

Union Calendar No. 410

108TH CONGRESS
2^D SESSION

H. R. 4586

[Report No. 108-670]

To provide that making limited portions of audio or video content of motion pictures imperceptible by or for the owner or other lawful possessor of an authorized copy of that motion picture for private home viewing, and the use of technology therefor, is not an infringement of copyright or of any right under the Trademark Act of 1946.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2004

Mr. SMITH of Texas (for himself and Mr. FORBES) introduced the following bill; which was referred to the Committee on the Judiciary

SEPTEMBER 8, 2004

Additional sponsors: Mr. BOUCHER, Mr. BLUNT, and Mr. PITTS

SEPTEMBER 8, 2004

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

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on June 16, 2004]

A BILL

To provide that making limited portions of audio or video content of motion pictures imperceptible by or for the owner or other lawful possessor of an authorized copy of that motion picture for private home viewing, and the use of technology therefor, is not an infringement

of copyright or of any right under the Trademark Act of 1946.

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 “Family Movie Act of*
5 *2004”.*

6 **SEC. 2. EXEMPTION FROM COPYRIGHT INFRINGEMENT FOR**
7 **SKIPPING OF AUDIO OR VIDEO CONTENT OF**
8 **MOTION PICTURES.**

9 *Section 110 of title 17, United States Code, is amend-*
10 *ed—*

11 *(1) in paragraph (9), by striking “and” after the*
12 *semicolon at the end;*

13 *(2) in paragraph (10), by striking the period at*
14 *the end and inserting “; and”; and*

15 *(3) by inserting after paragraph (10) the fol-*
16 *lowing:*

17 *“(11)(A) the making of limited portions of audio*
18 *or video content of a motion picture imperceptible by*
19 *or for the owner or other lawful possessor of an au-*
20 *thorized copy of that motion picture in the course of*
21 *viewing of that work for private use in a household,*
22 *by means of consumer equipment or services that—*

23 *“(i) are operated by an individual in that*
24 *household;*

1 “(ii) serve only such household; and

2 “(iii) do not create a fixed copy of the al-
3 tered version; and

4 “(B) the use of technology to make such audio or
5 video content imperceptible, that does not create a
6 fixed copy of the altered version.”.

7 **SEC. 3. EXEMPTION FROM TRADEMARK INFRINGEMENT**
8 **FOR SKIPPING OF AUDIO OR VIDEO CONTENT**
9 **OF MOTION PICTURES.**

10 Section 32 of the Trademark Act of 1946 (15 U.S.C.
11 1114) is amended by adding at the end the following:

12 “(3)(A) Any person who engages in the conduct de-
13 scribed in paragraph (11) of section 110 of title 17, United
14 States Code, and who complies with the requirements set
15 forth in that paragraph is not liable on account of such
16 conduct for a violation of any right under this Act.

17 “(B) A manufacturer, licensee, or licensor of tech-
18 nology that enables the making of limited portions of audio
19 or video content of a motion picture imperceptible that is
20 authorized under subparagraph (A) is not liable on account
21 of such manufacture or license for a violation of any right
22 under this Act. Such manufacturer, licensee, or licensor
23 shall ensure that the technology provides a clear and con-
24 spicuous notice that the performance of the motion picture

1 *is altered from the performance intended by the director or*
2 *copyright holder of the motion picture.*

3 “(C) *Any manufacturer, licensee, or licensor of tech-*
4 *nology described in subparagraph (B) who fails to comply*
5 *with the requirement under subparagraph (B) to provide*
6 *notice with respect to a motion picture shall be liable in*
7 *a civil action brought by the copyright owner of the motion*
8 *picture that is modified by the technology in an amount*
9 *not to exceed \$1,000 for each such motion picture.*

10 “(D) *The requirement under subparagraph (B) to pro-*
11 *vide notice, and the provisions of subparagraph (C), shall*
12 *apply only with respect to technology manufactured after*
13 *the end of the 180-day period beginning on the date of the*
14 *enactment of the Family Movie Act of 2004.”.*

15 **SEC. 4. DEFINITION.**

16 *In this Act, the term “Trademark Act of 1946” means*
17 *the Act entitled “An Act to provide for the registration and*
18 *protection of trademarks used in commerce, to carry out*
19 *the provisions of certain international conventions, and for*
20 *other purposes”, approved July 5, 1946 (15 U.S.C. 1051*
21 *et seq.).*

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