

BILL ANALYSIS

Senate Research Center
82R22118 SJM-F

H.B. 3125
By: Thompson (Patrick)
Jurisprudence
5/18/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to certain sources, the widespread use and increasing quality of cell phone cameras, flip video units, and other hand-held devices has resulted in the increased opportunity for and prevalence of unauthorized recordings of live events, which may include recordings made by a person who is not bound by a contract but who is known to either the artist or promoter or to the owner of the venue. There is concern that the law does not adequately address such situations. H.B. 3125 seeks to provide a person who has created an unauthorized recording of a live event a means to distribute the recording with permission.

H.B. 3125 amends current law relating to the offenses of unauthorized duplication, unauthorized recording, unauthorized operation of recording device, and improper labeling of recordings.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 641.001(4), Business & Commerce Code, to redefine "recording" to mean a tangible medium on which sounds, images, or both are recorded or otherwise stored, including an original phonograph record, disc, tape, audio or video cassette, wire, film, electronic storage device, or other medium now existing or later developed, or a copy or reproduction that wholly or partly duplicates the original.

SECTION 2. Amends Section 641.052, Business & Commerce Code, as follows:

Sec. 641.052. UNAUTHORIZED RECORDING OF LIVE PERFORMANCE. (a) Defines, in this section, "artist," "live entertainment event," "live performance," and "promoter."

(b) Redesignates existing Subsection (a) as Subsection (b). Makes no further changes.

(c) Redesignates existing Subsection (b) as Subsection (c). Makes no further changes.

(d) Requires a promoter and an artist, regarding a contract for the artist's performance at a live entertainment event, to:

(1) comply with the terms of the contract regarding the distribution of recording revenue or event proceeds between the promoter and the artist; and

(2) agree to and secure permission for the recording of the live entertainment event in writing before the event is recorded.

(e) Redesignates existing Subsection (c) as Subsection (e). Makes no further changes.

(f) Redesignates existing Subsection (d) as Subsection (f). Makes no further changes.

SECTION 3. Repealer: Section 641.001(2) (defining "live performance"), Business & Commerce Code.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2011.