
SENATE BILL 5284

State of Washington

61st Legislature

2009 Regular Session

By Senators Keiser, Holmquist, Kohl-Welles, Pridemore, Marr, and Kauffman

Read first time 01/19/09. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to truth in music advertising; adding a new section
2 to chapter 19.25 RCW; creating a new section; and prescribing
3 penalties.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 19.25 RCW
6 to read as follows:

7 (1) The definitions in this subsection apply throughout this
8 section unless the context clearly requires otherwise.

9 (a) "Performing group" means a vocal or instrumental group seeking
10 to use the name of another group that has previously released a
11 commercial sound recording under that name.

12 (b) "Recording group" means a vocal or instrumental group, at least
13 one of whose members has previously released a commercial sound
14 recording under that group's name and in which the member or members
15 have a legal right by virtue of use or operation under the group name
16 without having abandoned the name or affiliation with the group.

17 (c) "Sound recording" means a work that results from the fixation
18 on a material object of a series of musical, spoken, or other sounds

1 regardless of the nature of the material object, such as a disk, tape,
2 or other phonorecord, in which the sounds are embodied.

3 (2) A person shall not advertise or conduct a live musical
4 performance or production through the use of a false, deceptive, or
5 misleading affiliation, connection, or association between a performing
6 group and a recording group unless any of the following apply:

7 (a) The performing group is the authorized registrant and owner of
8 a federal service mark for the group registered in the United States
9 patent and trademark office;

10 (b) At least one member of the performing group was previously a
11 member of the recording group and has a legal right by virtue of use or
12 operation under the group name without having abandoned the name or
13 affiliation of the group;

14 (c) The live musical performance or production is identified in all
15 advertising and promotion as a salute or tribute;

16 (d) The advertising does not relate to a live musical performance
17 or production taking place in this state; or

18 (e) The performance or production is expressly authorized by the
19 recording group.

20 (3)(a) A person who violates this section is subject to a civil
21 penalty not less than five thousand dollars or more than fifteen
22 thousand dollars per violation. An action for a civil penalty may be
23 brought by the attorney general or a county or city prosecutor and is
24 enforceable as a civil judgment.

25 (b) A person who violates this section is subject to the equitable
26 remedies described in chapter 19.86 RCW.

27 (c) Each performance or production declared unlawful under
28 subsection (2) of this section constitutes a separate violation.

29 (d) This section does not preclude prosecution of a violation of
30 this section under any other provision of law.

31 NEW SECTION. **Sec. 2.** This act may be known and cited as the truth
32 in music advertising act.

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