

BILL ANALYSIS

C.S.H.B. 3125
By: Thompson
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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. C.S.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.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3125 amends the Business & Commerce Code, in provisions of law relating to the unauthorized recording of a live performance, to require a promoter and an artist to comply with the terms of a contract for the artist's performance at a live entertainment event regarding the distribution of recording revenue or event proceeds between the promoter and the artist and to agree to and secure permission for the recording of the event in writing before the event is recorded. The bill defines "artist," "live entertainment event," and "promoter." The bill redefines "recording" to include an electronic storage device among the items on which sounds, images, or both are recorded or otherwise stored.

C.S.H.B. 3125 repeals Section 641.001(2), Business & Commerce Code, relating to the definition of "live performance" for general purposes of provisions of law governing unauthorized recordings and transfers the definition to statutory provisions relating specifically to the unauthorized recording of a live performance.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3125 differs from the original by defining "artist" to mean a person who contracts to perform or entertain at a live entertainment event, whereas the original defines the term to mean a person who contracts to perform or entertain at a live entertainment event. The substitute differs from the original by including among the events defined as a "live entertainment event" an event that occurs on a specific date and at which an individual or a group of individuals, physically present at the venue, performs for the purpose of entertaining a person who is present at the event, whereas the original refers to an event that occurs on a specific date and at which an individual or a group of individuals, physically present at the venue, performs and or rehearses

for that purpose. The substitute differs from the original by defining "promoter" to mean an individual contracted by an artist to promote, organize, coordinate, operate, and manage a live entertainment event, whereas the original defines the term to mean an individual contacted by an artist to promote, organize, coordinate, operate, and manage a live entertainment event.

C.S.H.B. 3125 differs from the original by requiring a promoter and an artist, in provisions of law relating to the unauthorized recording of a live performance, to include among the terms of a contract for the artist's performance at a live entertainment event with which the promoter and artist must comply those terms regarding the distribution of recording revenue or event proceeds between the promoter and the artist, whereas the original specifies that a promoter and an artist are mandated pursuant to those provisions and regarding such a contract to distribute any recording revenue and event proceeds in the form of payments to each other as contractually stipulated, in addition to meeting other requirements. The substitute differs from the original in nonsubstantive ways.