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# 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 recognized that the Copyright Act  
5 of 1976 explicitly allows states to regulate rights and  
6 interests arising from sound recordings fixed prior to  
7 February 15, 1972. Furthermore, the court held that California  
8 Civil Code, section 980(a)(2), recognizes a comprehensive  
9 ownership interest in sound recordings fixed prior to  
10 February 15, 1972, subject only to the narrow exception included  
11 in that statute.

12           The purpose of this Act is to adopt language substantially  
13 similar to the holding under *Flo & Eddie, Inc. v. Sirius XM*  
14 *Radio, Inc. et al.* to protect an ownership interest in sound  
15 recordings fixed prior to February 15, 1972.

16           SECTION 2. Chapter 482C, Hawaii Revised Statutes, is  
17 amended by adding a new section to be appropriately designated  
18 and to read as follows:



1           "§482C-       Sound recordings fixed prior to February 15,  
2 1972. (a) The author of an original work of authorship  
3 consisting of a sound recording initially fixed prior to  
4 February 15, 1972, has an exclusive ownership interest in the  
5 original work until February 15, 2067, against all persons  
6 except a person who independently makes or duplicates another  
7 sound recording that does not directly or indirectly recapture  
8 the actual sounds fixed in the original work, but consists  
9 entirely of an independent fixation of other sounds, even though  
10 the sounds imitate or simulate the sounds contained in the  
11 original work.

12           (b) This section shall not limit, annul, or diminish in  
13 any respect any rights, exclusive or otherwise, in sound  
14 recordings fixed prior to February 15, 1972, existing under  
15 Hawaii common law, or civil or criminal statutes. The  
16 codification of certain of these rights that give rise to  
17 statutory causes of action for violation of such rights shall  
18 not be construed to limit other causes of action under either  
19 Hawaii common law, or civil or criminal statutes."

20           SECTION 3. Section 482C-5, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "~~§482C-5~~ Penalty. Any person who violates this  
2 chapter shall be guilty of a misdemeanor or pay a fine not to  
3 exceed \$1,000, or both."

4           SECTION 4. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6           SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

Copyright; Sound Recordings

**Description:**

Protects sound recordings fixed prior to 02/15/1972 against unauthorized public performance. Protects any right in sound recordings fixed prior 02/15/1972 existing under Hawaii common law, or civil or criminal statutes. Establishes a fine not to exceed \$1,000 for a violation of chapter 482C, HRS. (SD2)

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

