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**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
Senate Committee on Judiciary  
Tuesday, June 30, 2020  
9:46 a.m.  
State Capitol, Conference Room 016**

**On the following measure:  
H.B. 1678, H.D. 1, S.D.1, RELATING TO MUSICAL PERFORMANCES**

**WRITTEN TESTIMONY ONLY**

Chair Rhoads and Members of the Committee:

My name is Stephen Levins, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection (OCP). The Department supports this bill.

The purposes of this bill are to: (1) prohibit a person from advertising or conducting a live musical performance through the use of a false, deceptive, or misleading affiliation, connection, or association with a performing group; and (2) enables action against deceptive practices by imposing penalties and private right of action.

This bill seeks to protect the intellectual property of musical artists and to protect consumers from deceptive practices by prohibiting advertising or conducting live performances of legacy performing groups, unless the performance includes one member of the original group, is identified as a tribute band, or the group is an

authorized owner of a federal service mark for the original group. Before the COVID-19 pandemic, Honolulu had several famous legacy musical acts scheduled to perform in 2020 at venues as intimate as the Blue Note Hawaii in Waikiki to large arenas like the Neal S. Blaisdell Center. The musical acts scheduled to perform included '80s bands, such as Kool and the Gang and Hall & Oates, as well as the '90s all-female hip-hop trio TLC and the boy band 98 Degrees. When purchasing tickets for events such as these, consumers should be clearly informed prior to attending whether the entertainers are the original member(s) or a tribute act. The Department supports this measure because it will deter promoters and performers from misleading the public regarding the nature of the performance by subjecting violators to penalties authorized by Hawaii's unfair or deceptive trade practices act.

Thank you for the opportunity to testify on this bill.

**HB-1678-SD-1**

Submitted on: 6/29/2020 3:14:34 AM

Testimony for JDC on 6/30/2020 9:46:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rafael Fernandez	Testifying for Recording Industry Assoc of America	Support	No

Comments:

Chairman, and Members of the committee, thank you very much for holding this hearing today. My name is Rafael Fernandez and I am with the Recording Industry Association of America (RIAA). Over the past decade and a half, Truth in Music Advertising (TIMA) laws have been passed around the country. These laws seek to prevent “imposter” bands and artists from profiting off the good and valuable name of the real bands or artists. Based on concepts of consumer protection and property rights, these laws enable authorities, and in some cases individuals, to take action against the deceptive acts. TIMA laws generally provide that a performing group may only use a recording group’s name if at least one member of the performing group is or was a member of the recording group and still has the right to use the group’s name or trademark. Otherwise, the performance must be clearly labeled and presented as a tribute or the like.

Currently, 34 states have some form of TIMA law, while several others have general “deceptive acts” consumer protection laws that may cover this activity. Of those 34 states, nine clearly offer some form of private right of action, typically in addition to the right of the Attorney General to take action.

Hawaii has a rich music culture. Protecting artist, their families and/or their estates is the purpose of this bill. They include:

Arthur Lyman A Hawaiian instrumentalist.

Betty Loo Taylor A Hawaiian Pianist known as Hawaii's first lady of jazz.

Charlie "Icarus" Johnson A former jazz guitarist of the 70s that was raised in Hawaii.

Denis Pavao A Hawaiian singer.

Don Ho He was Hawaii's Ambassador of Aloha to the world. A favorite son of Hawaii.

Gabby Pahinui A famous Hawaiian Guitar Player who made it big in the 60s.

Gabe Baltazar A Hawaiian Sax player.

Glenn Medeiros A Hawaiian singer who achieved some hits in the 80s.

Israel Kamakawiwo'ole A deceased Hawaiian singer known to be the voice of Hawaii.

Keola Beamer A Hawaiian folk singer and guitar player.

Loyal Garner a Hawaiian singer from the 70s

Martin Denny A Hawaiian artist known for popularizing the genre "exotica".

Melveen Leed A Hawaiian singer.

Myra English A famous Hawaiian singer who got big in the 70s.

Peter Moon A Hawaiian ukulele player.

Rene Paulo A Hawaiian Jazz pianist.

Sol Ho'opii Virtuoso Hawaiian guitar player  
Tau Moe A famous Hawaiian Musician.

In addition to my testimony, I have included a support letter from Sam Moore -  
legendary artist who has helped protect legacy artist by supporting similar  
legislation around the country.

We support the passing of this important legislation.

**HB-1678-SD-1**

Submitted on: 6/30/2020 8:48:53 AM

Testimony for JDC on 6/30/2020 9:46:00 AM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rayne Kauhi	Individual	Support	No

Comments: