

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

SENATE BILL NO. 2195  
(Senators Hacker, Lindaas, Warner)  
(Representatives Dahl, Dosch, Hawken)

AN ACT to amend and reenact section 51-28-01 of the North Dakota Century Code, relating to telephone solicitations; and to declare an emergency.

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

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

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

1. "Automatic dialing-announcing device" means a device that selects and dials telephone numbers and that, working alone or in conjunction with other equipment, disseminates a prerecorded or synthesized voice message to the telephone number called.
2. "Caller" means a person, corporation, firm, partnership, association, or legal or commercial entity that attempts to contact, or that contacts, a subscriber in this state by using a telephone or a telephone line.
3. "Caller identification service" means a telephone service that permits telephone subscribers to see the telephone number of incoming telephone calls.
4. "Established business relationship" means a relationship between a seller and consumer based on a free trial newspaper subscription or on the consumer's purchase, rental, or lease of the seller's goods or services or a financial transaction between the consumer and seller, within the twenty-four months immediately preceding the date of a telemarketing call.
5. "Message" means any telephone call, including voice, text, or other electronic communication, regardless of its content.
6. "Subscriber" means a person who has subscribed to a residential telephone services from a telephone company line or the other persons living or residing with the subscribing person, ~~or a person who has subscribed to wireless or mobile telephone services.~~
7. "Telephone line" means a telephone service to a subscriber, regardless of the technology used to provide such service, including traditional wireline or cable telephone service; cellular, broadband PCS, or other wireless telephone service; microwave, satellite, or other terrestrial phone service; and voice over internet protocol telephone service.
8. "Telephone solicitation" means any voice, text, or other electronic communication over a telephone line for the purpose of encouraging charitable contributions, or the purchase or rental of, or investment in, property, goods, services, or merchandise, including as defined in subsection 3 of section 51-15-03, whether the communication is made by a live operator, through the use of an automatic dialing-announcing device, or by other means. Telephone solicitation does not include communications:
  - a. To any subscriber with that subscriber's prior express written request, consent, invitation, or permission.

- b. By or on behalf of any person with whom the subscriber has an established personal or business relationship.
- c. By or on behalf of a charitable organization that is exempt from federal income taxation under section 501 of the Internal Revenue Code, but only if the following applies:
  - (1) The telephone call is made by a volunteer or employee of the charitable organization; and
  - (2) The person who makes the telephone call immediately discloses the following information upon making contact with the consumer:
    - (a) The person's true first and last name; and
    - (b) The name, address, and telephone number of the charitable organization.
- d. By or on behalf of any person whose exclusive purpose is to poll or solicit the expression of ideas, opinions, or votes, unless the communication is made through an automatic dialing-announcing device in a manner prohibited by section 51-28-02.
- e. By the individual soliciting without the intent to complete, and who does not in fact complete, the sales presentation during the call, but who will complete the sales presentation at a later face-to-face meeting between the individual solicitor or person who makes the initial call and the prospective purchaser.
- f. By or on behalf of a political party, candidate, or other group with a political purpose, as defined in section 16.1-08.1-01.

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

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2195 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:      Yeas        47            Nays        0            Absent      0

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:      Yeas        91            Nays        0            Absent      3

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
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