

S. 646

IN THE HOUSE OF REPRESENTATIVES

MAY 3, 1971

Referred to the Committee on the Judiciary

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 lending,
9 reproductions of the copyrighted work if it be a sound record-

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

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

13 “Sound recordings.”

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

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

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

1 the 'parts of instruments serving to reproduce mechanically
 2 the musical work', 'mechanical reproductions', and 'inter-
 3 changeable parts, such as discs or tapes for use in mechanical
 4 music-producing machines' referred to in sections 1 (e) and
 5 101 (e) of this title."

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

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

10 "(e) INTERCHANGEABLE PARTS FOR USE IN ME-
 11 CHANICAL MUSIC-PRODUCING MACHINES.—Interchange-
 12 able parts, such as discs or tapes for use in mechanical music-
 13 producing machines adapted to reproduce copyrighted musical
 14 works, shall be considered copies of the copyrighted musical
 15 works which they serve to reproduce mechanically for the
 16 purposes of this section 101 and sections 106 and 109 of
 17 this title, and the unauthorized manufacture, use, or sale of
 18 such interchangeable parts shall constitute an infringement
 19 of the copyrighted work rendering the infringer liable in ac-
 20 cordance with all provisions of this title dealing with in-
 21 fringements of copyright and, in a case of willful infringe-
 22 ment for profit, to criminal prosecution pursuant to section
 23 104 of this title. Whenever any person, in the absence of a
 24 license agreement, intends to use a copyrighted musical com-
 25 position upon the parts of instruments serving to reproduce

1 mechanically the musical work, relying upon the compulsory
 2 license provision of this title, he shall serve notice of such
 3 intention, by registered mail, upon the copyright proprietor at
 4 his last address disclosed by the records of the copyright of-
 5 fice, sending to the copyright office a duplicate of such
 6 notice.”

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

Passed the Senate April 29, 1971.

Attest:

FRANCIS R. VALEO,

92^D CONGRESS
 1ST SESSION

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Secretary.

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