

FIRST REGULAR SESSION

HOUSE BILL NO. 399

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WALTON (Sponsor), WOOD, DAY, MOORE, CURLS,
ROORDA, AULL, YAEGER, SWINGER, HARRIS (110) AND SCHIEFFER (Co-sponsors).

Read 1st time January 11, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

0053L.01I

AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to false or deceptive business practices.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be
2 known as section 407.309, to read as follows:

407.309. 1. As used in this section, the following terms mean:

2 **(1) "Performing group", a vocal or instrumental group seeking to use the name of**
3 **another group that has previously released a commercial sound recording under that**
4 **name;**

5 **(2) "Recording group", a vocal or instrumental group at least one of whose**
6 **members has previously released a commercial sound recording under that group's name**
7 **and in which the member or members have a legal right by virtue of use or operation**
8 **under the group name without having abandoned the name or affiliation with the group;**

9 **(3) "Sound recording", a work that results from the fixation on a material object**
10 **of a series of musical, spoken, or other sounds regardless of the nature of the material**
11 **object, such as a disk, tape, or other phono-record, in which the sounds are embodied.**

12 **2. It shall be unlawful for any person to advertise or conduct a live musical**
13 **performance or production in this state through the use of a false, deceptive, or misleading**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 **affiliation, connection, or association between the performing group and the recording**
15 **group. This section shall not apply if:**

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

18 **(2) At least one member of the performing group was a member of the recording**
19 **group and has a legal right by virtue of use or operation under the group name without**
20 **having abandoned the name or affiliation with the group;**

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

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

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

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