

House Bill 566

By: Representatives Hong of the 103<sup>rd</sup>, Jones of the 25<sup>th</sup>, Carpenter of the 4<sup>th</sup>, Frye of the 122<sup>nd</sup>, Gunter of the 8<sup>th</sup>, and others

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 enact the "NO FAKES Act of 2025"; to protect intellectual  
3 property rights in the voice and visual likeness of individuals; to provide for the  
4 characteristics of a right to use the voice or visual likeness in a digital replica; to provide for  
5 licensing and transferability of a right; to require the Secretary of State to maintain a  
6 directory of designated agents; to provide for civil liability for the unauthorized use of a  
7 digital replica; to provide for penalties; to bar liability arising from retroactive application  
8 of this Act; to provide for definitions; to provide for an effective date; to repeal conflicting  
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 This Act shall be known and may be cited as the "Nurture Originals, Foster Art, and Keep  
13 Entertainment Safe Act of 2025" or the "NO FAKES Act of 2025."



38 (B) May include a social media service, social network, or application store; provided,  
39 however, that such term does not include a service by wire or radio that provides the  
40 capability to transmit data to and receive data from all, or substantially all, internet  
41 endpoints, including any capabilities that are incidental to enabling the operation of the  
42 communications service of a provider of online services or network access, or the  
43 operator of facilities for such service.

44 (4) 'Production' means the creation of a digital replica.

45 (5) 'Right holder' means the individual whose voice or visual likeness is at issue with  
46 respect to a digital replica and any other person that has acquired, through a license,  
47 inheritance, or otherwise, the right to authorize the use of such voice or visual likeness  
48 in a digital replica.

49 (6) 'Sound recording artist' means an individual who creates or performs in sound  
50 recordings for economic gain or for the livelihood of the individual.

51 10-1-951.

52 (a) Subject to the other provisions of this Code section, each individual or right holder  
53 shall have the right to authorize the use of the voice or visual likeness of such individual  
54 in a digital replica.

55 (b) The right described in subsection (a) of this Code section shall have the following  
56 characteristics:

57 (1) The right is:

58 (A) A property right;

59 (B) Not assignable during the life of the individual; and

60 (C) Licensable, in whole or in part, exclusively or non-exclusively, by the right holder;

61 (2) The right shall not expire upon the death of the individual, without regard to whether  
62 such right is commercially exploited by the individual during the individual's lifetime;

63 (3) Upon the death of the individual:

64 (A) The right is transferable, licensable, in whole or in part, by the executors, heirs,  
65 assigns, licensees, or devisees of the individual; and

66 (B) Ownership of the right may be:

67 (i) Transferred, in whole or in part, by any means of conveyance or by operation of  
68 law; and

69 (ii) Bequeathed by will or passed as personal property by the applicable laws of  
70 intestate succession;

71 (4) The right shall be exclusive to:

72 (A) The individual, subject to the licensing of the right during the lifetime of such  
73 individual under subsection (a) of Code Section 10-1-952; and

74 (B) The right holder:

75 (i) For a period of ten years after the death of the individual; and

76 (ii) If the right holder demonstrates active and authorized public use of the voice or  
77 visual likeness of the individual during the two-year period preceding the expiration  
78 of the ten-year period described in division (i) of this paragraph, for an additional  
79 five-year period, subject to renewal for additional five-year periods, provided that the  
80 right holder can demonstrate authorized public use of the voice or visual likeness of  
81 the individual during the two-year period preceding the expiration of each additional  
82 five-year period; and

83 (5) The right shall terminate on the date that is the earlier of:

84 (A) The date on which the ten-year period or five-year period described in  
85 division (b)(4)(B)(ii) of this Code section terminates without renewal; or

86 (B) The date that is 70 years after the death of the individual.

87 10-1-952.

88 (a) A license described in subparagraph (b)(4)(A) of Code Section 10-1-951:

- 89 (1) While the individual is living, is valid only to the extent that the license duration does  
90 not exceed ten years; and
- 91 (2) Shall be valid only if the license agreement:
- 92 (i) Is in writing and signed by the individual or an authorized representative of the  
93 individual; and
- 94 (ii) Includes a reasonably specific description of the intended uses of the applicable  
95 digital replica.
- 96 (b) A license as described in subparagraph (b)(1)(C) of Code Section 10-1-951 involving  
97 a living individual who is younger than 18 years of age:
- 98 (1) Is valid only to the extent that the license duration does not exceed five years, but in  
99 any case terminates when the individual reaches 18 years of age;
- 100 (2) Shall be valid only if the license agreement:
- 101 (A) Is in writing and signed by the individual or an authorized representative of the  
102 individual; and
- 103 (B) Includes a reasonably specific description of the intended uses of the digital  
104 replica; and
- 105 (3) The license is approved by a court in accordance with the law of this state.
- 106 (c) The provisions of subsections (a) and (b) of this Code section shall not apply if the  
107 license is governed by a collective bargaining agreement that addresses digital replicas.
- 108 (d) The provisions of subsections (a) and (b) of this Code section shall not affect terms and  
109 conditions of a license or related contract other than those described in this Code section,  
110 and the expiration of such license does not affect the remainder of the license or related  
111 contract.

112 10-1-953.

113 A post-mortem transfer or license as provided in subparagraph (b)(3)(A) of Code  
114 Section 10-1-951 shall be valid only if the transfer agreement or license agreement is in  
115 writing and signed by the right holder or an authorized representative of the right holder.

116

117 10-1-954.

118 A digital replica that is embodied in a sound recording, image, audiovisual work, including  
119 an audiovisual work that does not have any accompanying sounds, or transmission, and the  
120 use of which is authorized pursuant to the terms of a license, may continue to be utilized  
121 in a manner consistent with the terms of that license after the expiration or termination of  
122 the license.

123 10-1-955.

124 (a) Any person that engages in an activity provided in subsection (b) of this Code section  
125 shall be liable in a civil action brought under subsection (e) of this Code section.

126 (b) The following activities shall be prohibited pursuant to this article:

127 (1) The production of a digital replica without consent of the applicable right holder; or

128 (2) The publication, reproduction, display, distribution, transmission of, or otherwise  
129 making available to the public a digital replica without consent of the applicable right  
130 holder.

131 (c) To incur liability under this Code section, a person engaging in an activity shall have  
132 actual knowledge, which could be obtained through a notification that satisfies  
133 subsection (k) of this Code section, or shall willfully avoid having such knowledge, that:

134 (1) The applicable material is a digital replica; and

135 (2) The digital replica was not authorized by the applicable right holder.

136 (d) It shall not be a violation of subsection (a) of this Code section if:

- 137 (1) The applicable digital replica is produced or used in a bona fide news, public affairs,  
138 or sports broadcast or account, provided that the digital replica is the subject of, or is  
139 materially relevant to, the subject of such broadcast or account; or
- 140 (2) The applicable digital replica is a representation of the applicable individual in a  
141 documentary or in a historical or biographical manner, including some degree of  
142 fictionalization, unless:
- 143 (A) The production or use of that digital replica creates the false impression that the  
144 work is an authentic sound recording, image, transmission, or audiovisual work in  
145 which the individual participated; or
- 146 (B) The digital replica is embodied in a musical sound recording that is synchronized  
147 to accompany a motion picture or other audiovisual work, except to the extent that the  
148 use of that digital replica is protected by the First Amendment to the Constitution of the  
149 United States;
- 150 (3) The applicable digital replica is produced or used consistent with the public interest  
151 in bona fide commentary, criticism, scholarship, satire, or parody;
- 152 (4) The use of the applicable digital replica is fleeting or negligible; or
- 153 (5) The applicable digital replica is used in an advertisement or commercial  
154 announcement for any purpose described in paragraphs (1) through (4) of this subsection  
155 and the applicable digital replica is relevant to the subject of the work so advertised or  
156 announced.
- 157 (e) The exception provided in subsection (d) of this Code section shall not apply where the  
158 applicable digital replica is used to depict sexually explicit conduct, as such term is set  
159 forth in Code Section 16-12-100.
- 160 (f) No person shall be secondarily liable for a violation of this Code section for  
161 manufacturing, importing, offering to the public, providing, or otherwise distributing a  
162 product or service unless the product or service:
- 163 (1) Is primarily designed to produce one or more unauthorized digital replicas;

164 (2) Has only limited commercially significant purpose or use other than to produce an  
165 unauthorized digital replica; or

166 (3) Is marketed, advertised, or otherwise promoted by that person or another acting in  
167 concert with that person with that person's knowledge for use in producing an  
168 unauthorized digital replica.

169 (g) An online service shall not be liable for violating the right described in Code  
170 Section 10-1-951 by referring or linking a user to an unauthorized digital replica, or by  
171 carrying out an activity described in subsection (b) of this Code section, if, upon receiving  
172 a notification as provided in subsection (c) of this Code section, the online service removes  
173 or disables access to the material that is claimed to be an unauthorized digital replica as  
174 soon as is technically and practically feasible for such online service.

175 (h) An online service shall not be liable for violating the right described in Code  
176 Section 10-1-951 by storing third-party provided material that resides on a system or  
177 network controlled or operated by or for the online service if, upon receiving a notification  
178 that satisfies subsection (c) of this Code section, the online service:

179 (1) Removes, or disables access to, all instances of the material, or an activity using the  
180 material, that is claimed to be an unauthorized digital replica, as soon as is technically  
181 and practically feasible for such online service; and

182 (2) Having done so, takes reasonable steps to promptly notify the third party which  
183 provided the material that the online service has removed or disabled access to the  
184 material.

185 (i) The limitations on liability established under this Code section shall apply to an online  
186 service only if the online service has designated an agent to receive notifications under  
187 subsection (c) of this Code section by making available through the online service,  
188 including on the public website of the online service in a location accessible to the public,  
189 and by providing to the Secretary of State, substantially the following information:

190 (1) The name, address, telephone number, and electronic mail address of the agent; and

- 191 (2) Other contact information that the Secretary of State may determine appropriate.
- 192 (j) The Secretary of State shall maintain a current directory of designated agents for the  
193 purposes of this Code section. The directory of designated agents shall be available to the  
194 public for inspection, including through the internet. The Secretary of State may require  
195 payment of a reasonable filing fee by the registrant, which may take into consideration the  
196 costs of maintaining the directory of designated agents.
- 197 (k) To be effective under this Code section, a notification of a claimed violation of the  
198 right described in Code Section 10-1-951 shall be a written communication provided to the  
199 designated agent of an online service that includes the following:
- 200 (1) A physical or electronic signature of the right holder, a person authorized to act on  
201 behalf of the right holder, or an eligible plaintiff under subsection (n) of this Code  
202 section;
- 203 (2) Identification of the individual, the voice or visual likeness of whom is being used  
204 in an unauthorized digital replica;
- 205 (3) Identification of the material containing an unauthorized digital replica, including  
206 information sufficient to allow the online service to locate the allegedly unauthorized  
207 digital replica;
- 208 (4) Information reasonably sufficient to permit the online service to contact the notifying  
209 party, such as an address, telephone number, and electronic mail address;
- 210 (5) A statement that the notifying party believes in good faith that the material is an  
211 unauthorized use of a digital replica;
- 212 (6) If not the right holder or an eligible plaintiff under subsection (n) of this Code  
213 section, a statement that the notifying party has the authority to act on behalf of the right  
214 holder; and
- 215 (7) For the purposes of subsection (g) of this Code section, information reasonably  
216 sufficient to:

217 (A) Identify the reference or link to the material or activity claimed to be an  
218 unauthorized digital replica that is to be removed or to which access is to be disabled;  
219 and

220 (B) Permit the online service to locate the reference or link described in  
221 subparagraph (A) of this paragraph.

222 (l) It shall be unlawful to knowingly materially misrepresent under subsection (k) of this  
223 Code section:

224 (1) That the material requested to be removed is an unauthorized digital replica;

225 (2) That a person has the authority to act on behalf of the right holder; or

226 (3) That a digital replica is not authorized by the right holder or by other law.

227 (m) Any person that violates subsection (l) of this Code section shall be liable for an  
228 amount equal to the greater of \$5,000.00 or any actual damages, including costs and  
229 attorney's fees, incurred by the alleged violator, as well as by any online service injured by  
230 the reliance of the online service on the misrepresentation in removing or disabling access  
231 to the material or activity claimed to be an unauthorized digital replica.

232 (n) A civil action for a violation of this Code section may be brought by:

233 (1) A right holder;

234 (2) If the individual is younger than 18 years of age, a parent or guardian of the  
235 individual;

236 (3) Any other person that controls, including by virtue of a license, the right to authorize  
237 the use of the voice or visual likeness of the right holder;

238 (4) Any other person that owns or controls the right to authorize the use of the voice or  
239 visual likeness of a deceased individual; or

240 (5) In the case of a digital replica involving a sound recording artist, any person that has,  
241 directly or indirectly, entered into:

242 (A) A contract for the exclusive personal services of the sound recording artist as a  
243 sound recording artist; or

244 (B) An exclusive license to distribute or transmit one or more works that capture the  
245 audio performance of the sound recording artist.

246 (o) A civil action may not be brought under this Code section unless the action is  
247 commenced not later than three years after the date on which the party seeking to bring the  
248 civil action discovered, or with due diligence should have discovered, the applicable  
249 violation.

250 (p) It shall not be a defense in a civil action brought under this Code section that the  
251 defendant displayed or otherwise communicated to the public a disclaimer stating that the  
252 applicable digital replica was unauthorized or disclosing that the digital replica was  
253 generated through the use of artificial intelligence or other technology.

254 (q) In any civil action brought under this Code section:

255 (1) An individual or entity that engages in an activity described in subsection (b) of Code  
256 Section 10-1-955 shall be liable to the injured party in an amount equal to the greater of:

257 (A)(i) In the case of an individual, \$5,000.00 per work embodying the applicable  
258 unauthorized digital replica;

259 (ii) In the case of an entity that is an online service, \$5,000.00 per violation; and

260 (iii) In the case of an entity that is not an online service, \$25,000.00 per work  
261 embodying the applicable unauthorized digital replica; or

262 (B) Any actual damages suffered by the injured party as a result of the activity, plus  
263 any profits from the unauthorized use that are attributable to such use and are not taken  
264 into account in computing the actual damages.

265 (2) The plaintiff may seek injunctive or other equitable relief;

266 (3) In the case of willful activity in which the injured party has proven that the defendant  
267 acted with malice, fraud, knowledge, or willful avoidance of knowledge that the conduct  
268 violated the law, the court may award to the injured party punitive damages;

269 (4) If the party bringing the action prevails, the court shall award reasonable attorney's  
270 fees. If the party defending the action prevails, the court shall award reasonable  
271 attorney's fees if the court determines that the action was not brought in good faith;

272 (5) For purposes of this subsection, the term 'violation' means each display, copy,  
273 transmission, and each instance of the unauthorized digital replica being otherwise made  
274 available on the online service, unless the online service has taken reasonable steps to  
275 remove, or disable access to, the unauthorized digital replica as soon as is technically and  
276 practically feasible for the online service upon acquiring knowledge as set forth in  
277 subsection (c)(3) of Code Section 10-1-955;

278 (6) An online service that has an objectively reasonable belief that material that is  
279 claimed to be an unauthorized digital replica does not qualify as a digital replica under  
280 paragraph (1) of Code Section 10-1-950 shall not be liable for statutory or actual damages  
281 exceeding \$1 million regardless of whether the material is ultimately determined to be  
282 an unauthorized digital replica; and

283 (7) In the event that the third party that provided the material that the online service has  
284 removed or to which the online service has disabled access files a lawsuit against the  
285 sender of a notice under subsection (k) of this Code section claiming that such notice was  
286 false or deceptive as provided in subsection (l) of this Code section, the online service  
287 may, provided that the lawsuit was filed not later than 14 days after the user receives  
288 notice that the online service has removed or disabled access to the material, restore the  
289 removed material to its network for access by members of the public without monetary  
290 liability therefor to either the notice sender or the third party that provided the material  
291 that the online service had removed or disabled access.

292 10-1-956.

293 (a) Nothing in this article shall be construed to abrogate causes of action under the  
294 common law.

295 (b) Liability under this article shall apply only to:

296 (1) Conduct occurring after the date of enactment of this Act; and

297 (2) In the case of conduct covered by a license or contract, a license or contract that is  
298 executed after the date of enactment of this Act.

299 (c) The right granted under subsection (b) of Code Section 10-1-951:

300 (1) Shall apply to any individual, regardless of whether the individual dies before or after  
301 the date of enactment of this article; and

302 (2) In the case of a right holder who has died before the date of enactment of this article,  
303 shall vest in the executors, heirs, assigns, or devisees of the right holder."

304 **SECTION 3.**

305 This Act shall become effective 180 days after its approval by the Governor or 180 days after  
306 its becoming law without such approval.

307 **SECTION 4.**

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