

2007 Senate Bill 133

Date of enactment: **July 2, 2007**
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2007 WISCONSIN ACT 15

AN ACT to create 100.185 of the statutes; relating to: fraud in advertising of musical performances and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 100.185 of the statutes is created to read:

100.185 Fraud, advertising musical performances. (1) DEFINITIONS. In this section:

(a) "Performing group" means a vocal or instrumental group that intends to advertise or perform under the name of a recording group.

(b) "Recording group" means a vocal or instrumental group to whom all of the following apply:

1. At least one member of the group has released a commercial sound recording under the name of a group.

2. The member identified in subd. 1. has a right by virtue of use or operation to perform under the name of the group that released the commercial sound recording, and the member has not abandoned the recording group's name or the member's affiliation with the group that released the commercial sound recording.

(c) "Sound recording" means a work that results from the fixation of a series of musical, spoken, or other sounds on a material object, including a disc, tape, or other phonorecord.

(2) **PRODUCTION.** No person may 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. For purposes of this sub-

section, an advertisement, production, or performance is not false, deceptive, or misleading if any of the following applies:

(a) The performing group is the authorized registrant and owner of a service mark for that group registered in the U.S. patent and trademark office.

(b) At least one member of the performing group was a member of the recording group.

(c) 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 of the recording group as to be misleading or confusing to a reasonable person.

(d) The performance or production is expressly authorized by the recording group.

(3) **ENFORCEMENT.** (a) If the attorney general or a district attorney has reason to believe that a person is advertising or conducting or intends to advertise or conduct a live musical performance or production in violation of sub. (2), the attorney general or district attorney may bring an action in the name of the state against the person to restrain the violation by temporary or permanent injunction. If a court issues a permanent injunction against a violation of this section by a defendant, the court may also order the defendant to pay to a person injured by the violation any amounts or property the defendant obtained as a result of the violation.

* Section 991.11, WISCONSIN STATUTES 2005-06 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(b) A court may require a person who violates sub. (2) to forfeit an amount not less than \$5,000 nor more than \$15,000 per violation. Each performance or production in violation of sub. (2) constitutes a separate violation.

SECTION 2. Effective date.

(1) This act takes effect on the first day of the 2nd month beginning after the effective date of this subsection.
