

SENATE BILL NO. 220—SENATORS CANNIZZARO, CANCELA, SPEARMAN, BROOKS, PARKS; ATKINSON, DONDERO LOOP, HARRIS, OHRENSCHALL AND WOODHOUSE

FEBRUARY 18, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to Internet privacy. (BDR 52-920)

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

~

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

AN ACT relating to Internet privacy; prohibiting an operator of an Internet website or online service which collects certain information from consumers in this State from selling certain information about a consumer if so directed by the consumer; providing a private right of action for a person injured by a violation of certain provisions relating to Internet privacy; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires an operator of an Internet website or online service which collects certain items of personally identifiable information about consumers in this State to make available a notice containing certain information relating to the privacy of covered information collected by the operator. (NRS 603A.340) **Section 3** of this bill provides a private right of action to a person injured as a result of a violation of this requirement.

Section 2 of this bill: (1) authorizes a consumer to submit a notice to an operator directing it not to sell the covered information collected about the consumer; and (2) prohibits an operator who has received such a notice from selling covered information collected about the consumer. **Section 7** of this bill authorizes the Attorney General to seek an injunction or a civil penalty against an operator who violates **section 2**. **Section 3** provides a private right of action for any person injured by a violation of **section 2**.



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. 1.** *A consumer may, at any time, submit a notice to*
4 *an operator directing the operator not to sell any covered*
5 *information the operator has collected or will collect about the*
6 *consumer.*

7 **2.** *An operator that has received a notice submitted by a*
8 *consumer pursuant to subsection 1 shall not sell any covered*
9 *information the operator has collected or will collect about that*
10 *consumer.*

11 **Sec. 3. 1.** *Any person injured by a violation of NRS*
12 *603A.300 to 603A.360, inclusive, and sections 2 and 3 of this act*
13 *may bring an action for recovery of damages or for declaratory or*
14 *equitable relief.*

15 **2.** *In addition to the relief authorized by this section, the*
16 *court may award reasonable attorney's fees and costs to a plaintiff*
17 *that prevails under this section.*

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

19 603A.100 1. The provisions of NRS 603A.010 to 603A.290,
20 inclusive, do not apply to the maintenance or transmittal of
21 information in accordance with NRS 439.581 to 439.595, inclusive,
22 and the regulations adopted pursuant thereto.

23 2. A data collector who is also an operator, as defined in NRS
24 603A.330, shall comply with the provisions of NRS 603A.300 to
25 603A.360, inclusive ~~and~~, *and sections 2 and 3 of this act.*

26 3. Any waiver of the provisions of NRS 603A.010 to
27 603A.290, inclusive, is contrary to public policy, void and
28 unenforceable.

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

30 603A.300 As used in NRS 603A.300 to 603A.360, inclusive,
31 *and sections 2 and 3 of this act*, unless the context otherwise
32 requires, the words and terms defined in NRS 603A.310, 603A.320
33 and 603A.330 have the meanings ascribed to them in those sections.

34 **Sec. 6.** NRS 603A.330 is hereby amended to read as follows:

35 603A.330 1. "Operator" means a person who:

36 (a) Owns or operates an Internet website or online service for
37 commercial purposes;

38 (b) Collects and maintains covered information from consumers
39 who reside in this State and use or visit the Internet website or
40 online service; and

41 (c) Purposefully directs its activities toward this State,
42 consummates some transaction with this State or a resident thereof,



1 ~~or~~ purposefully avails itself of the privilege of conducting
2 activities in this State ~~or~~ *or otherwise engages in any activity that*
3 *constitutes sufficient nexus with this State to satisfy the*
4 *requirements of the United States Constitution.*

5 2. The term does not include a third party that operates, hosts
6 or manages an Internet website or online service on behalf of its
7 owner or processes information on behalf of the owner of an
8 Internet website or online service.

9 **Sec. 7.** NRS 603A.360 is hereby amended to read as follows:

10 603A.360 1. The Attorney General shall enforce the
11 provisions of NRS 603A.300 to 603A.360, inclusive ~~or~~ , *and*
12 *sections 2 and 3 of this act.*

13 2. If the Attorney General has reason to believe that an
14 operator, either directly or indirectly, has violated or is violating
15 NRS 603A.340 ~~or~~ *or section 2 of this act*, the Attorney General
16 may institute an appropriate legal proceeding against the operator.
17 The district court, upon a showing that the operator, either directly
18 or indirectly, has violated or is violating NRS 603A.340 ~~or~~ *or*
19 *section 2 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 3. ~~The provisions of NRS 603A.300 to 603A.360, inclusive,~~
24 ~~do not establish a private right of action against an operator.~~

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



