regulated by or subject to HIPAA
- Amend the bill to include language that financial institutions that are subject to *Gramm-Leach-Bliley* are exempt
- Amend the bill to exclude the auto industry from the definition of “biometric identifier” in Sec. 34.3