

Public Law 98-450
98th Congress

An Act

To amend title 17 of the United States Code with respect to rental, lease, or lending of sound recordings.

Oct. 4, 1984

[S. 32]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Record Rental
Amendment of
1984.
Copyrights.

SHORT TITLE

SECTION 1. This Act may be cited as the "Record Rental Amendment of 1984".

17 USC 101 note.

CONDITIONS ON RENTALS

SEC. 2. Section 109 of title 17, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b)(1) Notwithstanding the provisions of subsection (a), unless authorized by the owners of copyright in the sound recording and in the musical works embodied therein, the owner of a particular phonorecord may not, for purposes of direct or indirect commercial advantage, dispose of, or authorize the disposal of, the possession of that phonorecord by rental, lease, or lending, or by any other act or practice in the nature of rental, lease, or lending. Nothing in the preceding sentence shall apply to the rental, lease, or lending of a phonorecord for nonprofit purposes by a nonprofit library or nonprofit educational institution.

"(2) Nothing in this subsection shall affect any provision of the antitrust laws. For purposes of the preceding sentence, 'antitrust laws' has the meaning given that term in the first section of the Clayton Act and includes section 5 of the Federal Trade Commission Act to the extent that section relates to unfair methods of competition.

15 USC 12.

15 USC 45.

"(3) Any person who distributes a phonorecord in violation of clause (1) is an infringer of copyright under section 501 of this title and is subject to the remedies set forth in sections 502, 503, 504, 505, and 509. Such violation shall not be a criminal offense under section 506 or cause such person to be subject to the criminal penalties set forth in section 2319 of title 18."

18 USC 2319.

COMPULSORY LICENSES; ROYALTIES

SEC. 3. Section 115(c) of title 17, United States Code, is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by adding after paragraph (2) the following new paragraph:

"(3) A compulsory license under this section includes the right of the maker of a phonorecord of a nondramatic musical work under subsection (a)(1) to distribute or authorize distribution of such phonorecord by rental, lease, or lending (or by acts or practices in

17 USC 801 *et seq.*

Regulations.

the nature of rental, lease, or lending). In addition to any royalty payable under clause (2) and chapter 8 of this title, a royalty shall be payable by the compulsory licensee for every act of distribution of a phonorecord by or in the nature of rental, lease, or lending, by or under the authority of the compulsory licensee. With respect to each nondramatic musical work embodied in the phonorecord, the royalty shall be a proportion of the revenue received by the compulsory licensee from every such act of distribution of the phonorecord under this clause equal to the proportion of the revenue received by the compulsory licensee from distribution of the phonorecord under clause (2) that is payable by a compulsory licensee under that clause and under chapter 8. The Register of Copyrights shall issue regulations to carry out the purpose of this clause."

EFFECTIVE DATE

17 USC 109 note.

SEC. 4. (a) The amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) The provisions of section 109(b) of title 17, United States Code, as added by section 2 of this Act, shall not affect the right of an owner of a particular phonorecord of a sound recording, who acquired such ownership before the date of the enactment of this Act, to dispose of the possession of that particular phonorecord on or after such date of enactment in any manner permitted by section 109 of title 17, United States Code, as in effect on the day before the date of the enactment of this Act.

(c) The amendments made by this Act shall not apply to rentals, leaseings, lendings (or acts or practices in the nature of rentals, leaseings, or lendings) occurring after the date which is five years after the date of the enactment of this Act.

Approved October 4, 1984.

LEGISLATIVE HISTORY—S. 32 (H.R. 5938):

HOUSE REPORT No. 98-987 accompanying H.R. 5938 (Comm. on the Judiciary).

SENATE REPORT No. 98-162 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 129 (1983): June 28, considered and passed Senate.

Vol. 130 (1984): Sept. 11, H.R. 5938 considered and passed House; S. 32, amended, passed in lieu.

Sept. 21, Senate concurred in House amendment.