

SENATE BILL NO. 227—SENATOR WIENER

MARCH 13, 2009

Referred to Committee on Judiciary

SUMMARY—Revises certain provisions concerning identity theft.  
(BDR 52-72)

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

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

AN ACT relating to security of personal information; requiring the use of encryption by data collectors when transferring personal information; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 **Section 1** of this bill requires that a data collector use encryption to protect  
2 information that is either transmitted electronically or contained on a data storage  
3 device that is moved beyond the controls of the data collector. **Section 1** also  
4 renders a data collector not liable for a breach of the security of the system data in  
5 certain circumstances.

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 a new section to read as follows:  
3 *1. A data collector in this State shall not:*  
4 *(a) Transfer any personal information through an electronic,*  
5 *nonvoice transmission other than a facsimile to a person outside*  
6 *of the secure system of the data collector unless the data collector*  
7 *uses encryption to ensure the security of electronic transmission;*  
8 *or*  
9 *(b) Move any data storage device containing personal*  
10 *information beyond the logical or physical controls of the data*  
11 *collector or its data storage contractor unless the data collector*  
12 *uses encryption to ensure the security of the information.*



1 2. A data collector shall not be liable for damages for a  
2 breach of the security of the system data if:

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

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

7 3. As used in this section:

8 (a) "Data storage device" means any device that stores  
9 information or data from any electronic or optical medium,  
10 including, but not limited to, computers, cellular telephones,  
11 magnetic tape, electronic computer drives and optical computer  
12 drives, and the medium itself.

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

15 (1) An encryption technology that has been adopted by an  
16 established standards setting body, including, but not limited to,  
17 the Federal Information Processing Standards issued by the  
18 National Institute of Standards and Technology, which renders  
19 such data indecipherable in the absence of associated  
20 cryptographic keys necessary to enable decryption of such data;  
21 and

22 (2) Appropriate management and safeguards of  
23 cryptographic keys to protect the integrity of the encryption using  
24 guidelines promulgated by an established standards setting body,  
25 including, but not limited to, the National Institute of Standards  
26 and Technology.

27 (c) "Facsimile" means an electronic transmission between two  
28 dedicated fax machines using Group 3 or Group 4 digital formats  
29 that conform to the International Telecommunications Union T.4  
30 or T.38 standards or computer modems that conform to the  
31 International Telecommunications Union T.31 or T.32 standards.  
32 The term does not include onward transmission to a third device  
33 after protocol conversion, including, but not limited to, any data  
34 storage device.

35 **Sec. 2.** NRS 597.970 is hereby repealed.

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## TEXT OF REPEALED SECTION

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### **597.970 Restrictions on transfer of personal information through electronic transmission.**

1. A business in this State shall not transfer any personal information of a customer through an electronic transmission other than a facsimile to a



\* S B 2 2 7 \*

person outside of the secure system of the business unless the business uses encryption to ensure the security of electronic transmission.

2. As used in this section:

(a) "Encryption" has the meaning ascribed to it in NRS 205.4742.

(b) "Personal information" has the meaning ascribed to it in NRS 603A.040.

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