

IN THE SENATE

SENATE BILL NO. 1369

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO MUSIC ADVERTISING; AMENDING TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 19, TITLE 48, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, AND TO PROVIDE FOR TRUTH IN MUSIC ADVERTISING, EXCEPTIONS, AND PENALTIES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 48, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 19, Title 48, Idaho Code, and to read as follows:

CHAPTER 19  
TRUTH IN MUSIC ADVERTISING ACT

48-1901. SHORT TITLE. This chapter shall be known and may be cited as the "Truth in Music Advertising Act."

48-1902. LEGISLATIVE INTENT. The purpose of this chapter is to prevent deceptive, misleading, and false advertising practices regarding performing groups for the protection of consumers and recording groups.

48-1903. DEFINITIONS. As used in this chapter:

(1) "Performing group" means a vocal or instrumental group of one (1) or more members that intends to advertise or perform under the name of a recording group or a name substantially similar to a recording group.

(2) "Recording group" means a vocal or instrumental group of one (1) or more members in which at least one (1) of the members has released a commercial sound recording under the group's name and the member has a legal right to use of the group's name.

(3) "Sound recording" means a work that results from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material object, such as a phonograph, disc, tape, wire, digital storage, or other medium, in which the sounds are embodied.

48-1904. TRUTH IN MUSIC ADVERTISING -- EXCEPTIONS -- PENALTIES. (1) A person may not advertise or conduct a live musical performance by a performing group using a false, deceptive, or otherwise misleading affiliation, connection, or association between a performing group and a recording group of the same or substantially similar name.

(2) This section shall not apply to:

(a) A performing group that is the registrant and owner of a registered federal trademark or service mark for the recording group name;

(b) A performance by a performing group that is clearly identified in all advertising and promotional materials as a salute or tribute and the

1 name of the performing group is not so closely related or similar to the  
2 name used by the recording group that it would tend to confuse or mislead  
3 the public;

4 (c) A performing group with at least one (1) member who was a member of  
5 the recording group and has a legal right to use of the recording group  
6 name;

7 (d) Advertising that does not relate to a live musical performance oc-  
8 ccurring in or streamed or broadcast into Idaho; or

9 (e) A performance authorized in writing by the recording group.

10 (3) This section may be enforced by bringing an action for injunctive  
11 relief, equitable relief, or both, in the district court for any county in  
12 which the live musical performance is advertised or conducted or where the  
13 stream or broadcast of such live musical performance is received.

14 (4) A party injured by a violation of this section, or an assignee, au-  
15 thorized agent, or licensee of such party may obtain an injunction and re-  
16 cover actual damages.

17 (5) The prevailing party in an action under this section may be awarded  
18 costs and attorney's fees.

19 (6) Each performance or production in violation of this section consti-  
20 tutes a separate violation.