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ASSEMBLY BILL NO. 323—ASSEMBLYMAN LEAVITT

MARCH 17, 2021

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JOINT SPONSOR: SENATOR HARDY

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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.

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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.

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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.





