

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Ensure Truth in Music Advertising

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 10 MRSA c. 202-E is enacted to read:

CHAPTER 202-E

TRUTH IN MUSIC ADVERTISING

§ 1156. Short title

This chapter is known and may be cited as "the Truth in Music Advertising Act."

§ 1157. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

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

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

3. Sound recording. "Sound recording" means a work that results from the fixation on a material object of a series of musical, spoken or other sounds regardless of the nature of the material object, such as a disc, tape or other phonorecord, in which the sounds are embodied.

§ 1158. Production

A person may not advertise or conduct a live musical performance or production in this State through the use of a false, deceptive or misleading affiliation, connection or association between a performing group and a recording group unless:

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

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

3. Salute or tribute. The live musical performance or production is identified in all advertising and promotion as a salute or tribute and the name of the performing group is not so closely related or similar to the name used by the recording group that it would tend to confuse or mislead the public; and

4. Expressly authorized. The performance or production is expressly authorized by the recording group.

§ 1159. Restraining prohibited acts

1. Injunction. Whenever the Attorney General or a district attorney has reason to believe that a person is advertising or conducting or is about to advertise or conduct a live musical performance or production in violation of section 1158 and that proceedings would be in the public interest, the Attorney General or district attorney may bring an action in the name of the State against the person to restrain that practice by temporary or permanent injunction.

2. Payment of costs and restitution. Whenever any court issues a permanent injunction to restrain and prevent violations of this chapter as authorized in subsection 1, the court may in its discretion direct that the defendant restore to any person in interest any money or property, real or personal, that has been acquired by means of any violation of this chapter, under terms and conditions to be established by the court.

§ 1160. Penalty

In addition to any other relief that may be granted under section 1159, a person who violates section 1158 commits a civil violation for which a fine of not less than \$5,000 nor more than \$15,000 per violation may be adjudged. Each performance or production advertised or conducted in violation of section 1158 constitutes a separate violation.

SUMMARY

This bill, which is based on Pennsylvania law, prohibits musical groups from advertising or conducting performances using false or misleading connections with other musical groups. Under the bill, imitators could face fines of \$5,000 to \$15,000, in addition to being required to make restitution.