

## S 379

### Performance Rights Act

**Congress:** 111 (2009–2011, Ended)

**Chamber:** Senate

**Policy Area:** Commerce

**Introduced:** Feb 4, 2009

**Current Status:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 181.

**Latest Action:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 181. (Oct 15, 2009)

**Official Text:** <https://www.congress.gov/bill/111th-congress/senate-bill/379>

### Sponsor

**Name:** Sen. Leahy, Patrick J. [D-VT]

**Party:** Democratic • **State:** VT • **Chamber:** Senate

### Cosponsors (8 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Boxer, Barbara [D-CA]	D · CA		Feb 4, 2009
Sen. Corker, Bob [R-TN]	R · TN		Feb 4, 2009
Sen. Feinstein, Dianne [D-CA]	D · CA		Feb 4, 2009
Sen. Hatch, Orrin G. [R-UT]	R · UT		Feb 4, 2009
Sen. Alexander, Lamar [R-TN]	R · TN		Feb 9, 2009
Sen. Schumer, Charles E. [D-NY]	D · NY		Mar 12, 2009
Sen. Durbin, Richard J. [D-IL]	D · IL		Apr 14, 2010
Sen. Cardin, Benjamin L. [D-MD]	D · MD		Jul 28, 2010

### Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	Senate	Reported By	Oct 15, 2009

### Subjects & Policy Tags

#### Policy Area:

Commerce

### Related Bills

Bill	Relationship	Last Action
111 HR 848	Related bill	<b>Dec 14, 2010:</b> Placed on the Union Calendar, Calendar No. 405.

Performance Rights Act - (Sec. 2) Amends federal copyright law to: (1) grant performers of sound recordings equal rights to compensation from terrestrial broadcasters (AM and FM radio); and (2) modify the circumstances under which the public performance of a sound recording is subject to statutory licensing.

(Sec. 3) Establishes an annual flat fee in lieu of royalty payments for certain small, noncommercial, educational, and religious terrestrial broadcast stations that have annual revenues falling within specified ranges.

Prohibits such annual fees from being taken into account in any Copyright Royalty Board rate-setting proceeding or in any other federal government proceeding.

Includes broadcasts of religious services or incidental uses of musical sound recordings publicly by digital audio transmission among performances of a sound recording that are not copyright infringements.

(Sec. 4) Provides a per program license option for terrestrial broadcast stations that make limited feature uses of sound recordings.

(Sec. 5) Prohibits: (1) license fees payable for the public performance of sound recordings from being used in any governmental proceeding to set the license fees payable to copyright owners of musical works for the public performance of their works to adversely affect such license fees; (2) a licensee of a sound recording from publicly performing such sound recording unless a license has been granted for the public performance of any copyrighted musical work contained in the sound recording; (3) anything in this Act from adversely affecting the public performance rights or royalties payable to songwriters or copyright owners of musical works; and (4) rates established by the Copyright Royalty Judges for the public performance of sound recordings from being used in any governmental proceeding to adversely affect license fees payable to copyright owners of musical works for the public performance of their works by terrestrial broadcast stations.

(Sec. 6) Entitles a featured recording artist who performs on a sound recording that has been licensed for public performance by means of an audio transmission to payments from the sound recording's copyright owner in accordance with the terms of the artist's contract.

Requires: (1) sound recording copyright owners to deposit 1% of the receipts from their licensing of public performance rights by means of an audio transmission into the American Federation of Musicians and American Federation of Television and Radio Artists Intellectual Property Rights Distribution Fund for distribution to nonfeatured performers who have performed on sound recordings; and (2) the Fund to pay 50% to nonfeatured musicians and 50% to nonfeatured vocalists.

(Sec. 7) Amends the standard for ephemeral/temporary copies of sound recording license rates to: (1) apply rates that represent the "willing buyer-willing seller" standard and sets forth guidelines for determining rates; and (2) provide that for transmissions pursuant to a public performance license rates shall be established covering the applicable public performances and the related making of phonorecords, and the royalty for the making of phonorecords used by the transmitting organization solely to facilitate transmissions for which it pays royalties shall constitute 5% of such payments.

## Actions Timeline

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- **Oct 15, 2009:** Committee on the Judiciary. Ordered to be reported with an amendment favorably.
- **Oct 15, 2009:** Committee on the Judiciary. Reported by Senator Leahy with amendments. Without written report.
- **Oct 15, 2009:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 181.
- **Feb 4, 2009:** Introduced in Senate
- **Feb 4, 2009:** Sponsor introductory remarks on measure. (CR S1544-1545)
- **Feb 4, 2009:** Read twice and referred to the Committee on the Judiciary. (text of measure as introduced: CR S1545-1546)