

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 971

Short Title: Automatic Dialing Services.

(Public)

Sponsors: Senator Block.

Referred to: Constitution.

April 19, 1989

1 A BILL TO BE ENTITLED  
2 AN ACT TO REGULATE AND PROHIBIT CERTAIN PRACTICES BY  
3 TELEPHONE AUTOMATIC DIALING SERVICES.

4 The General Assembly of North Carolina enacts:

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

7 **"ARTICLE 61.**

8 **"TELEPHONE-RELATED CRIME.**

9 **"§ 14-460. Use of automatic dialing-announcing devices.**

10 (a) Definitions.

11 (1) As used in this section, the term 'automatic dialing-announcing device'  
12 means any automatic equipment which incorporates a storage  
13 capability of telephone numbers to be called or a random or sequential  
14 number generator capable of producing numbers to be called and is  
15 used, working alone or in conjunction with other equipment, to  
16 disseminate a prerecorded message to the telephone number called  
17 without the use of an operator.

18 (2) As used in this section, the term 'person' means any natural person,  
19 firm, organization, partnership, association or corporation, or other  
20 entity, whether for-profit or not-for-profit.

21 (b) No person shall operate an automatic dialing-announcing device except in  
22 accordance with the provision of this section. The use of an automatic dialing-  
23 announcing device by any person, either individually or acting as an officer, agent, or

1 employee of a person operating automatic dialing-announcing devices, is subject to the  
2 provisions of this section.

3 (c) Whenever telephone calls are placed through the use of an automatic  
4 dialing-announcing device, that device shall do all of the following:

5 (1) State at the beginning of the call the nature of the call and the name of  
6 the person or on whose behalf the message is being transmitted and at  
7 the end of such message the address, and telephone number of the  
8 person on whose behalf the message is transmitted, provided these  
9 disclosures are not otherwise prohibited or restricted by any federal,  
10 State, or local law; and

11 (2) Disconnect the automatic dialing-announcing device from the  
12 telephone line upon the termination of the call by either the person  
13 calling or the person called.

14 (d) Federal, State, or local municipalities, or any subdivision thereof, using an  
15 automatic dialing-announcing device for emergency purposes shall be exempted from  
16 the provisions of this section.

17 (e) Whenever there is a violation of this section, an application may be made by  
18 the Attorney General in the name of the State, to a court having jurisdiction to issue an  
19 injunction, and upon notice to the defendant of not less than five days, to enjoin and  
20 restrain the continuance of such violations; and if it shall appear to the satisfaction of  
21 the court, that the defendant has, in fact, violated this section an injunction may be  
22 issued by the court enjoining and restraining any further violation, without requiring  
23 proof that any person has, in fact, been specifically injured or damaged. In any  
24 proceeding seeking an injunction, as provided in the preceding sentence, the court,  
25 when it finds proof of damages, may direct restitution. Whenever a court shall  
26 determine that a violation of this section has occurred, the court may impose a civil  
27 penalty of not more than two thousand dollars (\$2,000) per call, up to a total of not  
28 more than twenty thousand dollars (\$20,000), for calls placed in violation of this section  
29 within a continuous 72-hour period. In connection with any such proposed application,  
30 the Attorney General may take proof and make a determination of the relevant facts and  
31 to issue subpoenas in accordance with the civil practice law and rules.

32 (f) Any person who has received a telephone call in violation of this section may  
33 bring an action in his own name to enjoin the unlawful act or practice, an action to  
34 recover his actual damages or fifty dollars (\$50.00), whichever is greater, or both  
35 actions. The court may, in its discretion, increase the award of damages to an amount  
36 not to exceed three times the actual damages up to one thousand dollars (\$1,000), if the  
37 court finds the defendant willfully or knowingly violated this section. The court may  
38 award reasonable attorneys' fees to a prevailing plaintiff.

39 (g) Violation of this section is a misdemeanor, with each call placed in violation  
40 of this section punishable by a fine not to exceed five hundred dollars (\$500.00),  
41 imprisonment for not more than six months, or both."

42 Sec. 2. This act shall become effective October 1, 1989.