

BILL ANALYSIS

Senate Research Center

H.B. 54
By: Chavez et al. (Deuell)
Business & Commerce
5/4/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Some copycat musical groups are advertising themselves as a bigger-named group and undercutting the real groups' ability to perform.

H.B. 54 prohibits advertising the live performance of a musical group unless an original member is performing, the group in question holds the original group's federal service mark, each member of the original group authorizes it, the performance takes place out of state, or it is identified as a salute or tribute. This bill authorizes the attorney general and local district attorneys to prosecute violators and impose a fine of \$5,000 to \$15,000 for each offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 17, Business and Commerce Code, by adding Subchapter J, as follows:

SUBCHAPTER J. PROTECTION FROM MISLEADING OR DECEPTIVE LIVE MUSICAL PERFORMANCES

Sec. 17.901. DEFINITIONS. Defines "performing musical group," "recording group," and "sound recording."

Sec. 17.902. UNAUTHORIZED ADVERTISEMENT, PROMOTION, OR CONDUCTION OF CERTAIN LIVE MUSICAL PERFORMANCES. Prohibits a person from advertising, promoting, or conducting a live musical performance (performance) in Texas through use of an otherwise misleading or deceptive connection between an individual artist or group with established rights to certain material (recording group) and an artist or group other than the recording group performing said material (performing musical group). Provides that an act is not considered a violation of this section under certain specified conditions.

Sec. 17.903. INJUNCTION; RESTITUTION. Authorizes the attorney general to bring an action in the name of the state, if such a proceeding would be in the public interest, for an injunction against a person who has violated or will violate the rules regarding misleading or deceptive performances under this subchapter. Authorizes the prosecuting attorney in the county in which a violation of Section 17.902 occurs, with prior written notice to the attorney general, to seek injunctive relief. Requires the prosecuting attorney to make a full report to the attorney general regarding any action prosecuted under this section. Requires the report to include a statement regarding the final decision. Authorizes a court to make additional orders or judgments as necessary to restore money or property that may have been acquired by a performing musical group because of a violation of this subchapter.

Sec. 17.904. CIVIL PENALTY. Provides that a person who violates Section 17.902 is liable to the state for a civil penalty of not less than \$5,000 or more than \$15,000 per violation. Provides that each performance that violates Section 17.902 is considered a

separate violation. Authorizes the attorney general or prosecuting attorney to bring suit to recover the civil penalty imposed in this section. Provides that the civil penalty is in addition to injunctive relief or any other remedy authorized under Section 17.903.

SECTION 2. Effective date: September 1, 2007.