

1 A bill to be entitled
 2 An act relating to false, deceptive, or misleading
 3 advertising; creating s. 817.4115, F.S.; defining the
 4 terms "performing person or group" and "recording person
 5 or group"; prohibiting a person, in advertising or
 6 conducting a live musical performance, from using a false,
 7 deceptive, or misleading statement of an affiliation,
 8 connection, or association between a performing person or
 9 group and a recording person or group; providing
 10 exceptions; providing that a violation of the act is a
 11 misdemeanor of the first degree; providing criminal
 12 penalties; authorizing the Department of Legal Affairs or
 13 state attorney to file a civil action for injunctive
 14 relief against any person or group violating the act;
 15 providing for the prevailing party to receive court costs
 16 and attorney's fees; authorizing a court to impose a civil
 17 penalty for each violation of the act; providing an
 18 effective date.

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 20 Be It Enacted by the Legislature of the State of Florida:

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 22 Section 1. Section 817.4115, Florida Statutes, is created
 23 to read:

24 817.4115 False, deceptive, or misleading advertisement of
 25 live musical performances.--

26 (1) For purposes of this section, the term:

27 (a) "Performing person or group" means a vocal or
 28 instrumental performer using or attempting to use the name of a

29 recording person or group.

30 (b) "Recording person or group" means a vocal or
 31 instrumental performer that has previously produced or released,
 32 or both, a commercial recording.

33 (2) (a) A person may not advertise a live musical
 34 performance or production in this state using a false,
 35 deceptive, or misleading statement of an affiliation,
 36 connection, or association between a performing person or group
 37 and a recording person or group.

38 (b) A person may not conduct a live musical performance or
 39 production in this state using a false, deceptive, or misleading
 40 statement of an affiliation, connection, or association between
 41 a performing person or group and a recording person or group.

42 (3) An advertisement of a live musical performance does
 43 not violate subsection (2) if:

44 (a) The performing person or at least one member of the
 45 performing group was a member of the recording group and retains
 46 the legal right to use the name of the recording group by not
 47 having abandoned the affiliation with the recording group or its
 48 name;

49 (b) The performing person or group is the authorized
 50 registrant and owner of a federal service mark for that person
 51 or group which is registered with the United States Patent and
 52 Trademark Office;

53 (c) The live musical performance or production is
 54 identified as a "salute" or "tribute" to, and is otherwise
 55 unaffiliated with, the recording person or group;

56 (d) The advertising does not relate to a live musical

57 performance taking place in this state; or

58 (e) The performance is expressly authorized in the
59 advertising by the recording person or group.

60 (4) Any person who violates subsection (2) commits a
61 misdemeanor of the second degree, punishable as provided in s.
62 775.082 or s. 775.083. Upon a second or subsequent violation of
63 subsection (2), the person commits a misdemeanor of the first
64 degree, punishable as provided in s. 775.082 or by a fine not to
65 exceed \$5,000, or both.

66 (5) The Department of Legal Affairs or a state attorney
67 may file a civil action on behalf of the people of this state
68 for injunctive relief against any person or group violating
69 subsection (2) to restrain the prohibited activity. The court
70 may award court costs and reasonable attorney's fees to the
71 prevailing party. The court may also impose a civil penalty not
72 to exceed \$5,000 for each violation of subsection (2).

73 Section 2. This act shall take effect July 1, 2007.