

A bill for an act
relating to commerce; regulating the advertising and conducting of certain live
musical performances or productions; providing enforcement; imposing a
penalty; proposing coding for new law in Minnesota Statutes, chapter 325E.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[325E.49] SHORT TITLE.**

Sections 325E.49 to 325E.494 shall be known and may be cited as the Truth in
Music Advertising Act.

Sec. 2. **[325E.491] DEFINITIONS.**

Subdivision 1. **Terms.** For the purposes of sections 325E.492 to 325E.494, the terms
defined in this section have the meanings given.

Subd. 2. **Performing group.** "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.

Subd. 3. **Recording group.** "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.

Subd. 4. **Sound recording.** "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.

Sec. 3. **[325E.492] PRODUCTION.**

It shall be unlawful for any person to 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. This section does not apply if any of the following apply:

(1) the performing group is the authorized registrant and owner of a federal service mark for that group registered in the United States 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 virtue of use or operation under the group name without having abandoned the name 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 does not relate to a live musical performance or production taking place in this state; or

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

Sec. 4. **[325E.493] RESTRAINING PROHIBITED ACTS.**

Subdivision 1. **Injunction.** Whenever the attorney general or a county attorney has reason to believe that any person is advertising or conducting or is about to advertise or conduct a live musical performance or production in violation of section 325E.492 and that proceedings would be in the public interest, the attorney general or county attorney may bring an action in the name of the state against the person to restrain that practice by temporary or permanent injunction.

Subd. 2. **Payment of costs and restitution.** Whenever any court issues a permanent injunction to restrain and prevent violations of section 325E.492 as authorized in subdivision 1, the court may, in its discretion, direct that the defendant restore to any person in interest any money or property, real or personal, that may have been acquired by means of any violation of sections 325E.49 to 325E.494, under terms and conditions to be established by the court.

Sec. 5. **[325E.494] CIVIL PENALTY.**

A person who violates section 325E.492 is liable to the state for a civil penalty of not less than \$5,000 nor more than \$15,000 per violation. This civil penalty is in addition to any other relief that may be granted under section 325E.493. Each performance or production declared unlawful by section 325E.492 constitutes a separate violation.