

2022 Regular Session

SENATE BILL NO. 305

BY SENATOR FOIL

CONSUMERS/PROTECTION. Provides for the disclosure of certain information on websites and online services. (8/1/22)

1 AN ACT  
2 To enact Chapter 62 of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised  
3 of R.S. 51:3221 through 3227, relative to deceptive and unfair trade practices; to  
4 provide relative to electronic dissemination of third-party commercial recordings or  
5 audiovisual works; to require disclosures; to provide for a private right of action; to  
6 provide for injunctive relief, orders to compel compliance, costs, and attorney's fees;  
7 to provide that violations constitute a deceptive and unfair trade practices; to provide  
8 for definitions, terms, conditions, and procedures; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 62 of Title 51 of the Louisiana Revised Statutes of 1950,  
11 comprised of R.S. 51:3221 through 3227, is hereby enacted to read as follows:

12 **CHAPTER 62. ELECTRONIC DISSEMINATION OF COMMERCIAL**

13 **RECORDINGS OR AUDIO VISUAL WORKS**

14 **§3221. Short title**

15 **This Chapter shall be known and may be cited as the "Louisiana True**

16 **Origin of Digital Goods Act".**

17 **§3222. Definitions**

1           As used in this Chapter:

2           (1) "Commercial recording or audiovisual work" means a recording or  
3           audiovisual work whose owner, assignee, authorized agent, or licensee has  
4           disseminated or intends to disseminate the recording or audiovisual work for  
5           sale, rental, performance, or exhibition to the public, including under license,  
6           but does not include an excerpt consisting of less than substantially all of a  
7           recording or audiovisual work. A recording or audiovisual work may be  
8           commercial regardless of whether a person who electronically disseminates it  
9           seeks commercial advantage or private financial gain from the dissemination.

10           (2) "Electronic dissemination" means initiating a transmission of,  
11           making available, or otherwise offering a commercial recording or audiovisual  
12           work for distribution, display, or performance through the internet or other  
13           digital network, regardless of whether another person has previously  
14           electronically disseminated the same commercial recording or audiovisual  
15           work.

16           (3) "Website" means a set of related webpages served from a single web  
17           domain. The term does not include a home page or channel page for the user  
18           account of a person who is not the owner or operator of the website upon which  
19           such user home page or channel page appears.

20           §3223. Required disclosures on website and online services; location

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

28           B. For the purpose of this Section, any of the following locations are  
29           considered readily accessible:

1                   (1) A landing or home webpage or screen.

2                   (2) An "about" or "about us" webpage or screen.

3                   (3) A "contact" or "contact us" webpage or screen.

4                   (4) An information webpage or screen.

5                   (5) Any place on the website or online service commonly used to display  
6 information identifying the owner or operator of the website or online service  
7 to consumers.

8 §3224. Actions for injunctive relief; orders to compel compliance; costs and  
9 attorney's fees

10                   A. An owner, assignee, authorized agent, or exclusive licensee of a  
11 commercial recording or audiovisual work electronically disseminated by the  
12 website or online service in violation of this Chapter may bring a private cause  
13 of action against a person who violates or threatens to violate the provisions of  
14 this Chapter to obtain the following:

15                   (1) A declaratory judgment that an act or practice violates this Chapter.

16                   (2) Permanent or temporary injunctive relief.

17                   B. Before filing an action under this Section, the aggrieved party shall  
18 make reasonable efforts to provide notice to the person alleged to be in violation  
19 of the provisions of this Chapter and the notice shall be in writing and shall  
20 state the following:

21                   (1) The person may be in violation of the provisions of this Chapter.

22                   (2) A failure to cure the violation within fourteen days may result in an  
23 action being filed against the person as provided in this Chapter.

24                   C. After the fourteenth day of properly providing notice as provided in  
25 Subsection B of this Section, and if the person continues to violate the provisions  
26 of this Chapter, the aggrieved party may bring an action in accordance with this  
27 Section in a court of competent jurisdiction.

28                   D. On motion of the party initiating the cause of action, the court may  
29 make appropriate orders to compel compliance with this Chapter.

1                    **E. The prevailing party is entitled to recover necessary expenses incurred**  
 2                    **in an action under this Section, including reasonable attorney's fees.**

3                    **§3225. Supplemental provisions**

4                    **This Chapter is supplemental to those provisions of state and federal**  
 5                    **criminal and civil law which impose prohibitions or provide penalties, sanctions,**  
 6                    **or remedies against the same conduct prohibited by this Chapter. This Chapter**  
 7                    **shall not bar any cause of action or preclude the imposition of sanctions or**  
 8                    **penalties that would otherwise be available under state or federal law.**

9                    **§3226. No financial liability for certain providers**

10                   **The provisions of this Chapter shall not impose financial liability on**  
 11                   **providers of an interactive computer service, communications service,**  
 12                   **commercial mobile service, or information service, including an internet access**  
 13                   **service provider, an advertising network or exchange, a domain name**  
 14                   **registration provider, and a hosting service provider, to the extent that the**  
 15                   **providers provide the transmission, storage, or caching of electronic**  
 16                   **communications or messages of others or provide another related**  
 17                   **telecommunications service, a commercial mobile radio service, or an**  
 18                   **information service for use by another person that violates this Chapter.**

19                   **§3227. Violations; unfair or deceptive acts or practices; remedies**

20                   **A violation of this Chapter shall be a deceptive and unfair trade practice**  
 21                   **and shall subject the violator to any of the actions, including public and private**  
 22                   **actions, remedies, and penalties provided in the Unfair Trade Practices and**  
 23                   **Consumer Protection Law, R.S. 51:1401 et seq.**

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Xavier I. Alexander.

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Proposed law creates the " Louisiana True Origin of Digital Goods Act".

Proposed law defines the following:

- (1) "Commercial recording or audiovisual work" means a recording or audiovisual work

whose owner, assignee, authorized agent, or licensee has disseminated or intends to disseminate that recording or audiovisual work for sale, rental, 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.

- (2) "Electronic dissemination" means initiating a transmission of, making available, or otherwise offering a commercial recording or audiovisual work for distribution, display or performance through the internet or other digital network, regardless of whether another person has previously electronically disseminated the same commercial recording or audiovisual work.
- (3) "Website" means a set of related webpages served from a single 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.

Proposed law provides that a person who owns or operates a website or online service that deals with electronic dissemination commercial recordings or audiovisual works, directly or indirectly, to consumers in this state shall clearly disclose his name, address, telephone number, and email on his website in a location readily accessible to the consumer.

Proposed law provides that an owner, assignee, authorized agent, or exclusive licensee of a commercial recording or audiovisual work may bring a private action against a person who violates proposed law.

Proposed law provides for the procedures the aggrieved party must take to file a cause of action.

Proposed law provides that proposed law is supplemental to state and federal law and does not bar any cause of action or preclude the imposition of sanctions or penalties that would otherwise be available under state or federal law.

Proposed law provides that financial liabilities will not be imposed on certain providers in violation of proposed law.

Proposed law provides that any violation of proposed law is subject to actions, including public or private actions, remedies, and penalties provided for in the Unfair Trade Practices and Consumer Protection Law.

Effective August 1, 2022.

(Adds R.S. 51:3221-3227)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Makes technical changes.
2. Authorizes an exclusive licensee to bring a private cause of action against a person who violates the La. True Origins of Digital Goods Act.

3. Provides that a violator of the La. True Origins of Digital Goods Act be subject to actions, including public and private actions, and remedies as provided in the Unfair Trade Practices Law.