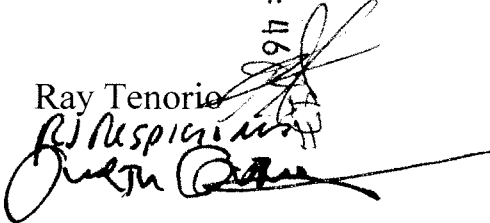


I MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session

2008 MAR 28 PM 3:46

Bill No. 253(FC)

Introduced by:

Ray Tenorio


**AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 46 OF
9GCA RELATIVE TO RESTRICTING THE USE OF
TELEPHONE RECORDS WITHOUT CONSENT**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2

3 **Section 1.** A new Article 2 is hereby added to Chapter 46 of 9GCA to read:

4

Article 2

5

**TELEPHONE RECORDS; OBTAINING, SELLING, OR RECEIVING
WITHOUT CONSENT.**

6

7

8 **§46201. Definitions.** As used in this section:

9

10 (a) "Caller identification record" means a record that is delivered electronically to
11 the recipient of a telephone call simultaneously with the reception of the telephone
12 call and that indicates the telephone number from which the telephone call was
13 initiated or similar information regarding the telephone call.

14

15 (b) "Customer" means a person who subscribes to telephone service.

16

1 (c) "Telephone record" means a record in written, electronic, or oral form, except a
2 caller identification record and subscriber list information, that is created by a
3 telephone service provider and that contains any of the following information with
4 respect to a customer:

- 5
- 6 1. Telephone numbers that have been dialed by the customer.
- 7
- 8 2. Telephone numbers pertaining to calls made to the customer.
- 9
- 10 3. The time when calls were made by the customer or to the customer.
- 11
- 12 4. The duration of calls made by the customer or to the customer.
- 13
- 14 5. The location(s) from which calls were initiated by the customer or
15 received from the customer.
- 16

17 (d) "Telephone service" means the conveyance of 2-way voice communication in
18 analog, digital, or other form by any medium, including wire, cable, fiber optics,
19 cellular, broadband personal communications services, or other wireless
20 technologies, satellite, microwave, or at any frequency over any part of the
21 electromagnetic spectrum. "Telephone service" includes the conveyance of voice
22 communication over the Internet and telephone relay service.

23

24 (e) "Telephone service provider" means a person who provides telephone service
25 to a customer.

26

1 **§46202. Prohibition on Use of Telephone Records.** No person may do any of the
2 following:

3
4 (a) Obtain, attempt to obtain, or conspire with another to obtain a telephone record that
5 pertains to a customer who is resident of Guam, without the customer's consent, by
6 doing any of the following:

7
8 1. Making a false or deceptive statement to an employee, representative, or agent
9 of a telephone service provider.

10
11 2. Making a false or deceptive statement to a customer of a telephone service
12 provider.

13
14 3. Accessing such customer's telephone record via the Internet.

15
16 4. Knowingly providing to a telephone service provider a document that is
17 fraudulent, that has been lost or stolen, or that has been obtained by fraud or
18 contains a false, fictitious, or fraudulent statement or representation.

19
20 (b) Ask another person to obtain a telephone record knowing that the person will obtain
21 the telephone record in a manner prohibited under this section.

22
23 (c) Sell or offer to sell a telephone record obtained in a manner prohibited under this
24 section.

25
26 **§46203. Penalties:**

1 (a) A person who violates this section is guilty of a Third Degree felony, a fine not to
2 exceed Ten Thousand Dollars (\$10,000) or imprisonment not to exceed Three (3) years,
3 or both, if the violation involves one (1) telephone record.

4
5 (b) A person who violates this section is guilty of a Second Degree felony, a fine not to
6 exceed Twenty Five Thousand Dollars (\$25,000) or imprisonment not to exceed Ten
7 (10) years, or both, if the violation involves Two (2) or more telephone records.

8
9 (c) A person who violates this section is guilty of a Third Degree felony, a fine not to
10 exceed Fifty Thousand dollars (\$50,000) or imprisonment not to exceed Fifteen (15)
11 years, or both, if the violation involves more than Ten (10) telephone records.

12
13 **§46204. Additional Penalties.**

14 (a) In addition to the penalties authorized under §46203, a person who violates this
15 section may be required to forfeit personal property used or intended to be used in the
16 violation.

17
18 (b) In an action to enforce this section, the court shall award to a person who is the
19 subject of a telephone record involved in a violation of this section all of the following:

20
21 1. The amount of the person's pecuniary loss suffered because of a violation of
22 this section, if proof of the loss is submitted to the satisfaction of the court, or One
23 Thousand Dollars (\$1,000), whichever is greater.

24
25 2. The amount of any gain to the violator as a result of the violation.

1 **§46205. Exceptions.** This section does not apply to any of the following:

2
3 (a) Action by a law enforcement agency in connection with the official duties of the law
4 enforcement agency.

5 (b) A disclosure by a telephone service provider, if any of the following applies:

6 1. The telephone service provider reasonably believes the disclosure is necessary
7 to do any of the following:

8
9 a. Provide telephone service to a customer.

10
11 b. Protect an individual or the telephone service provider from fraudulent,
12 abusive, or unlawful use of telephone service or a telephone record.

13
14 2. The disclosure is made to the National Center for Missing and Exploited
15 Children.

16
17 3. The disclosure is authorized by Guam or federal law or regulation.

18
19 4. The disclosure is related to testing the security procedures or systems of the
20 telephone service provider for maintaining the confidentiality of customer
21 information.

22
23 5. The disclosure is to a government entity, if the telephone company provider
24 reasonably believes that an emergency involving immediate danger of death or
25 serious physical injury to any person justifies disclosure of the information.

1 6. The disclosure is in connection with the sale or transfer of all or part of its
2 business, or the purchase or acquisition of a portion or all of a business, or the
3 migration of a customer from one carrier to another.

4
5 (c) A disclosure pursuant to §46205(b), if such disclosure is made reasonably and in
6 good faith, notwithstanding any later determination that such action was not in fact
7 authorized.