

Introduced by

Senators Hacker, Lindaas, Warner

Representatives Dahl, Dosch, Hawken

1 A BILL for an Act to amend and reenact section 51-28-01 of the North Dakota Century Code,
2 relating to telephone solicitations; and to declare an emergency.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 51-28-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **51-28-01. Definitions.** In this chapter, unless the context or subject matter otherwise
7 requires, the terms shall have the meanings as follows:

- 8 1. "Automatic dialing-announcing device" means a device that selects and dials
9 telephone numbers and that, working alone or in conjunction with other equipment,
10 disseminates a prerecorded or synthesized voice message to the telephone
11 number called.
- 12 2. "Caller" means a person, corporation, firm, partnership, association, or legal or
13 commercial entity that attempts to contact, or that contacts, a subscriber in this
14 state by using a telephone or a telephone line.
- 15 3. "Caller identification service" means a telephone service that permits telephone
16 subscribers to see the telephone number of incoming telephone calls.
- 17 4. "Established business relationship" means a relationship between a seller and
18 consumer based on a free trial newspaper subscription or on the consumer's
19 purchase, rental, or lease of the seller's goods or services or a financial transaction
20 between the consumer and seller, within the twenty-four months immediately
21 preceding the date of a telemarketing call.
- 22 5. "Message" means any telephone call, including voice, text, or other electronic
23 communication, regardless of its content.

1 6. "Subscriber" means a person who has subscribed to a residential telephone
2 ~~services from a telephone company line~~ or the other persons living or residing with
3 the subscribing person, ~~or a person who has subscribed to wireless or mobile~~
4 ~~telephone services.~~

5 7. "Telephone line" means a telephone service to a subscriber, regardless of the
6 technology used to provide such service, including traditional wireline or cable
7 telephone service; cellular, broadband PCS, or other wireless telephone service;
8 microwave, satellite, or other terrestrial phone service; and voice over internet
9 protocol telephone service.

10 8. "Telephone solicitation" means any voice, text, or other electronic communication
11 over a telephone line for the purpose of encouraging charitable contributions, or
12 the purchase or rental of, or investment in, property, goods, services, or
13 merchandise, including as defined in subsection 3 of section 51-15-03, whether the
14 communication is made by a live operator, through the use of an automatic
15 dialing-announcing device, or by other means. Telephone solicitation does not
16 include communications:

- 17 a. To any subscriber with that subscriber's prior express written request,
18 consent, invitation, or permission.
- 19 b. By or on behalf of any person with whom the subscriber has an established
20 personal or business relationship.
- 21 c. By or on behalf of a charitable organization that is exempt from federal
22 income taxation under section 501 of the Internal Revenue Code, but only if
23 the following applies:
- 24 (1) The telephone call is made by a volunteer or employee of the charitable
25 organization; and
- 26 (2) The person who makes the telephone call immediately discloses the
27 following information upon making contact with the consumer:
- 28 (a) The person's true first and last name; and
- 29 (b) The name, address, and telephone number of the charitable
30 organization.

1 d. By or on behalf of any person whose exclusive purpose is to poll or solicit the
2 expression of ideas, opinions, or votes, unless the communication is made
3 through an automatic dialing-announcing device in a manner prohibited by
4 section 51-28-02.

5 e. By the individual soliciting without the intent to complete, and who does not in
6 fact complete, the sales presentation during the call, but who will complete
7 the sales presentation at a later face-to-face meeting between the individual
8 solicitor or person who makes the initial call and the prospective purchaser.

9 f. By or on behalf of a political party, candidate, or other group with a political
10 purpose, as defined in section 16.1-08.1-01.

11 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.