

CHAPTER 88

AN ACT concerning certain deceptive practices in the advertising or conducting of certain musical performances and supplementing Title 2A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.2A:32B-1 Definitions relative to deceptive practices in musical performances.

1. As used in this act:

"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.

"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 or members have a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group.

"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 disk, tape or other phono-record, in which the sounds are embodied.

C.2A:32B-2 Conditions for advertising or conducting a live musical performance.

2. A person shall not advertise or conduct a live musical performance or production through the use of an affiliation, connection or association between the performing group and the recording group unless:

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

b. 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 of affiliation of the group; or

c. The live musical performance or production is identified in all advertising and promotion as a salute or tribute; or

d. The advertising does not relate to a live musical performance or production taking place in this State; or

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

C.2A:32B-3 Violations, enforcement, penalties.

3. a. A person who violates the provisions of section 2 of this act shall be subject to a civil action brought by a party in the Superior Court or any other court of competent jurisdiction:

(1) for appropriate legal and equitable relief, including injunctive relief, and for treble damages, reasonable attorney's fees, filing fees, and costs for the injured party; and

(2) additionally, for a civil penalty of:

(a) not more than \$10,000 for the first offense; and

(b) not more than \$20,000 for the second and each subsequent offense.

b. The civil penalty prescribed by paragraph (2) of subsection a. of this section shall be collected and enforced by summary proceedings pursuant to the provisions of the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

c. A violation of the provisions of section 2 of this act shall also be an unlawful practice in violation of P.L.1960, c.39 (C.56:8-1 et seq.), and subject the violator to all available State or private actions, remedies, damages, and penalties under that act, including, but not limited to, the Attorney General seeking and obtaining an injunction pursuant to section 8 of

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P.L.1960, c.39 (C.56:8-8) and the assessment of a civil penalty pursuant to section 1 of P.L.1966, c.39 (C.56:8-13).

4. This act shall take effect immediately.

Approved May 4, 2007.