

115TH CONGRESS  
2D SESSION

# S. 2559

To amend title 17, United States Code, to implement the Marrakesh Treaty,  
and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 15, 2018

Mr. GRASSLEY (for himself, Mrs. FEINSTEIN, Mr. CORKER, Mr. MENENDEZ,  
Mr. HATCH, Ms. HARRIS, and Mr. LEAHY) introduced the following bill;  
which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 17, United States Code, to implement the  
Marrakesh Treaty, 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. SHORT TITLE.**

4 This Act may be cited as the “Marrakesh Treaty Im-  
5 plementation Act”.

6 **SEC. 2. IMPLEMENTATION AMENDMENTS.**

7 (a) IN GENERAL.—Chapter 1 of title 17, United  
8 States Code, is amended—

9 (1) in section 121—

10 (A) in subsection (a)—

1 (i) by inserting “in the United States”  
2 after “distribute”;

3 (ii) by striking “, nondramatic”;

4 (iii) by inserting “or of a previously  
5 published musical work that has been fixed  
6 in the form of text or notation” after “lit-  
7 erary work”;

8 (iv) by striking “specialized formats”  
9 and inserting “accessible formats”; and

10 (v) by striking “blind or other persons  
11 with disabilities” and inserting “eligible  
12 persons”;

13 (B) in subsection (b)(1)—

14 (i) in subparagraph (A)—

15 (I) by inserting “in the United  
16 States” after “distributed”;

17 (II) by striking “a specialized  
18 format” and inserting “an accessible  
19 format”; and

20 (III) by striking “blind or other  
21 persons with disabilities” and insert-  
22 ing “eligible persons”; and

23 (ii) in subparagraph (B), by striking  
24 “a specialized format” and inserting “an  
25 accessible format”;

1 (C) in subsection (c)(3), by striking “spe-  
2 cialized formats” and inserting “accessible for-  
3 mats”; and

4 (D) in subsection (d)—

5 (i) by striking paragraphs (2) and (4);

6 (ii) by redesignating paragraph (1) as  
7 paragraph (2);

8 (iii) by redesignating paragraph (3) as  
9 paragraph (4);

10 (iv) by inserting before paragraph (2),  
11 as so redesignated, the following:

12 “(1) ‘accessible format’ means an alternative  
13 manner or form that gives an eligible person access  
14 to the work when the copy or phonorecord in the ac-  
15 cessible format is used exclusively by the eligible per-  
16 son to permit him or her to have access as feasibly  
17 and comfortably as a person without such disability  
18 as described in paragraph (3);”;

19 (v) by inserting after paragraph (2),  
20 as so redesignated, the following:

21 “(3) ‘eligible person’ means an individual who,  
22 regardless of any other disability—

23 “(A) is blind;

24 “(B) has a visual impairment or perceptual  
25 or reading disability that cannot be improved to

1 give visual function substantially equivalent to  
 2 that of a person who has no such impairment  
 3 or disability and so is unable to read printed  
 4 works to substantially the same degree as a  
 5 person without an impairment or disability; or

6 “(C) is otherwise unable, through physical  
 7 disability, to hold or manipulate a book or to  
 8 focus or move the eyes to the extent that would  
 9 be normally acceptable for reading; and”;

10 (vi) in paragraph (4), as so redesign-  
 11 nated, by striking “; and” at the end and  
 12 inserting a period; and

13 (2) by inserting after section 121 the following:

14 **“§ 121A. Limitations on exclusive rights: reproduc-**  
 15 **tion for blind or other people with dis-**  
 16 **abilities in Marrakesh Treaty countries**

17 “(a) Notwithstanding the provisions of sections 106  
 18 and 602, it is not an infringement of copyright for an au-  
 19 thorized entity, acting pursuant to this section, to export  
 20 copies or phonorecords of a previously published literary  
 21 work or of a previously published musical work that has  
 22 been fixed in the form of text or notation in accessible  
 23 formats to another country when the exportation is made  
 24 either to—

1           “(1) an authorized entity located in a country  
2           that is a Party to the Marrakesh Treaty; or

3           “(2) an eligible person in a country that is a  
4           Party to the Marrakesh Treaty,

5 if prior to the exportation of such copies or phonorecords,  
6 the authorized entity engaged in the exportation did not  
7 know or have reasonable grounds to know that the copies  
8 or phonorecords would be used other than by eligible per-  
9 sons.

10          “(b) Notwithstanding the provisions of sections 106  
11 and 602, it is not an infringement of copyright for an au-  
12 thorized entity or an eligible person, or someone acting  
13 on behalf of an eligible person, acting pursuant to this  
14 section, to import copies or phonorecords of a previously  
15 published literary work or of a previously published musi-  
16 cal work that has been fixed in the form of text or notation  
17 in accessible formats.

18          “(c) In conducting activities under subsection (a) or  
19 (b), an authorized entity shall establish and follow its own  
20 practices, in keeping with its particular circumstances,  
21 to—

22           “(1) establish that the persons the authorized  
23           entity serves are eligible persons;

1           “(2) limit to eligible persons and authorized en-  
2           tities the distribution of accessible format copies by  
3           the authorized entity;

4           “(3) discourage the reproduction and distribu-  
5           tion of unauthorized copies;

6           “(4) maintain due care in, and records of, the  
7           handling of copies of works by the authorized entity,  
8           while respecting the privacy of eligible persons on an  
9           equal basis with others; and

10          “(5) facilitate effective cross-border exchange of  
11          accessible format copies by making publicly avail-  
12          able—

13                 “(A) the titles of works for which the au-  
14                 thorized entity has accessible format copies or  
15                 phonorecords and the specific accessible formats  
16                 in which they are available; and

17                 “(B) information on the policies, practices,  
18                 and authorized entity partners of the authorized  
19                 entity for the cross-border exchange of acces-  
20                 sible format copies.

21          “(d) Nothing in this section shall be construed to es-  
22          tablish—

23                 “(1) a cause of action under this title; or

24                 “(2) a basis for regulation by any Federal agen-  
25          cy.

1       “(e) Nothing in this section shall be construed to  
2 limit the ability to engage in any activity otherwise per-  
3 mitted under this title.

4       “(f) For purposes of this section—

5           “(1) the terms ‘accessible format’, ‘authorized  
6 entity’, and ‘eligible person’ have the meanings given  
7 those terms in section 121; and

8           “(2) the term ‘Marrakesh Treaty’ means the  
9 Marrakesh Treaty to Facilitate Access to Published  
10 Works by Visually Impaired Persons and Persons  
11 with Print Disabilities concluded at Marrakesh, Mo-  
12 rocco, on June 28, 2013.”.

13       (b) TABLE OF SECTIONS AMENDMENT.—The table of  
14 sections for chapter 1 of title 17, United States Code, is  
15 amended by inserting after the item relating to section  
16 121 the following:

“121A. Limitations on exclusive rights: reproduction for blind or other people  
with disabilities in Marrakesh Treaty countries.”.

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