

112TH CONGRESS
1ST SESSION

S. 978

To amend the criminal penalty provision for criminal infringement of a copyright, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 12, 2011

Ms. KLOBUCHAR (for herself, Mr. CORNYN, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the criminal penalty provision for criminal infringement of a copyright, 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 **SECTION 1. CRIMINAL INFRINGEMENT OF A COPYRIGHT.**

4 (a) AMENDMENTS TO SECTION 2319 OF TITLE 18.—
5 Section 2319 of title 18, United States Code, is amend-
6 ed—

7 (1) in subsection (b)—

8 (A) by redesignating paragraphs (2) and
9 (3) as paragraphs (3) and (4), respectively; and

1 (B) by inserting after paragraph (1) the
2 following:

3 “(2) shall be imprisoned not more than 5 years,
4 fined in the amount set forth in this title, or both,
5 if—

6 “(A) the offense consists of 10 or more
7 public performances by electronic means, during
8 any 180-day period, of 1 or more copyrighted
9 works; and

10 “(B)(i) the total retail value of the per-
11 formances, or the total economic value of such
12 public performances to the infringer or to the
13 copyright owner, would exceed \$2,500; or

14 “(ii) the total fair market value of licenses
15 to offer performances of those works would ex-
16 ceed \$5,000;” and

17 (2) in subsection (f), by striking paragraph (2)
18 and inserting the following:

19 “(2) the terms ‘reproduction’, ‘distribution’,
20 and ‘public performance’ refer to the exclusive rights
21 of a copyright owner under clauses (1), (3), (4), and
22 (6), respectively of section 106 (relating to exclusive
23 rights in copyrighted works), as limited by sections
24 107 through 122, of title 17;”.

1 (b) AMENDMENT TO SECTION 506 OF TITLE 17.—
2 Section 506(a) of title 17, United States Code, is amend-
3 ed—

4 (1) in paragraph (1)(C), by inserting “or public
5 performance” after “distribution” the first place it
6 appears; and

7 (2) in paragraph (3)—

8 (A) in subparagraph (A), by inserting “or
9 public performance” after “unauthorized dis-
10 tribution”; and

11 (B) in subparagraph (B), by inserting “or
12 public performance” after “distribution”.

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