

SB / 53

# COMMITTEE REPORT

HOUSE

JUDICIARY

Mr. Speaker:

Date 12-17-55

The Committee on COMMERCE has had SB 153

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR \_\_\_\_\_ AND THAT

CS FOR \_\_\_\_\_ DO PASS

"and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>[Signature]</u>	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

[Signature] Chairman

# DeHart and Broide

March 28, 1975

The Honorable Robert Ziegler  
Pouch V  
Capitol Building  
Juneau, Alaska 99801

Dear Senator Ziegler:

I appreciate your taking the time to discuss Senate Bill 153 with me by phone. This letter is in response to your request for information concerning the merits of the bill.

S.B. 153 amends the present law, which was enacted last year as House Bill 680.

Federal law prohibits the unauthorized manufacture or sale of sound recordings released after February 15, 1972. This was done in late 1971 through extension of the federal copyright law (Public Law 92-140). Congress did not grant this limited copyright to sound recordings published prior to February 15, 1972 because this would have involved granting a copyright retroactively. Recordings produced by legitimate manufacturers after that date display this symbol to indicate post February 15, 1972 production.



As you can understand, when the original copyright law was enacted in 1909, no one foresaw the future popularity of sound recordings, the development of the tape recording, and the ease with which tapes can be duplicated today.

State laws are necessary to protect pre-February 15, 1972 recordings because tape piracy remains a widespread problem, diverting hundreds of millions of dollars from those who have legitimately earned it. It is estimated that nearly one out of every three tape recordings sold in the U.S. is a pirate copy. Because of piracy, some \$200 million a year is diverted from its rightful recipients -- artists, musicians, music publishers, composers, retailers, wholesalers and record manufacturers, and the unions. (Some background material on the piracy problem is enclosed as Attachment A.)

The U.S. Department of Justice has recommended to the states that special legislation be adopted to prohibit piracy.

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To date, some 27 states have passed criminal laws against record piracy, and this number is expected to grow. (See Attachment A-1, page 9.)

The constitutionality of state anti-piracy laws has been upheld by the U.S. Supreme Court (Goldstein v. California, 412 U.S. 546, June 1973).

State laws are necessary because record piracy continues to be rampant. This is unfair competition, and also deprives the lawful owners of sound recordings of their property and their profits.

Record piracy has been consistently held unlawful in various U.S. courts, even in the absence of state anti-piracy statute.

Moreover, four U.S. Circuit Courts of Appeals have ruled that the compulsory licensing provisions of the Copyright Act may not be used as justification for unauthorized duplication of sound recordings. These appeals came about because some pirates argued that they are "legal" when they pay royalties to the music publishers.

Despite these court decisions, piracy continues. That is because a pirate found guilty in one jurisdiction merely moves to another. Piracy is so profitable that the pirates are willing to take the risk of misdemeanor penalties, with modest sentences or fines. Under such circumstances, it is up to the states to join with the federal government to protect law-abiding citizens and declare piracy illegal.

Like the other states, Alaska has also been the scene of a good deal of pirate sales of recordings. A state law is therefore important.

The amending bill introduced by Senator Chance defines "owner" in a manner developed in discussions with the Justice Department, and stemming from court decisions. It also contains an amendment (starting on line 13) which would curtail the growth of so-called "sound-alike" recordings. A sound-alike recording is one which simulates a hit recording by imitating the style and sound of the original performer(s). Sound-alikes generally involve deceptive packaging, labeling display techniques, as well as advertising, which are intended to dupe the consumer into believing that he is buying the original.

Full disclosure of the name of the manufacturer and the performers, as required by Senator Chance's bill, should alert the would-be buyer to the fact that he is buying a simulation, not the original.

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The production of sound-alikes has been growing as a result, we believe, of the crackdown on pirates. (See Attachment B for background information on sound-alikes.)

On behalf of the Recording Industry Association of America, our client, we urge that the Alaska legislature enact Senate Bill 153. Its passage is supported by all segments of the legitimate recording industry, including the manufacturers, the artists, musicians, the American Federation of Musicians, music publishers and composers, wholesalers and retailers.

If you have questions, we would be pleased to answer them.

Sincerely,



Edward H. DeHart

Enclosures  
EDH:jn