92D CONGRESS
1ST SESSION

S. 646

IN THE SENATE OF THE UNITED STATES

FEBRUARY 8 (legislative day, JANUARY 26), 1971

Mr. MCCLELLAN (for himself and Mr. SCOTT) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 17 of the United States Code is amended in the following respects:

(a) In section 1, title 17, of the United States Code, add a subsection (f) to read:

"To reproduce and distribute to the public by sale or other transfer of ownership, or by rental, lease, or lending, reproductions of the copyrighted work if it be a sound record-

ing: *Provided,* That the exclusive right of the owner of a copyright in a sound recording to reproduce it is limited to the right to duplicate the sound recording in a tangible form that directly or indirectly recaptures the actual sounds fixed in the recording: *Provided further,* That this right does not extend to the making or duplication of another sound recording that is an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording; or to single ephemeral recordings made by transmitting organizations for their own use.

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

"Sound recordings other than fixations of sound accompanying a motion picture."

(c) In section 19, title 17, of the United States Code, add the following at the end of the section: "In the case of reproductions of works specified in subsection (n) of section 5 of this title, the notice shall consist of the symbol P (the letter P in a circle), the year of first publication of the sound recording, and the name of the owner of copyright in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner: *Provided,* That if the producer of the sound recording is named on the labels or containers of the repro-

duction, and if no other name appears in conjunction with the notice, his name shall be considered a part of the notice."

(d) In section 20, title 17, of the United States Code, amend the first sentence to read: "The notice of copyright shall be applied, in the case of a book or other printed publication, upon its title page or the page immediately following, or if a periodical either upon the title page or upon the first page of text of each separate number or under the title heading, or if a musical work either upon its title page or the first page of music, or if a sound recording on the surface thereof or on the label or container in such manner and location as to give reasonable notice of the claim of copyright."

(e) In section 26, title 17, of the United States Code, add the following at the end of the section: "For the purposes of this section and sections 10, 11, 13, 14, 21, 101, 106, 109, 209, 215, but not for any other purpose, a reproduction of a work described in subsection 5(n) shall be considered to be a copy thereof.

SEC. 2. This Act shall take effect three months after its enactment. The provisions of title 17 of the United States Code shall apply only to sound recordings fixed, published, and copyrighted on and after the effective date of this Act and nothing in title 17 of the United States Code shall be applied retroactively or be construed as affecting in any way any rights with respect to sound recordings fixed before that date.

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