

2008 -- H 7241

=====
LC00564
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2008

—————
A N A C T

RELATING TO BUSINESSES AND PROFESSIONS – MUSICAL ADVERTISING

Introduced By: Representatives Petrarca, Singleton, Silva, Lima, and Shanley

Date Introduced: January 24, 2008

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 5 of the General Laws entitled "Businesses and Professions" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 81

4 TRUTH IN MUSIC ADVERTISING ACT

5 **5-81-1. Short title.** – This act shall be known and may be cited as the "Truth in Music
6 Advertising Act."

7 **5-81-2. Definitions.** – The following words and phrases when used in this act shall have
8 the meanings given to them in this chapter unless the context clearly indicates otherwise:

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

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

15 (3) "Sound recording" means a work that results from the fixation on a material object of
16 a series of musical, spoken or other sounds regardless of the nature of the material object, such as
17 a disk, tape or other phono-record, in which the sounds are embodied.

18 **5-81-3. Production.** – It shall be unlawful for any person to advertise or conduct a live
19 musical performance or production in this state through the use of a false, deceptive or misleading

1 affiliation, connection or association between a performing group and a recording group. This
2 section does not apply if any of the following apply:

3 (1) The performing group is the authorized registrant and owner of a federal service mark
4 for that group registered in the United States Patent and Trademark Office.

5 (2) At least one member of the performing group was a member of the recording group
6 and has a legal right by virtue of use or operation under the group name without having
7 abandoned the name or affiliation with the group.

8 (3) The live musical performance or production is identified in all advertising and
9 promotion as a salute or tribute.

10 (4) The advertising does not relate to a live musical performance or production taking
11 place in this state.

12 (5) The performance or production is expressly authorized by the recording group.

13 **5-81-4. Restraining prohibited acts -- Injunction.** – Whenever the attorney general has
14 a reason to believe that any person is advertising or conducting or is about to advertise or conduct
15 a live musical performance or production in violation of section 581-3 and that proceedings
16 would be in the public interest, the attorney general may bring an action against the person to
17 restrain, by temporary or permanent injunction, that practice.

18 **5-81-5. Payment of costs and restitution.** – Whenever any court issues a permanent
19 injunction to restrain and prevent violations of this act as authorized in section 5-81-4, the court
20 may in its discretion direct that the defendant restore to any person in interest any moneys or
21 property real or personal, which may have been acquired by means of any violation of this act,
22 under terms and conditions to be established by the court.

23 **5-81-6. Penalty.** – Any person who violates the provisions of section 5-81-3 is liable to
24 the state for a civil penalty of not less than five thousand dollars (\$5,000) nor more than fifteen
25 thousand dollars (\$15,000) per violation, which civil penalty shall be in addition to any other
26 relief which may be granted under sections 5-81-4 and 5-81-5. Each performance or production
27 declared unlawful by section 5-81-3 shall constitute a separate violation.

28 SECTION 2. This act shall take effect upon passage.

=====
LC00564
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- MUSICAL ADVERTISING

1 This act would prohibit the advertising and conducting of certain live musical
2 performances or productions by false and/or misleading affiliations or associations with other
3 musical groups and would impose penalties for any violations.

4 This act would take effect upon passage.

=====
LC00564
=====