



House of Representatives

General Assembly

File No. 224

February Session, 2006

House Bill No. 5801

House of Representatives, March 29, 2006

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING TRUTH IN MUSIC ADVERTISING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective July 1, 2006*) (a) As used in this section:
- 2 (1) "Performing group" means a vocal or instrumental group
3 seeking to use the name of another vocal or instrumental group that
4 has previously released a commercial sound recording under that
5 name;
- 6 (2) "Recording group" means a vocal or instrumental group at least
7 one of whose members has previously released a commercial sound
8 recording under that group's name and in which the member or
9 members have a legal right by virtue of use or operation under the
10 group name without having abandoned the name or affiliation with
11 the group;
- 12 (3) "Sound recording" means a work that results from the fixation on
13 a material object of a series of musical, spoken or other sounds,

14 regardless of the nature of the material object, such as a disk, tape,
15 phonograph record or other media, in which the sounds are embodied.

16 (b) No person may advertise or conduct a live musical performance
17 or production in this state through the use of a false, deceptive or
18 misleading affiliation, connection or association between a performing
19 group and a recording group. This subsection shall not apply if any of
20 the following apply:

21 (1) The performing group is the authorized registrant and owner of
22 a federal service mark for that group registered in the United States
23 Patent and Trademark Office;

24 (2) At least one member of the performing group was a member of
25 the recording group and has a legal right by virtue of use or operation
26 under the group name without having abandoned the name or
27 affiliation with the group;

28 (3) The live musical performance or production is identified in all
29 advertising and promotion as a salute or tribute;

30 (4) The advertising does not relate to a live musical performance or
31 production taking place in this state; or

32 (5) The performance or production is expressly authorized by the
33 recording group.

34 (c) If the Attorney General has reason to believe that any person is
35 advertising or conducting, or is about to advertise or conduct, a live
36 musical performance or production in violation of subsection (b) of
37 this section and that action against such person would be in the public
38 interest, the Attorney General may seek a temporary or permanent
39 injunction to restrain such advertising or conduct.

40 (d) If a court issues a permanent injunction pursuant to subsection
41 (c) of this section, the court may, in its discretion, direct that the person
42 subject to the injunction restore to any person in interest any moneys
43 or property, real or personal, which may have been acquired by means

44 of any violation of subsection (b) of this section, subject to the terms
45 and conditions established by the court.

46 (e) Any person who violates subsection (b) of this section shall be
47 subject to a civil penalty of not less than five thousand dollars nor
48 more than fifteen thousand dollars per violation, which shall be in
49 addition to any other relief which may be granted under subsection (d)
50 of this section. Each performance or production prohibited under
51 subsection (b) of this section shall constitute a separate violation.

| | | |
|---|--------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | July 1, 2006 | New section |

JUD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 07 \$ | FY 08 \$ |
|------------------|-------------------|-----------|-----------|
| Attorney General | GF - Revenue Gain | Potential | Potential |

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill permits the Attorney General to bring civil actions in Superior Court to impose civil penalties on any person(s) he believes are in violation of the bill’s provisions. As the bill is permissive, it is anticipated that the Office of the Attorney General could accommodate any workload increase without requiring additional resources.

The Out Years

State Impact:

| Agency Affected | Fund-Effect | FY 09 \$ | FY 10 \$ | FY 11 \$ |
|------------------|-------------------|-----------|-----------|-----------|
| Attorney General | GF - Revenue Gain | Potential | Potential | Potential |

Note: GF=General Fund

Municipal Impact: None

OLR Bill Analysis**HB 5801*****AN ACT CONCERNING TRUTH IN MUSIC ADVERTISING.*****SUMMARY:**

This bill prohibits someone from advertising or conducting a live musical performance or production in Connecticut using a false, deceptive, or misleading association between a performing group and a recording group. The prohibition does not apply when:

1. the performing group owns the federal service mark registered with the U.S. Patent and Trademark Office,
2. at least one member of the performing group was a member of the recording group and has a legal right by use or operation under the group name without having abandoned it or affiliation with the group,
3. the live musical performance or production is identified in all advertising and promotion as a salute or tribute,
4. the advertising is not for a live musical performance or production in Connecticut, or
5. the recording group expressly authorizes the performance or production.

The bill authorizes the attorney general to seek a temporary or permanent injunction to stop advertisements, performances, or productions if he believes (1) a person is or is about to advertise or conduct a live musical performance or production in violation of the bill's provisions and (2) it is in the public interest. If the court issues a permanent injunction against someone, it can direct him, under terms

and conditions it sets, to restore money or property acquired by violating the bill's provisions to any interested person.

The bill also subjects violators to a civil penalty of between \$5,000 and \$15,000 per violation, and each performance or production is a separate violation.

EFFECTIVE DATE: July 1, 2006

DEFINITIONS

The bill defines a "performing group" as a vocal or instrumental group seeking to use the name of another group that previously released a commercial sound recording under that name.

A "recording group" is a vocal or instrumental group with at least one member that previously released a commercial sound recording under the group's name and in which the member or members have a legal right from using or operating under the group name without abandoning the group name or affiliation.

A "sound recording" is a work resulting from fixing a series of musical, spoken, or other sounds on a material object, regardless of the nature of the material object in which the sounds are embodied (such as a disk, tape, phonograph record, or other media).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 36 Nay 0 (03/17/2006)