
ASSEMBLY BILL NO. 323—ASSEMBLYMAN LEAVITT

MARCH 17, 2021

JOINT SPONSOR: SENATOR HARDY

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to Internet privacy.
(BDR 52-987)

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; revising provisions relating to the enforcement of requirements concerning the sale of certain information about a consumer; 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 except that under **section 3** a data broker is not authorized to extend the deadline
9 for responding to such a request from a consumer. **Section 2** of this bill generally
10 defines a “data broker” to mean a person engaged in the business of purchasing
11 covered information about consumers in this State from operators and other data



12 brokers and making sales of or disseminating such information. **Sections 4 and 5** of
13 this bill make conforming changes to properly place the new language of **sections 2**
14 **and 3** in the Nevada Revised Statutes. **Sections 6 and 7** of this bill revise certain
15 definitions to reflect the requirements imposed on data brokers by **section 3**.

16 Existing law authorizes the Attorney General to seek an injunction or a civil
17 penalty against an operator who violates the provisions of existing law requiring the
18 establishment of a designated request address and prohibiting the sale of covered
19 information about a consumer who has made a verified request. (NRS 603A.360)
20 **Section 12** of this bill revises this provision to: (1) authorize the court to issue an
21 injunction and a civil penalty; (2) establish a minimum civil penalty of \$500; and
22 (3) authorize the Attorney General to seek an injunction and a civil penalty against
23 a data broker who violates the provisions of **section 3**.

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

31 Existing law requires an operator to make available to consumers a notice
32 containing certain information relating to the collection and sale of covered
33 information collected through its Internet website or online service. An operator
34 who fails to comply with that requirement is authorized to remedy the failure to
35 comply within 30 days after being informed of such a failure. (NRS 603A.340)
36 **Sections 10 and 11** of this bill: (1) authorize an operator to remedy such a failure
37 only if it is the first failure of the operator to comply with the requirement; and (2)
38 reduce the amount of time in which an operator is authorized to remedy such a
39 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*



1 *any sale of any covered information about that consumer that the*
2 *data broker has purchased or will purchase.*

3 *4. A data broker shall respond to a verified request submitted*
4 *by a consumer pursuant to subsection 2 within 60 days after*
5 *receipt thereof.*

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

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

11 2. A data collector who is also an operator, as defined in NRS
12 603A.330, shall comply with the provisions of NRS 603A.300 to
13 603A.360, inclusive **[] and sections 2 and 3 of this act.**

14 3. Any waiver of the provisions of NRS 603A.010 to
15 603A.290, inclusive, is contrary to public policy, void and
16 unenforceable.

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

18 603A.300 As used in NRS 603A.300 to 603A.360, inclusive,
19 *and sections 2 and 3 of this act*, unless the context otherwise
20 requires, the words and terms defined in NRS 603A.310 to
21 603A.337, inclusive, *and section 2 of this act* have the meanings
22 ascribed to them in those sections.

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

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

29 1. A first and last name.

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

32 3. An electronic mail address.

33 4. A telephone number.

34 5. A social security number.

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

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

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

43 603A.325 "Designated request address" means an electronic
44 mail address, toll-free telephone number or Internet website



1 established by an operator *or data broker* through which a consumer
2 may submit to an operator *or data broker* a verified request.

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

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

8 2. The term does not include:

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

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

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

20 (d) The disclosure of covered information *by an operator or*
21 *data broker* to a person who is an affiliate, as defined in NRS
22 686A.620, of the operator ~~or~~ *or data broker;* or

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

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

29 603A.337 “Verified request” means a request:

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

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

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

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

42 (a) Identifies the categories of covered information that the
43 operator collects through its Internet website or online service about
44 consumers who use or visit the Internet website or online service



1 and the categories of third parties with whom the operator may share
2 such covered information;

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

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

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

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

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

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

23 (a) Who is located in this State;

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

27 (c) Whose Internet website or online service has fewer than
28 20,000 unique visitors per year.

29 **Sec. 11.** NRS 603A.350 is hereby amended to read as follows:
30 603A.350 An operator violates NRS 603A.340 if the operator:

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

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

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



1 **Sec. 12.** NRS 603A.360 is hereby amended to read as follows:
2 603A.360 1. The Attorney General shall enforce the
3 provisions of NRS 603A.300 to 603A.360, inclusive ~~[4]~~ , *and*
4 *sections 2 and 3 of this act.*

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

11 (a) Issue a temporary or permanent injunction; ~~[or]~~ *and*

12 (b) Impose a civil penalty *of not less than \$500 and* not to
13 exceed \$5,000 for each violation.

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

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

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

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

26 ~~[4]~~ 5. The provisions of NRS 603A.300 to 603A.360,
27 inclusive, *and sections 2 and 3 of this act* are not exclusive and are
28 in addition to any other remedies provided by law.

