

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H

D

HOUSE BILL 341
Committee Substitute Favorable 4/13/21
PROPOSED SENATE COMMITTEE SUBSTITUTE H341-PCS30437-CE-24

Short Title: Protection from Online Impersonation.

(Public)

Sponsors:

Referred to:

March 23, 2021

1 A BILL TO BE ENTITLED
2 AN ACT MAKING IMPERSONATION OF AN ACTUAL PERSON OVER THE INTERNET
3 FOR CERTAIN UNLAWFUL PURPOSES A CLASS H FELONY AND PROTECTING
4 CONSUMERS FROM MISLEADING OR FICTITIOUS COMMUNICATIONS
5 DESIGNED TO ELICIT A RESPONSE OR FOR A STUDY, SURVEY, MARKETING,
6 OR OTHER PURPOSE.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. Article 20 of Chapter 14 of the General Statutes is amended by adding
9 a new section to read:

10 "**§ 14-118.8. Online impersonation.**

11 (a) Definitions. – The following definitions apply in this section:

12 (1) Electronic means. – Includes an electronic mail account, text or instant
13 messaging account, or an account or profile on a social networking website in
14 another person's name.

15 (2) Impersonate. – Engages in a credible portrayal of an actual person such that
16 another person would reasonably believe, or did reasonably believe, that the
17 imposter was or is the misrepresented person.

18 (3) Imposter. – Any person who knowingly and without consent impersonates
19 another person for purposes of harming, intimidating, threatening, or
20 defrauding.

21 (4) Misrepresented person. – A person who is impersonated by an imposter.

22 (b) Offense and Punishment. – Any person who knowingly and without consent
23 impersonates another person through or on a website or by other electronic means for purposes
24 of harming, intimidating, threatening, or defrauding another person, including the misrepresented
25 person, is guilty of a Class H felony.

26 (c) Civil Action. – A misrepresented person or another person who is harmed,
27 intimidated, threatened, or defrauded by an imposter through or on a website or by other
28 electronic means has a civil cause of action against the imposter and is entitled to recover the
29 following from the imposter:

30 (1) Actual damages, but not less than liquidated damages, computed at the rate of
31 one thousand dollars (\$1,000) a day for each day of the violation or ten
32 thousand dollars (\$10,000), whichever is higher.

33 (2) Punitive damages.

34 (3) Reasonable attorneys' fees and other reasonably incurred litigation costs of the
35 litigation.



* H 3 4 1 - P C S 3 0 4 3 7 - C E - 2 4 *

1 (d) Applicability. – This section does not apply to any of the following:

2 (1) A law enforcement officer while the officer is discharging or attempting to
3 discharge official duties.

4 (2) A person who is licensed pursuant to Chapter 74C of the General Statutes
5 while the person is engaged in the discharge of the person's professional duties
6 and not engaged in activities for an improper purpose as described in this
7 section.

8 (e) Construction. – Nothing in this section shall be construed to preclude prosecution
9 under any other law."

10 **SECTION 2.(a)** Article 1 of Chapter 75 of the General Statutes is amended by adding
11 a new section to read:

12 **"§ 75-44. Misleading or fictitious communications designed to gather information.**

13 (a) No person shall solicit information, feedback, or any other response from another
14 person by sending a fictitious communication that is designed to elicit a response from the
15 recipient.

16 (b) A violation of this section constitutes an unfair trade practice under G.S. 75-1.1 and
17 is subject to all of the following:

18 (1) All enforcement and penalty provisions under this Article.

19 (2) Punitive damages of at least fifty thousand dollars (\$50,000) per violation
20 upon a finding of aggravating factors, as provided in G.S. 1D-15(a).

21 (3) Attorneys' fees and costs.

22 (c) For the purposes of this section, a "fictitious communication" is any communication,
23 written or oral, where the sender is intentionally misrepresenting the sender's identity to the
24 recipient. For the purposes of this section, a "person" shall include a nonprofit or for-profit firm
25 or corporation, including public and private educational institutions. For the purposes of this
26 section, a nonprofit or for-profit firm or corporation, including public and private educational
27 institutions, conducting research shall be deemed to engage in "commerce" as that term is defined
28 in G.S. 75-1.1."

29 **SECTION 2.(b)** This section becomes effective October 1, 2021.

30 **SECTION 3.** Except as otherwise provided, this act becomes effective December 1,
31 2021, and applies to offenses committed on or after that date.