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103D CONGRESS  
1ST SESSION

# S. 1421

To amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 6 (legislative day, JUNE 30), 1993

Mr. HATCH (for himself and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Performance Rights  
5 in Sound Recordings Act of 1993”.

6 **SEC. 2. EXCLUSIVE RIGHTS IN COPYRIGHTED WORKS.**

7       Section 106 of title 17, United States Code, is  
8 amended—

9           (1) in paragraph (4) by striking “and” after  
10       the semicolon;

1           (2) in paragraph (5) by striking the period and  
2           inserting “; and”; and

3           (3) by adding at the end the following:

4           “(6) in the case of sound recordings, to perform  
5           the copyrighted work publicly by means of a digital  
6           transmission.”.

7   **SEC. 3. SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORD-**  
8                                   **INGS.**

9           Section 114 of title 17, United States Code, is  
10          amended—

11           (1) by striking subsections (a), (c), and (d); and

12           (2) in subsection (b), by striking “(b)” and in-  
13          serting the following at the end thereof: “License  
14          fees payable for the public performance of sound re-  
15          cordings under clause (1) of section 106 shall not be  
16          taken into account in any administrative, judicial or  
17          other governmental proceeding to set or adjust the  
18          royalties payable to copyright owners of musical  
19          works for the public performance of their works.”

20   **SEC. 4. CONFORMING AMENDMENTS.**

21          (a) **DEFINITIONS.**—Section 101 of title 17, United  
22          States Code, is amended by inserting after

23                 “A ‘device’, ‘machine’, or ‘process’ is one now  
24          known or later developed.” the following:

1           “A ‘digital transmission’ of a performance is a  
2           communication of the performance by any device or  
3           process whereby sounds in a digital format are re-  
4           ceived beyond the place from which they are sent.”.

5           (b) LIMITATIONS ON EXCLUSIVE RIGHTS: SECOND-  
6           ARY TRANSMISSIONS.—Section 111(a) of title 17, United  
7           States Code, is amended in the first sentence by striking  
8           “The” and inserting “Except in the case of a performance  
9           of a sound recording in the course of a digital trans-  
10          mission, the”.

11          (c) LIMITATIONS ON EXCLUSIVE RIGHTS: SECOND-  
12          ARY TRANSMISSIONS OF SUPERSTATIONS AND NETWORK  
13          STATIONS FOR PRIVATE HOME VIEWING.—Section  
14          119(a)(1) of title 17, United States Code, is amended by  
15          striking “Subject to” and inserting “Except in the case  
16          of a performance of a sound recording in the course of  
17          a digital transmission, and subject to”.

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