

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1161
(Representatives B. Koppelman, Beadle, Jones, K. Koppelman, Louser, Schauer)
(Senators Hogue, Luick, Poolman, Schaible)

AN ACT to create and enact a new section to chapter 51-28 of the North Dakota Century Code, relating to prohibiting inaccurate information from being entered into a telephone caller identification system with the intent to defraud; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 51-28 of the North Dakota Century Code is created and enacted as follows:

Telephone caller identification system fraud - Exceptions - Definitions.

1. A person may not, in connection with any telecommunications service or internet protocol enabled voice service, knowingly cause any telephone caller identification system to:
 - a. Transmit misleading or inaccurate caller identification information with the intent to defraud or cause harm; or
 - b. Use or display a telephone number the caller does not own or has not received consent to use from the owner of the telephone number.
2. This section does not apply to:
 - a. The blocking of caller identification information;
 - b. A law enforcement agency of the federal, state, county, or municipal government;
 - c. An intelligence or security agency of the federal government;
 - d. A telecommunications, broadband, or voice over internet protocol service provider acting solely as an intermediary for the transmission of telephone service between the caller and the recipient;
 - e. Activity engaged in under a court order that specifically authorizes the use of caller manipulation; or
 - f. A caller who, based on the telephone number called, reasonably believes the recipient of the call is not physically within the state.
3. Any person who receives a call in violation of subsection 1 may bring a civil action in a court of this state in the county in which the call recipient resides to enjoin such action, or for damages, or both. If the plaintiff prevails, the court must award the plaintiff the plaintiff's actual damages or damages in an amount not less than five thousand dollars and not more than ten thousand dollars per violation, whichever is greater. Each call is a separate violation under this chapter. The court shall award the plaintiff's costs, expenses, and reasonable attorney's fees. The relief provided in this section is in addition to all remedies available to the attorney general under this chapter in any investigation or action brought by the attorney general against the caller in the plaintiff's private action. This section may not be interpreted to limit any other claims the person may have against the caller or any other claims the attorney general may bring under this chapter, chapter 51-15, or any other state or federal laws.

4. In addition to the remedies and penalties provided in this chapter, a person violating subsection 1 is guilty of a class A misdemeanor, and the venue must be in the county in which the call recipient received the call or the county in which the call recipient resides.
5. As used in this section:
 - a. "Call" means any type of telephonic communication made using a public switched telephone network, wireless cellular telephone service, or voice over internet protocol service that has the capability of accessing users on the public switched telephone network or a successor network.
 - b. "Caller" means a person that places a call, whether by telephone, over a telephone line, or on a computer.
 - c. "Defraud" means taking anything of value, including money, property, or time, without consent from the recipient of a call.
 - d. "Telephone caller identification system" means a listing of a caller's name, telephone number, or name and telephone number shown to a recipient of a call when it is received.

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 Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1161.

House Vote: Yeas 90 Nays 0 Absent 4

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State