

By the Committee on Commerce and Tourism; and Senator Ring

577-02756-15

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1 A bill to be entitled
2 An act relating to contracts for goods and services;
3 creating s. 725.09, F.S.; prohibiting contracts for
4 the sale or lease of consumer goods or services from
5 waiving the right of the consumer to make certain
6 statements; providing civil penalties; providing
7 construction and applicability; providing an effective
8 date.

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

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12 Section 1. Section 725.09, Florida Statutes, is created to
13 read:

14 725.09 Right of consumer to make statements.-

15 (1) (a) A contract for the sale or lease of consumer goods
16 or services may not include a provision waiving the right of the
17 consumer to make any statement regarding the seller or lessor,
18 the seller's or lessor's employees or agents, or the goods or
19 services.

20 (b) A seller or lessor or its employees or agents may not
21 threaten or seek to enforce a provision prohibited under this
22 subsection or otherwise penalize a consumer for making a
23 statement protected under this subsection.

24 (c) A waiver of this section is contrary to public policy,
25 void, and unenforceable.

26 (2) (a) A seller or lessor or its employees or agents that
27 violate this section are subject to a civil penalty not to
28 exceed \$2,500 for the first violation and \$5,000 for each
29 subsequent violation. For a willful, intentional, or reckless

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30 violation, an additional civil penalty not to exceed \$10,000 may
31 be assessed.

32 (b) The penalty shall be assessed and collected in a civil
33 action brought by the consumer, the Attorney General, or the
34 state attorney for the county in which the violation occurred.
35 The penalty shall be payable, as appropriate, to the consumer or
36 to the general fund of the governmental entity that brought the
37 action.

38 (c) The penalties in this subsection are not exclusive
39 remedies and do not affect other relief or remedies provided by
40 law.

41 (3) This section does not prohibit a person or business
42 that hosts online consumer reviews or comments from removing a
43 statement that is otherwise lawful to remove.

44 Section 2. This act shall take effect July 1, 2015.