

STAND. COM. REP. NO. **659**

Honolulu, Hawaii

MAR 06 2015

RE: S.B. No. 1287
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committees on Judiciary and Labor and Commerce and Consumer Protection, to which was referred S.B. No. 1287 entitled:

"A BILL FOR AN ACT RELATING TO COPYRIGHTS,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Protect sound recordings fixed prior to February 15, 1972, against unauthorized public performance; and
- (2) Repeal chapter 482C, Hawaii Revised Statutes (HRS), relating to copyrights in sound recordings.

Your Committees received testimony in support of this measure from six individuals.

Your Committees find that prior to the Copyright Act of 1976, the federal copyright laws did not protect sound recordings. However, omitted from this federal copyright protection was the right of public performance of a sound recording for profit. In its 2014 decision of Flo & Eddie, Inc. v. Sirius XM Radio, Inc. et al., Case No. CV 13-5693 PSG (RZx) (Sept. 22, 2014), the United States District Court for the Central District of California recognized that the Copyright Act of 1976 explicitly allows states to regulate rights and interests arising from sound recordings fixed prior to February 15, 1972. Furthermore, the court held that California Civil Code, section 980(a)(2), recognizes a comprehensive ownership interest in sound recordings fixed prior



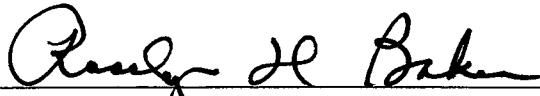
to February 15, 1972. Accordingly, this measure allows recording artists and their record labels to enjoy a public performance right in their sound recordings.

Your Committees have amended this measure by:

- (1) Condensing the purpose section under section 1;
- (2) Extending the exclusive ownership interest in original work until February 15, 2067, instead of February 15, 2047, to reflect the federal law rather than the California law;
- (3) Reinstating chapter 482C, HRS, rather than repealing the chapter;
- (4) Amending the penalty provision under section 482C-5, HRS, to establish that a person who violates the copyrights in sound recordings law shall pay a fine not to exceed \$1,000 or be guilty of a misdemeanor, or both;
- (5) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Commerce and Consumer Protection that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1287, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1287, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committees on Judiciary and
Labor and Commerce and Consumer
Protection,



ROSALYN H. BAKER, Chair


GILBERT S.C. KEITH-AGARAN, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:		
SB1287	JDL/CPN	2/25/15		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
ESPERO, Will	✓			44x MLB
GABBARD, Mike				✓
IHARA, Jr., Les	✓			
THIELEN, Laura H.	✓			
SLOM, Sam				✓
TOTAL	5			2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes

