

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1008

Page 1, line 2, after the first "to" insert "create and enact a new section to chapter 49-21 of the North Dakota Century Code, relating to prohibiting the collection of personal information by a telecommunications or internet service provider; to amend and reenact section 49-21-01 of the North Dakota Century Code, relating to telecommunications definitions; to"

Page 2, after line 29, insert:

"SECTION 6. AMENDMENT. Section 49-21-01 of the North Dakota Century Code is amended and reenacted as follows:

49-21-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Access" means telecommunications services to connect a telecommunications customer or end user with a telecommunications company that allows for the origination or the termination, or both, of WATS, 800, and message toll telecommunications services and private line transport services.
2. "Competitive local exchange company" means any telecommunications company providing local exchange service, other than an incumbent local exchange carrier, whether by its own facilities, interconnection, or resale.
3. "Eligible telecommunications carrier" means a telecommunications company designated under section 214(e) of the federal act as eligible to receive universal service support in accordance with section 254 of the federal act.
4. "Essential telecommunications service" means the following services:
 - a. Switched access;
 - b. Installation of the service connection for other essential services from the end user's premises to the local exchange network; and
 - c. Primary flat rate residence basic telephone service including the following service elements:
 - (1) Billing and collecting of the telecommunications company's charges for the service.
 - (2) Primary directory listing.
 - (3) Access to directory assistance.
 - (4) Access to emergency 911 service and emergency operator assistance in local exchange areas in which emergency 911 service is not available.

- (5) Except as provided in section 49-02-01.1, mandatory, flat-rate extended area service to designated nearby local exchange areas.
 - (6) Transmission service necessary for the connection between the end user's premises and the local exchange central office switch including a trunk connection that has inward dialing and necessary signaling service such as touchtone used by end users for the service.
5. "Federal act" means the federal Communications Act of 1934, as amended by the federal Telecommunications Act of 1996 [47 U.S.C. 151 et seq.].
 6. "Incumbent local exchange carrier" means a telecommunications company that meets the definition of section 251(h) of the federal act.
 7. "Inside wire" and "premise cable" mean the telecommunications wire on the customer's side of a demarcation point or point of interconnection between the telecommunications facilities of the telecommunications company and the customer or premise owner established under title 47, Code of Federal Regulations, part 68, section 68.105.
 8. "Interexchange telecommunications company" means a person providing telecommunications service to end users located in separate local exchange areas.
 9. "Internet protocol-enabled service" means any service, capability, functionality, or application that uses internet protocol or any successor protocol and enables an end user to send or receive voice, data, or video communication in internet protocol format or a successor format.
 10. "Internet service provider" means a person within this state which provides authenticated access to or presence on the internet.
 11. "Local exchange area" means a geographic territorial unit established by a telecommunications company for the administration of telecommunications services as approved and regulated in accordance with chapter 49-03.1.
 - ~~11-12.~~ "Management costs" means the reasonable direct actual costs a political subdivision incurs in exercising its police powers over the public rights of way.
 - ~~12-13.~~ "Mutual telephone company" means a telephone cooperative organized and operating subject to the provisions of this chapter, and such a cooperative shall also be subject to the general law governing cooperatives, except where such general law is in conflict with this chapter.
 - ~~13-14.~~ "Nonessential telecommunications service" means any telecommunications service, other than those essential telecommunications services listed in subsection 4 that a customer has the option to purchase either in conjunction with or separate from any essential telecommunications service.

- ~~14-15.~~ "Price" means any charge set and collected by a telecommunications company for any telecommunications service offered by it to the public or other telecommunications companies.
- ~~15-16.~~ "Private line transport service" means a telecommunications service to a customer over a circuit dedicated to the customer's exclusive use, within a local exchange area, or between or among local exchanges. Private line transport service includes services to customers who are end users and services to telecommunications companies.
- ~~16-17.~~ "Public right of way" means the area on, below, or above a public roadway, highway, street, bridge, cartway, bicycle lane, or public sidewalk in which a political subdivision has a legal interest, including other dedicated rights of way for travel purposes, utility easements, and all the area within seventy-five feet [22.86 meters] of the centerline of any county or township highway right of way over which a board of county commissioners or a board of township supervisors has control under section 24-01-42. The term does not include the airwaves above a public right of way with regard to cellular or other wireless telecommunications or broadcast service or utility poles owned by a political subdivision or a municipal utility or a telecommunications company, in whole or part.
18. "Retail telecommunications services" means the two-way transmission of voice, image, data, or other information over wire, cable, fiber optics, microwave, radio, satellite, or similar facilities which originates or terminates in this state and is charged to a North Dakota service address.
- a. For mobile telecommunications services, the term means the two-way transmission of voice, image, data, or other information which originates or terminates in a single state and which is charged to a North Dakota service address.
- b. The term includes local exchange, long-distance, private communications, two-way paging, wireless telecommunications, and related services, regardless of whether the services are paid for on a call-by-call basis or postpaid calling basis.
- ~~17-19.~~ "Rural telephone company" means a telecommunications company that meets the definition of section 153(37) of the federal act.
- ~~18-20.~~ "Service element" means a telecommunications function or service component that is not useful to the user unless it is combined with one or more other telecommunications functions or service components.
- ~~19-21.~~ "Switched access" means access to include:
- a. Local exchange central office switching and signaling;
- b. Operator and recording intercept of calls;
- c. Termination of end user lines in the local exchange central office;
- d. The carrier common line charge for the line between the end user's premises and the local exchange central office;

- e. Billing and collection recording for interexchange carriers to which the local exchange carrier provides access service; and
 - f. Telecommunications service, including connections, provided to allow transmission service and termination between an interexchange company's premises and the local exchange central office switch for the origination or termination of the interexchange company's switched telecommunications services.
- ~~20-22.~~ "Telecommunications company" means a person engaged in the furnishing of telecommunications service within this state.
23. "Telecommunications services provider" means a person providing retail telecommunications services within this state.
- ~~21-24.~~ "Telecommunications service" means the offering for hire of telecommunications facilities, or transmitting for hire telecommunications by means of such facilities whether by wire, radio, lightwave, or other means.
- ~~22-25~~ "Voice over internet protocol service" means any service that enables real time, two-way voice communication originating from or terminating at the user's location in internet protocol or a successor protocol, utilizes a broadband connection at the user's location, and permits a user to receive a call that originates on the public switched telephone network and to terminate a call to the public switched telephone network.

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

Collection of personal information prohibited.

1. A telecommunications service provider or internet service provider may not collect personal information from a customer resulting from the customer's use of the telecommunications service provider or internet service provider without express written approval from the customer if the telecommunications service provider or internet service provider:
 - a. Has entered a franchise agreement, right-of-way agreement, or other contract with the state or a political subdivision; or
 - b. Uses facilities subject to an agreement under subdivision a, even if the telecommunications service provider or internet service provider is not a party to the agreement.
2. A telecommunications service provider or internet service provider may not charge a higher rate, impose a fee, include an additional charge, or refuse to provide services to a customer on the grounds the customer has not approved collection of the customer's personal information."

Renumber accordingly