

RCW 19.25.100 Truth in music advertising. (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "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.

(b) "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.

(c) "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 phonorecord, in which the sounds are embodied.

(2) A person shall not advertise or conduct a live musical performance or production through the use of a false, deceptive, or misleading affiliation, connection, or association between a performing group and a recording group unless any of the following apply:

(a) The performing group is the authorized registrant and owner of a federal service mark for the group registered in the United States patent and trademark office;

(b) At least one member of the performing group was previously 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 of the group;

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

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

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

(3) (a) A person who violates this section is subject to a civil penalty not less than five thousand dollars or more than fifteen thousand dollars per violation. An action for a civil penalty may be brought by the attorney general or a county or city prosecutor and is enforceable as a civil judgment.

(b) A person who violates this section is subject to the equitable remedies described in chapter 19.86 RCW.

(c) Each performance or production declared unlawful under subsection (2) of this section constitutes a separate violation.

(d) This section does not preclude prosecution of a violation of this section under any other provision of law. [2009 c 109 s 1.]

Short title—2009 c 109: "This act may be known and cited as the truth in music advertising act." [2009 c 109 s 2.]