

S. 646

[Report No. 92-487]

IN THE HOUSE OF REPRESENTATIVES

MAY 3, 1971

Referred to the Committee on the Judiciary

SEPTEMBER 22, 1971

Reported with amendments, committed to the Committee of the Whole House
on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

AN ACT

To amend title 17 of the United States Code to provide for the creation of a limited copyright in sound recordings for the purpose of protecting against unauthorized duplication and piracy of sound recording, and for other purposes.

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

3 That title 17 of the United States Code is amended in the
4 following respects:

5 (a) In section 1, title 17, of the United States Code,
6 add a subsection (f) to read:

7 "To reproduce and distribute to the public by sale or
8 other transfer of ownership, or by rental, lease, or lend-
9 ing, reproductions of the copyrighted work if it be a sound

1 recording: *Provided*, That the exclusive right of the owner
2 of a copyright in a sound recording to reproduce it is
3 limited to the right to duplicate the sound recording in a
4 tangible form that directly or indirectly recaptures the
5 actual sounds fixed in the recording: *Provided further*,
6 That this right does not extend to the making or dupli-
7 cation of another sound recording that is an independent
8 fixation of other sounds, even though such sounds imitate
9 or simulate those in the copyrighted sound recording; or
10 to reproductions made by transmitting organizations exclu-
11 sively for their own use.”

12 (b) In section 5, title 17, of the United States Code,
13 add a subsection (n) to read:

14 “Sound recordings.”

15 (c) In section 19, title 17, of the United States
16 Code, add the following at the end of the section: “In
17 the case of reproductions of works specified in subsection
18 (n) of section 5 of this title, the notice shall consist of
19 the symbol P © (the letter P in a circle), the year of
20 first publication of the sound recording, and the name of the
21 owner of copyright in the sound recording, or an abbrevia-
22 tion by which the name can be recognized, or a generally
23 known alternative designation of the owner: *Provided*, That
24 if the producer of the sound recording is named on the
25 labels or containers of the reproduction, and if no other

1 name appears in conjunction with the notice, his name shall
2 be considered a part of the notice.”

3 (d) In section 20, title 17, of the United States Code,
4 amend the first sentence to read: “The notice of copyright
5 shall be applied, in the case of a book or other printed pub-
6 lication, upon its title page or the page immediately follow-
7 ing, or if a periodical either upon the title page or upon the
8 first page of text of each separate number or under the title
9 heading, or if a musical work either upon its title page or the
10 first page of music, or if a sound recording on the surface of
11 reproductions thereof or on the label or container in such
12 manner and location as to give reasonable notice of the claim
13 of copyright.”

14 (e) In section 26, title 17, of the United States Code,
15 add the following at the end of the section: “For the pur-
16 poses of this section and sections 10, 11, 13, 14, 21, 101,
17 106, 109, 209, 215, but not for any other purpose, a repro-
18 duction of a work described in subsection 5 (n) shall be
19 considered to be a copy thereof. ‘Sound recordings’ are
20 works that result from the fixation of a series of musical,
21 spoken, or other sounds, but not including the sounds accom-
22 panying a motion picture. ‘Reproductions of sound record-
23 ings’ are material objects in which sounds other than those
24 accompanying a motion picture are fixed by any method now
25 known or later developed, and from which the sounds can be

1 perceived, reproduced, or otherwise communicated, either
2 directly or with the aid of a machine or device, and include
3 the 'parts of instruments serving to reproduce mechanically
4 the musical work', 'mechanical reproductions', and 'inter-
5 changeable parts, such as discs or tapes for use in mechanical
6 music-producing machines' referred to in sections 1 (e) and
7 101 (e) of this title."

8 SEC. 2. That title 17 of the United States Code is fur-
9 ther amended in the following respect:

10 In section 101, title 17 of the United States Code, de-
11 lete subsection (e) in its entirety and substitute the following:

12 "(e) INTERCHANGEABLE PARTS FOR USE IN ME-
13 CHANICAL MUSIC-PRODUCING MACHINES.—Interchange-
14 able parts, such as discs or tapes for use in mechanical music-
15 producing machines adapted to reproduce copyrighted musical
16 works, shall be considered copies of the copyrighted musical
17 works which they serve to reproduce mechanically for the
18 purposes of this section 101 and sections 106 and 109 of
19 this title, and the unauthorized manufacture, use, or sale of
20 such interchangeable parts shall constitute an infringement
21 of the copyrighted work rendering the infringer liable in ac-
22 cordance with all provisions of this title dealing with in-
23 fringements of copyright and, in a case of willful infringe-

1 ment for profit, to criminal prosecution pursuant to section
2 104 of this title. Whenever any person, in the absence of a
3 license agreement, intends to use a copyrighted musical com-
4 position upon the parts of instruments serving to reproduce
5 mechanically the musical work, relying upon the compulsory
6 license provision of this title, he shall serve notice of such
7 intention, by registered mail, upon the copyright proprietor at
8 his last address disclosed by the records of the copyright of-
9 fice, sending to the copyright office a duplicate of such
10 notice."

11 SEC. 3. This Act shall take effect four months after its
12 enactment except that section 2 of this Act shall take effect
13 immediately upon its enactment. The provisions of title 17
14 of the United States Code as amended by section 1 of this
15 Act, shall apply only to sound recordings fixed, published,
16 and copyrighted on and after the effective date of this Act
17 and nothing in title 17 of the United States Code shall be
18 applied retroactively or be construed as affecting in any way
19 any rights with respect to sound recordings fixed before that
20 date. *The provisions of title 17, United States Code, as*
21 *amended by section 1 of this Act, shall apply only to sound*
22 *recordings fixed, published, and copyrighted on and after*
23 *the effective date of this Act and before January 1, 1975,*

1 *and nothing in title 17, United States Code, as amended by*
2 *section 1 of this Act, shall be applied retroactively or be*
3 *construed as affecting in any way any rights with respect to*
4 *sound recordings fixed before the effective date of this Act.*

Passed the Senate April 29, 1971.

Attest:

FRANCIS R. VALEO,

Secretary.

Union Calendar No. 229

92^d CONGRESS
1st SESSION

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