

By the Committee on Commerce and Tourism; and Senator Flores

577-01820-15

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A bill to be entitled  
An act relating to consumer protection; creating s.  
501.155, 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 injunctive relief; providing an effective date.

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

Section 1. Section 501.155, Florida Statutes, is created to  
read:

501.155 Electronic dissemination of commercial recordings  
or audiovisual works; required disclosures; injunctive relief.-

(1) SHORT TITLE.-This section may be cited as the "True  
Origin of Digital Goods Act."

(2) APPLICABILITY.-This section 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 section. This  
section does not:

(a) Bar any cause of action or preclude the imposition of  
sanctions or penalties that would otherwise be available under  
state or federal law.

(b) Impose liability on providers of an interactive  
computer service, communications service as defined in s.  
202.11(1), commercial mobile service, or information service,  
including, but not limited to, an Internet access service  
provider and a hosting service provider, if they provide the

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30 transmission, storage, or caching of electronic communications  
31 or messages of others or provide another related  
32 telecommunications service, commercial mobile radio service, or  
33 information service, for use of such services by another person  
34 in violation of this section. This exemption from liability is  
35 consistent with and in addition to any liability exemption  
36 provided under 47 U.S.C. s. 230.

37 (3) DEFINITIONS.—As used in this section, the term:

38 (a) "Commercial recording or audiovisual work" means a  
39 recording or audiovisual work whose owner, assignee, authorized  
40 agent, or licensee has disseminated or intends to disseminate  
41 such recording or audiovisual work for sale, for rental, or for  
42 performance or exhibition to the public, including under  
43 license, but does not include an excerpt consisting of less than  
44 substantially all of a recording or audiovisual work. A  
45 recording or audiovisual work may be commercial regardless of  
46 whether a person who electronically disseminates it seeks  
47 commercial advantage or private financial gain from the  
48 dissemination. The term does not include video games, depictions  
49 of video game play, or the streaming of video game activity.

50 (b) "Electronic dissemination" means initiating a  
51 transmission of, making available, or otherwise offering a  
52 commercial recording or audiovisual work for distribution  
53 through the Internet or other digital network, regardless of  
54 whether another person has previously electronically  
55 disseminated the same commercial recording or audiovisual work.

56 (c) "E-mail address" means an electronic mail address as  
57 defined in s. 668.602.

58 (d) "Website" means a set of related web pages served from

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59 a single web domain. The term does not include a home page or  
60 channel page for the user account of a person who is not the  
61 owner or operator of the website upon which such user home page  
62 or channel page appears.

63 (4) DISCLOSURE OF INFORMATION.—

64 (a) A person who owns or operates a website or online  
65 service dealing in substantial part in the electronic  
66 dissemination of commercial recordings or audiovisual works,  
67 directly or indirectly, and who electronically disseminates such  
68 works to consumers in this state shall clearly and conspicuously  
69 disclose his or her true and correct name, physical address, and  
70 telephone number or e-mail address on his or her website or  
71 online service in a location readily accessible to a consumer  
72 using or visiting the website or online service.

73 (b) The following locations are deemed readily accessible  
74 for purposes of this subsection:

- 75 1. A landing or home web page or screen;
- 76 2. An "about" or "about us" web page or screen;
- 77 3. A "contact" or "contact us" web page or screen;
- 78 4. An information web page or screen; or
- 79 5. Another place on the website or online service commonly  
80 used to display identifying information to consumers.

81 (5) INJUNCTIVE RELIEF.—

82 (a) An owner, assignee, authorized agent, or licensee of a  
83 commercial recording or audio visual work electronically  
84 disseminated by a website or online service in violation of this  
85 section may bring a private cause of action to obtain a  
86 declaratory judgment that an act or practice violates this  
87 section and enjoin any person who knowingly has violated, is

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88 violating, or is otherwise likely to violate this section. As a  
89 condition precedent to filing a civil action under this section,  
90 the aggrieved party must make reasonable efforts to place an  
91 individual alleged to be in violation of this section on notice  
92 that the individual may be in violation of this section and that  
93 failure to cure within 14 days may result in a civil action  
94 filed in a court of competent jurisdiction.

95 (b) Upon motion of the party instituting the action, the  
96 court may make appropriate orders to compel compliance with this  
97 section.

98 (c) The prevailing party in a cause under this section is  
99 entitled to recover necessary expenses and reasonable attorney  
100 fees.

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