

HB 1005

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A bill to be entitled
 An act relating to consumer protection; creating part VII of chapter 501, F.S.; providing a short title; providing applicability; providing definitions; requiring owners and operators of specified websites and online services to disclose certain information; providing for enforcement of the act; providing for injunctive relief and civil penalties; providing that violations of the act constitute violations of the Florida Deceptive and Unfair Trade Practices Act; providing an effective date.

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

Section 1. Part VII of chapter 501, Florida Statutes, consisting of sections 501.980 through 501.986, is created to read:

PART VII

TRUE ORIGIN OF GOODS ACT

501.980 Short title.—This part may be cited as the "Florida True Origin of Goods Act."

501.981 Applicability.—

(1) This part is supplemental to those provisions of state and federal criminal and civil law which impose prohibitions or provide penalties, sanctions, or remedies against the same conduct prohibited by this part.

27 (2) This part does not:
 28 (a) Bar any cause of action that would otherwise be
 29 available.
 30 (b) Preclude any action that would otherwise be available.
 31 (c) Preclude the imposition of penalties or sanctions or
 32 the pursuit of remedies otherwise provided for by law.
 33 (d) Authorize duplicate enforcement of penalties,
 34 sanctions, and remedies provided for under part II.
 35 (e) Preclude the applicability of any other law that
 36 prohibits, penalizes, or imposes sanctions or remedies for any
 37 conduct that violates this section.
 38 501.982 Definitions.—As used in this part, the term:
 39 (1) "Commercial recording or audiovisual work" means a
 40 recording or audiovisual work whose owner, assignee, authorized
 41 agent, or licensee has made or intends to make available such
 42 recording or audiovisual work for sale, rental, or for
 43 performance or exhibition to the public under license, but does
 44 not include an excerpt consisting of less than substantially all
 45 of a recording or audiovisual work. A recording or audiovisual
 46 work may be commercial, regardless of whether a person who
 47 electronically disseminates it seeks commercial advantage or
 48 private financial gain from the dissemination.
 49 (2) "Electronic dissemination" means initiating a
 50 transmission of, making available, or otherwise offering a
 51 commercial recording or audiovisual work for distribution on the
 52 Internet or other digital network, regardless of whether someone

53 else has previously electronically disseminated the same
54 commercial recording or audiovisual work.

55 (3) "Physical address" means a mailing address, including
56 a zip code, which details the actual location of a person or
57 entity. The term does not include a post office box or e-mail
58 address.

59 501.983 Disclosure of information.—

60 (1) A person that owns or operates a website or online
61 service that sells, offers for sale, or distributes, directly or
62 indirectly, prescription medications, tobacco products, or motor
63 vehicle parts to consumers in this state shall clearly and
64 conspicuously disclose his or her true and correct name,
65 physical address, and telephone number on his or her website or
66 online service in a location readily accessible to a consumer
67 using or visiting the website or online service.

68 (2) A person that owns or operates a website or online
69 service dealing in the electronic dissemination of commercial
70 recordings or audiovisual works, directly or indirectly, to
71 consumers in this state shall clearly and conspicuously disclose
72 his or her true and correct name, physical address, and
73 telephone number on his or her website or online service in a
74 location readily accessible to a consumer using or visiting the
75 website or online service.

76 (3) The following locations are deemed readily accessible
77 for purposes of this section:

78 (a) A landing or home web page or screen;

- 79 (b) An "about" or "about us" web page or screen;
- 80 (c) A "contact" or "contact us" web page or screen;
- 81 (d) An information web page or screen; or
- 82 (e) Another place on the website or online service
- 83 commonly used to display identifying information to consumers.

84 501.984 Enforcement; injunctive relief.—

85 (1) This part shall be enforced by the state attorney if a
 86 violation of this part occurs in or affects the judicial circuit
 87 under the state attorney's jurisdiction or by the Department of
 88 Legal Affairs if a violation occurs in or affects more than one
 89 judicial circuit, if the state attorney defers to the department
 90 in writing, or if the state attorney fails to act upon a
 91 violation within 90 days after a written complaint is filed with
 92 the state attorney.

93 (2) The state attorney or the Department of Legal Affairs
 94 may bring an action to obtain a declaratory judgment that an act
 95 or practice violates this part or enjoin a practice in violation
 96 of this part. The prevailing party in a cause under this section
 97 is entitled to recover necessary expenses and reasonable
 98 attorney fees.

99 501.985 Civil penalties.—

100 (1) If a person is found to be in violation of this part
 101 in a civil action, the court shall assess against the person a
 102 civil penalty not to exceed \$2,500.

103 (2) If a person found to be in violation of this part in a
 104 civil action fails to comply with a permanent injunction,

105 judgment, or court order compelling compliance with this part,
106 the court shall assess against the person a civil penalty of at
107 least \$5,000 but not more than \$10,000 for each day of
108 noncompliance.

109 (3) A civil penalty collected pursuant to this section
110 shall be deposited into the General Revenue Fund.

111 501.986 Deceptive and unfair trade practice.—A violation
112 of this part is a deceptive and unfair trade practice and
113 constitutes a violation of part II. A person who violates this
114 part commits a deceptive and unfair trade practice, punishable
115 by the penalties provided under part II, and is subject to the
116 enforcement of remedies for the violation as provided in part
117 II.

118 Section 2. This act shall take effect July 1, 2014.