

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1169

Introduced by

Natural Resources Committee

(At the request of the Public Service Commission)

1 A BILL for an Act to create and enact a new section to chapter 49-21 of the North Dakota
2 Century Code, relating to unauthorized telecommunications service; to amend and reenact
3 section 49-02-01.1 of the North Dakota Century Code, relating to jurisdiction of the public
4 service commission; to provide a penalty; and to declare an emergency.

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

6 **SECTION 1.** A new section to chapter 49-21 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Unauthorized telecommunications service.**

- 9 1. A telecommunications company shall comply with the provision of title 47, Code of
10 Federal Regulations, part 64, subpart k, regarding changes in a subscriber's
11 selection of a provider of telecommunications service. The commission shall
12 enforce the provisions of title 47, Code of Federal Regulations, part 64, subpart k.
- 13 2. A telecommunications company may not initiate an intrastate telecommunications
14 service to a subscriber without authorization. A subscriber for whom an intrastate
15 telecommunications service is initiated without authorization is absolved from
16 liability for charges imposed by the service provider if the subscriber notifies the
17 service provider within thirty days after the first billing for the unauthorized service.
18 Upon being informed by the subscriber that an unauthorized initiation of service
19 has occurred, the telecommunications company providing the service shall cancel
20 the service, inform the subscriber of the thirty-day absolution period, and refund
21 any payments made by the subscriber for the service during the absolution period.
22 The telecommunications company may rebill for the service provided before
23 cancellation if the company determines the service initiation was authorized. The

1 remedies provided in this section are in addition to any other remedies available at
2 law.

3 3. If the commission finds an emergency exists that requires ex parte action, the
4 commission may issue a cease and desist order without prior notice against a
5 telecommunications company that the commission has reason to believe is in
6 violation of this section or title 47, Code of Federal Regulations, part 64, subpart k.

7 The cease and desist order must be:

8 a. Directed against the telecommunications company's marketing of
9 telecommunications service, not the company's provision of service to current
10 customers;

11 b. Accompanied by service on the telecommunications company of a
12 commission order opening an investigation or a formal complaint regarding
13 the company's compliance with this section; and

14 c. Accompanied by service on the telecommunications company of a notice of
15 opportunity to be heard on the cease and desist order within fifteen days of
16 issuance of the cease and desist order.

17 4. A telecommunications company that violates this section is deemed to have
18 committed an unlawful practice in violation of section 51-15-02 and is subject to all
19 the provisions, procedures, and penalties of chapter 51-15.

20 **SECTION 2. AMENDMENT.** Section 49-02-01.1 of the 1997 Supplement to the North
21 Dakota Century Code is amended and reenacted as follows:

22 **49-02-01.1. Jurisdiction of commission limited as to certain utilities.** Nothing in
23 this chapter or in chapter 49-21 authorizes the commission to make any order affecting rates,
24 contracts, services rendered, adequacy, or sufficiency of facilities, or the rules or regulations of
25 any public utility owned and operated by the state or by any city, county, township, or other
26 political subdivision of the state or any public utility, that is not operated for profit, that is
27 operated as a nonprofit, cooperative, or mutual telecommunications company or is a
28 telecommunications company having fewer than eight thousand local exchange subscribers.
29 However, any telecommunications utility that is operated as a nonprofit, cooperative, or mutual
30 telecommunications company or has fewer than eight thousand local exchange subscribers is
31 subject to sections 49-21-01.4 ~~and~~, 49-21-08, and section 1 of this Act and is subject to

1 subsection 6 of section 49-02-02 and sections 49-21-01.2, 49-21-01.3, 49-21-06, 49-21-07,
2 49-21-09, and 49-21-10, regarding rates, terms, and conditions of access services or
3 connection between facilities and transfer of telecommunications between two or more
4 telecommunications companies. Nothing in this section limits the authority of the commission
5 under chapter 49-03.1 or sections 49-04-05 and 49-04-06.

6 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.