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Sponsors:	Christine C. Quinn, Tony Avella, Simcha Felder, James F. Gennaro, G. Oliver Koppell, John C. Liu, Michael C. Nelson, Helen Sears, David Yassky, Melinda R. Katz, Robert Jackson, Gale A. Brewer, Diana Reyna, Alan J. Gerson				

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Int. No. 362

By Council Members Quinn, Avella, Felder, Gennaro, Koppell, Liu, Nelson, Sears, Yassky, Katz, Jackson, Brewer, Reyna and Gerson

A Local Law to amend the administrative code of the city of New York, in relation to disclosure of the use of pre-recorded music at live performances.

Be it enacted by the Council as follows:

Section 1. **Legislative declaration.** The Council hereby finds that with the advent of high quality sound systems and other devices that simulate musical sounds, live public performances that historically have relied on musicians and orchestras for their musical component are sometimes substituting pre-recorded or otherwise manufactured music for live music. The Council further finds that the public has certain expectations regarding the music in a live performance such as musical theatre, the opera, or ballet, which can result in disappointment when that music, which is such a integral part of these performances, is recorded rather than live.

Accordingly, the Council proposes that, in order to protect the reasonable expectations of the public

when purchasing tickets to such performances, presenters of such live performances where music is an essential element of the entertainment, should be required to disclose when all or a portion of such music is pre-recorded or otherwise manufactured.

Section 2. Chapter five of title twenty of the administrative code of the city of New York is amended to add a new subchapter fourteen to read as follows:

SUBCHAPTER 14

USE OF PRE-RECORDED MUSIC AT LIVE PERFORMANCES

§ 20-770. **Definitions.** For the purposes of this subchapter, the following terms shall have the following meanings:

- (a) “Music” means vocal, instrumental or mechanical sounds, having rhythm, melody or harmony;
- (b) “Live public performance” means any form of entertainment to be performed before an anticipated audience of eight hundred persons or more where music is used as an essential element of the entertainment;
- (c) “Place of musical entertainment” means any privately or publicly owned and operated entertainment facility including, but not limited to, theatres, stadiums, arenas or other places wherein live performances are held and for which any entry fee, cover charge or music charge is imposed. “Place of musical entertainment” shall not include Radio City Music Hall or Madison Square Garden;
- (d) “Presenter” means any person who produces, arranges or stages a live public performance;
- (e) “Ticket” means any form of proof that permits entry to a live public performance.

§ 20-771. **Disclosure Required.** Every presenter of a live public performance who uses pre-recorded or manufactured music rather than a live performance of such music shall disclose, prior to the sale of any ticket for such performance, that the music, or any portion thereof, will contain pre-recorded or manufactured music, provided however that nothing herein shall be construed to require such disclosure in the case of a live performance when the performer or performers actually participating in the performances use pre-recorded or manufactured versions of their own music or lyrics.

§ 20-772. **Forms of Disclosure.** The presenter’s disclosures required pursuant to section 20-771 of this subchapter shall consist of:

- (a) notice in writing to the place of musical entertainment wherein the live public performance is to be held and to every ticket agent receiving tickets for the live public performance, that all or a portion of the music shall contain pre-recorded or manufactured music;
- (b) in every printed advertisement for such live public performance, a clear and conspicuous disclosure that either all or a

portion of the music shall contain pre-recorded or manufactured music;

(c) in every radio and telecommunications advertisement for such live public performance, a clear and conspicuous statement that all or a portion of the music shall contain pre-recorded or manufactured music; and

(d) on any and all placards and billboards placed outside of the place of performance, a clear and conspicuous statement that all or a portion of the music shall contain recorded or manufactured music.

§ 20-773. **Exemption.** The provisions of this chapter shall not apply to theatre listings less than two inches in size which consists primarily of notification of a live public performance, its venue, the date or dates and time or times of performances, and the ranges of ticket prices.

§ 20-774. **Rules.** The commissioner may adopt such rules as may be necessary to effectuate the purposes of this subchapter.

§ 20-775. **Penalties.** Violation of this subchapter or any rules promulgated pursuant to it shall be punishable by a civil penalty not to exceed five hundred dollars.

§ 3. This local law shall take effect 90 days after its enactment.

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