

CHAPTER 2015-53

Committee Substitute for Senate Bill No. 604

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, advertising network or exchange, domain name registration provider, and a hosting service provider, if they provide the transmission, storage, or caching of electronic communications or messages of others or provide another related telecommunications service, commercial mobile radio service, or information service, for use of such services by another person in violation of this section. This exemption from liability is consistent with and in addition to any liability exemption provided under 47 U.S.C. s. 230.

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

(a) “Commercial recording or audiovisual work” means a recording or audiovisual work whose owner, assignee, authorized agent, or licensee has disseminated or intends to disseminate such recording or audiovisual work for sale, for rental, or for performance or exhibition to the public, including under license, but does not include an excerpt consisting of less than substantially all of a recording or audiovisual work. A recording or audiovisual work may be commercial regardless of whether a person who electronically disseminates it seeks commercial advantage or private

financial gain from the dissemination. The term does not include video games, depictions of video game play, or the streaming of video game activity.

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

(c) “E-mail address” means an electronic mail address as defined in s. 668.602.

(d) “Website” means a set of related web pages served from a single web domain. The term does not include a home page or channel page for the user account of a person who is not the owner or operator of the website upon which such user home page or channel page appears.

(4) DISCLOSURE OF INFORMATION.—

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

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

1. A landing or home web page or screen;
2. An “about” or “about us” web page or screen;
3. A “contact” or “contact us” web page or screen;
4. An information web page or screen; or
5. Another place on the website or online service commonly used to display identifying information to consumers.

(5) INJUNCTIVE RELIEF.—

(a) An owner, assignee, authorized agent, or licensee of a commercial recording or audio visual work electronically disseminated by a website or online service in violation of this section may bring a private cause of action to obtain a declaratory judgment that an act or practice violates this section and enjoin any person who knowingly has violated, is violating, or is otherwise likely to violate this section. As a condition precedent to filing a civil action under this section, the aggrieved party must make reasonable

efforts to place an individual alleged to be in violation of this section on notice that the individual may be in violation of this section and that failure to cure within 14 days may result in a civil action filed in a court of competent jurisdiction.

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

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

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

Approved by the Governor May 21, 2015.

Filed in Office Secretary of State May 21, 2015.