

Senate Bill 214

By: Senators Polak of the 42nd and Lamutt of the 21st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling
2 and other trade practices, so as to provide for limited protections for the owners of data bases
3 against unauthorized commercialization; to provide a short title; to provide for legislative
4 purpose; to define certain terms; to provide criminal punishments and civil remedies for
5 certain violations; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other
9 trade practices, is amended by adding a new Article 34 to read as follows:

10 "ARTICLE 34

11 10-1-900.

12 This article shall be known and may be cited as the 'Georgia Data Base Protection and
13 Economic Development Act of 2001.'

14 10-1-901.

15 The purpose of this article is to help foster the development of an information market in
16 this state and related investment in information storage, processing, and communications
17 systems by establishing limited protections for the owners of data bases against
18 unauthorized commercialization in order to reward investment of time, money, and effort
19 in the creation of data bases.

20 10-1-902.

21 As used in this article, the term:

1 (1) 'Commercialization' or 'Commercialize' means to extract for use in commerce, or to
 2 use in commerce, all or a substantial part, measured either quantitatively or qualitatively,
 3 of the contents of a data base.

4 (2) 'Data base' means a collection or arrangement of data, information, observations,
 5 intellectual works, or other such items.

6 (3) 'Owner' means, with respect to a data base, its creator or any other person who
 7 lawfully acquires the rights subsisting therein from its creator, whether by contract,
 8 operation of law, or otherwise.

9 (4) 'Person' means a natural person, corporation, trust, partnership, incorporated or
 10 unincorporated association, or any other legal entity and also includes any department,
 11 agency, authority, or instrumentality of this state or its legal subdivisions.

12 10-1-903.

13 Subject to the limitations and exceptions set forth in this article, any person other than the
 14 owner of a data base shall not commercialize such data base.

15 10-1-904.

16 This article shall not prohibit or apply to:

17 (1) Commercialization of a data base by a person acting with the consent of the owner;

18 (2) Independent creation and use of a data base without extracting or copying the
 19 contents of another data base, even if both data bases contain the same or similar
 20 contents;

21 (3) Commercialization of a data base for news or sports reporting unless the owner also
 22 reports news or sports and such commercialization contributes to a pattern of competition
 23 with the owner;

24 (4) Commercialization of a data base for science, education, or research unless such
 25 commercialization contributes to a pattern of competition with the owner;

26 (5) Commercialization of a data base for law enforcement or intelligence activities
 27 authorized by any government or government entity; or

28 (6) Commercialization of a data base to address, route, forward, transmit, connect,
 29 receive, or store Internet communications.

30 10-1-905.

31 (a) Courts of this state shall have jurisdiction over any action under this article involving
 32 a data base:

33 (1) That is actively maintained and accessible in this state, whether or not one or more
 34 copies are maintained or accessible elsewhere; or

1 (2) Whose owner is a legal resident of or maintains a place of business in this state.

2 (b) To the extent a data base contains personally identifiable information, the owner shall
3 not be authorized to bring an action under this article unless, at the time of the alleged
4 violation, the owner had in place a policy that gives individuals:

5 (1) Notice of any use of their information outside the scope of use for which it is
6 originally provided; and

7 (2) An opportunity to forbid such additional use.

8 10-1-906.

9 Nothing in this article shall affect or abridge any right, limitation, obligation, or remedy
10 under any federal or state law, including without limitation any law concerning copyright,
11 patent, trademark, trade secrets, privacy, open records, securities, telecommunications, or
12 antitrust.

13 10-1-907.

14 No criminal proceeding or civil action shall be maintained under this article unless it is
15 commenced within five years after the cause of action arises.

16 10-1-908.

17 Any person injured as a result of a violation of Code Section 10-1-903 may bring a civil
18 action in any court having jurisdiction over the defendant for such violation and recover
19 actual damages, exemplary damages in the case of an intentional violation, and attorney's
20 fees and court costs. The court may also within its discretion grant equitable or declaratory
21 relief.

22 10-1-909.

23 Any person who willfully violates Code Section 10-1-903 shall be punished by
24 imprisonment for not more than five years or by a fine of not more than \$50,000, or both."

25 **SECTION 2.**

26 All laws and parts of laws in conflict with this Act are repealed.