

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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**HOUSE BILL 454
Committee Substitute Favorable 4/30/07
Senate Judiciary I (Civil) Committee Substitute Adopted 7/23/07**

Short Title: Identity Theft.

(Public)

Sponsors:

Referred to:

March 5, 2007

A BILL TO BE ENTITLED

1
2 AN ACT TO PROTECT THE IDENTITY OF INDIVIDUALS BY AUTHORIZING
3 THE TAKING OF A PHOTOGRAPH OF A PERSON WHO IS CITED FOR A
4 MOTOR VEHICLE MOVING VIOLATION, WHO DOES NOT PRODUCE A
5 VALID DRIVERS LICENSE UPON THE REQUEST OF A LAW
6 ENFORCEMENT OFFICER, AND WHERE THE LAW ENFORCEMENT
7 OFFICER HAS A REASONABLE SUSPICION REGARDING THE TRUE
8 IDENTITY OF THE PERSON, AND TO PROVIDE A CAUSE OF ACTION FOR
9 A PERSON WHOSE IDENTIFYING INFORMATION IS PUBLISHED OVER
10 OBJECTION.

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** G.S. 15A-502 reads as rewritten:

13 "...

14 (b) This section does not authorize the taking of photographs or fingerprints
15 when the offense charged is a Class 2 or 3 misdemeanor under Chapter 20 of the
16 General Statutes, "Motor Vehicles." Notwithstanding the prohibition in this subsection,
17 a photograph may be taken of a person who operates a motor vehicle on a street or
18 highway if:

19 (1) The person is cited by a law enforcement officer for a motor vehicle
20 moving violation, and

21 (2) The person does not produce a valid drivers license upon the request of
22 a law enforcement officer, and

23 (3) The law enforcement officer has a reasonable suspicion concerning the
24 true identity of the person.

25 As used in this subsection, the phrase "motor vehicle moving violation" does not
26 include the offenses listed in the third paragraph of G.S. 20-16(c) for which no points
27 are assessed, nor does it include equipment violations specified in Part 9 of Article 3 of
28 Chapter 20 of the General Statutes.

1 (b1) Any photograph authorized by subsection (b) of this section and taken by a
2 law enforcement officer or agency:

- 3 (1) Shall only be taken of the operator of the motor vehicle, and only from
4 the neck up.
5 (2) Shall be taken at either the location where the citation is issued, or at
6 the jail if an arrest is made.
7 (3) Shall be retained by the law enforcement officer or agency until the
8 final disposition of the case.
9 (4) Shall not be used for any purpose other than to confirm the identity of
10 the alleged offender.
11 (5) Shall be destroyed by the law enforcement officer or agency upon a
12 final disposition of the charge.

13 "

14 **SECTION 2.** Article 2A of Chapter 75 of the General Statutes is amended
15 by adding a new section to read:

16 **"§ 75-66. Publication of personal information.**

17 (a) It shall be a violation of this section for any person to knowingly broadcast or
18 publish to the public on radio, television, cable television, in a writing of any kind, or on
19 the Internet, the personal information of another with actual knowledge that the person
20 whose personal information is disclosed has previously objected to any such disclosure.

21 (b) As used in this section, "person" means any individual, partnership,
22 corporation, trust, estate, cooperative, association, or other entity, but does not include
23 any:

- 24 (1) Government, government subdivision or agency.
25 (2) Entity subject to federal requirements pursuant to the Health Insurance
26 Portability and Accountability Act (HIPAA).

27 (c) As used in this section, the phrase "personal information" includes a person's
28 first name or first initial and last name in combination with any of the following
29 information:

- 30 (1) Social security or employer taxpayer identification numbers.
31 (2) Drivers license, State identification card, or passport numbers.
32 (3) Checking account numbers.
33 (4) Savings account numbers.
34 (5) Credit card numbers.
35 (6) Debit card numbers.
36 (7) Personal Identification (PIN) Code as defined in G.S. 14-113.8(6).
37 (8) Digital signatures.
38 (9) Any other numbers or information that can be used to access a person's
39 financial resources.
40 (10) Biometric data.
41 (11) Fingerprints.
42 (12) Passwords.

43 (d) Nothing in this section shall:

1 (1) Limit the requirements or obligations under any other section of this
2 Article, including, but not limited to, G.S. 75-62 and G.S. 75-65.

3 (2) Apply to the collection, use, or release of personal information for a
4 purpose permitted, authorized, or required by any federal, state, or
5 local law, regulation, or ordinance.

6 (e) Any person whose property or person is injured by reason of a violation of
7 this section may sue for civil damages pursuant to the provisions of G.S. 1-539.2C."

8 **SECTION 3.** G.S. 1-539.2C reads as rewritten:

9 "**§ 1-539.2C. Damages for identity theft.**

10 (a) Any person whose property or person is injured by reason of an act made
11 unlawful by Article 19C of Chapter 14 of the General ~~Statutes~~-Statutes, or a violation of
12 G.S. 75-66, may sue for civil damages. For each unlawful act, or each violation of
13 G.S. 75-66, Damages-damages may be

14 (1) ~~in~~-In an amount of up to five thousand dollars (\$5,000), but no less
15 than five hundred dollars ~~(\$500.00)-(\$500.00), for each incident, or~~

16 (2) ~~three~~-Three times the amount of actual damages,

17 whichever amount is greater. A person seeking damages as set forth in this section may
18 also institute a civil action to enjoin and restrain future acts that would constitute a
19 violation of this section. The court, in an action brought under this section, may award
20 reasonable attorneys' fees to the prevailing party.

21 (b) If the identifying information of a deceased person is used in a manner made
22 unlawful by Article 19C of Chapter 14 of the General Statutes, or by a violation of
23 G.S. 75-66, the deceased person's estate shall have the right to recover damages
24 pursuant to subsection (a) of this section.

25 (c) The venue for any civil action brought under this section shall be the county
26 in which the plaintiff resides or any county in which any part of the alleged violation of
27 G.S. 75-66, G.S. 14-113.20 or G.S. 14-113.20A took place, regardless of whether the
28 defendant was ever actually present in that county. Civil actions under this section must
29 be brought within three years from the date on which the identity of the wrongdoer was
30 discovered or reasonably should have been discovered.

31 (d) Civil action under this section does not depend on whether or not a criminal
32 prosecution has been or will be instituted under Article 19C of Chapter 14 of the
33 General Statutes for the acts which are the subject of the civil action. The rights and
34 remedies provided by this section are in addition to any other rights and remedies
35 provided by law."

36 **SECTION 4.** This act becomes effective December 1, 2007, and applies to
37 offenses and violations committed on or after that date.