

SENATE BILL NO. 305

BY SENATOR FOIL

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 for 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 and orders to compel compliance; to provide that
7 violations constitute a deceptive and unfair trade practice; to provide for definitions,
8 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**

18 **As used in this Chapter:**

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

1 private financial gain from the dissemination.

2 (2) "Electronic dissemination" means initiating a transmission of,
 3 making available, or otherwise offering a commercial recording or audiovisual
 4 work for distribution, display, or performance through the internet or other
 5 digital network, regardless of whether another person has previously
 6 electronically disseminated the same commercial recording or audiovisual
 7 work.

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

12 §3223. Required disclosures on website and online services; location

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

20 B. For the purposes of this Section, any of the following locations are
 21 considered readily accessible:

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

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

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

25 (4) An information webpage or screen.

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

29 §3224. Actions for injunctive relief; orders to compel compliance

30 A. An owner, assignee, authorized agent, or exclusive licensee of a

1 commercial recording or audiovisual work electronically disseminated by the
2 website or online service in violation of this Chapter may bring a proceeding
3 against a person who violates or threatens to violate the provisions of this
4 Chapter to obtain the following:

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

6 (2) Permanent or temporary injunctive relief.

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

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

12 (2) A failure to cure the violation within fourteen days may result in an
13 action being filed against the person pursuant to this Chapter.

14 C. After the fourteenth day of properly providing notice in accordance
15 with Subsection B of this Section, if the person continues to violate the
16 provisions of this Chapter, the aggrieved party may bring an action pursuant
17 to this Section in a court of competent jurisdiction.

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

20 §3225. Supplemental provisions

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

26 §3226. No financial liability for certain providers

27 The provisions of this Chapter shall not impose financial liability on
28 providers of an interactive computer service, communications service,
29 commercial mobile service, or information service, including an internet access
30 service provider, an advertising network or exchange, a domain name

1 registration provider, or a hosting service provider, to the extent that the
 2 providers provide the transmission, storage, or caching of electronic
 3 communications or messages of others or provide another related
 4 telecommunications service, a commercial mobile radio service, or an
 5 information service for use by another person that violates this Chapter.

6 §3227. Violations; unfair or deceptive acts or practices; remedies

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

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____