

**SENATE BILL REPORT**

**SSB 5030**

**AS PASSED SENATE, MARCH 1, 1991**

**Brief Description:** Prohibiting the unauthorized reproduction or recording of material.

**SPONSORS:** Senate Committee on Law & Justice (originally sponsored by Senators Nelson, Talmadge and Thorsness).

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** That Substitute Senate Bill No. 5030 be substituted therefor, and the substitute bill do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, L. Kreidler, Madsen, Newhouse, Rasmussen, and A. Smith.

**Staff:** Susan Carlson (786-7418)

**Hearing Dates:** January 21, 1991; February 4, 1991

**BACKGROUND:**

Dramatic advances in sound recording technology have been followed by a corresponding increase in the activities of pirates, bootleggers, and counterfeiters. Their trade in unauthorized recordings results in a loss of income, royalties, and fees to musicians, retailers, and the recording industry. In addition, consumers who purchase unauthorized recordings may receive products that are inferior or defective.

Current law prohibits the reproduction and/or sale of unauthorized sound recordings. Violations are punishable by a fine up to \$1,000, imprisonment up to one year, and confiscation of illegal stock. The sale of a tape without the name and address of the recorder on its package is a misdemeanor punishable by a fine up to \$100. There is concern that these penalties are insufficient to deter violations and that the existing scope of offenses does not fully encompass the activities of pirates and counterfeiters.

**SUMMARY:**

Criminal offenses and sanctions are established for certain activities involving the unauthorized reproduction of recordings. A criminal offense is committed if a person knowingly reproduces for sale or transports within this state any unauthorized recording for commercial advantage or private financial gain. Advertising, selling or renting any unauthorized recording is also prohibited.

Unauthorized recordings of live performances may not be advertised, sold or transported for commercial advantage or private financial gain. Recording a live performance without the consent of the owner with the intent to sell for commercial advantage or private financial gain is prohibited.

The crime of failure to disclose the origin of a recording is committed if, for commercial advantage or private financial gain, a person advertises, sells, or possesses a recording which does not have the true name and address of the manufacturer on the package.

The penalties for violations range from a maximum fine of \$25,000 up to \$250,000, and imprisonment for up to one, five or ten years depending on the number of unauthorized recordings and the defendants prior convictions under this law. Upon conviction, the court must order the forfeiture of any items involved in the unauthorized recording.

The owner of a recording or the prosecuting attorney may institute proceedings to forfeit unauthorized recordings without regard to any lack of knowledge or intent by the possessor.

A recording that is intended only for broadcast by radio or television stations and recordings defined as a public record are exempt. A recording received in the ordinary course of a radio or television broadcast is exempt where no recording is made of the broadcast.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:**

The bill would be more effective against piracy, bootlegging, and counterfeiting activities than current law.

**TESTIMONY AGAINST:** None

**TESTIFIED:** PRO: Ralph Vaughan, Recording Industry Association of America; Dick Hemstad, Recording Industry Association of America