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peaches from Italy, and oranges from Israel.

Our American supermarkets also carry agricultural products from a wide range of exporting nations. Why, then, do our consumers lack the advantage that their French, Japanese, and Canadian counterparts enjoy: the ability to make informed choices about the food they feed to their families?

It doesn't have to be that way. For 18 years, Florida grocery store customers have enjoyed the benefits of a law very similar to what I am proposing today.

In 1979, during my first term as Governor, the Florida State Legislature enacted the Produce Labeling Act, a law that is now administered by the Florida Department of Agriculture and Consumer Services.

The law has been implemented with almost no additional regulation and at extremely small cost to Florida taxpayers.

Extra supermarket inspections are not required. Department of Agriculture inspectors verify compliance with the law as a part of their already planned, routine inspections of all retail food stores in the State.

Florida's policy also expends limited time and money. A standard inspection takes approximately 15 minutes, the time needed to review displays and document discrepancies. And enforcement costs are estimated to be less than $40,000 annually for the department's inspection of over 23,000 retail food establishments.

While costs are low, the benefits that Floridians have enjoyed as a result of this policy are significant.

Most importantly, consumers are armed with important information about the products upon which they spend their hard-earned paycheck. Here's what that means:

The "Made In The USA" label can draw more customers to domestic produce, thus supporting American farmers and the U.S. economy as a whole.

Consumers have the ability to seek out foreign produce that is known for its high quality.

Shoppers have the information needed to boycott products from countries that exploit workers with low pay, poor working conditions, or child labor.

American families can protect their own health from products subjected to unsafe or unsanitary produce-handling practices.

The Florida Department of Agriculture reports that the State's labeling law has been both well-received and cost-effective. It costs a store only $5 to $10 per week to implement, and the estimated industry compliance costs statewide are less than $200,000 annually.

In plain terms, this means that for less than $200,000, consumers in a State that has 14 million residents and each year welcomes over 30 million visitors have the basic information regarding the origins of the produce on their supermarket shelves. That's a small price to pay for the ability to make educated choices in the marketplace.

It is my goal—and that of my cosponsors, Senator CRAIG of Idaho and Senator JOHNSON of South Dakota—to ensure that all American consumers are armed with the same ability to make informed choices as their counterparts in Florida, Europe, and Japan.

We are introducing this legislation because the changing nature of the agriculture market demands changes in our Nation's trade policy.

Sixty-seven years ago, when the Tariff Act of 1930 was enacted, fresh fruits and vegetables were exempt from labeling laws.

The Tariff Act dictates that items are required to be labeled with their country of origin only on their outermost container. In the case of fresh fruit and vegetables, the outermost container is the shipping container, from which produce is removed long before it ever reaches the consumer.

Obviously, the consumer market has changed dramatically since 1930. Whereas imported produce was once almost nonexistent in the United States, it now constitutes a $1.7 billion industry. In fact, 60 percent of our winter fruits and vegetables come from Mexico alone.

As imports have become a fixture in the domestic marketplace, our growers and their associations have argued for country of origin labeling. But this is an issue that unites producers and consumers. Research has shown that an overwhelming number of American consumers would like to know where their produce is grown—and they want that information made readily available.

Our bill is not cumbersome. It simply says that a retailer of a perishable agricultural product imported into the United States shall inform consumers as to the national origins of that product.

Nor is it designed to give American products an unfair advantage in the marketplace. In fact, foreign growers who believe that they grow a superior product to ours see this legislation as a prime opportunity to sell more of their goods in American supermarkets.

And finally, this bill does not suppress free trade or the free market system. It simply seeks to level the regulatory playing field. Shoppers in the European Union and Canada benefit from a county-of-origin labeling requirement. American consumers should have access to the same kind of information.

The Imported Produce Labeling Act constitutes one of the most important agriculture trade initiatives that will come before us during this Congress. It is a vital part of efforts to bolster one of the most critical elements of our free-enterprise system: informed choice. I urge its speedy passage.

By Mr. LEAHY (for himself and Mr. KYL):

S. 1044. A bill to amend the provisions of titles 17 and 18, United States Code, to provide greater copyright protection by amending criminal copyright infringement provisions, and for other purposes; to the Committee on the Judiciary.

THE CRIMINAL COPYRIGHT IMPROVEMENT ACT OF 1997

Mr. LEAHY. Mr. President, I am pleased to introduce on behalf of Senator KYL and myself, the Criminal Copyright Improvement Act of 1997. This bill would close a significant loophole in our copyright law and remove a significant hurdle in the Government's ability to bring criminal charges in certain cases of willful copyright infringement. By insuring better protection of the creative works available online, this bill will also encourage the continued growth of the Internet and our national information infrastructure.

This bill reflects the recommendations and hard work of the Department of Justice, which worked with me to introduce a version of this legislation in the 104th Congress. I want to commend the Department for recognizing the need for action on this important problem. This bill was noted with approval in the September, 1995 "Report of the Working Group on Intellectual Property Rights," chaired by Bruce Lehman, Commissioner of Patents and Trademarks, and has been cited by the Business Software Alliance as one of its major legislative priorities.

For a criminal prosecution under current copyright law a defendant's willful copyright infringement must be "for purposes of commercial advantage or private financial gain." Not-for-profit or noncommercial copyright infringement is not subject to criminal law enforcement, no matter how egregious the infringement or how great the loss to the copyright holder. This presents an enormous loophole in criminal liability for willful infringers who can use digital technology to make exact copies of copyrighted software and other digitally encoded works, and then use computer networks for quick, inexpensive and mass distribution of pirated, infringing works. This bill would close this loophole.

United States v. *LaMacchia*, 871 F. Supp. 535 (D. Mass. 1994), is an example of the problem this criminal copyright bill would fix. In that case, an MIT student set up computer bulletin board systems on the Internet. Users posted and downloaded copyrighted software programs. This resulted in an estimated loss to the copyright holders of over $1 million over a 6-week period. Since the student apparently did not profit from the software piracy, the Government could not prosecute him under criminal copyright law and instead charged him with wire fraud. The district court described the student's conduct "at best * * * as irresponsible, and at worst as nihilistic, self-indulgent, and lacking in any fundamental sense of values."

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Nevertheless, the Court dismissed the indictment in LaMacchia because it viewed copyright law as the exclusive remedy for protecting intellectual property rights. The Court expressly invited Congress to revisit the copyright law and make any necessary adjustments, stating:

Criminal as well as civil penalties should probably attach to willful, multiple infringements of copyrighted software even absent a commercial motive on the part of the infringer. One can envision ways that the copyright law could be modified to permit such prosecution. But, "[i]t is the legislature, not the Court which is to define a crime, and ordain its punishment."

This bill would ensure redress in the future for flagrant, willful copyright infringements in the following ways: First, serious acts of willful copyright infringement that result in multiple copies over a limited time period and cause significant loss to the copyright holders, would be subject to criminal prosecution.

The bill would add a new offense prohibiting willful copyright infringement by reproduction or distributing, including by electronic means, during a 180-day period of 10 or more copies of 1 or more copyrighted works when the total retail value of the copyrighted work or the total retail value of the copies of such work is $5,000 or more. The bill makes clear that to meet the monetary threshold either the infringing copies or the copyrighted works must have a total retail value of $5,000 or more. The penalty would be a misdemeanor if the total retail value of the infringed or infringing works is between $5,000 and $10,000, and up to 3 years' imprisonment if the total retail value is $10,000 or more.

By contrast, the penalties proposed for for-profit infringement are much stiffer. Specifically, under the existing 17 U.S.C. section 506(a)(1), for-profit infringements in which the retail value of the infringing works is less than $2,500, would constitute a misdemeanor; and, if the retail value of the infringing works is $2,500 or more, the penalty is up to 5 years' imprisonment. As discussed below, this bill would change the monetary threshold amount for felony liability under section 506(a)(1) from $2,500 to $5,000.

The monetary, time period and number of copies thresholds for the new offense, under 17 U.S.C. section 506(a)(2), for not-for-profit infringements, combined with the scienter requirement, would insure that criminal charges would only apply to willful infringements, not merely casual or careless conduct, that result in a significant level of harm to the copyright holder's rights. De minimis, not-for-profit violations, including making a single pirated copy or distributing pirated copies of works worth less than a total of $5,000, would not be subject to criminal prosecution.

This bill would require that at least 10 or more copies of the infringed work be made, which is a quantity requirement that was not present for the new not-for-profit infringement offense in the version of the bill introduced in the 104th Congress. Thus, it would not be a crime under the bill to make a single copy of a copyrighted work, even if that work were very valuable and worth over $10,000. Such valuable intellectual property, whether or not copyrighted, that is stolen could be protected under the Economic Espionage Act of 1996, if it is a trade secret, or under the National Information Infrastructure Protection Act of 1996, which Senator KYL and I sponsored, if the means used to complete the theft involved unauthorized computer access.

Second, the bill would increase the monetary threshold for the existing criminal copyright offense, which makes it a misdemeanor to commit any willful infringement for commercial advantage or private financial gain, and a felony if 10 or more copies of works with a retail value of over $2,500 are made during a 180-day period. The bill would increase the monetary threshold in this offense from $2,500 to $5,000 for felony liability.

Third, the bill would add a provision to treat more harshly recidivists who commit a second or subsequent felony criminal copyright offense. Under existing law, repeat offenders who commit a second or subsequent offense of copyright infringement for commercial advantage or private financial gain are subject to imprisonment for up to 10 years. The bill would also double the term of imprisonment from 3 years to 6 years for a repeat offense for noncommercial copyright infringement. Such a calibration of penalties takes an important step in ensuring adequate deterrence of repeated willful copyright infringements.

Fourth, the bill would extend the statute of limitations for criminal copyright infringement actions from 3 to 5 years, which is the norm for violations of criminal laws under title 18, including those protecting intellectual property.

Finally, the bill would strengthen victims' rights by giving victimized copyright holders the opportunity to provide a victim impact statement to the sentencing court. In addition, the bill would direct the Sentencing Commission to set sufficiently stringent sentencing guideline ranges for defendants convicted of intellectual property offenses to deter these crimes.

Technological developments and the emergence of the national information infrastructure in this country and the global information infrastructure worldwide hold enormous promise and present significant challenges for protecting creative works. Increasing accessibility and affordability of information and entertainment services are important goals that oftentimes require prudent balancing of public and private interests. In the area of creative rights, that balance has rested on encouraging creativity by ensuring rights that reward it while encouraging its public availability.

The Copyright Act is grounded in the copyright clause of the Constitution and assures that "contributors to the store of knowledge [receive] a fair return for their labors." Harper & Row "The Nation Enterprises", 471 U.S. 539, 546 (1985). I am mindful, however, that when we exercise our power to make criminal certain forms of copyright infringement, we should act with "exceeding caution" to protect the public's first amendment interest in the dissemination of ideas. *Dowling* v. *United States*, 473 U.S. 207, 221 (1985). I look forward to continuing to work with interested parties to make any necessary refinements to this bill to insure that we have struck the appropriate balance.

I ask unanimous consent that my full statement be placed in the RECORD together with the bill and a sectional summary.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 1044

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal Copyright Improvement Act of 1997".

SEC. 2. CRIMINAL INFRINGEMENT OF COPYRIGHTS.

(a) DEFINITION OF FINANCIAL GAIN.—Section 101 of title 17, United States Code, is amended by inserting after the undesignated paragraph relating to the term "display", the following new paragraph:

"The term 'financial gain' includes receipt of anything of value, including the receipt of other copyrighted works.".

(b) CRIMINAL OFFENSES.—Section 506(a) of title 17, United States Code, is amended to read as follows:

"(a) CRIMINAL INFRINGEMENT.—Any person who infringes a copyright willfully either—

"(1) for purposes of commercial advantage or private financial gain; or

"(2) by the reproduction or distribution, including by electronic means, during any 180-day period, of 10 or more copies, of 1 or more copyrighted works, and the total retail value of the copyrighted work or the total retail value of the copies of such work is $5,000 or more,

shall be punished as provided under section 2319 of title 18.".

(c) LIMITATION ON CRIMINAL PROCEEDINGS.—Section 507(a) of title 17, United States Code, is amended by striking "three" and inserting "five".

(d) CRIMINAL INFRINGEMENT OF A COPYRIGHT.—Section 2319 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "subsection (a) of this section" and inserting "section 506(a)(1) of title 17";

(B) in paragraph (1)—

(i) by inserting "including by electronic means," after "if the offense consists of the reproduction or distribution,"; and

(ii) by striking "with a retail value of more than $2,500" and inserting "which have a total retail value of more than $5,000"; and

(C) in paragraph (3) by inserting before the semicolon "under this subsection"; and

(2) by redesignating subsection (c) as subsection (e) and inserting after subsection (b) the following:

"(c) Any person who commits an offense under section 506(a)(2) of title 17—

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"(1) shall be imprisoned not more than 3 years, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution, including by electronic means, during any 180-day period, of 10 or more copies of 1 or more copyrighted works, and the total retail value of the copyrighted work or the total retail value of the copies of such work is $10,000 or more;

"(2) shall be imprisoned not more than 1 year or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution, including by electronic means during any 180-day period, of 10 or more copies of 1 or more copyrighted works, and the total retail value of the copyrighted works or the total retail value of the copies of such works is $5,000 or more; and

"(3) shall be imprisoned not more than 6 years, or fined in the amount set forth in this title, or both, if the offense is a second or subsequent felony offense under paragraph (1).

"(d)(1) During preparation of the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

"(2) Persons permitted to submit victim impact statements shall include—

"(A) producers and sellers of legitimate works affected by conduct involved in the offense;

"(B) holders of intellectual property rights in such works; and

"(C) the legal representatives of such producers, sellers, and holders.".

(e) UNAUTHORIZED FIXATION AND TRAFFICKING OF LIVE MUSICAL PERFORMANCES.—Section 2319A of title 18, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

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

"(d) VICTIM IMPACT STATEMENT.—(1) During preparation of the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

"(2) Persons permitted to submit victim impact statements shall include—

"(A) producers and sellers of legitimate works affected by conduct involved in the offense;

"(B) holders of intellectual property rights in such works; and

"(C) the legal representatives of such producers, sellers, and holders.".

(f) TRAFFICKING IN COUNTERFEIT GOODS OR SERVICES.—Section 2320 of title 18, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (f) and transferring such subsection to the end of the section;

(2) by redesignating subsection (e) as subsection (d); and

(3) by inserting after subsection (d) (as redesignated by paragraph (2) of this subsection) the following:

"(e)(1) During preparation of the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

"(2) Persons permitted to submit victim impact statements shall include—

"(A) producers and sellers of legitimate goods or services affected by conduct involved in the offense;

"(B) holders of intellectual property rights in such goods or services; and

"(C) the legal representatives of such producers, sellers, and holders.".

(g) DIRECTIVE TO SENTENCING COMMISSION.—

(1) IN GENERAL.—Under the authority of the Sentencing Reform Act of 1984 (Public Law 98-473; 98 Stat. 1987) and section 21 of the Sentencing Act of 1987 (Public Law 100-182; 101 Stat. 1271; 18 U.S.C. 994 note) (including the authority to amend the sentencing guidelines and policy statements), the United States Sentencing Commission shall ensure that the applicable guideline range for a defendant convicted of a crime against intellectual property (including offenses set forth at section 506(a) of title 17, United States Code, and sections 2319, 2319A and 2320 of title 18, United States Code)—

(A) is sufficiently stringent to deter such a crime;

(B) adequately reflects the additional considerations set forth in paragraph (2) of this subsection; and

(C) takes into account more than minimal planning and other aggravating factors.

(2) IMPLEMENTATION.—In implementing paragraph (1), the Sentencing Commission shall ensure that the guidelines provide for consideration of the retail value of the legitimate items that are infringed upon and the quantity of items so infringed.

CRIMINAL COPYRIGHT IMPROVEMENT ACT OF 1997—SUMMARY

Sec. 1. Short Title. The Act may be cited as the "Criminal Copyright Improvement Act of 1997."

Sec. 2. Criminal Infringement of Copyrights. As outlined below, the bill adds a new definition for "financial gain" to 17 U.S.C. § 101, and amends the criminal copyright infringement provisions in titles 17 and 18. The bill also ensures that victims of criminal copyright infringement have an opportunity to provide victim impact statements to the court about the impact of the offense. Finally, the bill directs the Sentencing Commission to ensure that guideline ranges are sufficiently stringent to deter criminal infringement of intellectual property rights, and provide for consideration of the retail value and quantity of the legitimate, infringed-upon items and other aggravating factors.

(a) Definition of Financial Gain. Current copyright law provides criminal penalties when a copyright is willfully infringed for purposes of "commercial advantage or private financial gain." The bill would add a definition of "financial gain" to the copyright law, 17 U.S.C. § 101, and clarify that this term means the "receipt of anything of value, including the receipt of other copyrighted works." This definition would make clear that "financial gain" includes bartering for, and the trading of, pirated software.

(b) Criminal Offenses. The requirement in criminal copyright infringement actions under 17 U.S.C. § 506(a) that the defendant's willful copyright infringement be "for purposes of commercial advantage or private financial gain," has allowed serious incidents of copyright infringement to escape successful criminal prosecution.

For example, in *United States* v. *LaMacchia*, 871 F. Supp. 535 (D. Mass. 1994), the defendant allegedly solicited users of a computer bulletin board system on the Internet to submit copies of copyrighted software programs for posting on the system, and then encouraged users to download copies of the illegally copied programs, resulting in an estimated loss of revenue to the copyright holders of over one million dollars over a six week period. Absent evidence of "commercial advantage or private financial gain," the defendant was charged with conspiracy to violate the wire fraud statute, 18 U.S.C. § 1343. The district court described the defendant's conduct as "heedlessly irresponsible, and at worst as nihilistic, self-indulgent, and lacking in any fundamental sense of values," but nevertheless dismissed the indictment on the grounds that acts of copyright infringement may not be prosecuted under the wire fraud statute.

The bill would add a new criminal copyright violation to close this loophole in circumstances where no commercial advantage or private financial gain may be shown. New section 17 U.S.C. § 506(a)(2) would prohibit willfully infringing a copyright by reproducing or distributing, including by electronic means, during any 180-day period, 10 or more copies of 1 or more copyrighted works when the total retail value of the copyrighted works or of the copies of such works is $5,000 or more. The penalty would be a misdemeanor if the total retail value of the infringed or infringing works is between $5,000 and $10,000, and up to 3 years' imprisonment if the total retail value is $10,000 or more.

Not-for-profit willful infringement would thus be subject to similar threshold requirements as for a felony offense of willful infringement for commercial advantage or private financial gain under 17 U.S.C. § 506(a)(1), which requires that 10 or more copies of copyrighted works with a total retail value of more than $5000 be made during a 180-day period. The penalties applicable to an offense under 17 U.S.C. § 506(a)(1) are more stringent than for the new offense under 17 U.S.C. § 506(a)(2). Specifically, under 17 U.S.C. § 506(a)(1), if the retail value of the infringing works is less than $5,000, the penalty is a misdemeanor; and, if the retail value of the infringing works is $5,000 or more, the penalty is up to 5 years' imprisonment.

The monetary, timing, and number of copies prerequisites for the new offense under 17 U.S.C. § 506(a)(2), combined with the scienter requirement, insure that merely casual or careless conduct resulting in distribution of only a few infringing copies would not be subject to criminal prosecution. In other words, criminal charges would only apply to not-for-profit willful infringements of 10 or more copies during a limited time period resulting in a significant level of harm of over $5,000 to the copyright holder's rights. De minimis violations would not be subject to criminal prosecution.

The offenses under § 506(a)(1) and (a)(2) would overlap. For example, someone selling 10 or more copies of a copyrighted work during a 180-day period may violate both provisions if the value of those copyrighted works is $5,000 or more. The key, however, is that the new provision in § 506(a)(2) requires that the infringement involve, at a minimum, harm in the amount of $5,000. By contrast, any offense, regardless of value, involving private financial gain or commercial advantage constitutes at least a misdemeanor, and the crime reaches felony level under the bill once the retail value of the copyrighted or infringing material exceeds $5,000.

The new crime would also require that at least 10 or more copies of the infringed work be made. It would not be a crime under the bill to make a single copy of a copyrighted work, even if it were very valuable and worth over $10,000. Such valuable intellectual property, whether or not copyrighted,

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that is stolen could be protected under the Economic Espionage Act of 1996 (if it is a trade secret), or under the National Information Infrastructure Protection Act of 1996, if the means used to complete the theft involved unauthorized computer access.

(c) Limitation on Criminal Procedures. The bill would amend 17 U.S.C. § 507(a) to extend the statute of limitations for criminal copyright infringement actions from three to five years. A five year statute of limitations is the norm for violations of criminal laws under Title 18, including those that relate to protecting intellectual property. See, e.g., 18 U.S.C. § 2319A (Unauthorized fixation of and Trafficking in sound recordings) and § 2320 (Trafficking in counterfeit goods or services).

(d) Criminal Infringement of a Copyright. The bill would amend the penalty provisions in 18 U.S.C. § 2319 to comport with the proposed amendments to 17 U.S.C. § 506(a), and would also add a new subsection providing for a victim impact statement.

First, under current law, willful copyright infringement for commercial advantage or private financial gain is a felony punishable by up to five years' imprisonment only when the offense consists of the reproduction or distribution during a 180-day period of ten or more copies with a retail value of over $2500. Willful infringements for commercial advantage, which do not satisfy the monetary threshold or quantity requirement during the statutory time period, are misdemeanor offenses. The bill would modify the felony penalty provision for willful copyright infringement for commercial advantage or private financial gain to cover reproductions or distributions "including by electronic means". The bill would also change the monetary threshold from $2,500 to $5,000.

Second, the bill would provide a new penalty in 18 U.S.C. § 2319(c) for the new offense in 17 U.S.C. § 506(a)(2) of willfully infringing a copyright by reproduction or distribution, including by electronic means, during a 180-day period of 10 or more copies of copyright works when the total retail value of the copyrighted work or of the copies of such work is $5,000 or more. Violations would be punishable by up to 1 year imprisonment and fine if the total retail value of the infringed or infringing works is between $5,000 and $10,000, and by up to 3 years' imprisonment and a fine if the total retail value is $10,000 or more.

The penalty structure under the bill is as follows:

Infringed work values—	Under $5,000	$5,000 to $10,000	Over $10,000
Willful Infringement for commercial advantage/private financial gain [17 U.S.C. § 506(a)(1)].	Misdemeanor	FELONY (up to 5 years), if 10 or more copies within 180-day period.	FELONY (up to 5 years), if 10 or more copies within 180-day period.
Willful Infringement by reproduction or distribution of works with value over $10,000 for any reason [17 U.S.C. § 506(a)(2)].	No criminal liability	Misdemeanor, if 10 or more copies within 180-day period	FELONY (up to 3 years), if 10 or more copies within 180-day period.

Third, the bill would add a provision to treat more harshly recidivists who commit a second or subsequent felony offense under new 18 U.S.C. 2319(c), which refers to new 17 U.S.C. § 506(a)(2). Under existing law, 18 U.S.C. 2319(b)(2), recidivists are subject to up to ten years' imprisonment and a fine for a second felony offense for willful copyright infringement for commercial advantage or private financial gain. The bill would double the penalty to up to six years' imprisonment and a fine for a second felony offense under new 17 U.S.C. § 506(a)(2) for not-for-profit willful copyright infringement.

Finally, the bill would add new subsection § 2319(d), requiring that victims of the offense, including producers and sellers of legitimate, infringed-upon goods or services, holders of intellectual property rights and their legal representatives, be given the opportunity to provide a victim impact statement to the probation officer preparing the presentence report. The bill directs that the statement identify the victim of the offense and the extent and scope of the injury and loss suffered, including the estimated economic impact of the offense on that victim.

(e) Unauthorized Fixation and Trafficking of Live Musical Performances. The bill would add new subsection 18 U.S.C. § 2319A(d) requiring that victims of the offense, including producers and sellers of legitimate, infringed-upon goods or services, holders of intellectual property rights and their legal representatives, be given the opportunity to provide a victim impact statement to the probation officer preparing the presentence report. The bill directs that the statement identify the victim of the offense and the extent and scope of the injury and loss suffered, including the estimated economic impact of the offense on that victim.

(f) Trafficking in Counterfeit Goods or Services. The bill would add new subsection 18 U.S.C. § 2320(e) requiring that victims of the offense, including producers and sellers of legitimate, infringed-upon goods or services, holders of intellectual property rights and their legal representatives, be given the opportunity to provide a victim impact statement to the probation officer preparing the presentence report. The bill directs that the statement identify the victim of the offense and the extent and scope of the injury and loss suffered, including the estimated economic impact of the offense on that victim.

(g) Directive to Sentencing Commission. The Sentencing Commission currently takes the view that criminal copyright infringement and trademark counterfeiting are analogous to fraud-related offenses, and that appropriate sentences are to be calculated according to the retail value of the infringing items, rather than of the legitimate copyrighted items which are infringed. This may understate the harm. The bill would direct the Sentencing Commission to ensure that applicable guideline ranges for criminal copyright infringement and violations of 18 U.S.C. §§ 2319, 2319A and 2320 are sufficiently stringent to deter such crimes, provide for consideration of the retail value and quantity of the legitimate, infringed-upon items, and take into account more than minimal planning and other aggravating factors.

By Mr. CRAIG (for himself, Mrs. MURRAY, Mr. MURKOWSKI, Mr. KEMPTHORNE, Mr. WYDEN, and Mr. GORTON):

S.J. Res. 35. A joint resolution granting the consent of Congress to the Pacific Northwest Emergency Management Arrangement; to the Committee on the Judiciary.

THE PACIFIC NORTHWEST EMERGENCY MANAGEMENT ARRANGEMENT

Mr. CRAIG. Mr. President, I rise today to introduce legislation to grant congressional consent to the Pacific Northwest Emergency Management Arrangement entered into between the States of Alaska, Idaho, Oregon, and Washington and the Provinces of British Columbia and the Yukon Territory.

Mr. President, I am pleased that so many of my colleagues from the Pacific Northwest have joined me in cosponsoring this important legislation.

This agreement, negotiated and signed by the Governors of the four Pacific Northwest States and their colleagues in Canada, would significantly improve multi-State and binational cooperation during the response phase of natural disasters in the Northwest. In addition, it would provide for region-wide civil defense coordination and guarantee residents of each State emergency services. The agreement does this while protecting the individual sovereignty of each State and Province.

Mr. President, given the impact of recent natural disasters across the Pacific Northwest, my colleagues can easily understand why this measure is so important. I hope the Senate will act quickly in seeing this measure approved without delay.

Mr. President, I ask unanimous consent that a copy of this legislation be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 35

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled.

SECTION 1. CONGRESSIONAL CONSENT.

Congress consents to the Pacific Northwest Emergency Management Arrangement entered into between the State of Alaska, Idaho, Oregon, and Washington, and the Province of British Columbia and the Yukon Territory. The arrangement is substantially as follows:

"PACIFIC NORTHWEST EMERGENCY MANAGEMENT ARRANGEMENT

"Whereas, Pacific Northwest emergency management arrangement between the government of the States of Alaska, the government of the State of Idaho, the government of the State of Oregon, the government of the State of Washington, the government of the State of the Providence of British Columbia, and the government of Yukon Territory hereinafter referred to collectively as the 'Signatories' and separately as a 'Signatory';

"Whereas, the Signatories recognize the importance of comprehensive and coordinated civil emergency preparedness, response and recovery measures for natural and technological emergencies or disasters, and for declared or undeclared hostilities including enemy attack;

"Whereas, the Signatories further recognize the benefits of coordinating their separate emergency preparedness, response and recovery measures with that of contiguous jurisdictions for those emergencies, disasters, or hostilities affecting or potentially affecting any one or more of the Signatories in the Pacific Northwest; and

"Whereas, the Signatories further recognize that regionally based emergency preparedness, response and recovery measures

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will benefit all jurisdictions within the Pacific Northwest, and best serve their respective national interests in cooperative and coordinated emergency preparedness as facilitated by the Consultative Group on Comprehensive Civil Emergency and Management established in the Agreement Between the government of the United States of America and the government of Canada on Cooperation and Comprehensive Civil Emergency Planning and Management signed at Ottawa, Ontario, Canada on April 28, 1986: Now, therefore, be it is hereby agreed by and between each and all of the Signatories hereto as follows:

"ADVISORY COMMITTEE

"(1) An advisory committee named the Western Regional Emergency Management Advisory Committee (W-REMAC) shall be established which will include one member appointed by each Signatory.

"(2) The W-REMAC will be guided by the agreed-upon Terms of Reference-Annex A.

"PRINCIPLES OF COOPERATION

"(3) Subject to the laws of each Signatory, the following cooperative principles are to be used as a guide by the Signatories in civil emergency matters which may affect more than one Signatory:

"(A) The authorities of each Signatory may seek the advice, cooperation, or assistance of any other Signatory in any civil emergency matter.

"(B) Nothing in the arrangement shall derogate from the applicable laws within the jurisdiction of any Signatory. However, the authorities of any Signatory may request from the authorities of any other signatory appropriate alleviation of such laws if their normal application might lead to delay or difficulty in the rapid execution of necessary civil emergency measures.

"(C) Each Signatory will use its best efforts to facilitate the movement of evacuees, refugees, civil emergency personnel, equipment or other resources into or across its territory, or to a designated staging area when it is agreed that such movement or staging will facilitate civil emergency operations by the affected or participating Signatories.

"(D) In times of emergency, each Signatory will use its best efforts to ensure that the citizens or residents of any other Signatory present in its territory are provided emergency health services and emergency social services in a manner no less favorable than that provided to its own citizens.

"(E) Each Signatory will use discretionary power as far as possible to avoid levy of any tax, tariff, business license, or user fees on the services, equipment, and supplies of any other Signatory which is engaged in civil emergency activities in the territory of another Signatory, and will use its best efforts to encourage local governments or other jurisdictions within its territory to do likewise.

"(F) When civil emergency personnel, contracted firms or personnel, vehicles, equipment, or other services from any Signatory are made available to or are employed to assist any other Signatory, all providing Signatories will use best efforts to ensure that charges, levies, or costs for such use or assistance will not exceed those paid for similar use of such resources within their own territory.

"(G) Each Signatory will exchange contact lists, warning and notification plans, and selected emergency plans and will call to the attention of their respective local governments and other jurisdictional authorities in areas adjacent to intersignatory boundaries, the desirability of compatibility of civil emergency plans and the exchange of contact lists, warning and notification plans, and selected emergency plans.

"(H) The authority of any Signatory conducting an exercise will ensure that all other signatories are provided an opportunity to observe, and/or participate in such exercises.

"COMPREHENSIVE NATURE

"(4) This document is a comprehensive arrangement on civil emergency planning and management. To this end and from time to time as necessary, all Signatories shall—

"(A) review and exchange their respective contact lists, warning and notification plans, and selected emergency plans; and

"(B) as appropriate, provide such plans and procedures to local governments, and other emergency agencies within their respective territories.

"ARRANGEMENT NOT EXCLUSIVE

"(5) This is not an exclusive arrangement and shall not prevent or limit other civil emergency arrangements of any nature between Signatories to this arrangement. In the event of any conflicts between the provisions of this arrangement and any other arrangement regarding emergency service entered into by two or more States of the United States who are Signatories to this arrangement, the provisions of that other arrangement shall apply, with respect to the obligations of those States to each other, and not the conflicting provisions of this arrangement.

"AMENDMENTS

"(6) This Arrangement and the Annex may be amended (and additional Annexes may be added) by arrangement of the Signatories.

"CANCELLATION OR SUBSTITUTION

"(7) Any Signatory to this Arrangement may withdraw from or cancel their participation in this Arrangement by giving sixty days, written notice in advance of this effective date to all other Signatories.

"AUTHORITY

"(8) All Signatories to this Arrangement warrant they have the power and capacity to accept, execute, and deliver this Arrangement.

"EFFECTIVE DATE

"(9) Notwithstanding any dates noted elsewhere, this Arrangement shall commence April 1, 1996.".

SEC. 2. INCONSISTENCY OF LANGUAGE.

The validity of the arrangements consented to by this Act shall not be affected by any insubstantial difference in their form or language as adopted by the States and provinces.

SEC. 3. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this Act is hereby expressly reserved.

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. MOYNIHAN, the names of the Senator from Connecticut [Mr. DODD], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 22, a bill to establish a bipartisan national commission to address the year 2000 computer problem.

S. 89

At the request of Ms. SNOWE, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 184

At the request of Mr. CHAFEE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 194, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded stock to certain private foundations and for other purposes.

S. 364

At the request of Mr. LIEBERMAN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 364, a bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices.

S. 428

At the request of Mr. KOHL, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 428, a bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns.

S. 484

At the request of Mr. DEWINE, the names of the Senator from Minnesota [Mr. WELLSTONE], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Washington [Mrs. MURRAY], the Senator from Wyoming [Mr. ENZI], the Senator from Florida [Mr. MACK], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 484, a bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative.

S. 493

At the request of Mr. KYL, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 493, a bill to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia.

S. 766

At the request of Ms. SNOWE, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 781

At the request of Mr. HATCH, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 781, a bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment.

S. 810

At the request of Mr. ABRAHAM, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 810, a bill to impose certain sanctions on the People's Republic of China, and for other purposes.

S. 980

At the request of Mr. DURBIN, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 980, a bill to require the Secretary of the Army to close the United States Army School of the Americas.

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