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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

04 FEB 2009

2009 FEB -5 PM 12:05
EPM

The Honorable Judith T. Won Pat, Ed.D.
Speaker
Mina' Trenta Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 253(EC), "AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 26 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO RESTRICTING THE USE OF TELEPHONE RECORDS WITHOUT CONSENT" which was signed into law on January 30, 2009 as Public Law 29-141.

Sins eru yan Magåhet,

[Handwritten signature of Felix P. Camacho]

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy of Bill

30-09-0210
Office of the Speaker
Judith T. Won Pat, Ed.D.
Date 2/05/09
Time 10:30
Received by [Signature]

0218

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

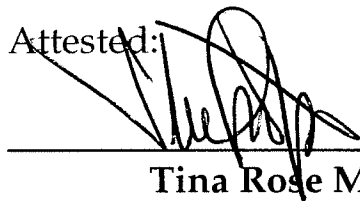
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Bill No. 253 (EC)**, "AN ACT TO *ADD* A NEW ARTICLE 2 TO CHAPTER 46 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO RESTRICTING THE USE OF TELEPHONE RECORDS WITHOUT CONSENT," was on the 30th day of December, 2008, duly and regularly passed.



Judith T. Won Pat, Ed. D.
Speaker

Attested:



Tina Rose Muña Barnes
Senator and Secretary of the Legislature

This Act was received by *I Maga'lahaen Guåhan* this 31 day of Dec, 2008, at
3:10 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: 30 JAN 2009

Public Law No. 29-141

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

Bill No. 253 (EC)

As amended.

Introduced by:

Ray Tenorio
R. J. Respicio
Judith P. Guthertz, DPA
Frank F. Blas, Jr.
Edward J.B. Calvo
B. J.F. Cruz
James V. Espaldon
Mark Forbes
Frank T. Ishizaki
J. A. Lujan
Tina Rose Muña Barnes
A. B. Palacios, Sr.
v. c. pangelinan
Dr. David L.G. Shimizu
J. T. Won Pat, Ed.D.

**AN ACT TO *ADD* A NEW ARTICLE 2 TO CHAPTER 46 OF
TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO
RESTRICTING THE USE OF TELEPHONE RECORDS
WITHOUT CONSENT.**

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

2 **Section 1.** A new Article 2 is hereby *added* to Chapter 46 of Title 9, Guam
3 Code Annotated, to read:

4 **"Article 2**

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

1 **§46201. Definitions.** As used in this Section: (a) *Caller*
2 *Identification Record* means a record that is delivered electronically to the
3 recipient of a telephone call simultaneously with the reception of the
4 telephone call and that indicates the telephone number from which the
5 telephone call was initiated *or* similar information regarding the telephone
6 call.

7 (b) *Customer* means a person who subscribes to telephone service.

8 (c) *Telephone Record* means a record in written, electronic *or* oral
9 form, *except* a caller identification record and subscriber list information
10 that is created by a telephone service provider and that contains any of the
11 following information with respect to a customer:

12 (1) Telephone numbers that have been dialed by the
13 customer.

14 (2) Telephone numbers pertaining to calls made to the
15 customer.

16 (3) The time when calls were made by the customer *or* to the
17 customer.

18 (4) The duration of calls made by the customer *or* to the
19 customer.

20 (5) The location(s) from which calls were initiated by the
21 customer *or* received from the customer.

22 (d) *Telephone Service* means the conveyance of two (2)-way voice
23 communication in analog, digital *or* other form by any medium, including
24 wire, cable, fiber optics, cellular, broadband personal communications
25 services *or* other wireless technologies, satellite, microwave *or* at any
26 frequency over any part of the electromagnetic spectrum. Telephone service

1 includes the conveyance of voice communication over the Internet and
2 telephone relay service.

3 (e) *Telephone Service Provider* means a person who provides
4 telephone service to a customer.

5 **§46202. Prohibition on Use of Telephone Records.** *No person may do*
6 *any of the following:*

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

10 (1) Making a false *or* deceptive statement to an employee,
11 representative *or* agent of a telephone service provider.

12 (2) Making a false *or* deceptive statement to a customer of a
13 telephone service provider.

14 (3) Accessing such customer's telephone record via the
15 Internet.

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

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

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

1 **§46203. Penalties:**

2 (a) A person who violates this Section is guilty of a third degree
3 felony, a fine *not to exceed* Ten Thousand Dollars (\$10,000) *or*
4 imprisonment *not to exceed* three (3) years *or both, if* the violation involves
5 one (1) telephone record.

6 (b) A person who violates this Section is guilty of a second degree
7 felony, a fine *not to exceed* Twenty-five Thousand Dollars (\$25,000) *or*
8 imprisonment *not to exceed* ten (10) years *or both, if* the violation involves
9 two (2) *or more* telephone records.

10 (c) A person who violates this Section is guilty of a third degree
11 felony, a fine *not to exceed* Fifty Thousand Dollars (\$50,000) *or*
12 imprisonment *not to exceed* fifteen (15) years *or both, if* the violation
13 involves *more than* ten (10) telephone records.

14 **§46204. Additional Penalties.**

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

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

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

25 (2) The amount of any gain to the violator as a result of the
26 violation.

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

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

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

7 (1) The telephone service provider reasonably believes the
8 disclosure is necessary to do any of the following:

9 (A) Provide telephone service to a customer.

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

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

15 (3) The disclosure is authorized by Guam *or* federal law *or*
16 regulation.

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

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

24 (6) The disclosure is in connection with the sale *or* transfer
25 of all *or* part of its business *or* the purchase *or* acquisition of a

1 portion *or* all of a business *or* the migration of a customer from one
2 (1) carrier to another.

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