

# SENATE BILL 711

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By: **Senator Lenett**

Introduced and read first time: February 1, 2008

Assigned to: Finance

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Committee Report: Favorable

Senate action: Adopted with floor amendments

Read second time: March 5, 2008

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

### 2 **Truth in Music Advertising Act**

3 FOR the purpose of prohibiting a person from advertising or conducting a live musical  
4 performance or production in the State through the use of a false, deceptive, or  
5 misleading affiliation, connection, or association between a performing group  
6 and a recording group; providing for certain exceptions; authorizing the  
7 Attorney General to seek an injunction to prohibit a person from continuing or  
8 engaging in a violation under certain circumstances; authorizing a court to  
9 enter a judgment to restore to certain persons any money or real or personal  
10 property acquired by means of any prohibited practice; providing that a person  
11 who violates this Act is subject to a certain civil penalty; providing that each  
12 performance or production in violation of this Act is a separate violation;  
13 defining certain terms; and generally relating to the Truth in Music Advertising  
14 Act.

15 BY adding to

16 Article – Commercial Law

17 Section 11–1501 through 11–1504 to be under the new subtitle “Subtitle 15.

18 Truth in Music Advertising Act”

19 Annotated Code of Maryland

20 (2005 Replacement Volume and 2007 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That the Laws of Maryland read as follows:

### 23 **Article – Commercial Law**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1                   **SUBTITLE 15. TRUTH IN MUSIC ADVERTISING ACT.**

2   **11-1501.**

3           (A)   **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
4   **INDICATED.**

5           (B)   **“PERFORMING GROUP” MEANS A VOCAL OR INSTRUMENTAL GROUP**  
6   **SEEKING TO USE THE NAME OF A RECORDING GROUP.**

7           (C)   **“RECORDING GROUP” MEANS A VOCAL OR INSTRUMENTAL GROUP**  
8   **WITH AT LEAST ONE MEMBER WHO HAS:**

9                   (1)   **PREVIOUSLY RELEASED A COMMERCIAL SOUND RECORDING**  
10   **UNDER THAT GROUP’S NAME; AND**

11                   (2)   **A LEGAL RIGHT TO USE THE GROUP’S NAME DUE TO THE**  
12   **MEMBER’S USE OF OR OPERATION UNDER THE GROUP’S NAME WITHOUT HAVING**  
13   **ABANDONED THE NAME OR AFFILIATION WITH THE GROUP.**

14           (D)   **“SOUND RECORDING” MEANS A WORK THAT RESULTS FROM THE**  
15   **FIXATION ON A MATERIAL OBJECT OF A SERIES OF MUSICAL, SPOKEN, OR**  
16   **OTHER SOUNDS REGARDLESS OF THE NATURE OF THE MATERIAL OBJECT, SUCH**  
17   **AS A DISK, TAPE, OR OTHER PHONORECORD, IN WHICH THE SOUNDS ARE**  
18   **EMBODIED.**

19   **11-1502.**

20           (A)   **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A**  
21   **PERSON MAY NOT ADVERTISE OR CONDUCT A LIVE MUSICAL PERFORMANCE OR**  
22   **PRODUCTION IN THE STATE THROUGH THE USE OF A FALSE, DECEPTIVE, OR**  
23   **MISLEADING AFFILIATION, CONNECTION, OR ASSOCIATION BETWEEN A**  
24   **PERFORMING GROUP AND A RECORDING GROUP.**

25           (B)   **SUBSECTION (A) OF THIS SECTION DOES NOT APPLY IF:**

26                   (1)   **THE PERFORMING GROUP IS THE AUTHORIZED REGISTRANT**  
27   **AND OWNER OF A SERVICE MARK FOR THAT GROUP THAT IS REGISTERED WITH**  
28   **THE UNITED STATES PATENT AND TRADEMARK OFFICE;**

29                   (2)   **AT LEAST ONE MEMBER OF THE PERFORMING GROUP WAS A**  
30   **MEMBER OF THE RECORDING GROUP AND THE MEMBER HAS A LEGAL RIGHT TO**  
31   **THE RECORDING GROUP NAME DUE TO THE MEMBER’S USE OF OR OPERATION**

1 UNDER THE GROUP NAME WITHOUT HAVING ABANDONED THE RECORDING  
2 GROUP NAME OR AFFILIATION WITH THE RECORDING GROUP;

3 (3) THE LIVE MUSICAL PERFORMANCE OR PRODUCTION IS  
4 IDENTIFIED IN ALL ADVERTISING AND PROMOTION AS A SALUTE ~~OR~~, TRIBUTE,  
5 PARODY, OR SATIRE AND THE PERFORMING GROUP NAME IS NOT SO CLOSELY  
6 RELATED OR SIMILAR TO THAT USED BY THE RECORDING GROUP THAT IT  
7 WOULD TEND TO CONFUSE OR MISLEAD THE PUBLIC;

8 (4) THE ADVERTISING DOES NOT RELATE TO A LIVE MUSICAL  
9 PERFORMANCE OR PRODUCTION IN THE STATE; OR

10 (5) THE PERFORMANCE OR PRODUCTION IS EXPRESSLY  
11 AUTHORIZED BY THE RECORDING GROUP.

12 **11-1503.**

13 (A) IF THE ATTORNEY GENERAL BELIEVES THAT A PERSON HAS  
14 ENGAGED IN OR WILL ENGAGE IN A VIOLATION OF § 11-1502 OF THIS SUBTITLE,  
15 AND AN INJUNCTION WOULD BE IN THE PUBLIC INTEREST, THE ATTORNEY  
16 GENERAL MAY SEEK AN INJUNCTION TO PROHIBIT A PERSON FROM  
17 CONTINUING OR ENGAGING IN THE VIOLATION.

18 (B) IF A COURT ISSUES A PERMANENT INJUNCTION UNDER SUBSECTION  
19 (A) OF THIS SECTION, THE COURT MAY ENTER A JUDGMENT TO RESTORE TO A  
20 PERSON ANY MONEY OR REAL OR PERSONAL PROPERTY ACQUIRED FROM THE  
21 PERSON BY MEANS OF ANY PROHIBITED PRACTICE.

22 (C) (1) IN ADDITION TO ANY RELIEF GRANTED UNDER SUBSECTION  
23 (B) OF THIS SECTION, A PERSON WHO VIOLATES § 11-1502 OF THIS SUBTITLE IS  
24 SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN \$5,000 OR MORE THAN  
25 \$15,000 FOR EACH VIOLATION.

26 (2) EACH PERFORMANCE OR PRODUCTION IN VIOLATION OF §  
27 11-1502 OF THIS SUBTITLE IS CONSIDERED A SEPARATE VIOLATION.

28 **11-1504.**

29 THIS SUBTITLE MAY BE CITED AS THE "TRUTH IN MUSIC ADVERTISING  
30 ACT".

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2008.