

2007 DRAFTING REQUEST

Bill

Received: 03/15/2007

Received By: csundber

Wanted: As time permits

Identical to LRB: 1623/2

For: Spencer Coggs (608) 266-2500

By/Representing: Dave De Felice

This file may be shown to any legislator: NO

Drafter: csundber

May Contact:

Addl. Drafters:

Subject: Trade Regulation - other

Extra Copies:

Submit via email: YES

Requester's email: Sen.Coggs@legis.wisconsin.gov

Carbon copy (CC:) to: christopher.sundberg@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Truth in music advertising

Instructions:

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	csundber 03/15/2007	lkunkel 03/15/2007		_____			
/1			sherritz 03/15/2007	_____	mbarman 03/15/2007	cduerst 04/02/2007	

FE Sent For:

none

<END>

2007 DRAFTING REQUEST

Bill

Received: **03/15/2007**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB: **1623/2**

For: **Spencer Coggs (608) 266-2500**

By/Representing: **Dave De Felice**

This file may be shown to any legislator: **NO**

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - other**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Coggs@legis.wisconsin.gov**

Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Truth in music advertising

Instructions:

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	csundber 03/15/2007	lkunkel 03/15/2007		_____			
/1			sherritz 03/15/2007	_____	mbarman 03/15/2007		

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: 03/15/2007

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB: **1623/2**

For: **Spencer Coggs (608) 266-2500**

By/Representing: **Dave De Felice**

This file may be shown to any legislator: **NO**

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - other**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Coggs@legis.wisconsin.gov**

Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Truth in music advertising

Instructions:

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	csundber	A/mk 3/15	dh 3/15	dh <u>3/15</u>			

FE Sent For:

<END>

In: 3/15/07
Wanted: Fri AM, if possible

2246/1
LRB-1623/2
CTS:lmkjjf
RAMR
Keep

2007 BILL

d-note

Rosen ✓+

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

Analysis by the Legislative Reference Bureau

This bill prohibits advertising or conducting a live musical performance or production using a false, deceptive, or misleading connection between the group that is to perform ("performing group") and a group that has released a recording using the group name ("recording group"). Under the bill, an advertisement, production, or performance is not false, deceptive, or misleading if any of the following are true: 1) the performing group is the registrant and owner of a service mark for the group; 2) at least one member of the performing group was a member of the recording group; 3) the performance or production is identified as a salute or tribute; or 4) the recording group has expressly authorized the performance.

The provisions of the bill are enforced by the district attorney or attorney general through an action for injunctive relief. Also under the bill, a court may impose a forfeiture of \$5,000 to \$15,000 per violation.

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

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

4 **100.185 Fraud, advertising musical performances. (1) DEFINITIONS.** In
5 this section:

BILL

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

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

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

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

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

14 **(2) PRODUCTION.** No person may advertise or conduct a live musical
15 performance or production in this state through the use of a false, deceptive, or
16 misleading affiliation, connection, or association between a performing group and a
17 recording group. For purposes of this subsection, an advertisement, production, or
18 performance is not false, deceptive, or misleading if any of the following applies:

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

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

23 (c) The live musical performance or production is identified in all advertising
24 and promotion as a salute or tribute and the name of the performing group is not so

BILL

1 closely related or similar to the name of the recording group as to be misleading or
2 confusing to a reasonable person.

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

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

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

16 **SECTION 2. Effective date.**

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

19

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2246/1dn

CTS:.....

mk

(date)

Senator Coggs:

✓
This draft is identical to LRB-1623/2.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail:
christopher.sundberg@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2246/1dn
CTS:lmk:sh

March 15, 2007

Senator Coggs:

This draft is identical to LRB-1623/2.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail:
christopher.sundberg@legis.wisconsin.gov

Duerst, Christina

From: de Felice, David Patrick
Sent: Monday, April 02, 2007 2:58 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-2246/1 Topic: Truth in music advertising

Please Jacket LRB 07-2246/1 for the SENATE.

Dave de Felice
Office of Sen. Coggs
608-266-2500 phone
608-282-3546 fax