

SENATE BILL NO. 2182
with Conference Committee Amendments
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Introduced by

Senators Nething, O'Connell

Representative Kingsbury

1 A BILL for an Act to amend and reenact section 51-12-01 of the North Dakota Century Code,
2 relating to false and misleading advertising; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 51-12-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **51-12-01. False and misleading advertising prohibited.**

- 7 1. No person with intent to sell, dispose of, increase the consumption of, or induce the
8 public to enter an obligation relative to or to acquire title or interest in any ~~food, drug,~~
9 ~~medicine, patent and proprietary~~ product, merchandise, security, service,
10 performance, ~~medical treatment, paint, varnish, oil, clothing, wearing apparel,~~
11 ~~machinery,~~ or anything offered to the public may make, publish, disseminate, circulate,
12 broadcast, or place before the public, or directly or indirectly shall cause to be made,
13 published, disseminated, circulated, broadcast, or placed before the public in a
14 newspaper, or other publication, or in the form of a book, notice, handbill, poster, bill,
15 circular, pamphlet, tab, label, letter, television or radio broadcast, placement on the
16 internet, or in any other way, an advertisement or web page that contains any
17 assertion, representation, or statement of fact, including the price thereof or name
18 suggesting the business location of the offeror, which is untrue, deceptive, or
19 misleading regarding such ~~food, drug, medicine, patent and proprietary~~ product,
20 merchandise, security, service, performance, ~~medical treatment, paint, varnish, oil,~~
21 ~~clothing, wearing apparel, machinery,~~price, business location, or anything offered to
22 the public.
- 23 2. It is not a violation of this section to advertise a performance by a performing group if
24 at least one member of the performing group was a member of the recording group,

- 1 the performance is identified as a "salute" or "tribute" to the recording group, the
2 performance is expressly authorized in the advertising by the recording group, the
3 advertising does not relate to a live music performance taking place in this state, or the
4 advertising contains a disclaimer that the performing group is not the recording group
5 or is not affiliated with the recording group.
- 6 3. This section imposes liability on only the offeror of a product or service. This section
7 does not impose liability on a publisher, broadcaster, other advertising media, or an
8 advertising agency that relies on the assurances of a person placing an advertisement
9 that the claims or representations are true.