

JAN 29 2015

A BILL FOR AN ACT

RELATING TO COPYRIGHTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. In its 2014 decision of *Flo & Eddie, Inc. v.*
2 *Sirius XM Radio, Inc. et al.*, Case No. CV 13-5693 PSG (RZx)
3 (Sept. 22, 2014), the United States District Court for the
4 Central District of California held that California Civil Code,
5 section 980(a)(2), protects sound recordings fixed prior to
6 February 15, 1972, against unauthorized public performance.

7 Prior to the Copyright Act of 1976, the federal copyright
8 laws did not protect sound recordings. The 1976 Act created the
9 copyright category of sound recordings that provided federal
10 copyright protection to sound recordings fixed subsequent to
11 February 15, 1972. Under the Copyright Act of 1976, sound
12 recordings fixed prior to February 15, 1972, were left to be
13 protected by state laws.

14 The California court's ruling has been hailed by owners of
15 copyrighted sound recordings as it overturns a seventy-five year
16 consensus position by broadcasters that state copyright laws do
17 not provide a exclusive public performance right for sound



1 recordings fixed prior to February 15, 1972. The protection
2 held to arise from section 980(a)(2), California Civil Code,
3 could be of incredible benefit to older, local recording artists
4 in Hawaii and their record labels that released sound recordings
5 prior to February 15, 1972.

6 The purpose of this Act is to adopt language held by the
7 United States District Court for the Central District of
8 California to protect sound recordings fixed prior to
9 February 15, 1972, against unauthorized public performance.

10 SECTION 2. The Hawaii Revised Statutes is amended by
11 adding a new chapter to be appropriated designated and to read
12 as follows:

13 "CHAPTER

14 COPYRIGHTS IN SOUND RECORDINGS

15 "§ - Sound recordings fixed prior to February 15,
16 1972. The author of an original work of authorship consisting
17 of a sound recording initially fixed prior to February 15, 1972,
18 has an exclusive ownership therein until February 15, 2047, as
19 against all persons except one who independently makes or
20 duplicates another sound recording that does not directly or
21 indirectly recapture the actual sounds fixed in such prior sound



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1 recording, but consists entirely of an independent fixation of
 2 other sounds, even though such sounds imitate or simulate the
 3 sounds contained in the prior sound recording."

4 SECTION 3. Chapter 482C, Hawaii Revised Statutes, is
 5 repealed.

6 SECTION 4. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval.
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INTRODUCED BY:

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Report Title:

Copyright; Sound Recordings

Description:

Protects sound recordings fixed prior to 2/15/72 against unauthorized public performance. Repeals chapter 482C, HRS.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

