

# SALES AND EXCHANGES

## CHAPTER 438

### SENATE BILL NO. 2089

(Political Subdivisions Committee)

(At the request of the Public Service Commission)

## AUCTIONEER AND CLERK LICENSE REVOCATION

AN ACT to amend and reenact section 51-05.1-01.1 of the North Dakota Century Code, relating to revocation of auctioneer and clerk licenses.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 51-05.1-01.1 of the North Dakota Century Code is amended and reenacted as follows:

#### **51-05.1-01.1. Auctioneer's license - Clerk's license - Fees - Bonds.**

1. The initial application for an annual auctioneer's or clerk's license must be in writing, verified, and must show the name, residence, and address of the applicant. An application must be filed at least ten days prior to the first auction sale the applicant is to conduct or clerk. Application for renewal of an annual license must be on forms designated by the commission. The fee for the annual license or renewal is thirty-five dollars and must accompany the application. The name and license number must appear on all advertising of sales conducted by an auctioneer or clerk. Renewals that are not received by January thirty-first must be assessed an additional twenty-five dollar fee.
2. Before a license is issued to an auctioneer or ~~an auction~~ clerk, the applicant must file a corporate surety bond with the commission. This bond must provide annual coverage of not less than five thousand dollars for an auctioneer or ten thousand dollars for ~~an auction~~ a clerk, must run to the state of North Dakota, and must be for the benefit of any person injured by the licensee's improper conduct. Bonds may not be canceled on less than sixty days' written notice to the commission. When notice of cancellation is received by the commission, the commission, without hearing, shall revoke the license for which the bond was issued effective with the effective date of the cancellation, unless the licensee files a new bond or evidence that the bond will be reinstated before the effective date of the cancellation. The size of the licensee's bond must be clearly and prominently stated in all contracts with sellers.

Approved March 8, 2005

Filed March 8, 2005

## CHAPTER 439

### SENATE BILL NO. 2191

(Senators Brown, Klein, Robinson)  
(Representatives Carlson, Thorpe, Vigesaa)

## MOTOR VEHICLE WHOLESALE AND RETAIL CONTRACTS

AN ACT to create and enact sections 51-07-02.1, 51-07-02.2, and 51-07-02.3 of the North Dakota Century Code, relating to contractual relationships between automobile and truck wholesalers and retailers; to amend and reenact section 51-07-01.1 of the North Dakota Century Code, relating to the termination of a contractual relationship between automobile and truck wholesalers and retailers; and to provide for application.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 51-07-01.1 of the North Dakota Century Code is amended and reenacted as follows:

#### **51-07-01.1. Termination of retail contract to be done in good faith - Definition of good cause.**

1. Any manufacturer, wholesaler, or distributor of merchandise and tools covered under section 51-07-01, ~~who~~ excluding automobile dealers, truck dealers, or parts dealers of the automobiles or trucks, that enters into a contract with any person engaged in the business of retailing the covered merchandise by which the retailer agrees to maintain a stock of the covered merchandise may not terminate, cancel, or fail to renew the contract with the retailer without good cause.
2. For the purpose of this section, good cause for terminating, canceling, or failing to renew a contract is limited to failure by the retailer to substantially comply with those essential and reasonable requirements imposed by the contract between the parties if the requirements are not different from those requirements imposed on other similarly situated retailers. ~~Further, the~~ The determination by the manufacturer, wholesaler, or distributor of good cause for the termination, cancellation, or failure to renew must be made in good faith.
3. In any action against a manufacturer, wholesaler, or distributor for violation of this section, the manufacturer, wholesaler, or distributor shall establish that the termination, cancellation, or failure to renew was made in good faith for good cause. If a notice of termination is issued and the dealer challenges the notice by filing an action, there is an automatic stay during the pendency of the action. If the manufacturer, wholesaler, or distributor fails to establish good cause for its action, the manufacturer, wholesaler, or distributor is liable for all special and general damages sustained by the plaintiff, including the costs of the litigation and reasonable attorney's fees for prosecuting the action and the plaintiff, if appropriate, is entitled to injunctive relief. ~~The provisions of this~~ This section apply applies to all contracts now in effect which

have no expiration date and are continuing contracts and all other contracts entered into, amended, or renewed after July 31, 2003. Any contract in force and effect on August 1, 2003, which by its terms will terminate on a date subsequent thereto is governed by the law as it existed before August 1, 2003.

**SECTION 2.** Section 51-07-02.1 of the North Dakota Century Code is created and enacted as follows:

**51-07-02.1. Change in automobile or truck franchise agreement - Notification requirements.**

1. At least ninety days before any change in or from an existing contract which will substantially impair the sales, the service obligations, or investment of a retailer of automobiles or trucks, or parts of the automobiles or trucks, the manufacturer, wholesaler, or distributor that is a party to the contract shall give notice by certified mail to the retailer of the intended change and the specific grounds for the change.
2. If the manufacturer, wholesaler, or distributor fails to give the proper notice under subsection 1, the change is voidable at the option of the retailer.
3. A contract between a manufacturer, wholesaler, or distributor and a retailer of automobiles or trucks, or parts of the automobiles or trucks, is offered for automatic renewal under the same terms unless notice is provided under subsection 1.
4. A retailer may file an action against the manufacturer, wholesaler, or distributor for violation of this section or for a determination of whether the action proposed by the manufacturer, wholesaler, or distributor is an unfair or a prohibited change in or from the contract. Contracts and certificates of appointment continue in effect until final determination of the issues in the action.
5. A change in or from a contract is unfair and prohibited if the change is not clearly permitted by the agreement; is not taken in good faith; is not taken for good cause; is based on an alleged breach of the agreement which is not in fact a material and substantial breach; or, if the grounds relied on for the change have not been applied in a uniform and consistent manner by the manufacturer, wholesaler, or distributor. Good faith means honesty in fact and fair dealing. The manufacturer, wholesaler, or distributor shall have the burden of proof that any action taken by the manufacturer, wholesaler, or distributor is fair and not prohibited. A manufacturer, wholesaler, or distributor that fails to carry the burden of proof is liable for all special and general damages sustained by the retailer, including the costs of litigation and reasonable attorney's fees. If appropriate, the retailer is entitled to injunctive relief.

**SECTION 3.** Section 51-07-02.2 of the North Dakota Century Code is created and enacted as follows:

**51-07-02.2. Dealership transfers.** A retailer of automobiles or trucks, or parts for the automobiles or trucks, may not transfer, assign, or sell a franchise agreement to another person unless the retailer first provides written notice to the franchisor of the intended action. Within sixty days of receiving the notice, the

franchisor must approve or deny the action. If the franchisor denies the action, the franchisor shall provide material reasons for the denial to the franchisee. If the franchisor does not respond within the sixty-day period, the action is deemed approved. The refusal by the franchisor to accept a proposed transferee who meets the written, reasonable, and uniformly applied standards of qualifications of the franchisor relating to the financial qualifications of the transferee and business experience of the transferee is presumed to be unreasonable. If an action is rejected by the franchisor, the franchisee may file an action for determination of a violation of this section. The retailer may elect to pursue either the retailer's remedy under the contract or the remedy provided in this section. The franchisor has the burden of proof with respect to all issues raised in the action. The court shall approve the transfer unless the franchisor can prove the proposed transferee does not meet the written, reasonable, and uniformly applied standards regarding financial qualifications and business experience.

**SECTION 4.** Section 51-07-02.3 of the North Dakota Century Code is created and enacted as follows:

**51-07-02.3. Prohibited acts.** A manufacturer, wholesaler, or distributor of automobiles or trucks, or parts of the automobiles or trucks, that enters a contract with any person engaged in the business of selling or retailing automobiles, trucks, or parts for the automobiles or trucks, may not:

1. Coerce or attempt to coerce the retailer into accepting delivery of automobiles, trucks, parts, or accessories that the retailer has not ordered voluntarily.
2. Condition or attempt to condition the sale of automobiles or trucks on a requirement that the automobile or truck retailer purchase other goods or services, except that the manufacturer, wholesaler, or distributor may require a retailer to purchase all parts reasonably necessary to maintain the quality of operation and telecommunications necessary to communicate with the manufacturer, wholesaler, or distributor.
3. Coerce or attempt to coerce an automobile or truck retailer into not carrying dual lines or into maintaining separate facilities as long as the retailer's facilities otherwise satisfy the reasonable requirements of the manufacturer, wholesaler, or distributor.
4. Discriminate in the prices charged for automobiles or trucks of like grade and quality sold by automobile or truck manufacturers to similarly situated automobile or truck retailers. This prohibition does not prevent the use of differentials that solely make due allowance for differences in the cost of manufacture, sale, or delivery or for differing methods or quantities in which the automobiles or trucks are sold or delivered by the manufacturer, wholesaler, or distributor.
5. Attempt or threaten to terminate, cancel, or fail to renew, or substantially change the competitive circumstances of the dealership contracts for any reason other than the failure of the automobile or truck retailer to comply with the terms of the contract between the parties, if the attempt or threat is based on the results of a circumstance beyond the retailer's control, including a natural disaster in the dealership market area or a labor dispute.

**SECTION 5. APPLICATION OF ACT.** This Act applies to all contracts in effect on August 1, 2005, which do not have an expiration date and are continuing contracts and all other contracts entered, amended, or renewed after July 31, 2005. Any contract in effect on August 1, 2005, which by its terms will terminate on a date subsequent to that date is governed by the law as it existed on July 31, 2005.

Approved March 22, 2005

Filed March 22, 2005

## CHAPTER 440

### SENATE BILL NO. 2200

(Senators Holmberg, Trenbeath, Triplett)  
(Representatives DeKrey, Delmore, Kretschmar)

## MOTOR VEHICLE RECORDING DEVICES

AN ACT to create and enact a new section to chapter 51-07 of the North Dakota Century Code, relating to recording devices on motor vehicles; and to provide for application.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 51-07 of the North Dakota Century Code is created and enacted as follows:

#### **Recording devices on motor vehicles - Disclosure - Removal.**

1. A manufacturer of a new motor vehicle sold or leased in this state which is equipped with a recording device commonly referred to as an event data recorder shall disclose by model year 2007 the presence, capacity, and capabilities of the event data recorder in the owner's manual for the vehicle. A motor vehicle dealer shall include within the purchase contract in a clear and conspicuous manner information on the possibility of a recording device. As used in this section, an event data recorder means a feature that is installed by the manufacturer of the vehicle and does any of the following for the purpose of retrieving data:
  - a. Records the speed of the vehicle and the direction the motor vehicle is traveling.
  - b. Records vehicle location data.
  - c. Records steering performance.
  - d. Records brake performance, including whether brakes were applied before an accident.
  - e. Records the driver's safety belt status.
  - f. Has the ability to transmit information concerning an accident in which the vehicle has been involved to a central communications system when an accident occurs.
2. Data recorded on an event data recorder may not be downloaded or otherwise retrieved by a person other than the owner of the motor vehicle at the time the data is recorded, or through consent by the owner's agent or legal representative, except under any of the following circumstances:
  - a. The data is retrieved for the purpose of improving motor vehicle safety, including for medical research of the human body's reaction to motor vehicle accidents, and the identity of the registered owner

or driver is not disclosed in connection with that retrieved data. The disclosure of the vehicle identification number, with the last four digits deleted, for the purpose of improving vehicle safety, including for medical research of the human body's reaction to motor vehicle accidents, does not constitute the disclosure of the identity of the registered owner or driver. A person authorized to download or otherwise retrieve data from a recording device under this subdivision may not release that data, except to share the data among the motor vehicle safety and medical research communities to advance motor vehicle safety, and only if the identity of the registered owner or driver is not disclosed.

- b. The data is retrieved by a licensed motor vehicle dealer or by an automotive technician for the purpose of diagnosing, servicing, or repairing the motor vehicle.
  - c. By stipulation of the parties to the proceeding or by order of the court.
3. "Owner" means a person having all the incidents of ownership, including the legal title of a vehicle regardless of whether the person lends, rents, or creates a security interest in the vehicle; a person entitled to the possession of a vehicle as the purchaser under a security agreement; or the person entitled to possession of the vehicle as lessee pursuant to a written lease agreement, if the agreement at inception is for a period in excess of three months.
  4. A person, including a service or data processor operating on behalf of the person, authorized to download or otherwise retrieve data from an event data recorder pursuant to subdivision a of subsection 2 may not release that data except for the purposes of motor vehicle safety and medical communities to advance motor vehicle safety, security, or traffic management; or to a data processor solely for the purposes permitted by this subsection and only if the identity of the owner or driver of the vehicle is not disclosed.
  5. If a motor vehicle is equipped with a recording device that is capable of recording or transmitting information relating to vehicle location data or concerning an accident to a central communications system and that capability is part of a subscription service, the fact that the information may be recorded or transmitted must be disclosed in the terms and conditions of the subscription service. Subsection 2 does not apply to a subscription service that meets the requirements of this subsection.
  6. An insurer may not require as a condition of insurability consent of the owner for access to data that may be stored within an event data recorder and may not use data retrieved with the owners consent before or after an accident for the purpose of rate assessment.

**SECTION 2. APPLICATION.** This Act applies to all motor vehicles manufactured after July 31, 2005.

## CHAPTER 441

### HOUSE BILL NO. 1284

(Representatives Wrangham, S. Meyer)  
(Senator Traynor)

## FALSE AND MISLEADING ADVERTISING

AN ACT to amend and reenact section 51-12-01 of the North Dakota Century Code, relating to false and misleading advertising; and to provide a penalty.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 51-12-01 of the North Dakota Century Code is amended and reenacted as follows:

#### 51-12-01. False and misleading advertising prohibited.

1. No person, ~~firm, corporation, limited liability company, or association~~ with intent to sell, dispose of, increase the consumption of, or induce the public to enter ~~into~~ an obligation relative to, or to acquire title or interest in any food, drug, medicine, patent and proprietary product, merchandise, security, service, ~~performance~~, medical treatment, paint, varnish, oil, clothing, wearing apparel, machinery, or anything offered to the public, may make, publish, disseminate, circulate, or place before the public, or directly or indirectly shall cause to be made, published, disseminated, circulated, or placed before the public in a newspaper, or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, tab, label, letter, or in any other way, an advertisement ~~which~~ that contains any assertion, representation, or statement of fact, including the price thereof, which is untrue, deceptive, or misleading regarding such food, drug, medicine, patent and proprietary product, merchandise, security, service, ~~performance~~, medical treatment, paint, varnish, oil, clothing, wearing apparel, machinery, or anything offered to the public.
2. It is not a violation of this section to advertise a performance by a performing group if at least one member of the performing group was a member of the recording group, the performance is identified as a "salute" or "tribute" to the recording group, the performance is expressly authorized in the advertising by the recording group, the advertising does not relate to a live music performance taking place in this state, or the advertising contains a disclaimer that the performing group is not the recording group or is not affiliated with the recording group.

Approved April 12, 2005  
Filed April 13, 2005

**CHAPTER 442****SENATE BILL NO. 2231**

(Senators Erbele, Hacker)  
(Representatives Brandenburg, Kretschmar, Sandvig)

**PRODUCT REBATES**

AN ACT to create and enact a new section to chapter 51-12 of the North Dakota Century Code, relating to product rebates; and to provide a penalty.

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

**SECTION 1.** A new section to chapter 51-12 of the North Dakota Century Code is created and enacted as follows:

**Product rebates - Acceptable mailing addresses.** A person who is eligible to receive a mail-in rebate for the purchase of a product or merchandise must be given the option of providing either a street address or a post-office box number as a mailing address.

Approved March 25, 2005

Filed March 25, 2005

## CHAPTER 443

### SENATE BILL NO. 2249

(Senators Holmberg, Dever, Wardner)  
(Representatives Delmore, Hawken, Kasper)

## CREDIT CARD RECEIPT AND SOLICITATION REGULATION

AN ACT to amend and reenact sections 51-07-27, 51-18-01, 51-18-04.2, 51-18-04.3, 51-18-09, and 51-28-06 of the North Dakota Century Code, relating to restrictions on electronically printed credit card receipts, regulation of home solicitation sales, and prohibited telephone solicitations; and to provide a penalty.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 51-07-27 of the North Dakota Century Code is amended and reenacted as follows:

**51-07-27. Restrictions on electronically printed credit card receipts - Penalty.** Except as otherwise provided under this section, a person that accepts credit cards for the transaction of business and also electronically prints receipts for these credit card transactions may not print on the receipt provided to the customer more than the last five digits of the credit card account number nor print on the receipt provided to the customer the expiration date of the credit card. This section does not apply to a credit card transaction in which the sole means of recording the customer's credit card number is by handwriting or by an imprint or copy of the credit card. This section becomes operative on January 1, 2004, with respect to any cash register or other machine or device that electronically prints receipts for credit card transactions which is first put into use after December 31, 2003. This section becomes operative on January 1, 2007, with respect to any cash register or other machine or device that electronically prints receipts for credit card transactions which is first put into use before January 1, 2004. A person who violates this section is guilty of a class B misdemeanor.

**SECTION 2. AMENDMENT.** Section 51-18-01 of the North Dakota Century Code is amended and reenacted as follows:

**51-18-01. Definitions.** In this chapter, unless the context otherwise requires:

1. "Consumer goods or services" means goods or services purchased, leased, or rented primarily for personal, family, or household purposes, including courses of instruction or training regardless of the purpose for which they are taken.
2. "Person" includes a corporation, limited liability company, company, partnership, firm, association, or society, as well as a natural person. When the word "person" is used to designate the party whose property may be the subject of a criminal or public offense, the term includes the United States, this state, or any territory, state, or country, or any political subdivision of this state which may lawfully own any property, or

a public or private corporation, limited liability company, or partnership or association. When the word "person" is used to designate the violator or offender of any law, it includes corporation, limited liability company, partnership, or any association of persons.

3. "Personal solicitation sale" means a sale, lease, or rental of consumer goods or services in which the seller or the seller's representative solicits the sale, lease, or rental, by telephone or in person, and the buyer's agreement or offer to purchase is made at a place other than the place of business of the person soliciting the same and that agreement or offer to purchase is there given to the seller or the seller's representative. A transaction is not a personal solicitation sale if it is made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale, lease, or rental.
4. "Seller" means a person who makes a personal solicitation sale.
5. "Seller's representative" means a person who makes a personal solicitation sale on behalf of a seller.
6. "Telepromoter" means any person who, individually, through salespersons or agents, or through the use of an automatic dialing-announcing device initiates telephone contact with a consumer or who by written notice requests that the consumer contact the person by telephone and who represents one or more of the following:
  - a. That if the consumer buys one or more items from the telepromoter, the consumer will also receive additional or other items, whether or not of the same type as purchased, without further cost or at a cost which the seller states or implies is less than the regular price of those items.
  - b. That a consumer will receive a prize, premium, or gift if the telepromoter also encourages the consumer to do either of the following:
    - (1) Purchase or rent any goods or services.
    - (2) Pay any money, including a delivery or handling charge.
  - c. That the consumer has in any manner been specially selected to receive the written notice or the offer contained in the written notice.

The term does not include any nonprofit or charitable organization exempt from federal taxation under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. section 501(c)(3)].

**SECTION 3. AMENDMENT.** Section 51-18-04.2 of the North Dakota Century Code is amended and reenacted as follows:

**51-18-04.2. Credit card charges.** A telepromoter, seller, or seller's representative, in a personal solicitation sale, may not make or submit any charge to the consumer's credit card or bank account, or otherwise solicit or accept any advance payment, until the telepromoter, seller, or seller's representative has

received from the consumer an original copy of a contract that complies with this section.

**SECTION 4. AMENDMENT.** Section 51-18-04.3 of the North Dakota Century Code is amended and reenacted as follows:

**51-18-04.3. Agreement by telepromoter or seller in violation of chapter void.** Any agreement for sale, lease, or ~~rent~~ rental of a consumer good or service in a personal solicitation sale by a telepromoter, seller, or seller's representative in violation of this chapter is unenforceable and void.

**SECTION 5. AMENDMENT.** Section 51-18-09 of the North Dakota Century Code is amended and reenacted as follows:

**51-18-09. ~~Penalty Enforcement - Powers - Remedies - Penalty.~~** Any person who violates any provision of this chapter is guilty of a class B misdemeanor. The state's attorney or attorney general may enforce this chapter. The attorney general in enforcing this chapter has all the powers provided in this chapter and chapter 51-15 and may seek all remedies in this chapter and chapter 51-15. A violation of this chapter constitutes a violation of chapter 51-15. The remedies, duties, prohibitions, and penalties of this chapter are not exclusive and are in addition to all other causes of action, remedies, and penalties in chapter 51-15, or otherwise provided by law.

**SECTION 6. AMENDMENT.** Section 51-28-06 of the North Dakota Century Code is amended and reenacted as follows:

**51-28-06. Prohibited telephone solicitations.** A caller may not make or cause to be made any telephone solicitation to the telephone line of any subscriber in this state who, for at least ~~ninety~~ thirty-one days before the date the call is made, has been on the do-not-call list established and maintained or used by the attorney general under section 51-28-09 or the national do-not-call registry established and maintained by the federal trade commission under title 16, Code of Federal Regulations, part 310.

Approved March 16, 2005  
Filed March 17, 2005

## CHAPTER 444

### HOUSE BILL NO. 1305

(Representatives Keiser, Price)

(Senators Kilzer, J. Lee)

## TOBACCO MANUFACTURER ESCROW RELEASE

AN ACT to amend and reenact paragraph 2 of subdivision b of subsection 2 of section 51-25-02 of the North Dakota Century Code, relating to release of escrow funds deposited by tobacco product manufacturers; and to provide a savings clause.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Paragraph 2 of subdivision b of subsection 2 of section 51-25-02 of the North Dakota Century Code is amended and reenacted as follows:

- (2) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than ~~the state's allocable share of the total payments that the manufacturer would have been required to make in that year under the master settlement agreement (as determined pursuant to section IX(i)(2) of the master settlement agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that agreement other than the inflation adjustment)~~ the master settlement agreement payments, as determined pursuant to section IX(i) of that agreement, including after final determination of all adjustments, that the manufacturer would have been required to make on account of such units sold had it been a participating manufacturer, the excess must be released from escrow and revert back to the such tobacco product manufacturer; or

**SECTION 2. SAVINGS CLAUSE.** If any portion of the amendment to paragraph 2 of subdivision b of subsection 2 of section 51-25-02 in section 1 of this Act is held by a court of competent jurisdiction to be unconstitutional, then paragraph 2 is deemed to be invalidated in its entirety. If subdivision b of subsection 2 of section 51-25-02 is thereafter held by a court of competent jurisdiction to be unconstitutional, then section 1 of this Act is deemed invalidated, and paragraph 2 of subdivision b of subsection 2 of section 51-25-02 is restored as it existed on the day before the effective date of this Act. Neither any holding of unconstitutionality nor the invalidation of paragraph 2 of subdivision b of subsection 2 of section 51-25-02 affects, impairs, or invalidates any other portion of section 51-25-02 or the application of that section to any other person or circumstance and the remaining portions of section 51-25-02 at all times will continue in full force and effect.

Approved April 5, 2005

Filed April 6, 2005

## CHAPTER 445

### HOUSE BILL NO. 1219 (Representatives Porter, Bellew) (Senator Krebsbach)

## AUTOMATED EMERGENCY NOTIFICATIONS

AN ACT to amend and reenact sections 51-28-02 and 57-40.6-07 of the North Dakota Century Code, relating to the use of unpublished names and telephone numbers for automated emergency notifications.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 51-28-02 of the North Dakota Century Code is amended and reenacted as follows:

**51-28-02. Use of prerecorded or synthesized voice messages.** A caller may not use or connect to a telephone line an automatic dialing-announcing device unless the subscriber has knowingly requested, consented to, permitted, or authorized receipt of the message or the message is immediately preceded by a live operator who obtains the subscriber's consent before the message is delivered. This section and section 51-28-05 do not apply to ~~messages~~ a message from a public safety agency notifying a person of an emergency; a message from a school district to students a student, parents a parent, or employees, messages an employee; a message to subscribers a subscriber with whom the caller has a current business relationship; or messages a message advising employees an employee of a work schedules schedule.

**SECTION 2. AMENDMENT.** Section 57-40.6-07 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.6-07. Use of the furnished information.** Unpublished names and telephone numbers generated by a 911 coordinator or 911 public safety answering point or provided to a 911 coordinator or public safety answering point under section 57-40.6-06 are confidential and may be used only for verifying the location or identity, or both, for response purposes, of a person calling a 911 answering point for emergency help or by the 911 coordinator or public safety answering point for the purpose of a public safety agency notifying a person of an emergency. Published names and telephone numbers maintained by a 911 coordinator or public safety answering point are exempt records as defined in section 44-04-17.1 but must be provided upon request to the treasurer and auditor of the county served by the 911 coordinator for the purpose of verifying and correcting names and addresses used for official purposes.

Approved March 4, 2005  
Filed March 4, 2005

## CHAPTER 446

### SENATE BILL NO. 2335

(Senators Holmberg, Hacker, Nelson)  
(Representatives Charging, Delzer, Owens)

## GIFT CERTIFICATE EXPIRATION AND FEES

AN ACT to create and enact chapter 51-29 of the North Dakota Century Code, relating to gift certificate sales, expiration dates, and service or maintenance fees; to provide a penalty; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** Chapter 51-29 of the North Dakota Century Code is created and enacted as follows:

**51-29-01. Definition.** As used in this chapter, "gift certificate" means a record evidencing a promise, made for monetary consideration, by the seller or issuer of the record that goods or services will be provided to the owner of the record to the value shown in the record. The term includes a record that contains a microprocessor chip, magnetic strip, or other means of storage of information that is prefunded and for which the value is decreased upon each use; a gift card; an electronic gift card; an online gift account; a stored-value card; a store card; a prepaid telephone card; or a similar record or card.

The term does not include a general-use prepaid card issued by a prepaid card issuer, including a plastic card or other electronic payment device that is usable at multiple, unaffiliated merchants or service providers or at an automatic teller machine, and purchased or loaded on a prepaid basis; a general-use prepaid card issued by a prepaid card issuer and purchased by a person that is not an individual; or a debit card linked to a deposit account.

**51-29-02. Expiration dates - Service fees.** A person may not charge additional monthly or annual service or maintenance fees on a gift certificate. A person may not limit the time for redemption of a gift certificate to a date before six years after the date of purchase of the gift certificate, place an expiration date on a gift certificate before six years after the date of purchase of the gift certificate, or include on a gift certificate any statement suggesting that an expiration or redemption date, except as permitted in this section, may apply to a gift certificate.

This section does not apply to a gift certificate distributed to a consumer pursuant to an awards, loyalty, or promotional program without any money or other thing of value being given in exchange for the gift certificate by the consumer. Any restriction or limitation on such gift certificate must be disclosed to the consumer, in writing, at the time the gift certificate is distributed to the consumer.

**51-29-03. Enforcement - Powers - Remedies - Penalties.** The attorney general shall enforce this chapter. In enforcing this chapter, the attorney general has all the powers provided in this chapter or chapter 51-15 and may seek all remedies in this chapter or chapter 51-15. A violation of this chapter constitutes a violation of chapter 51-15. The remedies, duties, prohibitions, and penalties of this chapter are not exclusive and are in addition to all other causes of action, remedies, and penalties as provided in chapter 51-15 and as otherwise provided by law.

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

Approved April 6, 2005

Filed April 6, 2005

## CHAPTER 447

### SENATE BILL NO. 2251

(Senators Trenbeath, Espegard, J. Lee)  
(Representatives Aarsvold, Headland, Horter)

## PERSONAL IDENTIFYING INFORMATION USE CRIMES

AN ACT to create and enact chapter 51-30 of the North Dakota Century Code, relating to requiring disclosure to consumers of a breach in security by businesses maintaining personal information in electronic form; to amend and reenact sections 12.1-23-11 and 12.1-23-12 of the North Dakota Century Code, relating to the unauthorized use of personal identifying information, penalties, prosecution of offenses in multiple counties, and jurisdiction in offenses involving conduct outside this state; to provide a penalty; to provide an effective date; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>221</sup> **SECTION 1. AMENDMENT.** Section 12.1-23-11 of the North Dakota Century Code is amended and reenacted as follows:

#### **12.1-23-11. Unauthorized use of personal identifying information - Penalty.**

1. As used in this section, "personal identifying information" means any of the following information:
  - a. An individual's name;
  - b. An individual's address;
  - c. An individual's telephone number;
  - d. The distinguishing operator's license number assigned to an individual by the department of transportation under section ~~39-04-14~~ 39-06-14;
  - e. An individual's social security number;
  - f. An individual's employer or place of employment;
  - g. An identification number assigned to the individual by the individual's employer;
  - h. The maiden name of the individual's mother; or

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<sup>221</sup> Section 12.1-23-11 was also amended by section 1 of House Bill No. 1211, chapter 116.

- i. The identifying number of a depository account in a financial institution; or
  - j. An individual's birth, death, or marriage certificate.
2. A person is guilty of a ~~class C felony~~ an offense if the person uses or attempts to use any personal identifying information of an individual, living or deceased, to obtain credit, money, goods, services, or anything else of value without the authorization or consent of the individual and by representing that person is the individual or is acting with the authorization or consent of the individual. The offense is a class B felony if the credit, money, goods, services, or anything else of value exceeds one thousand dollars in value, otherwise the offense is a class C felony. A second or subsequent offense is a class A felony.
3. A violation of this section, of a law of another state, or of federal law that is equivalent to this section and which resulted in a plea or finding of guilt must be considered a prior offense. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.
4. A prosecution for a violation of this section must be commenced within six years after discovery by the victim of the offense of the facts constituting the violation.
5. When a person commits violations of this section in more than one county involving either one or more victims or the commission of acts constituting an element of the offense, the multiple offenses may be consolidated for commencement of prosecution in any county where one of the offenses was committed.

<sup>222</sup> **SECTION 2. AMENDMENT.** Section 12.1-23-12 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-23-12. Jurisdiction - Conduct outside this state.** Notwithstanding section 29-03-01.1, a person who, while outside this state and by use of deception, obtains, deprives, or conspires, solicits, or attempts to obtain the property of a person within this state or to deprive such person of property is subject to prosecution under this chapter in the courts of this state. The Except as provided in section 12.1-23-11, the venue is in the county in which the victim resides or any other county in which any part of the crime occurred.

**SECTION 3.** Chapter 51-30 of the North Dakota Century Code is created and enacted as follows:

**51-30-01. Definitions.** In this chapter, unless the context or subject matter otherwise requires:

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<sup>222</sup> Section 12.1-23-12 was also amended by section 2 of House Bill No. 1211, chapter 116.

1. "Breach of the security system" means unauthorized acquisition of computerized data when access to personal information has not been secured by encryption or by any other method or technology that renders the electronic files, media, or data bases unreadable or unusable. Good-faith acquisition of personal information by an employee or agent of the person is not a breach of the security of the system, if the personal information is not used or subject to further unauthorized disclosure.
  
2. a. "Personal information" means an individual's first name or first initial and last name in combination with any of the following data elements, when the name and the data elements are not encrypted:
  - (1) The individual's social security number;
  - (2) The operator's license number assigned to an individual by the department of transportation under section 39-06-14;
  - (3) A nondriver color photo identification card number assigned to the individual by the department of transportation under section 39-06-03.1;
  - (4) The individual's financial institution account number, credit card number, or debit card number in combination with any required security code, access code or password that would permit access to an individual's financial accounts;
  - (5) The individual's date of birth;
  - (6) The maiden name of the individual's mother;
  - (7) An identification number assigned to the individual by the individual's employer; or
  - (8) The individual's digitized or other electronic signature.
  
- b. "Personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

**51-30-02. Notice to consumers.** Any person that conducts business in this state, and that owns or licenses computerized data that includes personal information, shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of the state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in section 51-30-04, or any measures necessary to determine the scope of the breach and to restore the integrity of the data system.

**51-30-03. Notice to owner or licensee of personal information.** Any person that maintains computerized data that includes personal information that the person does not own shall notify the owner or licensee of the information of the breach of the security of the data immediately following the discovery, if the personal

information was, or is reasonably believed to have been, acquired by an unauthorized person.

**51-30-04. Delayed notice.** The notification required by this chapter may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this chapter must be made after the law enforcement agency determines that the notification will not compromise the investigation.

**51-30-05. Method of notice.** Notice under this chapter may be provided by one of the following methods:

1. Written notice;
2. Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in section 7001 of title 15 of the United States Code; or
3. Substitute notice, if the person demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or the person does not have sufficient contact information. Substitute notice consists of the following:
  - a. E-mail notice when the person has an e-mail address for the subject persons;
  - b. Conspicuous posting of the notice on the person's web site page, if the person maintains one; and
  - c. Notification to major statewide media.

**51-30-06. Alternate compliance.** Notwithstanding section 51-30-05, a person that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this chapter is deemed to be in compliance with the notification requirements of this chapter if the person notifies subject individuals in accordance with its policies in the event of a breach of security of the system. A financial institution, trust company, or credit union that is subject to, examined for, and in compliance with the federal interagency guidance on response programs for unauthorized access to customer information and customer notice is deemed to be in compliance with this chapter.

**51-30-07. Enforcement - Powers - Remedies - Penalties.** The attorney general may enforce this chapter. The attorney general, in enforcing this chapter, has all the powers provided in chapter 51-15 and may seek all the remedies in chapter 51-15. A violation of this chapter is deemed a violation of chapter 51-15. The remedies, duties, prohibitions, and penalties of this chapter are not exclusive and are in addition to all other causes of action, remedies, and penalties under chapter 51-15, or otherwise provided by law.

**SECTION 4. EFFECTIVE DATE.** This Act becomes effective on June 1, 2005.

**SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 22, 2005  
Filed April 25, 2005

## CHAPTER 448

### HOUSE BILL NO. 1500

(Representatives Koppelman, L. Meier, S. Meyer)  
(Senators Syverson, Taylor, Tollefson)

### IDENTITY FRAUD

AN ACT to create and enact a new chapter to title 51 of the North Dakota Century Code, relating to identity fraud; and to provide a penalty.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new chapter to title 51 of the North Dakota Century Code is created and enacted as follows:

##### **Definitions.**

1. "Consumer" means an individual.
2. "Consumer report" has the same meaning as provided in 15 U.S.C. 1681a(d).
3. "Consumer reporting agency" means any person that, for monetary fees or dues or on a cooperative nonprofit basis, regularly engages in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate or intrastate commerce for the purpose of preparing or furnishing consumer reports. The term does not include an agency that compiles and maintains files on consumers on a nationwide basis, as described in 15 U.S.C. 1681a(p), a "reseller" as defined in 15 U.S.C. 1681a(u), when engaged in the act of the reselling of consumer information or other information, or a "nationwide specialty consumer reporting agency" that maintains "check writing history" as defined in 15 U.S.C. 1681a(w)(3).
4. "File", when used in connection with information on any consumer, means all of the information on that consumer reported and retained by a consumer reporting agency regardless of how the information is stored.

**Initial fraud alerts.** Upon the direct request of a consumer or an individual acting on behalf of or as a personal representative of a consumer, who asserts in good faith a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, a consumer reporting agency that maintains a file on the consumer and has received appropriate proof of the identity of the requester shall include a fraud alert in the file of that consumer. The consumer reporting agency shall continue that alert along with any credit score generated in using that file, for a period of not less than ninety days beginning on the date of the request, unless the consumer or the consumer's representative requests that the fraud alert be removed before the end of the period and the agency has received appropriate proof of the identity of the requester for that purpose.

**Extended fraud alerts.** Upon the direct request of a consumer or an individual acting on behalf of or as a personal representative of a consumer, who asserts in good faith a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, a consumer reporting agency that maintains a file on the consumer and has received appropriate proof of the identity of the requester shall:

1. Include a fraud alert in the file of that consumer and continue that alert along with any credit score generated in using that file, during the seven-year period beginning on the date of the request, unless the consumer or the consumer's representative requests that the fraud alert be removed before the end of that period and the agency has received appropriate proof of the identity of the requester for that purpose; and
2. During the five-year period beginning on the date of the request, exclude the consumer from any list of consumers prepared by the consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer or the consumer's representative requests that the exclusion be rescinded before the end of that period.

**Police reports - Judicial determination of factual innocence.**

1. An individual who has learned or reasonably suspects that the individual's personal identifying information has been unlawfully used by another, as described in section 12.1-23-11, may initiate a law enforcement investigation by contacting the local law enforcement agency that has jurisdiction over the individual's residence. The law enforcement agency shall take a report of the matter, provide the individual with a copy of that report, and begin an investigation of the facts. If the suspected crime was committed in a different jurisdiction, the local law enforcement agency may refer the matter to the law enforcement agency where the suspected crime was committed for further investigation of the facts.
2. An individual who reasonably believes that the individual is the victim of identity theft may petition the district court in the county in which the alleged victim resides or in which the identity theft is alleged to have occurred, or the court, on its own motion or upon application of the state's attorney, may move for an expedited judicial determination of the individual's factual innocence, if the perpetrator of the identity theft was arrested, cited, or convicted of a crime under the victim's identity, if a criminal complaint has been filed against the perpetrator in the victim's name, or if the victim's identity has been mistakenly associated with a record of criminal conviction. Any judicial determination of factual innocence made under this section may be heard and determined upon declarations, affidavits, police reports, or other material, relevant, and reliable information submitted by the parties or ordered to be part of the record by the court. If the court determines that the petition or motion is meritorious and that there is no reasonable cause to believe that the victim committed the offense for which the perpetrator of the identity theft was arrested, cited, convicted, or subject to a criminal complaint in the victim's name, or that the victim's identity has been mistakenly associated with a record of criminal conviction, the court shall find the

victim factually innocent of that offense. If the victim is found factually innocent, the court shall issue an order certifying that determination.

3. After a court has issued a determination of factual innocence under this section, the court may order the name and associated personal identifying information contained in court records, files, and indexes accessible by the public deleted, sealed, or labeled to show that the data is impersonated and does not reflect the defendant's identity.
4. A court that has issued a determination of factual innocence under this section may vacate that determination if the petition or any information submitted in support of the petition is found to contain any material misrepresentation or fraud.

**Enforcement - Powers - Remedies - Penalties.** The attorney general may enforce this chapter. In enforcing this chapter, the attorney general has all the powers provided in this chapter or chapter 51-15 and may seek all remedies in this chapter or chapter 51-15. A violation of this chapter constitutes a violation of chapter 51-15. The remedies, duties, prohibitions, and penalties of this chapter are not exclusive and are in addition to all other causes of action, remedies, and penalties as provided in chapter 51-15 and as otherwise provided by law.

Approved April 22, 2005  
Filed April 25, 2005

## CHAPTER 449

### HOUSE BILL NO. 1522

(Representatives Carlson, Price)

(Senator Wardner)

## TOBACCO REGULATION

AN ACT to create and enact chapter 51-30 of the North Dakota Century Code, relating to regulation of sale and delivery of tobacco products; to amend and reenact section 57-36-27 of the North Dakota Century Code, relating to consumer's use tax; to provide a penalty; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** Chapter 51-30 of the North Dakota Century Code is created and enacted as follows:

**51-30-01. Prohibited acts regarding sale of tobacco products to minors.**

It is unlawful for any person in the business of selling tobacco products to take an order for a tobacco product, other than from a person who is in the business of selling tobacco products, through the mail or through any telecommunications means, including by telephone, facsimile, or the internet, if in providing for the sale or delivery of the product pursuant to the order, the person mails the product or ships the product by carrier, and the person fails to comply with each of the following procedures:

1. Before mailing or shipping the product, the person receives from the individual who places the order the following:
  - a. A copy of a valid government-issued document that provides the name, address, and date of birth of the individual; and
  - b. A signed statement from the individual providing a certification that the individual:
    - (1) Is a smoker of legal minimum purchase age in the state;
    - (2) Has selected an option on the statement as to whether the individual wants to receive mailings from a tobacco company; and
    - (3) Understands that providing false information may constitute a violation of law.
2. Before mailing or shipping the product, the person:
  - a. Verifies the date of birth or age of the individual against a commercially available data base; or
  - b. Obtains a photocopy or other image of the valid, government-issued identification stating the date of birth or age of the individual placing the order.

3. Before mailing or shipping the product, the person provides to the prospective purchaser, by electronic mail or other means, a notice that meets the requirements of section 51-30-04.
4. In the case of an order for a product pursuant to an advertisement on the internet, the person receives payment by credit card, debit card, or check for the order before mailing or shipping the product.
5. a. The person employs a method of mailing or shipping the product requiring that the individual purchasing the product:
  - (1) Be the addressee;
  - (2) Have an individual of legal minimum purchase age sign for delivery of the package; and
  - (3) If the individual appears to the carrier making the delivery to be under twenty-seven years of age, take delivery of the package only after producing valid government-issued identification that bears a photograph of the individual, indicates that the individual is not under the legal age to purchase cigarettes, and indicates that the individual is not younger than the age indicated on the government-issued document.
- b. The bill of lading clearly states the requirements in subdivision a and specifies that state law requires compliance with the requirements.
6. The person notifies the carrier for the mailing or shipping, in writing, of the age of the addressee as indicated by the government-issued document.

**51-30-02. Rule of construction regarding common carriers.** This chapter may not be construed as imposing liability upon any common carrier, or officer or employee of the carrier when acting within the scope of business of the common carrier.

**51-30-03. E-mail addresses.** A person taking a delivery sale order may request that a prospective purchaser provide an e-mail address for the purchaser.

**51-30-04. Disclosure requirements.** The notice required under subsection 3 of section 51-30-01 must include:

1. A prominent and clearly legible statement that cigarette sales to consumers below the legal minimum age are illegal;
2. A prominent and clearly legible statement that consists of one of the warnings set forth in section 4(a)(1) of the federal Cigarette Labeling and Advertising Act [15 U.S.C. 1333(a)(1)] rotated on a quarterly basis;
3. A prominent and clearly legible statement that sales of cigarettes are restricted to those consumers who provide verifiable proof of age in accordance with section 51-30-01; and

4. A prominent and clearly legible statement that cigarette sales are subject to tax under sections 57-36-06 and 57-36-32, and an explanation of how the tax has been, or is to be, paid with respect to the delivery sale.

#### **51-30-05. Registration and reporting requirements.**

1. Before making a delivery sale or shipping cigarettes in connection with a sale, a person shall file with the tax commissioner a statement setting forth the person's name, trade name, and the address of the person's principal place of business and any other place of business.
2. Not later than the tenth day of each month, each person that has made a delivery sale or shipped or delivered cigarettes in connection with any sale during the previous calendar month shall file with the tax commissioner a memorandum or a copy of the invoice, which provides for each delivery sale:
  - a. The name and address of the individual to whom the delivery sale was made;
  - b. The brand of the cigarettes that were sold in the delivery sale; and
  - c. The quantity of cigarettes that were sold in the delivery sale.

**51-30-06. Taxes.** Each person accepting a purchase order for a delivery sale of any tobacco product shall remit to the tax commissioner any taxes due under chapter 57-36 with respect to the delivery sale. This section does not apply if the person has obtained proof, in the form of the presence of applicable tax stamps or otherwise, that the taxes already have been paid to this state.

#### **51-30-07. Penalties.**

1. Except as otherwise provided in this section, a person that violates this chapter is subject to a fine of not more than one thousand dollars. In the case of a second or subsequent violation of this chapter, the person is subject to a fine of not less than one thousand dollars nor more than five thousand dollars.
2. Any person who knowingly violates any provision of this chapter is guilty of a class C felony.
3. Any individual who knowingly and falsely submits a certification under subdivision a of subsection 5 of section 51-30-01 in another individual's name is guilty of a noncriminal offense and is subject to the penalty provided under subsection 1.
4. Any person that fails to pay any tax required in connection with a delivery sale shall pay, in addition to any other penalty, a penalty of fifty percent of the tax due but unpaid.
5. Any cigarettes sold or attempted to be sold in a delivery sale that does not meet the requirements of this chapter are forfeited to the state and must be destroyed.

**51-30-08. Enforcement.** The attorney general or any person who holds a permit under 26 U.S.C. 5712 may bring an action in the appropriate court in the state to prevent or restrain a violation of this chapter by any person.

**SECTION 2. AMENDMENT.** Section 57-36-27 of the North Dakota Century Code is amended and reenacted as follows:

**57-36-27. Consumer's use tax - Cigarettes - Reports - Remittances.**

1. A tax is hereby imposed upon the use or storage by consumers of cigarettes in this state, and upon such consumers, at the following rates:
  - a. On cigarettes weighing not more than three pounds [1360.78 grams] per thousand, five mills on each such cigarette.
  - b. On cigarettes weighing more than three pounds [1360.78 grams] per thousand, five and one-half mills on each such cigarette.
2. This tax does not apply if the tax imposed by section 57-36-06 has been paid.
3. ~~This tax does not apply to the use or storage of cigarettes in quantities of two hundred or less in the possession of any one consumer nor to cigarettes exempt pursuant to section 57-36-24.~~
4. On or before the tenth day of each calendar quarter, every consumer who during the preceding calendar quarter has acquired title or possession of cigarettes for use or storage in this state, upon which cigarettes the tax imposed by section 57-36-06 has not been paid, shall file a return with the tax commissioner showing the quantity of cigarettes so acquired. The return must be made upon a form furnished and prescribed by the tax commissioner and must contain such other information as the tax commissioner may require. The return must be accompanied by a remittance for the full unpaid tax liability shown by it.
5. ~~4.~~ As soon as practicable after any return is filed, the tax commissioner shall examine the return and correct it, if necessary, according to the tax commissioner's best judgment and information.
6. ~~5.~~ In case any consumer required to pay the tax levied by this section fails to file a return or remit the tax as herein required, the tax commissioner has the authority to make an assessment of tax against the consumer according to the commissioner's best judgment and information.
7. ~~6.~~ All of the provisions of this chapter relating to corrections of returns, deficiency assessments, protests thereto, hearings thereon, interest and penalties, and collections of taxes are applicable to consumers under this section in like manner as though set out in full herein.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 25, 2005  
Filed April 26, 2005