



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

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|------------------------|---|--------------------------------|
| Bill Number: | S. 0505 | Introduced on January 28, 2021 |
| Author: | Talley | |
| Subject: | Electronic Dissemination of Third-Party Commercial Recordings | |
| Requestor: | Senate Labor, Commerce, and Industry | |
| RFA Analyst(s): | Gardner | |
| Impact Date: | February 9, 2021 | |

Fiscal Impact Summary

This bill creates a civil cause of action and outlines corresponding required procedures for cases where a website or online service owner or operator fails to provide the required information when disseminating a third-party commercial recording or audiovisual work to consumers. The department expects to manage any increase in costs due to increased caseloads using existing its General Fund resources; therefore, this bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds.

Explanation of Fiscal Impact

Introduced on January 28, 2021

State Expenditure

This bill creates a new chapter of law relating to the electronic dissemination of commercial recordings or audiovisual works. The bill provides definitions and requires a website or online service owner or operator substantially dealing in the direct or indirect electronic dissemination of third-party commercial recordings or audiovisual works to consumers to disclose his name, physical address, telephone number, and e-mail address on his website or online service in a conspicuous location. Failure to provide this information in the prescribed manner, if done with intent, constitutes an unfair trade practice and enables the work's owner, assignee, authorized agent, or exclusive licensee to bring a private cause of action to obtain a declaratory judgment against the website or online service owner or operator.

An aggrieved party must make the alleged violator aware of his complaint and allow 14 days for the violator to cure the matter. Should the alleged violator fail to cure within that time frame, the aggrieved party may file a civil action in a court of competent jurisdiction. The court may then make orders to compel compliance of the alleged violator. The prevailing party in such cases is entitled to recover necessary expenses and reasonable attorney's fees. These provisions are supplemental to existing state and federal criminal and civil law imposing prohibitions or providing penalties, sanctions, or remedies against such conduct. The bill does not impose liability on interactive computer, communications, commercial mobile, or information services providers involved with the transmission, storage, or caching of electronic communications or messages of others when those services are used by another person in violation of the bill's provisions.

Judicial Department. This bill defines terms related to the electronic dissemination of commercial recordings or visual works and creates a civil cause of action and its required procedure for cases where a website or online service owner or operator fails to provide the required information when disseminating a third-party commercial recording or audiovisual work to consumers. The department reports that implementation of the bill may increase caseloads in common pleas and magistrate and municipal courts; however, as the bill creates a new cause of action, there is no data with which to estimate the number of filings, hearings, or trials that may result. The department expects to manage any increase in costs due to increased caseloads using existing General Fund resources.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director