

HOUSE No. 4752

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 15, 1997.

The committee on Bills in the Third Reading, to whom was referred the Bill relative to the commercial exploitation of certain privacy rights (House, No. 3668), reports recommending that the same be amended by the substitution of the accompanying bill (House, No. 4752).

For the committee,

ROBERT A. DELEO.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Seven.

AN ACT RELATIVE TO THE COMMERCIAL EXPLOITATION OF CERTAIN PRIVACY ACTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 214 of the General Laws is hereby amended by striking
2 out section 3A, as appearing in the 1996 Official Edition, and
3 inserting in place thereof the following section:—

4 Section 3A. Any person whose name, portrait, picture, voice,
5 life story or any pertinent part thereof is used within the common-
6 wealth for advertising purposes or for the purposes of trade,
7 including, but not limited to, the production of motion pictures,
8 television programs and stage productions without his written
9 consent may bring a civil action in the superior court against the
10 person so using such name, portrait, picture, voice, life story or
11 any pertinent part thereof, to prevent and restrain the use thereof;
12 and may recover damages for any injuries sustained by reason of
13 such use. If the defendant shall have knowingly used such per-
14 son's name, portrait, picture, voice, life story or any pertinent part
15 thereof in such manner as is prohibited or unlawful, the court, in
16 its discretion, may award the plaintiff treble the amount of the
17 damages sustained by him. Nothing in this section shall be so con-
18 strued as to prevent any person practicing the profession of pho-
19 tography from exhibiting in or about his or its establishment
20 specimens of the work of such person or establishment, unless the
21 exhibiting of any such specimen is continued after written notice
22 objecting thereto has been given by the person portrayed; and
23 nothing in this section shall be so construed as to prevent any
24 person from using such name, portrait, picture, voice, life story or
25 any pertinent part thereof of any manufacturer or dealer in con-
26 nection with the goods, wares and merchandise manufactured,
27 produced or dealt in by such manufacturer or dealer which such
28 person has sold or disposed of with such name, portrait, picture,

29 voice, life story or any pertinent part thereof used in connection
30 therewith; or from using such name, portrait, picture, voice, life
31 story or any pertinent part thereof of any author, composer or
32 artist in connection with any literary, musical or artistic produc-
33 tion of such author, composer or artist which such person has sold
34 or disposed of with such name, portrait, picture, voice, life story
35 or any pertinent part thereof used in connection therewith.

