



449378

LEGISLATIVE ACTION

Senate

.

House

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Floor: WD/2R

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04/28/2014 04:24 PM

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Senator Galvano moved the following:

Senate Amendment (with title amendment)

Between lines 326 and 327

insert:

Section 7. Section 817.041, Florida Statutes, is created to
read:

817.041 Electronic dissemination of commercial recordings;
failure to disclose origin.-

(1) EFFECT ON OTHER REMEDIES.-

(a) This section is supplemental to those provisions of
state and federal criminal and civil law which impose



449378

12 prohibitions or provide penalties, sanctions, or remedies
13 against the same conduct prohibited by this section.

14 (b) This section does not:

15 1. Bar any cause of action that would otherwise be
16 available.

17 2. Preclude any action that would otherwise be available.

18 3. Preclude the imposition of penalties or sanctions or the
19 pursuit of remedies otherwise provided for by law.

20 (2) DEFINITIONS.—As used in this section, the term:

21 (a) "Commercial recording or audiovisual work" means a
22 recording or audiovisual work whose owner, assignee, authorized
23 agent, or licensee has disseminated or intends to disseminate
24 such recording or audiovisual work for sale, rental, or
25 performance or exhibition to the public, including under
26 license, but does not include an excerpt consisting of less than
27 substantially all of a recording or audiovisual work. The term
28 does not include video games, depictions of video game play, or
29 the streaming of video game activity. A recording or audiovisual
30 work may be commercial, regardless of whether the person who
31 electronically disseminates it seeks commercial advantage or
32 private financial gain from the dissemination.

33 (b) "Electronic dissemination" means initiating a
34 transmission of, dissemination of, or otherwise offering a
35 commercial recording or audiovisual work for distribution on the
36 Internet or other digital network, regardless of whether someone
37 else has previously electronically disseminated the same
38 commercial recording or audiovisual work.

39 (c) "Electronic mail address" means a destination, commonly
40 expressed as a string of characters, consisting of a unique



449378

41 username or mailbox, commonly referred to as the "local part,"
42 and a reference to an Internet domain, commonly referred to as
43 the "domain part," both of which are displayed, to which an
44 electronic mail message can be sent or delivered.

45 (d) "Physical address" means a mailing address, including a
46 zip code.

47 (e) "Video game" means an electronic or computerized game
48 that involves human interaction with a user interface to
49 generate visual feedback on a video device.

50 (3) DISCLOSURE OF INFORMATION.—

51 (a) A person who owns or operates a website or online
52 service dealing in substantial part in the electronic
53 dissemination of commercial recordings or audiovisual works,
54 directly or indirectly, to consumers in this state shall clearly
55 and conspicuously disclose his or her true and correct name,
56 physical address, and telephone number or electronic mail
57 address on his or her website or online service in a location
58 readily accessible to a consumer using or visiting the website
59 or online service.

60 (b) The following locations are deemed readily accessible
61 for purposes of this section:

- 62 1. A landing or home web page or screen;
- 63 2. An "about" or "about us" web page or screen;
- 64 3. A "contact" or "contact us" web page or screen;
- 65 4. An "information" web page or screen; or
- 66 5. Another place on the website or online service commonly
67 used to display identifying information to consumers.

68 (4) INJUNCTIVE RELIEF; ATTORNEY FEES.—

69 (a) An owner, assignee, authorized agent, or licensee of a



449378

70 commercial recording or audio visual work aggrieved by a
71 violation of this section may bring a private cause of action to
72 determine that an act or practice violates this section or that
73 an act enjoins a practice in violation of this section. Upon
74 motion of the party instituting the action, the court may make
75 appropriate orders to compel compliance with this section.

76 (b) The prevailing party in a cause under this section is
77 entitled to recover necessary expenses and reasonable attorney
78 fees.

79 (5) APPLICABILITY.—This section does not impose liability
80 on providers of an interactive computer service, communications
81 service as defined in s. 202.11, commercial mobile service, or
82 information service, including, but not limited to, an Internet
83 access service provider and a hosting service provider, if they
84 provide the transmission, storage, or caching of electronic
85 communications or messages of others or provide another related
86 telecommunications, commercial mobile radio service, or
87 information service for use of such services by another person
88 in violation of this section. This exemption from liability is
89 consistent with and in addition to any liability exemption
90 provided under 47 U.S.C. s. 230.

91
92 ===== T I T L E A M E N D M E N T =====

93 And the title is amended as follows:

94 Delete line 41

95 and insert:

96 utility; providing criminal penalties; creating s.
97 817.041, F.S.; defining terms; requiring owners and
98 operators of specified websites or online services to



449378

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101

disclose certain information; providing injunctive
relief and attorney fees; providing applicability;
amending s.