



812390

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/24/2014	.	
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The Committee on Appropriations (Galvano) recommended the following:

Senate Amendment (with title amendment)

Between lines 299 and 300

insert:

Section 6. 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



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11 state and federal criminal and civil law which impose
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 made or intends to make available such
24 recording or audiovisual work for sale, rental, or performance
25 or exhibition to the public, including under license, but does
26 not include an excerpt consisting of less than substantially all
27 of a recording or audiovisual work. The term does not include
28 video games, depictions of video game play, or the streaming of
29 video game activity. A recording or audiovisual work may be
30 commercial, regardless of whether the person who electronically
31 disseminates it seeks commercial advantage or private financial
32 gain from the dissemination.

33 (b) "Electronic dissemination" means initiating a
34 transmission of, making available, 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



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40 expressed as a string of characters, consisting of a unique
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, which details the actual location of a person or
47 entity. The term does not include a post office box or an
48 electronic mail address.

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

52 (3) DISCLOSURE OF INFORMATION.—

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

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

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



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69 used to display identifying information to consumers.

70 (4) INJUNCTIVE RELIEF; ATTORNEY FEES.—

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

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

81 (5) APPLICABILITY.—This section does not impose liability
82 on any provider of an interactive computer service, information
83 service, or communications service, including, but not limited
84 to, Internet service and hosting service for providing the
85 transmission, storage, or caching of electronic communications
86 or messages of others; other related telecommunications or
87 commercial radio service; or content provided by another person.

88
89 ===== T I T L E A M E N D M E N T =====

90 And the title is amended as follows:

91 Delete line 33

92 and insert:

93 utility; providing criminal penalties; creating s.
94 817.041, F.S.; providing applicability; defining
95 terms; requiring owners and operators of specified
96 websites and online services to disclose certain
97 information; providing injunctive relief and attorney



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fees; providing an