S T A T E O F N E W Y O R K

6298

I N S E N A T E

January 9, 2014

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to exempting libraries, museums, archives and other cultural institutions from offenses relating to unauthorized recording

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 275.45 of the penal law, as added by chapter 460 of the laws of 1990, is amended to read as follows:

1. This article does not apply to:

(a) any broadcaster who, in connection with or as part of a radio, television, or cable broadcast transmission, or for the purpose of archival preservation, transfers any such recorded sounds or images; [or]

(b) any person who transfers such sounds or images for personal use, and without profit for such transfer[.]; OR

(C) (I) A LIBRARY, MUSEUM, ARCHIVE OR ANY OTHER CULTURAL INSTITUTION WHICH CREATES A DIGITAL COPY OF A HISTORIC SOUND RECORDING FOR PRESERVATION OR ARCHIVAL PURPOSES, NOR SHALL IT BE A CRIME FOR SUCH CULTURAL INSTITUTION TO MAKE A DIGITAL COPY OF A HISTORIC SOUND RECORDING AVAILABLE TO THE PUBLIC FOR NON-COMMERCIAL PURPOSES, INCLUDING, BUT NOT LIMITED TO, TEACHING, SCHOLARSHIP OR RESEARCH, PROVIDED THAT SUCH CULTURAL INSTITUTION:

(A) MAKES SUCH DIGITAL COPY AVAILABLE TO THE PUBLIC IN A WAY THAT DOES NOT ALLOW A MEMBER OF THE PUBLIC TO DOWNLOAD OR SAVE SUCH DIGITAL COPY TO A COMPUTER HARD DRIVE;

(B) PROVIDES SUCH DIGITAL COPY AVAILABLE IN A COMPRESSED DIGITAL AUDIO FILE FORMAT; AND

(C) PROVIDES COPYRIGHT INFORMATION TO PROSPECTIVE USERS ABOUT THE DIGITAL COPY OR ITS ANALOG SOURCE, OR IF SUCH COPYRIGHT INFORMATION IS MISSING FROM THE DIGITAL COPY OR IS NOT EVIDENT FROM THE DIGITAL COPY'S ANALOG SOURCE, NOTICE THAT THE ANALOG SOURCE OR THE DIGITAL COPY MAY BE PROTECTED BY STATE OR FEDERAL COPYRIGHT LAWS;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(II) THE PROVISIONS OF THIS PARAGRAPH LIMITING THE APPLICATION OF THIS ARTICLE TO LIBRARIES, MUSEUMS, ARCHIVES AND OTHER CULTURAL INSTITUTIONS SHALL ALSO APPLY TO THE EMPLOYEES, CONTRACTORS OR INTERNS WHO REPRODUCE, ADAPT OR DISTRIBUTE HISTORIC SOUND RECORDINGS FROM AN ANALOG SOURCE TO A DIGITAL COPY, OR PUBLICLY PERFORM SUCH ANALOG SOURCE OR DIGITAL COPY IN A NON-COMMERCIAL MANNER FOR THE PURPOSES OF TEACHING, SCHOLARSHIP OR RESEARCH.

S 2. This act shall take effect immediately.