

Senate Bill 38

By: Senators Lamutt of the 21st, Shafer of the 48th, Clay of the 37th and Zamarripa of the 36th

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 databases  
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 Database Protection and  
13 Economic Development Act of 2003.'

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 databases against  
18 unauthorized commercialization in order to reward investment of time, money, and effort  
19 in the creation of databases.

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 database.

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

6 (3) 'Owner' means, with respect to a database, 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 database shall not commercialize such database.

15 10-1-904.

16 This article shall not prohibit or apply to:

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

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

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

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

25 (5) Commercialization of a database for law enforcement or intelligence activities  
26 authorized by any government or government entity; or

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

29 10-1-905.

30 Courts of this state shall have jurisdiction over any action under this article involving a  
31 database:

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

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

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2 10-1-906.

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

7 10-1-907.

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

10 10-1-908.

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

16 10-1-909.

17 Any person who willfully violates Code Section 10-1-903 shall be punished by  
18 imprisonment for not more than five years or by a fine of not more than \$50,000.00, or  
19 both."

20

**SECTION 2.**

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