HOUSE FILE 2527
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2304)

(As Amended and Passed by the House March 11, 2020)

[= New Language by the House

* = Language Stricken by the House

A BILL FOR

*1 [An Act relating to the exhibition of music, including
2 the practices of performing rights societies and the
3 advertising, promoting, and conducting of certain live
4 musical performances, and making penalties applicable.]
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 549.3, subsection 1, Code 2020, is amended to read as follows:

1. A performing rights society shall not enter onto the business premises of a proprietor for the purpose of discussing a contract for the payment of royalties by the proprietor~~,~~ unless ~~the performing rights society identifies itself to the proprietor and describes to the proprietor the purpose for entering onto the proprietor's business premises~~ the performing rights society first makes an appointment to meet with the proprietor at the business premises during normal business hours. Upon entering onto the business premises, the performing rights society shall clearly identify itself to the proprietor and describe to the proprietor the purpose for entering onto the business premises.

Sec. 2. Section 549.5, Code 2020, is amended to read as follows:

549.5 Improper licensing practices.

A performing rights society shall not do any of the following:

1. ~~A performing rights society shall not collect,~~ Collect or attempt to collect~~,~~ from a proprietor licensed by that performing rights society, a royalty payment except as provided in a contract executed pursuant to the provisions of this chapter.

2. Make a misleading or threatening verbal or written communication to a proprietor in connection with a contract for the payment of royalties or an attempt to collect royalties.

3. State or imply in a verbal or written communication with a proprietor that the performing rights society is an agent or representative of a public body, regulatory agency, or law enforcement agency.

Sec. 3. Section 549.7, Code 2020, is amended to read as follows:

549.7 Remedies — injunction.

A person who suffers a violation of this chapter may bring

an action to recover reasonable attorney fees and the greater of two thousand five hundred dollars or actual damages ~~and reasonable attorney fees and to seek an injunction or any other available remedy~~. A person who suffers a violation of this chapter may also seek an injunction or any other available remedy.]

Sec. 4. NEW SECTION. **549A.1 Title.**

This chapter shall be known and may be cited as the "*Truth in Music Advertising Act*".

Sec. 5. NEW SECTION. **549A.2 Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "*Performing group*" means a vocal or instrumental group of one or more individuals that intends to advertise or perform under the name of a recording group or performer or a name substantially similar to a recording group or performer.

2. "*Recording group*" means a vocal or instrumental group of one or more individuals, at least one of whose members has previously released a commercial sound recording under that group's name, and in which the individual or individuals have a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group.

3. "*Sound recording*" means a work that results from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material object, such as a phonograph, disc, tape, wire, digital storage, or other medium in which the sounds are embodied.

Sec. 6. NEW SECTION. **549A.3 Production.**

1. A person shall not advertise or conduct a live musical performance or production in this state through the use of a false, deceptive, or misleading affiliation, connection, or association between a performing group and a recording group.

2. This section does not apply if any of the following conditions are met:

a. The performing group is the authorized registrant and owner of a federal service mark for the recording group that is registered in the United States patent and trademark office.

b. At least one member of the performing group was a member of the recording group, and that member has a legal right to use or operate under the name of the recording group without having abandoned the name or affiliation with the recording group.

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

d. The name of the performing group is not so closely related or similar to the name used by the recording group that it would tend to confuse or mislead the public.

e. The advertising does not relate to a live musical performance or production taking place in, streamed into, or broadcast into this state.

f. The performance or production is expressly authorized by the recording group.

Sec. 7. NEW SECTION. **549A.4 Enforcement.**

A violation of section 549A.3 is an unlawful practice under section 714.16, and all the remedies and penalties of section 714.16 are available for such a violation.