

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

SENATE BILL NO. 2249
(Senators Holmberg, Dever, Wardner)
(Representatives Delmore, Hawken, Kasper)

AN ACT to amend and reenact sections 51-07-27, 51-18-01, 51-18-04.2, 51-18-04.3, 51-18-09, and 51-28-06 of the North Dakota Century Code, relating to restrictions on electronically printed credit card receipts, regulation of home solicitation sales, and prohibited telephone solicitations; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

51-07-27. Restrictions on electronically printed credit card receipts - Penalty. Except as otherwise provided under this section, a person that accepts credit cards for the transaction of business and also electronically prints receipts for these credit card transactions may not print on the receipt provided to the customer more than the last five digits of the credit card account number nor print on the receipt provided to the customer the expiration date of the credit card. This section does not apply to a credit card transaction in which the sole means of recording the customer's credit card number is by handwriting or by an imprint or copy of the credit card. This section becomes operative on January 1, 2004, with respect to any cash register or other machine or device that electronically prints receipts for credit card transactions which is first put into use after December 31, 2003. This section becomes operative on January 1, 2007, with respect to any cash register or other machine or device that electronically prints receipts for credit card transactions which is first put into use before January 1, 2004. A person who violates this section is guilty of a class B misdemeanor.

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

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

1. "Consumer goods or services" means goods or services purchased, leased, or rented primarily for personal, family, or household purposes, including courses of instruction or training regardless of the purpose for which they are taken.
2. "Person" includes a corporation, limited liability company, company, partnership, firm, association, or society, as well as a natural person. When the word "person" is used to designate the party whose property may be the subject of a criminal or public offense, the term includes the United States, this state, or any territory, state, or country, or any political subdivision of this state which may lawfully own any property, or a public or private corporation, limited liability company, or partnership or association. When the word "person" is used to designate the violator or offender of any law, it includes corporation, limited liability company, partnership, or any association of persons.
3. "Personal solicitation sale" means a sale, lease, or rental of consumer goods or services in which the seller or the seller's representative solicits the sale, lease, or rental, by telephone or in person, and the buyer's agreement or offer to purchase is made at a place other than the place of business of the person soliciting the same and that agreement or offer to purchase is there given to the seller or the seller's representative. A transaction is not a personal solicitation sale if it is made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale, lease, or rental.

4. "Seller" means a person who makes a personal solicitation sale.
5. "Seller's representative" means a person who makes a personal solicitation sale on behalf of a seller.
6. "Telepromoter" means any person who, individually, through salespersons or agents, or through the use of an automatic dialing-announcing device initiates telephone contact with a consumer or who by written notice requests that the consumer contact the person by telephone and who represents one or more of the following:
 - a. That if the consumer buys one or more items from the telepromoter, the consumer will also receive additional or other items, whether or not of the same type as purchased, without further cost or at a cost which the seller states or implies is less than the regular price of those items.
 - b. That a consumer will receive a prize, premium, or gift if the telepromoter also encourages the consumer to do either of the following:
 - (1) Purchase or rent any goods or services.
 - (2) Pay any money, including a delivery or handling charge.
 - c. That the consumer has in any manner been specially selected to receive the written notice or the offer contained in the written notice.

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

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

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

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

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

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

51-18-09. Penalty Enforcement - Powers - Remedies - Penalty. Any person who violates any provision of this chapter is guilty of a class B misdemeanor. The state's attorney or attorney general may enforce this chapter. The attorney general in enforcing this chapter has all the powers provided in this chapter and chapter 51-15 and may seek all remedies in this chapter and chapter 51-15. A violation of this chapter constitutes a violation of chapter 51-15. The remedies, duties, prohibitions, and penalties of this chapter are not exclusive and are in addition to all other causes of action, remedies, and penalties in chapter 51-15, or otherwise provided by law.

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

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2249.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 90 Nays 0 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,
at _____ o'clock _____ M.

Secretary of State