

By: Hunter

H.B. No. 3836

A BILL TO BE ENTITLED

AN ACT

relating to the electronic dissemination of commercial recordings
or audiovisual works.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 14, Business & Commerce Code, is amended by
adding Chapter 642 to read as follows:

CHAPTER 642. ELECTRONIC DISSEMINATION OF COMMERCIAL RECORDINGS OR
AUDIOVISUAL WORKS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 642.001. DEFINITIONS. In this chapter:

(1) "Electronic dissemination" means initiating a
transmission of, making available, or otherwise offering a
recording or audiovisual work for distribution, display, or
performance through the Internet or other digital network.

(2) "Recording or audiovisual work" means a recording
or audiovisual work that consists of substantially all of the
recording or work. The term does not include a recording or
audiovisual work that is only a short extract from the recording or
work.

(3) "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 on which the user home page or channel page
appears.

1 Sec. 642.002. APPLICABILITY. This chapter does not impose
2 liability on providers of an interactive computer service,
3 communications service, commercial mobile service, or information
4 service, including, but not limited to, an Internet access service
5 provider, advertising network or exchange, domain name
6 registration provider, and a hosting service provider, if they
7 provide the transmission, storage, or caching of electronic
8 communications or messages of others or provide another related
9 telecommunications service, commercial mobile radio service, or
10 information service, for use of such services by another person in
11 violation of this section.

12 Sec. 642.003. COMMERCIAL RECORDING OR AUDIOVISUAL WORK.
13 For purposes of this chapter, a recording or audiovisual work is
14 considered to be a commercial recording or audiovisual work if the
15 owner, assignee, authorized agent, or licensee of the recording or
16 work disseminates or intends to disseminate the recording or work
17 for sale, rental, or performance or exhibition to the public,
18 including under license, regardless of whether the person who
19 disseminates the recording or work seeks commercial advantage or
20 private financial gain from the dissemination.

21 SUBCHAPTER B. REQUIRED DISCLOSURES

22 Sec. 642.051. DISCLOSURE OF CERTAIN INFORMATION REQUIRED.
23 (a) An owner or operator of a website or online service that deals
24 in substantial part in the electronic dissemination of third-party
25 commercial recordings or audiovisual works, directly or
26 indirectly, and that electronically disseminates those recordings
27 or works to consumers in this state shall clearly and conspicuously

1 disclose on the website or online service in a location that is
2 readily accessible to a consumer using or visiting the website or
3 online service, the owner or operator's true and correct:

- 4 (1) name;
- 5 (2) physical address;
- 6 (3) telephone number; and
- 7 (4) e-mail address.

8 (b) For purposes of this section, a location is considered
9 readily accessible on an online service website if the location is:

- 10 (1) a landing or home web page or screen;
- 11 (2) an "about" or "about us" web page or screen;
- 12 (3) a "contact" or "contact us" web page or screen;
- 13 (4) an informational web page or screen; or
- 14 (5) another place on the website or online service

15 commonly used to display information identifying the owner or
16 operator of the website or online service.

17 (c) Subsection (a) applies regardless of whether another
18 person has previously electronically disseminated the same
19 recording or audiovisual work.

20 SUBCHAPTER C. ENFORCEMENT

21 Sec. 642.101. DECLARATORY JUDGMENT OR INJUNCTIVE RELIEF.

22 (a) An owner, assignee, authorized agent, or exclusive licensee of
23 a commercial recording or audiovisual work electronically
24 disseminated by a website or online service in violation of this
25 chapter may bring a private cause of action against a person who
26 violates or threatens to violate this chapter to obtain:

- 27 (1) a declaratory judgment; and

1 (2) permanent or temporary injunctive relief.

2 (b) Before filing an action under this section, the
3 aggrieved party must provide notice to the person alleged to be in
4 violation of this chapter that states:

5 (1) the person may be in violation of this chapter; and

6 (2) that failure to cure the violation before the 14th
7 day after the date of receiving the notice may result in an action
8 being filed against the person under this section.

9 (c) After the 14th day after the date the aggrieved party
10 provides notice under Subsection (b), the aggrieved party may bring
11 an action under this section in a court of competent jurisdiction.

12 (d) Upon motion of the party instituting the action, the
13 court may make appropriate orders to compel compliance with this
14 chapter.

15 (e) The prevailing party is entitled to recover necessary
16 expenses incurred in an action under this section, including
17 reasonable attorney's fees.

18 Sec. 642.102. DECEPTIVE TRADE PRACTICE; REMEDIES. (a) A
19 violation of this chapter is a false, misleading, or deceptive act
20 or practice as defined by Section [17.46\(b\)](#).

21 (b) The relief provided under this subchapter for a
22 violation of this chapter is in addition to any remedy provided
23 under other federal or state law, including Subchapter E, Chapter
24 [17](#).

25 SECTION 2. This Act takes effect January 1, 2022.