

ASSEMBLY, No. 3769

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MAY 2, 2022

Sponsored by:

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SYNOPSIS

Requires Internet websites which deal in electronic dissemination of music or audiovisual works to disclose certain information.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/25/2023)

1 AN ACT providing for the disclosure of information on certain
2 Internet websites and supplementing Title 56 of the Revised
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. As used in this act:

9 “Commercial recording or audiovisual work” means a recording
10 or audiovisual work that has been disseminated or is intended to be
11 disseminated by its owner, assignee, authorized agent, or licensee.
12 A recording or audiovisual work may be commercial regardless of
13 whether its owner, assignee, authorized agent, or licensee seeks
14 commercial advantage or private financial gain from its
15 dissemination.

16 “Electronic dissemination” means initiating a transmission of,
17 making available, or otherwise offering a commercial recording or
18 audiovisual work for distribution, display, or performance through
19 the Internet or other digital network, regardless of whether another
20 person has previously electronically disseminated the same
21 commercial recording or audiovisual work.

22 “Internet website” means a set of related Internet web pages
23 served from a single web domain. The term does not include a
24 home page or channel page for the user account of a person who is
25 not the owner or operator of the Internet website upon which the
26 user home page or channel page appears.

27
28 2. a. A person who owns or operates an Internet website or
29 online service dealing in substantial part in the electronic
30 dissemination of third-party commercial recordings or audiovisual
31 works, directly or indirectly, and who electronically disseminates
32 the material to consumers in this State shall clearly and
33 conspicuously disclose the person’s correct name, physical address,
34 telephone number, and email address in a location readily
35 accessible to a consumer using or visiting the Internet website or
36 online service.

37 b. The following locations are deemed readily accessible for
38 purposes of satisfying the requirements of subsection a. of this
39 section:

- 40 (1) a home Internet web page or screen;
41 (2) an “about” or “about us” Internet web page or screen;
42 (3) a “contact” or “contact us” Internet web page or screen;
43 (4) an information Internet web page or screen; or
44 (5) another place on the Internet website or online service
45 commonly used to display information identifying the owner or
46 operator of the Internet website or online service to consumers.

47
48 3. a. An owner, assignee, authorized agent, or exclusive
49 licensee of a commercial recording or audiovisual work

1 electronically disseminated by an Internet website or online service
2 in violation of P.L. , c. (C.) (pending before the Legislature
3 as this bill) may bring a private cause of action against a person
4 who violates this act to obtain:

5 (1) a declaratory judgment that an act or practice violates
6 section 2 of P.L. , c. (C.) (pending before the Legislature
7 as this bill); and

8 (2) permanent or temporary injunctive relief.

9 b. Before filing an action under this section, the aggrieved
10 party shall make reasonable efforts to provide notice to the person
11 alleged to be in violation of this act that states:

12 (1) the person may be in violation of section 2 of P.L. , c.
13 (C.) (pending before the Legislature as this bill); and

14 (2) that failure to cure the violation within 14 days may result in
15 an action being filed against the person under this section.

16 c. If the alleged violator has failed to cure the violation within
17 14 days of receiving notice, the aggrieved party may institute a civil
18 action in the Superior Court for relief pursuant to the provisions of
19 this section.

20 d. On motion of the party initiating the action, the court may
21 make appropriate orders to compel compliance with this act.

22 e. The prevailing party is entitled to recover necessary
23 expenses incurred in an action under this section, including
24 reasonable attorneys' fees.

25
26 4. P.L. , c. (C.) (pending before the Legislature as this
27 bill) does not impose financial liability on providers of an
28 interactive computer service, communications service, commercial
29 mobile service, or information service, including an Internet access
30 service provider, an advertising network or exchange, a domain
31 name registration provider, and a hosting service provider, to the
32 extent that they provide the transmission, storage, or caching of
33 electronic communications or messages of others or provide another
34 related telecommunications service, a commercial mobile radio
35 service, or an information service, for use by another person that
36 violates this act.

37
38 5. A violation of P.L. , c. (C.) (pending before the
39 Legislature as this bill) constitutes an unlawful practice and a
40 violation of P.L.1960, c.39 (C.56:8-1 et seq.).

41
42 6. This act shall take effect immediately.

43 44 45 STATEMENT

46
47 This bill requires Internet websites which deal in the electronic
48 dissemination of music or audiovisual works to disclose certain
49 information.

1 Under the provisions of this bill, a person who owns or operates
2 an Internet website or online service dealing in substantial part in
3 the electronic dissemination of third-party commercial recordings or
4 audiovisual works, directly or indirectly, and who electronically
5 disseminates the material to consumers in this State is required to
6 clearly and conspicuously disclose the person's correct name,
7 physical address, telephone number, and email address in a location
8 readily accessible to a consumer using or visiting the Internet
9 website or online service.

10 The bill provides that an owner, assignee, authorized agent, or
11 exclusive licensee of a commercial recording or audiovisual work
12 electronically disseminated by an Internet website or online service
13 in violation of the provisions of this bill may bring a private cause
14 of action against a violator to obtain a declaratory judgment and
15 injunctive relief. However, before filing an action under this
16 section, the aggrieved party is required to make reasonable efforts
17 to provide notice to the person alleged to be in violation of this bill
18 in order to allow the alleged violator 14 days to cure the violation.
19 If the alleged violator has failed to cure the violation within 14 days
20 of receiving notice, the aggrieved party may institute a civil action
21 in the Superior Court for relief pursuant to the provisions of this
22 bill. The prevailing party is entitled to recover necessary expenses
23 incurred in an action under this section, including reasonable
24 attorney's fees.

25 A violation of the bill's provisions constitute an unlawful
26 practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.). An
27 unlawful practice under the consumer fraud act is punishable by a
28 monetary penalty of not more than \$10,000 for a first offense and
29 not more than \$20,000 for any subsequent offense. In addition, a
30 violation can result in cease and desist orders issued by the
31 Attorney General, the assessment of punitive damages, and the
32 awarding of treble damages and costs to the injured.