

Exhibit A  
Proposed Bill

By: \_\_\_\_\_

\_\_\_\_. B. No. \_\_\_\_

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the identification of digital goods in commerce;  
3 authorizing both injunctive relief and a remedy under Chapter 17.

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

5 SECTION 1. Title 14, Business and Commerce Code is amended  
6 by adding Chapter 642 to read as follows:  
7

8 CHAPTER 642. ELECTRONIC DISSEMINATION OF COMMERCIAL

9 RECORDINGS OR AUDIOVISUAL WORKS

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 642.001. SHORT TITLE. This section may be cited as the  
12 "Texas True Origin of Digital Goods Act."

13 Sec. 642.002. DEFINITIONS. As used in this section, the  
14 term:

15 (a) "Commercial recording or audiovisual work"  
16 means a recording or audiovisual work whose owner, assignee,  
17 authorized agent, or licensee has disseminated or intends to  
18 disseminate such recording or audiovisual work for sale, for  
19 rental, or for performance or exhibition to the public, including  
20 under license, but does not include an excerpt consisting of less  
21 than substantially all of a recording or audiovisual work. A  
22 recording or audiovisual work may be commercial regardless of  
23 whether a person [as defined in §1.201(b) (27) of this Code] who  
24 electronically disseminates it seeks commercial advantage or  
25 private financial gain from the dissemination.  
26  
27  
28

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

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

13           SUBCHAPTER B. REQUIRED DISCLOSURES; INJUNCTIVE RELIEF

14           Sec. 642.051. DISCLOSURE OF INFORMATION.

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

(b) The following locations are deemed readily accessible for purposes of this subsection:

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 information web page or screen; or
5. Another place on the website or online service commonly used to display identifying information to consumers.

Sec. 642.052. INJUNCTIVE RELIEF.

(a) An owner, assignee, authorized agent, or exclusive licensee of a commercial recording or audio visual work electronically disseminated by a website or online service in violation of this section may bring a private cause of action to obtain a declaratory judgment that an act or practice violates this section and obtain an injunction against any person who knowingly has violated, is violating, or is otherwise likely to violate this section. As a condition precedent to filing a civil action under this section, the aggrieved party must make reasonable efforts to place an individual alleged to be in violation of this section on notice that the individual may be in violation of this section and that failure to cure within 14 days may result in a civil action filed in a court of competent jurisdiction.

(b) Upon motion of the party instituting the action, the court may make appropriate orders to compel compliance with this section.

(c) The prevailing party in a cause under this section is entitled to recover necessary expenses and reasonable attorney fees.

Sec. 642.053. APPLICABILITY. This section is supplemental to those provisions of state and federal criminal and civil law which impose prohibitions or provide penalties, sanctions, or remedies against the same conduct prohibited by this section. This section does not:

(a) Bar any cause of action or preclude the imposition of sanctions or penalties that would otherwise be available under state or federal law.

(b) Impose liability on providers of an interactive computer service, communications service, commercial mobile service, or information service, including, but not limited to, an Internet access service provider, advertising network or exchange, domain name registration provider, and a hosting service provider, if they provide the transmission, storage, or caching of electronic communications or messages of others or provide another related telecommunications service, commercial mobile radio service, or information service, for use of such services by another person in violation of this section.

Sec. 642.054. DECEPTIVE TRADE PRACTICE; REMEDIES.

(a) A violation of this chapter is a false, misleading, or deceptive act or practice under Section 17.46.

(b) A public or private right or remedy prescribed by Chapter 17 may be used to enforce this chapter.

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