

By the Committee on Utilities & Communications and
Representative Rojas

1 A bill to be entitled
2 An act relating to consumer protection;
3 requiring the Department of Law Enforcement to
4 coordinate the development of a public
5 awareness campaign on Internet safety;
6 requiring the development of guidelines for the
7 safe and secure use of the Internet; requiring
8 the development of a mechanism to report crimes
9 through an Internet site; amending s. 501.203,
10 F.S.; including businesses and commercial
11 entities within the definition of the term
12 "consumer" for purposes of chapter 501, F.S.;
13 amending s. 501.207, F.S.; authorizing an
14 action on behalf of a governmental entity for
15 damages caused by a violation of part II of
16 chapter 501, F.S.; amending s. 501.2075, F.S.;
17 providing for waiver of civil penalties if
18 restitution is made for actual damages to a
19 governmental entity; repealing s. 501.2091,
20 F.S., relating to stay of proceedings pending
21 trial for an action brought under part II of
22 chapter 501, F.S.; amending s. 501.211, F.S.;
23 providing for the recovery of actual damages by
24 a person who suffers a loss as a result of a
25 violation of part II of chapter 501, F.S.;
26 amending s. 501.212, F.S.; deleting an
27 exemption from regulation under part II of
28 chapter 501, F.S., for persons regulated under
29 laws administered by other agencies; providing
30 an effective date.
31

1 WHEREAS, the Legislature finds that, although the
2 Internet offers enormous positive opportunities for the
3 citizens of this state, it also offers many opportunities for
4 criminal activity and victimization, and

5 WHEREAS, computer and Internet-related crime continues
6 to escalate rapidly throughout our state, the nation, and the
7 world, and

8 WHEREAS, although many businesses and residents have
9 become aware of the potential dangers and are cautious in
10 their use of the Internet, others, perhaps even a majority of
11 Internet users, are unaware of the dangers of on-line crime or
12 are unaware of what they can do to prevent becoming victims of
13 on-line crime, and

14 WHEREAS, the Legislature finds that the state should
15 improve public awareness on how to safely use the Internet,
16 and

17 WHEREAS, the Legislature finds that it is important to
18 ensure that the statutory protections provided for businesses
19 and the public against fraud, child abuse, and crimes continue
20 into the new world of electronic commerce conducted over the
21 Internet, and

22 WHEREAS, it is of paramount importance for the courts
23 of this state to maintain jurisdiction over perpetrators of
24 Internet crime in order to protect businesses and members of
25 the public, and

26 WHEREAS, sellers of goods and services to businesses
27 and individuals in this state should be regulated in the same
28 manner, regardless of the method used to contact or deliver
29 the goods or services to that business or individual, and

30 WHEREAS, a person's right to equal protection under the
31 laws of this state should not be diminished because the manner

1 of sales transaction has changed due to technological
2 advances, NOW, THEREFORE,

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Public awareness campaign on Internet
7 safety.--

8 (1) The Computer Crime Center within the Department of
9 Law Enforcement shall coordinate the development of a
10 comprehensive public awareness campaign on Internet safety.
11 This effort should include a partnership with the Attorney
12 General and the Department of Education, as well as other
13 agencies and organizations, as necessary. At a minimum, the
14 campaign must include the development of guidelines for the
15 safe and secure use of the Internet, including the best ways
16 to prevent users from becoming victims of Internet crime and
17 detailed guidelines for parents to consider in protecting
18 their children from on-line encounters with molesters,
19 pedophiles, and other criminal elements.

20 (2) The public awareness campaign on Internet safety
21 must include the development of a mechanism to report Internet
22 crimes through the public Internet site of the Department of
23 Law Enforcement. Because of the need to establish a simple
24 method for reporting Internet crimes to law enforcement
25 agencies, the department shall work in cooperation with local
26 law enforcement agencies in investigating and prosecuting
27 Internet crimes.

28 Section 2. Subsection (7) of section 501.203, Florida
29 Statutes, is amended to read:

30 501.203 Definitions.--As used in this chapter, unless
31 the context otherwise requires, the term:

1 (7) "Consumer" means an individual; child, by and
2 through its parent or legal guardian; business; firm;
3 association; joint venture; partnership; estate; trust;
4 business trust; syndicate; fiduciary; corporation; any
5 commercial entity, however denominated; or any other group or
6 combination.

7 Section 3. Subsections (1), (3), and (6) of section
8 501.207, Florida Statutes, are amended to read:

9 501.207 Remedies of enforcing authority.--

10 (1) The enforcing authority may bring:

11 (a) An action to obtain a declaratory judgment that an
12 act or practice violates this part.

13 (b) An action to enjoin any person who has violated,
14 is violating, or is otherwise likely to violate, this part.

15 (c) An action on behalf of one or more consumers or
16 governmental entities for the actual damages caused by an act
17 or practice in violation of this part. However, ~~no~~ damages
18 are not ~~shall be~~ recoverable under this section against a
19 retailer who has in good faith engaged in the dissemination of
20 claims of a manufacturer or wholesaler without actual
21 knowledge that it violated this part.

22 (3) Upon motion of the enforcing authority or any
23 interested party in any action brought under subsection (1),
24 the court may make appropriate orders, including, but not
25 limited to, appointment of a master or receiver or
26 sequestration or freezing of assets, to reimburse consumers or
27 governmental entities found to have been damaged; to carry out
28 a transaction in accordance with the consumers' reasonable
29 expectations of consumers or governmental entities; to strike
30 or limit the application of clauses of contracts to avoid an
31 unconscionable result; to order any defendant to divest

1 herself or himself of any interest in any enterprise,
2 including real estate; to impose reasonable restrictions upon
3 the future activities of any defendant to impede her or him
4 from engaging in or establishing the same type of endeavor; to
5 order the dissolution or reorganization of any enterprise; or
6 to grant other appropriate relief. The court may assess the
7 expenses of a master or receiver against a person who has
8 violated, is violating, or is otherwise likely to violate this
9 part. Any injunctive order, whether temporary or permanent,
10 issued by the court shall be effective throughout the state
11 unless otherwise provided in the order.

12 (6) The enforcing authority may terminate an
13 investigation or an action upon acceptance of a person's
14 written assurance of voluntary compliance with this part.
15 Acceptance of an assurance may be conditioned on a commitment
16 to reimburse consumers or governmental entities, make
17 contributions, pay civil penalties, pay attorney's fees and
18 costs, or take other appropriate corrective action. An
19 assurance is not evidence of a prior violation of this part.
20 However, unless an assurance has been rescinded by agreement
21 of the parties or voided by a court for good cause, subsequent
22 failure to comply with the terms of an assurance is prima
23 facie evidence of a violation of this part. ~~No~~ Such assurance
24 is not ~~shall act as~~ a limitation upon any action or remedy
25 available to a person aggrieved by a violation of this part.

26 Section 4. Section 501.2075, Florida Statutes, is
27 amended to read:

28 501.2075 Civil penalty.--Except as provided in s.
29 501.2077, any person, firm, corporation, association, or
30 entity, or any agent or employee of the foregoing, who is
31 willfully using, or has willfully used, a method, act, or

1 practice declared unlawful under s. 501.204, or who is
2 willfully violating any of the rules of the department adopted
3 ~~promulgated~~ under this part, is liable for a civil penalty of
4 not more than \$10,000 for each such violation. Willful
5 violations occur when the person knew or should have known
6 that his or her conduct was unfair or deceptive or prohibited
7 by rule. This civil penalty may be recovered in any action
8 brought under this part by the enforcing authority; or the
9 enforcing authority may terminate any investigation or action
10 upon agreement by the person, firm, corporation, association,
11 or entity, or the agent or employee of the foregoing, to pay a
12 stipulated civil penalty. The department or the court may
13 waive any such civil penalty if the person, firm, corporation,
14 association, or entity, or the agent or employee of the
15 foregoing, has previously made full restitution or
16 reimbursement or has paid actual damages to the consumers or
17 governmental entities who have been injured by the unlawful
18 act or practice or rule violation. If civil penalties are
19 assessed in any litigation, the enforcing authority is
20 entitled to reasonable attorney's fees and costs. A civil
21 penalty so collected shall accrue to the state and shall be
22 deposited as received into the General Revenue Fund
23 unallocated.

24 Section 5. Section 501.2091, Florida Statutes, is
25 repealed.

26 Section 6. Subsection (2) of section 501.211, Florida
27 Statutes, is amended to read:

28 501.211 Other individual remedies.--

29 (2) In any ~~individual~~ action brought by a person
30 ~~consumer~~ who has suffered a loss as a result of a violation of
31 this part, such person ~~consumer~~ may recover actual damages,

1 plus attorney's fees and court costs as provided in s.
2 501.2105. ~~however, no~~ damages, fees, or costs are not ~~shall~~
3 ~~be~~ recoverable under this section against a retailer who has,
4 in good faith, engaged in the dissemination of claims of a
5 manufacturer or wholesaler without actual knowledge that it
6 violated this part.

7 Section 7. Subsection (4) of section 501.212, Florida
8 Statutes, is amended to read:

9 501.212 Application.--This part does not apply to:

10 (4) Any ~~person or~~ activity regulated under laws
11 administered by the Department of Insurance or the Florida
12 Public Service Commission or banks and savings and loan
13 associations regulated by the Department of Banking and
14 Finance or banks or savings and loan associations regulated by
15 federal agencies.

16 Section 8. This act shall take effect July 1, 2000.

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19 HOUSE SUMMARY

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21 Requires the Department of Law Enforcement to coordinate
22 the development of a public awareness campaign on
23 Internet safety. Requires the development of guidelines
24 for the safe and secure use of the Internet and a
25 mechanism to report crimes through the Internet site of
26 the department.

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28 Amends various provisions of pt. II of ch. 501, F.S., the
29 "Florida Deceptive and Unfair Trade Practices Act."
30 Includes business and commercial entities within the
31 definition of the term "consumer." Authorizes an action
on behalf of a governmental entity for damages caused by
violation of the act. Provides for waiver of civil
penalties if restitution is made for actual damages to a
governmental entity. Repeals provisions relating to stay
of proceedings pending trial for an action brought under
the act. Provides for recovery of actual damages by a
person who suffers a loss as a result of a violation of
the act. Revises applicability of the act by removing an
exemption from regulation for persons regulated under
laws administered by other agencies.