

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SENATE BILL 1058
RATIFIED BILL**

AN ACT TO PROHIBIT THE FRAUDULENT OBTAINING, SELLING, OR
SOLICITING OF TELEPHONE RECORDS.

The General Assembly of North Carolina enacts:

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

"Article 19D.

"Telephone Records Privacy Protection Act.

"§ 14-113.30. Definitions.

The following definitions apply in this Article:

- (1) Caller identification record. – A record collected and retained by or on behalf of a customer utilizing caller identification or similar technology that is delivered electronically to the recipient of a telephone call simultaneously with the reception of the telephone call and that indicates the telephone number from which the telephone call was initiated or similar information regarding the telephone call.
- (2) Customer. – A person or the legal guardian of a person or a representative of a business to whom a telephone service provider provides telephone service to a number subscribed or listed in the name of the person or business.
- (3) Person. – An individual, business association, partnership, limited partnership, corporation, limited liability company, or other legal entity.
- (4) Telephone record. – A record in written, electronic, or oral form, except a caller identification record, Directory Assistance information, and subscriber list information, that is created by a telephone service provider and that contains any of the following information with respect to a customer:
 - a. Telephone numbers that have been dialed by the customer.
 - b. Telephone numbers that pertain to calls made to the customer.
 - c. The time when calls were made by the customer or to the customer.
 - d. The duration of calls made by the customer or to the customer.
 - e. The charges applied to calls, if any.
- (5) Telephone service. – The conveyance of two-way communication in analog, digital, or other form by any medium, including wire, cable, fiber optics, cellular, broadband personal communications services, or other wireless technologies, satellite, microwave, or at any frequency over any part of the electromagnetic spectrum. The term also includes the conveyance of voice communication over the Internet and telephone relay service.
- (6) Telephone service provider. – A person who provides telephone service to a customer without regard to the form of technology used, including traditional wire-line or cable communications service; cellular, broadband PCS, or other wireless communications service;

microwave, satellite, or other terrestrial communications service; or voice over Internet communications service.

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

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

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

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

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

"§ 14-113.32. Exceptions.

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

- (1) Any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency in connection with the official duties of the law enforcement agency.
- (2) A disclosure by a telephone service provider if the telephone service provider reasonably believes the disclosure is necessary to: (i) provide telephone service to a customer, including sharing telephone records with one of the provider's affiliates or (ii) protect an individual or service provider from fraudulent, abusive, or unlawful use of telephone service or a telephone record.
- (3) A disclosure by a telephone service provider to the National Center for Missing and Exploited Children.
- (4) A disclosure by a telephone service provider that is authorized by State or federal law or regulation.
- (5) A disclosure by a telephone service provider to a governmental entity if the provider reasonably believes there is an emergency involving immediate danger of death or serious physical injury.
- (6) Testing of a telephone service provider's security procedures or systems for maintaining the confidentiality of customers' telephone records.

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

"§ 14-113.33. Punishment; liability.

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

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

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

In the General Assembly read three times and ratified this the 23rd day of July, 2007.

Marc Basnight
President Pro Tempore of the Senate

Joe Hackney
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2007