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# A BILL FOR AN ACT

RELATING TO MUSICAL PERFORMANCES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that over thirty states  
2 have passed Truth in Music Advertising laws, and other states  
3 utilize general "deceptive acts" or consumer protection laws to  
4 prevent cover bands and imposter performers from  
5 misappropriating the intellectual property of other artists.  
6 These laws are also useful in enabling authorities, and in some  
7 cases individuals, to take action against performers who engage  
8 in deceptive advertising.

9           The purpose of this Act is to adopt provisions of the model  
10 Truth in Music Advertising law to provide protections for  
11 Hawaii's performing artists and to protect the public from  
12 deceptive acts by:

13           (1) Prohibiting a person from advertising or conducting a  
14 live musical performance through the use of false,  
15 deceptive, or misleading affiliation, connection, or  
16 association with a performing group; and



1 (2) Allowing a court to grant restitution to aggrieved  
2 parties.

3 SECTION 2. The Hawaii Revised Statutes is amended by  
4 adding a new chapter to be appropriately designated and to read  
5 as follows:

6 "CHAPTER

7 RELATING TO THE ADVERTISING OF LIVE MUSICAL PERFORMANCES

8 § -1 Short title. This chapter may be cited as the  
9 Hawaii Truth in Music Advertising Act.

10 § -2 Definitions. As used in this chapter, unless the  
11 context clearly requires otherwise:

12 "Performing group" means a vocal or instrumental group of  
13 one or more members that intends to advertise or perform under  
14 the name of a recording group or a name substantially similar to  
15 a recording group.

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



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

6 § -3 **Prohibited acts.** A person may not advertise or  
7 conduct a live musical performance or production in this State  
8 through the use of a false, deceptive or misleading affiliation,  
9 connection, or association between a performing group and a  
10 recording group. This section does not apply if:

- 11 (1) The performing group is the authorized registrant and  
12 owner of a federal service mark for the recording  
13 group that is registered in the United States;
- 14 (2) At least one member of the performing group was a  
15 member of the recording group and that member has a  
16 legal right to use or operate under the name of the  
17 recording group without having abandoned the name or  
18 affiliation with the recording group;
- 19 (3) The live musical performance or production is  
20 identified in all advertising and promotion as a  
21 salute or tribute and the name of the performing group



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

4 (4) The advertising does not relate to a live musical  
5 performance or production taking place in, or streamed  
6 or broadcast into, this State; or

7 (5) The performance or production is expressly authorized  
8 by the recording group.

9 § -4 **Enforcement.** (a) Each performance or production  
10 in violation of section -3 constitutes a separate violation  
11 and shall be treated as an unfair or deceptive act or practice  
12 under section 480-2.

13 (b) If the attorney general has reason to believe that a  
14 person is advertising or conducting, or intends to advertise or  
15 conduct, a live musical performance or production in violation  
16 of section -3, the attorney general may bring an action in  
17 the name of the State against the person to restrain the  
18 violation by temporary or permanent injunction.

19 (c) When a court issues a permanent injunction to restrain  
20 and prevent a violation of section -3, the court may make  
21 additional orders or judgments as necessary to restore money or



1 other property that may have been acquired because of a  
2 violation of section -3.

3 § -5 Private right of action. Any party, or assignee,  
4 authorized agent, or licensee of that party, who is injured as a  
5 result of the person's violation of section -3 may bring a  
6 civil action for appropriate legal and equitable relief,  
7 including injunctive relief, and for treble damages, reasonable  
8 attorney's fees, filing fees, and costs for the injured party."

9 SECTION 3. This Act shall take effect upon its approval.



**Report Title:**

Truth in Music Advertising Act; Deceptive Advertising; Musical Performance; Right of Action; Musical Production

**Description:**

Prohibits a person from advertising or conducting a live musical performance or production through the use of a deceptive affiliation under certain conditions. Enables action against deceptive practices by imposing penalties and private right of action. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

