

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1507
(Representatives Thoreson, Kasper, L. Meier, Ruby)
(Senators Flakoll, Hacker)

AN ACT to create and enact a new section to chapter 44-04 and a new section to chapter 51-27 of the North Dakota Century Code, relating to exempting electronic mail addresses and telephone numbers from open records requirements and to computer and internet fraud; to amend and reenact section 51-27-01 of the North Dakota Century Code, relating to definitions; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Electronic mail addresses and telephone numbers exempt. The electronic mail address or telephone number of an individual which is provided to a public entity for the purpose of or in the course of communicating with that public entity is an exempt record. This section may not be used to shield the identity of the individual communicating with the public entity.

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

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

1. "Assist the transmission" means actions taken by a person to provide substantial assistance or support that enables any person to formulate, compose, send, originate, initiate, or transmit a commercial electronic mail message when the person providing the assistance knows or consciously avoids knowing that the initiator of the commercial electronic mail message is engaged, or intends to engage, in any practice that violates chapter 51-15.
2. "Commercial electronic mail message" means an electronic mail message sent to promote real property, goods, or services for sale or lease. The term does not mean an electronic mail message to which an interactive computer service provider has attached an advertisement in exchange for free use of an electronic mail account if the sender has agreed to such an arrangement.
3. "Electronic mail address" means a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.
4. "Identifying information" means any information that can be used to access an individual's financial account or to obtain goods and services, including an individual's address, birth date, social security number, driver's license number, nondriver governmental identification number, telephone number, bank account number, student identification, credit or debit card number, personal identification number, unique biometric data, employee or payroll number, automated or electronic signature, computer image, photograph, screen name, or password. The term does not include information that is lawfully obtained from publicly available sources or from federal, state, or local government records lawfully made available to the general public.

5. "Initiate the transmission" refers to the action by the original sender of an electronic mail message, not to the action by any intervening interactive computer service that may handle or retransmit the message, unless the intervening interactive computer service assists in the transmission of an electronic mail message when the interactive computer service knows, or consciously avoids knowing, that the person initiating the transmission is engaged, or intends to engage, in any act or practice that violates chapter 51-15.
- ~~5.~~ 6. "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the internet and systems operated or services offered by libraries and educational institutions.
- ~~6.~~ 7. "Internet domain name" refers to a globally unique, hierarchical reference to an internet host or service, assigned through centralized internet naming authorities, comprising a series of character strings separated by periods, with the right-most string specifying the top of the hierarchy.
8. "Web page" means a location that has a single uniform resource locator with respect to the world wide web or another location that can be accessed on the internet.

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

Fraudulent or misleading communications - Penalty.

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1507.

House Vote: Yeas 91 Nays 0 Absent 3

Senate Vote: Yeas 45 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,

at _____ o'clock _____ M.

Secretary of State