

SENATE BILL NO. 2249

Introduced by

Senators Holmberg, Dever, Wardner

Representatives Delmore, Hawken, Kasper

1 A BILL for an Act to amend and reenact sections 51-07-27, 51-18-01, 51-18-04.2, 51-18-04.3,
2 51-18-09, and 51-28-06 of the North Dakota Century Code, relating to restrictions on
3 electronically printed credit card receipts, regulation of home solicitation sales, and prohibited
4 telephone solicitations; and to provide a penalty.

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

6 **SECTION 1. AMENDMENT.** Section 51-07-27 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **51-07-27. Restrictions on electronically printed credit card receipts - Penalty.**

9 Except as otherwise provided under this section, a person that accepts credit cards for the
10 transaction of business and also electronically prints receipts for these credit card transactions
11 may not print on the receipt provided to the customer more than the last five digits of the credit
12 card account number nor print on the receipt provided to the customer the expiration date of the
13 credit card. This section does not apply to a credit card transaction in which the sole means of
14 recording the customer's credit card number is by handwriting or by an imprint or copy of the
15 credit card. This section becomes operative on January 1, 2004, with respect to any cash
16 register or other machine or device that electronically prints receipts for credit card transactions
17 which is first put into use after December 31, 2003. This section becomes operative on
18 January 1, 2007, with respect to any cash register or other machine or device that electronically
19 prints receipts for credit card transactions which is first put into use before January 1, 2004. A
20 person who violates this section is guilty of a class B misdemeanor.

21 **SECTION 2. AMENDMENT.** Section 51-18-01 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **51-18-01. Definitions.** In this chapter, unless the context otherwise requires:

- 1 1. "Consumer goods or services" means goods or services purchased, leased, or
2 rented primarily for personal, family, or household purposes, including courses of
3 instruction or training regardless of the purpose for which they are taken.
- 4 2. "Person" includes a corporation, limited liability company, company, partnership,
5 firm, association, or society, as well as a natural person. When the word "person"
6 is used to designate the party whose property may be the subject of a criminal or
7 public offense, the term includes the United States, this state, or any territory,
8 state, or country, or any political subdivision of this state which may lawfully own
9 any property, or a public or private corporation, limited liability company, or
10 partnership or association. When the word "person" is used to designate the
11 violation or offender of any law, it includes corporation, limited liability company,
12 partnership, or any association of persons.
- 13 3. "Personal solicitation sale" means a sale, lease, or rental of consumer goods or
14 services in which the seller or the seller's representative solicits the sale, lease, or
15 rental, by telephone or in person, and the buyer's agreement or offer to purchase is
16 made at a place other than the place of business of the person soliciting the same
17 and that agreement or offer to purchase is there given to the seller or the seller's
18 representative. A transaction is not a personal solicitation sale if it is made
19 pursuant to prior negotiations between the parties at a business establishment at a
20 fixed location where goods or services are offered or exhibited for sale, lease, or
21 rental.
- 22 4. "Seller" means a person who makes a personal solicitation sale.
- 23 5. "Seller's representative" means a person who makes a personal solicitation sale on
24 behalf of a seller.
- 25 6. "Telepromoter" means any person who, individually, through salespersons or
26 agents, or through the use of an automatic dialing-announcing device initiates
27 telephone contact with a consumer or who by written notice requests that the
28 consumer contact the person by telephone and who represents one or more of the
29 following:
- 30 a. That if the consumer buys one or more items from the telepromoter, the
31 consumer will also receive additional or other items, whether or not of the

- 1 same type as purchased, without further cost or at a cost which the seller
2 states or implies is less than the regular price of those items.
- 3 b. That a consumer will receive a prize, premium, or gift if the telepromoter also
4 encourages the consumer to do either of the following:
- 5 (1) Purchase or rent any goods or services.
6 (2) Pay any money, including a delivery or handling charge.
- 7 c. That the consumer has in any manner been specially selected to receive the
8 written notice or the offer contained in the written notice.

9 The term does not include any nonprofit or charitable organization exempt from
10 federal taxation under section 501(c)(3) of the United States Internal Revenue
11 Code [26 U.S.C. section 501(c)(3)].

12 **SECTION 3. AMENDMENT.** Section 51-18-04.2 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **51-18-04.2. Credit card charges.** A telepromoter, seller, or seller's representative, in a
15 personal solicitation sale, may not make or submit any charge to the consumer's credit card or
16 bank account, or otherwise solicit or accept any advance payment, until the telepromoter,
17 seller, or seller's representative has received from the consumer an original copy of a contract
18 that complies with this section.

19 **SECTION 4. AMENDMENT.** Section 51-18-04.3 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **51-18-04.3. Agreement by telepromoter or seller in violation of chapter void.** Any
22 agreement for sale, lease, or ~~rent~~ rental of a consumer good or service in a personal solicitation
23 sale by a telepromoter, seller, or seller's representative in violation of this chapter is
24 unenforceable and void.

25 **SECTION 5. AMENDMENT.** Section 51-18-09 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **51-18-09. ~~Penalty~~ Enforcement - Powers - Remedies - Penalty.** Any person who
28 violates any provision of this chapter is guilty of a class B misdemeanor. The state's attorney or
29 attorney general may enforce this chapter. The attorney general in enforcing this chapter has
30 all the powers provided in this chapter and chapter 51-15 and may seek all remedies in this
31 chapter and chapter 51-15. A violation of this chapter constitutes a violation of chapter 51-15.

1 The remedies, duties, prohibitions, and penalties of this chapter are not exclusive and are in
2 addition to all other causes of action, remedies, and penalties in chapter 51-15, or otherwise
3 provided by law.

4 **SECTION 6. AMENDMENT.** Section 51-28-06 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **51-28-06. Prohibited telephone solicitations.** A caller may not make or cause to be
7 made any telephone solicitation to the telephone line of any subscriber in this state who, for at
8 least ~~ninety~~ thirty-one days before the date the call is made, has been on the do-not-call list
9 established and maintained or used by the attorney general under section 51-28-09 or the
10 national do-not-call registry established and maintained by the federal trade commission under
11 title 16, Code of Federal Regulations, part 310.