

HOUSE BILL 2187

By Hardaway

AN ACT to amend Tennessee Code Annotated, Title 29;  
Title 39 and Title 40, relative to legal proceedings  
against persons unlawfully using certain  
copyrighted sound recordings.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, is amended by adding the following language as a new, appropriately designated chapter:

**29-10-101.** This chapter shall be known and may be cited as the "Legacy Sound Recording Protection Act".

**29-10-102.** As used in this chapter:

(1) "Copies":

(A) Means material objects, other than phonorecords, in which a work is fixed by any method now known or later developed, and from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device; and

(B) Includes the material object, other than a phonorecord, in which the work is first fixed;

(2) "Digital transmission" means a transmission in whole or in part in a digital or other non-analog format;

(3) "Fixed" means in a tangible medium of expression when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration; provided,

a work consisting of sounds, that is being transmitted, is "fixed" if a fixation of the work is being made simultaneously with its transmission;

(4) "Perform" means to recite, render, play, dance, or act it, either directly or by means of any device or process;

(5) "Phonorecords":

(A) Means material objects in which sounds are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device; and

(B) Includes the material object in which the sounds are first fixed;

(6) "Publicly" means:

(A) At a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered; or

(B) Communicated to a place, described in subdivision (6)(A) or to the public, by means of any device or process, whether the members of the public capable of receiving the sound recording receive it in the same place or in separate places and at the same time or at different times;

(7) "Sound recording" means a work that results from the fixation of a series of musical, spoken, or other sounds; and

(8) "Transmit" means to communicate by any device or process, now known or later developed, whereby sounds are received beyond the place from which the sounds are sent.

**29-10-103.**

(a) The owner of copyright of a sound recording initially fixed on or before February 15, 1972, has the exclusive right to:

(1) Reproduce the sound recording in copies or phonorecords;

(2) Prepare derivative works based upon the sound recording;

(3) Distribute copies or phonorecords of the sound recording to the public by sale or other transfer of ownership, or by rental, lease, or lending; or

(4) Perform the sound recording publicly by means of a digital or satellite audio transmission.

(b) In addition to any other penalty provided by law, including § 39-14-139, there is created under this section a civil cause of action for an owner of copyright of a sound recording initially fixed on or before February 15, 1972, against any person or legal entity that performs the actions described in subdivisions (a)(1)-(4) without the owner's express permission.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it, and applies to prohibited conduct occurring on or after the effective date of this act.