

BUSINESS AND COMMERCE CODE

TITLE 14. RECORDINGS

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 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.

Added by Acts 2021, 87th Leg., R.S., Ch. 943 (S.B. 855), Sec. 1, eff. January 1, 2022.

Sec. 642.002. COMMERCIAL RECORDING OR AUDIOVISUAL WORK. For purposes of this chapter, a recording or audiovisual work is considered to be a commercial recording or audiovisual work if the owner, assignee, authorized agent, or licensee of the recording or work disseminates or intends to disseminate the recording or work for sale, rental, or performance or exhibition to the public, including under license, regardless of whether the person who disseminates the recording or work seeks commercial advantage or private financial gain from the dissemination.

Added by Acts 2021, 87th Leg., R.S., Ch. 943 (S.B. 855), Sec. 1, eff. January 1, 2022.

Sec. 642.003. APPLICABILITY. This chapter does not apply

to a website operated by a radio or television station licensed by the Federal Communications Commission.

Added by Acts 2021, 87th Leg., R.S., Ch. 943 (S.B. 855), Sec. 1, eff. January 1, 2022.

Sec. 642.004. NO FINANCIAL LIABILITY FOR CERTAIN PROVIDERS. This chapter does not impose financial liability on providers of an interactive computer service, communications service, commercial mobile service, or information service, including an Internet access service provider, an advertising network or exchange, a domain name registration provider, and a hosting service provider, to the extent that the providers provide the transmission, storage, or caching of electronic communications or messages of others or provide another related telecommunications service, a commercial mobile radio service, or an information service, for use by another person that violates this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 943 (S.B. 855), Sec. 1, eff. January 1, 2022.

#### SUBCHAPTER B. REQUIRED DISCLOSURES

Sec. 642.051. DISCLOSURE OF CERTAIN INFORMATION REQUIRED.

(a) An owner or operator of a website or online service that deals in substantial part in the electronic dissemination of third-party commercial recordings or audiovisual works, directly or indirectly, and that electronically disseminates those recordings or works to consumers in this state shall clearly and conspicuously disclose on the website or online service in a location that is readily accessible to a consumer using or visiting the website or online service, the owner or operator's true and correct:

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

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

- (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 informational web page or screen; or
- (5) another place on the website or online service commonly used to display information identifying the owner or operator of the website or online service.

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

Added by Acts 2021, 87th Leg., R.S., Ch. 943 (S.B. 855), Sec. 1, eff. January 1, 2022.

#### SUBCHAPTER C. ENFORCEMENT

##### Sec. 642.101. DECLARATORY JUDGMENT OR INJUNCTIVE RELIEF.

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

- (1) a declaratory judgment; and
- (2) permanent or temporary injunctive relief.

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

- (1) the person may be in violation of this chapter; and
- (2) that failure to cure the violation before the 14th day after the date of receiving the notice may result in an action being filed against the person under this section.

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

(d) On motion of the party initiating the action, the court may make appropriate orders to compel compliance with this chapter.

(e) The prevailing party is entitled to recover necessary expenses incurred in an action under this section, including

reasonable attorney's fees.

Added by Acts 2021, 87th Leg., R.S., Ch. 943 (S.B. 855), Sec. 1, eff. January 1, 2022.

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

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

Added by Acts 2021, 87th Leg., R.S., Ch. 943 (S.B. 855), Sec. 1, eff. January 1, 2022.