

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE DRS15011-LH-17 (12/17)

Short Title: Internet Libel /Civil and Crim. Offense.

(Public)

Sponsors: Senator Goss.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE IT UNLAWFUL TO COMMUNICATE FALSE, DEFAMATORY MATERIAL THAT IS LIBELOUS OR SLANDEROUS THROUGH AN ELECTRONIC MEDIUM.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 12 of Chapter 14 of the General Statutes is amended by adding a new section to read:

**"§ 14-47.1. Communicating libelous or slanderous material through an electronic medium.**

(a) Definition. – The following definitions apply to this section:

(1) Communicate. – The term includes publishing, speaking, uttering, or conveying by words, acts, or in any other manner of a libel or slander.

(2) Electronic medium. – The Internet and any computerized or electronic information service. The term includes a bulletin board, a network, an online service, electronic mail, a forum, a blog, or a news group.

(b) Offense. – It is unlawful for any person to communicate by transmission through an electronic medium any false, defamatory statement that is libelous or slanderous.

(c) Penalty. – A person convicted of an offense under this section is guilty of a Class 2 misdemeanor.

(d) Jurisdiction. – The offense is committed in the State for purposes of determining jurisdiction, if the transmission that constitutes the offense either originates in the State or is received or viewed in the State."

**SECTION 2.** Chapter 99 of the General Statutes is amended by adding a new section to read:

**"§ 99-10. Libel and slander transmitted through an electronic medium.**

(a) Definition. – The following definitions apply to this section:

(1) Communicate or communication. – The terms include the publication, speaking, utterance, or conveyance by words, acts, or any other manner of a libel or slander.

(2) Electronic medium. – The Internet and any computerized or electronic information service. The term includes a bulletin board, a network, an online service, electronic mail, a forum, a blog, or a news group.

(b) Request for Apology and Correction Required Before Bringing Civil or Criminal Action. – Before any action, either civil or criminal, is brought for transmitting a communication of any libelous or slanderous material through any electronic medium, the



1 plaintiff or prosecutor shall first give the person alleged to be responsible for communicating  
2 the libelous or slanderous material at least five days to correct the libelous or slanderous  
3 material. The plaintiff or prosecutor shall request that the person alleged to be responsible for  
4 communicating the libelous or slanderous material post an apology and correct the material as  
5 provided by subsection (c) of this section. A request may be made by mailing or delivering a  
6 written request to the person alleged to be responsible for communicating the libelous or  
7 slanderous material or by placing the request at one of the locations in the electronic medium  
8 known to the plaintiff or prosecutor where the libelous or slanderous material was placed.

9 (c) Apology and Correction of Libelous or Slanderous Material. – To correct the  
10 libelous or slanderous material, the person alleged to be responsible for communicating the  
11 libelous or slanderous material shall, within 10 days after receiving the request as provided by  
12 subsection (b) of this section, place an apology and correction in the same location in the  
13 electronic medium as the libelous or slanderous material was placed. The person alleged to be  
14 responsible for communicating the libelous or slanderous material shall maintain the apology  
15 and correction at that location for a period similar to the time that the libelous or slanderous  
16 material was at that location, to the extent that the person can control the location and period of  
17 that placement.

18 (d) Effect of Communication in Good Faith and Retraction. – If at trial it appears that  
19 the material was communicated in good faith, that the falsity of the material was due to an  
20 honest mistake of the facts, that the material was communicated without prior knowledge or  
21 approval of the person who administers the facilities for the electronic medium or, if with prior  
22 knowledge or approval, that there were reasonable grounds for believing that the  
23 communications were true, and that within 10 days after the request for an apology and  
24 correction a full and fair correction, apology, and retraction were added to the proper location  
25 in the electronic medium in a position and type as prominent as the alleged libelous or  
26 slanderous material, then:

27 (1) If the action is a civil action, the plaintiff shall recover only actual damages.

28 (2) If the action is a criminal proceeding on which a verdict of guilty is  
29 rendered, then notwithstanding G.S. 15A-1340.23, the defendant shall be  
30 fined a penny and costs, and no more.

31 (e) Negligence in Permitting Defamatory Communications by Others Essential to  
32 Liability of Person Administering Electronic Medium. – The person who administers or  
33 provides facilities for the electronic medium involved in the alleged libel or slander shall not be  
34 held liable for the alleged libel or slander unless the person is guilty of negligence either in  
35 allowing the material to be placed in the electronic medium or in allowing the material to  
36 remain in the electronic medium after the person became aware that the material was false and  
37 defamatory.

38 (f) This section shall not apply to anonymous communications."

39 **SECTION 3.** This act becomes effective December 1, 2009, and applies to  
40 offenses committed on or after that date.