

Sixtieth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1507

Introduced by

Representatives Thoreson, Kasper, L. Meier, Ruby

Senators Flakoll, Hacker

1 A BILL for an Act to create and enact a new section to chapter 44-04 and a new section to  
2 chapter 51-27 of the North Dakota Century Code, relating to exempting electronic mail  
3 addresses and telephone numbers from open records requirements and to computer and  
4 internet fraud; to amend and reenact section 51-27-01 of the North Dakota Century Code,  
5 relating to definitions; and to provide a penalty.

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

7 **SECTION 1.** A new section to chapter 44-04 of the North Dakota Century Code is  
8 created and enacted as follows:

9 **Electronic mail addresses and telephone numbers exempt.** The electronic mail  
10 address or telephone number of an individual which is provided to a public entity for the  
11 purpose of or in the course of communicating with that public entity is an exempt record.

12 **SECTION 2. AMENDMENT.** Section 51-27-01 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **51-27-01. (Contingent expiration date - See note) Definitions.** In this chapter,  
15 unless the context otherwise requires:

- 16 1. "Assist the transmission" means actions taken by a person to provide substantial  
17 assistance or support that enables any person to formulate, compose, send,  
18 originate, initiate, or transmit a commercial electronic mail message when the  
19 person providing the assistance knows or consciously avoids knowing that the  
20 initiator of the commercial electronic mail message is engaged, or intends to  
21 engage, in any practice that violates chapter 51-15.
- 22 2. "Commercial electronic mail message" means an electronic mail message sent to  
23 promote real property, goods, or services for sale or lease. The term does not  
24 mean an electronic mail message to which an interactive computer service

- 1 provider has attached an advertisement in exchange for free use of an electronic  
2 mail account if the sender has agreed to such an arrangement.
- 3 3. "Electronic mail address" means a destination, commonly expressed as a string of  
4 characters, to which electronic mail may be sent or delivered.
- 5 4. "Identifying information" means any information that can be used to access an  
6 individual's financial account or to obtain goods and services, including an  
7 individual's address, birth date, social security number, driver's license number,  
8 nondriver governmental identification number, telephone number, bank account  
9 number, student identification, credit or debit card number, personal identification  
10 number, unique biometric data, employee or payroll number, automated or  
11 electronic signature, computer image, photograph, screen name, or password.  
12 The term does not include information that is lawfully obtained from publicly  
13 available sources or from federal, state, or local government records lawfully made  
14 available to the general public.
- 15 5. "Initiate the transmission" refers to the action by the original sender of an electronic  
16 mail message, not to the action by any intervening interactive computer service  
17 that may handle or retransmit the message, unless the intervening interactive  
18 computer service assists in the transmission of an electronic mail message when  
19 the interactive computer service knows, or consciously avoids knowing, that the  
20 person initiating the transmission is engaged, or intends to engage, in any act or  
21 practice that violates chapter 51-15.
- 22 ~~5.~~ 6. "Interactive computer service" means any information service, system, or access  
23 software provider that provides or enables computer access by multiple users to a  
24 computer server, including a service or system that provides access to the internet  
25 and systems operated or services offered by libraries and educational institutions.
- 26 ~~6.~~ 7. "Internet domain name" refers to a globally unique, hierarchical reference to an  
27 internet host or service, assigned through centralized internet naming authorities,  
28 comprising a series of character strings separated by periods, with the right-most  
29 string specifying the top of the hierarchy.

1           8. "Web page" means a location that has a single uniform resource locator with  
2                   respect to the world wide web or another location that can be accessed on the  
3                   internet.

4           **SECTION 3.** A new section to chapter 51-27 of the North Dakota Century Code is  
5 created and enacted as follows:

6           **Fraudulent or misleading communications - Penalty.**

- 7           1. A person is guilty of a class C felony if, with intent to defraud or injure an individual,  
8                   or with knowledge that the person is facilitating a fraud or injury to be perpetrated  
9                   by any other person:
- 10           a. The actor makes any communication that is not true and is calculated to  
11                   mislead by purporting to be by or on behalf of another person without the  
12                   authority or approval of that person; and
- 13           b. The actor uses that communication to induce, request, or solicit the individual  
14                   to provide property or identifying information.
- 15           2. A person is guilty of a class C felony if, with intent to defraud or injure an individual,  
16                   or with knowledge that a person is facilitating a fraud or injury to be perpetrated by  
17                   any other person:
- 18           a. The actor creates or operates a web page that falsely represents the actor as  
19                   being associated with another person without the authority or approval of that  
20                   person and the web page may induce a user of the internet to provide  
21                   property or identifying information; or
- 22           b. The actor alters a setting on a user's computer or similar device or software  
23                   program through which the user may search the internet, the alteration  
24                   causes the user to view a communication that falsely represents the actor as  
25                   being associated with another person, and the communication has been  
26                   created or is operated without the authority or approval of the other person  
27                   and induces, requests, or solicits the user to provide property or identifying  
28                   information.