

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1058
Commerce, Small Business and Entrepreneurship Committee Substitute Adopted
4/24/07
Third Edition Engrossed 4/25/07
House Committee Substitute Favorable 7/9/07
Fifth Edition Engrossed 7/12/07

Short Title: Telephone Records Privacy Protection Act.

(Public)

Sponsors:

Referred to:

March 21, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT THE FRAUDULENT OBTAINING, SELLING, OR
3 SOLICITING OF TELEPHONE RECORDS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 14 of the General Statutes is amended by adding a
6 new Article to read:

7 "Article 19D.

8 "Telephone Records Privacy Protection Act.

9 **"§ 14-113.30. Definitions.**

10 The following definitions apply in this Article:

- 11 (1) Caller identification record. – A record collected and retained by or on
12 behalf of a customer utilizing caller identification or similar
13 technology that is delivered electronically to the recipient of a
14 telephone call simultaneously with the reception of the telephone call
15 and that indicates the telephone number from which the telephone call
16 was initiated or similar information regarding the telephone call.
- 17 (2) Customer. – A person or the legal guardian of a person or a
18 representative of a business to whom a telephone service provider
19 provides telephone service to a number subscribed or listed in the
20 name of the person or business.
- 21 (3) Person. – An individual, business association, partnership, limited
22 partnership, corporation, limited liability company, or other legal
23 entity.
- 24 (4) Telephone record. – A record in written, electronic, or oral form,
25 except a caller identification record, Directory Assistance information,

1 and subscriber list information, that is created by a telephone service
2 provider and that contains any of the following information with
3 respect to a customer:

- 4 a. Telephone numbers that have been dialed by the customer.
5 b. Telephone numbers that pertain to calls made to the customer.
6 c. The time when calls were made by the customer or to the
7 customer.
8 d. The duration of calls made by the customer or to the customer.
9 e. The charges applied to calls, if any.

10 (5) Telephone service. – The conveyance of two-way communication in
11 analog, digital, or other form by any medium, including wire, cable,
12 fiber optics, cellular, broadband personal communications services, or
13 other wireless technologies, satellite, microwave, or at any frequency
14 over any part of the electromagnetic spectrum. The term also includes
15 the conveyance of voice communication over the Internet and
16 telephone relay service.

17 (6) Telephone service provider. – A person who provides telephone
18 service to a customer without regard to the form of technology used,
19 including traditional wire-line or cable communications service;
20 cellular, broadband PCS, or other wireless communications service;
21 microwave, satellite, or other terrestrial communications service; or
22 voice over Internet communications service.

23 "**§ 14-113.31. Prohibition of falsely obtaining, selling, or soliciting telephone**
24 **records.**

25 (a) No person shall obtain, or attempt to obtain, by any means, whether
26 electronically, in writing, or in oral form, with or without consideration, a telephone
27 record that pertains to a customer who is a resident of this State without the customer's
28 consent by doing any of the following:

- 29 (1) Making a false statement or representation to an agent, representative,
30 or employee of a telephone service provider.
31 (2) Making a false statement or representation to a customer of a
32 telephone service provider.
33 (3) Knowingly providing to a telephone service provider a document that
34 is fraudulent, that has been lost or stolen, or that has been obtained by
35 fraud, or that contains a false, fictitious, or fraudulent statement or
36 representation.
37 (4) Accessing customer accounts of a telephone service provider via the
38 Internet without prior authorization from the customer to whom the
39 telephone records relate.

40 (b) No person shall knowingly purchase, receive, or solicit another to purchase or
41 receive a telephone record that pertains to a customer without the prior authorization of
42 that customer, or if the purchaser or receiver knows or has reason to know that the
43 record has been obtained fraudulently.

1 (c) No person shall sell or offer to sell a telephone record that was obtained
2 without the customer's prior consent, or if the person knows or has reason to know that
3 the telephone record was obtained fraudulently.

4 **"§ 14-113.32. Exceptions.**

5 (a) The provisions of G.S. 14-113.31 shall not apply to any of the following:

6 (1) Any lawfully authorized investigative, protective, or intelligence
7 activity of a law enforcement agency in connection with the official
8 duties of the law enforcement agency.

9 (2) A disclosure by a telephone service provider if the telephone service
10 provider reasonably believes the disclosure is necessary to: (i) provide
11 telephone service to a customer, including sharing telephone records
12 with one of the provider's affiliates or (ii) protect an individual or
13 service provider from fraudulent, abusive, or unlawful use of telephone
14 service or a telephone record.

15 (3) A disclosure by a telephone service provider to the National Center for
16 Missing and Exploited Children.

17 (4) A disclosure by a telephone service provider that is authorized by State
18 or federal law or regulation.

19 (5) A disclosure by a telephone service provider to a governmental entity
20 if the provider reasonably believes there is an emergency involving
21 immediate danger of death or serious physical injury.

22 (6) Testing of a telephone service provider's security procedures or
23 systems for maintaining the confidentiality of customers' telephone
24 records.

25 (b) Nothing in this Article shall be construed to expand the obligation or duty of
26 a telephone service provider to maintain the confidentiality of telephone records beyond
27 the requirements of this Article or federal law or regulation. Any telephone service
28 provider or agent, employee, or representative of a telephone service provider who
29 reasonably and in good faith discloses telephone records shall not be criminally or
30 civilly liable if the disclosure is later determined to be in violation of this Article.

31 **"§ 14-113.33. Punishment; liability.**

32 (a) Unless the conduct is covered under some other provision of law providing
33 greater punishment, any person who violates this Article is guilty of a Class H felony. In
34 any criminal proceeding brought under this Article, the crime is considered to be
35 committed in the county where the customer resides, where the defendant resides, where
36 any part of the offense took place, or in any other county instrumental to the completion
37 of the offense, regardless of whether the defendant was ever actually present in that
38 county.

39 (b) A violation of G.S. 14-331.31 is a violation of G.S. 75-1.1, except that a
40 customer whose telephone records were obtained, sold, or solicited in violation of this
41 Article shall be entitled to damages pursuant to G.S. 75-16, or one thousand dollars
42 (\$1,000), whichever is greater."

43 **SECTION 2.** This act becomes effective December 1, 2007, and applies to
44 acts and offenses committed on or after that date.