

Assembly Bill No. 195–Assemblymen Flores, Neal;
Daly, Hafen, Kramer, Krasner and Torres

CHAPTER.....

AN ACT relating to crimes; making it unlawful to install or affix a scanning device within or upon a machine used for financial transactions under certain circumstances; making it unlawful to access a scanning device under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law makes it a crime for a person to use a scanning device to access, read, obtain, memorize or store information encoded on the magnetic strip of a payment card: (1) without the permission of the authorized user of the card; and (2) with the intent to defraud the user or issuer of the card or any other person. (NRS 205.605) Existing law also makes it a crime for a person to possess a scanning device with the intent to use it for an unlawful purpose. (NRS 205.606) **Section 1** of this bill makes it a crime for a person to install or affix a scanning device within or upon a machine used for financial transactions with the intent to use the scanning device for an unlawful purpose. **Section 1** also makes it a crime for a person to access, by electronic or any other means, a scanning device with the intent to use the scanning device for an unlawful purpose. **Section 1** provides that a person who installs, affixes or accesses a scanning device in such an unlawful manner is guilty of a category C felony.

Existing law exempts certain persons from the provisions governing the unlawful use or possession of scanning devices. Existing law provides that a person is exempt from these provisions if he or she uses or possesses a scanning device without the intent to defraud or commit an unlawful act: (1) in the ordinary course of his or her business; or (2) with the consent of the authorized user of a payment card to complete a financial transaction using that card. (NRS 205.607) **Section 2** of this bill expands this exemption to include a person who installs, affixes or accesses a scanning device without the intent to commit an unlawful act: (1) in the ordinary course of his or her business; or (2) to complete such a financial transaction.

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

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

Section 1. NRS 205.606 is hereby amended to read as follows:
205.606 1. A person shall not ~~possess~~ :

(a) Install or affix, temporarily or permanently, a scanning device within or upon a machine with the intent to use the scanning device for an unlawful purpose;



(b) Access, by electronic or any other means, a scanning device with the intent to use the scanning device for an unlawful purpose; or

(c) Possess a scanning device or reencoder with the intent to use the scanning device or reencoder for an unlawful purpose.

2. A person who violates any provision of 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, “machine” means a machine used to conduct financial transactions, including, without limitation, an automated teller or fuel pump. As used in this subsection, “automated teller” means an electronic device that dispenses cash in connection with an account maintained in a financial institution or with another business.*

Sec. 2. NRS 205.607 is hereby amended to read as follows:

205.607 The provisions of NRS 205.601 to 205.608, inclusive, do not apply to any person who, without the intent to defraud or commit an unlawful act, *installs, affixes, accesses,* possesses or uses a scanning device or reencoder:

1. In the ordinary course of his or her 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.

