

Senate Bill No. 125—Senators Parks, Wiener, Schneider; Breeden, Care, Coffin, Copening, Horsford, Lee, Mathews and Woodhouse

Joint Sponsors: Assemblymen Pierce, Anderson; Grady, Hardy, Hogan, Koivisto, Segerblom and Spiegel

CHAPTER.....

AN ACT relating to crimes; prohibiting certain acts relating to radio frequency identification documents; revising the provisions relating to certain offenses involving the possession or use of personal identifying information; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill prohibits a person from knowingly, intentionally and for the purpose of committing fraud, identity theft or any other unlawful act: (1) capturing, storing or reading information from the radio frequency identification document of another person without the knowledge and consent of the other person; or (2) retaining, using or disclosing information that the person knows to have been obtained from the radio frequency identification document of another person without the knowledge and consent of the other person. This new crime is punishable as a category C felony.

Existing law establishes an exception to the statutory prohibitions relating to the possession or use of the personal identifying information of another person by providing that those prohibitions do not apply to a person who, without the intent to defraud or commit an unlawful act, possesses or uses the personal identifying information of another person pursuant to a financial transaction entered into with an authorized user of a payment card who has given permission for the financial transaction. (NRS 205.4655) **Section 5** of this bill deletes from this exception the requirement that such an authorized user of a payment card must have given permission for the financial transaction.

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

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not knowingly, intentionally and for the purpose of committing fraud, identity theft or any other unlawful act:

(a) Capture, store or read information from the radio frequency identification document of another person without the other person's knowledge and prior consent; or

(b) Retain, use or disclose information that the person knows to have been obtained from the radio frequency identification



document of another person without the other person's knowledge and prior consent.

2. A person who violates this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. As used in this section:

(a) "Identity theft" means a violation of the provisions of NRS 205.463, 205.464 or 205.465.

(b) "Radio frequency identification" means the use of electromagnetic radiating waves or reactive field coupling in the radio frequency portion of the spectrum to read or communicate personal identifying information to or from a radio frequency identification document through a variety of modulation and encoding schemes.

(c) "Radio frequency identification document" means any document containing data which is issued to an individual and which that individual, and only that individual, uses alone or in conjunction with any other information for the primary purpose of establishing his identity.

Sec. 2. NRS 205.461 is hereby amended to read as follows:

205.461 As used in NRS 205.461 to 205.4657, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 205.4611 to 205.4629, inclusive, have the meanings ascribed to them in those sections.

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

205.46517 In any case in which a person is convicted of violating any provision of NRS 205.461 to 205.4657, inclusive, *and section 1 of this act*, the court records must clearly reflect that the violation was committed by the person convicted of the violation and not by the person whose personal identifying information forms a part of the violation.

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

205.4653 A person who violates any provision of NRS 205.461 to 205.4657, inclusive, *and section 1 of this act* may be prosecuted for the violation whether or not the person whose personal identifying information forms a part of the violation:

1. Is living or deceased during the course of the violation or the prosecution.

2. Is an artificial person.

3. Suffers financial loss or injury as the result of the violation.

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

205.4655 The provisions of NRS 205.461 to 205.4657, inclusive, *and section 1 of this act* do not apply to any person who,



without the intent to defraud or commit an unlawful act, possesses or uses any personal identifying information of another person:

1. In the ordinary course of his business or employment; or
2. Pursuant to a financial transaction entered into with an authorized user of a payment card . ~~[who has given permission for the financial transaction.]~~

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

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

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

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

2. In any prosecution for a violation of any provision of NRS 205.461 to 205.4657, inclusive, *and section 1 of this act*, the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which:

(a) The person whose personal identifying information forms a part of the violation currently resides or is found; or

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

