

## BILL ANALYSIS

C.S.H.B. 1043  
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Committee Report (Substituted)

### BACKGROUND AND PURPOSE

Interested parties observe that although federal law governs the protection of sound recordings made after February 15, 1972, the protection of sound recordings fixed before that date is currently left to the states. The parties report that in adopting laws to protect against piracy of pre-1972 sound recordings, a majority of states have included express exemptions for activities such as broadcasting. However, the parties contend that under current Texas law, broadcasters are not expressly exempted from the statutory prohibitions against the unauthorized duplication of pre-1972 sound recordings. C.S.H.B. 1043 seeks to clarify state law on this subject by expressly exempting certain broadcasters in order to conform such law to that of other states.

### 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. 1043 amends the Business & Commerce Code to exempt from the offense of unauthorized duplication of recordings initially fixed before February 15, 1972, a person engaged in radio or television broadcasting who transfers, or causes to be transferred, a recording for archival purposes or intended for or in connection with a radio or television broadcast.

### EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

### COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1043 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Section 641.051, Business & Commerce Code, is amended by adding Subsection (e) to read as follows:

(e) This section does not apply to:

(1) a person engaged in **Internet**, radio, or television broadcasting who transfers, or causes to be transferred, a recording:

(A) **intended for or in connection with an Internet**, radio, or television broadcast; or

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 641.051, Business & Commerce Code, is amended by adding Subsection (e) to read as follows:

(e) This section does not apply to a person engaged in radio or television broadcasting who transfers, or causes to be transferred, a recording:

(1) intended for or in connection with a radio or television broadcast; or

(B) for archival purposes; or  
(2) an Internet service provider that is only providing a conduit for access to the Internet that is used for the transfer of a recording by another person.

(2) for archival purposes.

SECTION 2. The change in law made by this Act to Section 641.051, Business & Commerce Code, does not apply to an offense committed under that section before the effective date of this Act. An offense committed before the effective date of this Act is governed by that section as it existed on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 2. Same as introduced version.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 3. Same as introduced version.