
SENATE BILL 6577

State of Washington 60th Legislature 2008 Regular Session

By Senators Weinstein, Hatfield, Rockefeller, and Kohl-Welles

Read first time 01/18/08. Referred to Committee on Consumer Protection & Housing.

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) "Person" means the performing group or its promoter, manager,
13 or agent. "Person" does not include the performance venue or its
14 owners, managers, or operators, unless the performance venue owns or
15 produces the performing group, or knew or should have known that the
16 performing group does not have a legal right to perform.

17 (c) "Recording group" means a vocal or instrumental group, at least
18 one of whose members has previously released a commercial sound

1 recording under that group's name and in which the member or members
2 have a legal right by virtue of use or operation under the group name
3 without having abandoned the name or affiliation with the group.

4 (d) "Sound recording" means a work that results from the fixation
5 on a material object of a series of musical, spoken, or other sounds
6 regardless of the nature of the material object, such as a disk, tape,
7 or other phonorecord, in which the sounds are embodied.

8 (2) No person shall advertise or conduct a live musical performance
9 or production through the use of a false, deceptive, or misleading
10 affiliation, connection, or association between a performing group and
11 a recording group unless any of the following apply:

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

15 (b) At least one member of the performing group was previously a
16 member of the recording group and has a legal right by virtue of use or
17 operation under the group name without having abandoned the name or
18 affiliation of the group;

19 (c) The live musical performance or production is identified in all
20 advertising and promotion as a salute or tribute, and the name of the
21 vocal or instrumental group performing is not so closely related or
22 similar to that used by the recording group that it would tend to
23 confuse or mislead the public;

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

26 (e) The performance or production is expressly authorized by the
27 recording group.

28 (3)(a) Any person who violates any of the provisions of this
29 section shall be subject to a civil penalty not to exceed two thousand
30 five hundred dollars per violation. An action for a civil penalty may
31 be brought by the attorney general or a county or city prosecutor, and
32 shall be enforceable as a civil judgment.

33 (b) Any person who violates any of the provisions of this section
34 shall be subject to the equitable remedies described in chapter 19.86
35 RCW.

36 (c) Nothing in this section shall preclude prosecution of a
37 violation of this section under any other provision of law.

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

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