

## Committee Substitute for Senate Bill No. 426

An act relating to false, deceptive, or misleading advertising; creating s. 817.4115, F.S.; defining the terms “performing person or group” and “recording person or group”; prohibiting a person, in advertising or conducting a live musical performance, from using a false, deceptive, or misleading statement of an affiliation, connection, or association between a performing person or group and a recording person or group; providing exceptions; providing that a violation of the act is a misdemeanor of the first degree; providing criminal penalties; authorizing the Department of Legal Affairs or state attorney to file a civil action for injunctive relief against any person or group violating the act; providing for the prevailing party to receive court costs and attorney’s fees; authorizing a court to impose a civil penalty for each violation of the act; providing an effective date.

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

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

817.4115 False, deceptive, or misleading advertisement of live musical performances.—

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

(a) “Performing person or group” means a vocal or instrumental performer using or attempting to use the name of a recording person or group.

(b) “Recording person or group” means a vocal or instrumental performer that has previously produced or released, or both, a commercial recording.

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

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

(3) An advertisement or the conducting of a live musical performance or production does not violate subsection (2) if:

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

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

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

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

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

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

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

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

Approved by the Governor June 15, 2007.

Filed in Office Secretary of State June 15, 2007.