

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 46

Short Title: Internet Libel /Civil and Crim. Offense. (Public)

Sponsors: Senators Goss; Allran, Bingham, Davis, Jones, Stevens, and Tillman.

Referred to: Judiciary I.

February 4, 2009

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 plaintiff or prosecutor shall first give the person alleged to be responsible for communicating the libelous or slanderous material at least five days to correct the libelous or slanderous



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

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

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

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

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

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

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

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