**South Carolina General Assembly**

118th Session, 2009-2010

**H. 4829**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. G.A. Brown

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Introduced in the House on April 14, 2010

Introduced in the Senate on May 26, 2010

Currently residing in the Senate Committee on **Judiciary**

Summary: Advertising

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/14/2010 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2010\04-14-10.docx)‑15

4/14/2010 House Referred to Committee on **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2010\04-14-10.docx)‑15

5/13/2010 House Committee report: Favorable **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2010\05-13-10.docx)‑3

5/25/2010 House Read second time [HJ](file:///h:\HJ%20Archive\2010\05-25-10.docx)‑36

5/26/2010 House Read third time and sent to Senate [HJ](file:///h:\HJ%20Archive\2010\05-26-10.docx)‑15

5/26/2010 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2010\05-26-10.docx)‑7

5/26/2010 Senate Referred to Committee on **Judiciary** [SJ](file:///h:\SJ%20Archive\2010\05-26-10.docx)‑7

**VERSIONS OF THIS BILL**

[4/14/2010](file:///p:\pprever\2009-10\4829_20100414.docx)

[5/13/2010](file:///p:\pprever\2009-10\4829_20100513.docx)

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Indicates New Matter

COMMITTEE REPORT

May 13, 2010

**H. 4829**

Introduced by Rep. G.A. Brown

S. Printed 5/13/10--H.

Read the first time April 14, 2010.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 4829) to amend Section 39‑5‑38, Code of Laws of South Carolina, 1976, relating to deceptive or misleading advertisement of a live musical performance, so as to define, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

WILLIAM E. SANDIFER for Committee.

**A** **BILL**

TO AMEND SECTION 39‑5‑38, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DECEPTIVE OR MISLEADING ADVERTISEMENT OF A LIVE MUSICAL PERFORMANCE, SO AS TO DEFINE A SOUND RECORDING, AND TO PROVIDE CERTAIN EXEMPTIONS, REMEDIES, AND A FINE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 39‑5‑38 of the 1976 Code, as added by Act 204 of 2004, is amended to read:

“Section 39‑5‑38. (A) For purposes of this section:

(1) ‘performing person or group’ means a vocal or instrumental performer seeking to use the name of another person or group that has previously produced or released, or both, a commercial recording;  ~~and~~

(2) ‘recording person or group’ means a vocal or instrumental performer that has previously produced or released, or both, a commercial recording~~.~~; and

(3) ‘sound recording’ means the fixation of a series of musical, spoken, or other sounds on a material object such as a disk, tape, or other phono‑record on which the sounds are embodied.

(B) It is an unlawful trade practice pursuant to Section 39‑5‑20 to advertise a live musical performance or production in South Carolina through the use of a false, deceptive, or misleading affiliation, connection, or association between the performing person or group with a recording person or group.

(C) The advertisement of a live musical performance does not violate subsection (B) if the:

(1) performing person or at least one member of the performing group was a member of the recording person or group and has a legal right by virtue of use or operation under the group name without having abandoned the name of affiliation with the group;

(2) live musical performance or production is identified as a ‘salute’ or ‘tribute’ to, and is otherwise unaffiliated with, the recording person or group;

(3) advertising does not relate to a live musical performance taking place in South Carolina; ~~or~~

(4) performance is expressly authorized in the advertising by the recording person or group; or

(5) performing group is the authorized registrant and owner of a federal service mark for that group and registered in the United States Patent and Trademark Office.

(D)(1) The State may bring a temporary or permanent injunction for a violation or attempted violation of this chapter where the State believes an injunction would best serve the public interest.

(2) A court of this State that issues a permanent injunction to restrain and prevent a violation of this section may order the enjoined party to restore to its legal owner money or property to the enjoined party acquired through a violation of this section.

(E) A person who violates a provision of this section is subject to a penalty of at least five thousand dollars and not more than fifteen thousand dollars for each violation.”

SECTION 2. This act takes effect upon approval by the Governor.

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