

105TH CONGRESS
1ST SESSION

H. R. 72

To amend title 17, United States Code, to allow the making of a copy of a computer program in connection with the maintenance or repair of a computer.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. KNOLLENBERG introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 17, United States Code, to allow the making of a copy of a computer program in connection with the maintenance or repair of a computer.

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 “Computer Maintenance
5 Competition Assurance Act of 1997”.

6 **SEC. 2. LIMITATIONS ON EXCLUSIVE RIGHTS; COMPUTER**
7 **PROGRAMS.**

8 Section 117 of title 17, United States Code, is
9 amended—

1 (1) by striking “Notwithstanding” and inserting the
2 following:

3 “(a) MAKING OF ADDITIONAL COPY OR ADAPTATION
4 BY OWNER OF COPY.—Notwithstanding”;

5 (2) by striking “Any exact” and inserting the follow-
6 ing:

7 “(b) LEASE, SALE, OR OTHER TRANSFER OF ADDI-
8 TIONAL COPY OR ADAPTATION.—Any exact”; and

9 (3) by adding at the end the following:

10 “(c) MACHINE MAINTENANCE OR REPAIR.—Notwith-
11 standing the provisions of section 106, it is not an in-
12 fringement for the owner or lessee of a machine to make
13 or authorize the making of a copy of a computer program
14 if such copy is made solely by virtue of the activation of
15 a machine that lawfully contains an authorized copy of
16 the computer program, for purposes only of maintenance
17 or repair of that machine, if—

18 “(1) such new copy is used in no other manner
19 and is destroyed immediately after the maintenance
20 or repair is completed; and

21 “(2) with respect to any computer program or
22 part thereof that is not necessary for that machine
23 to be activated, such program or part thereof is not
24 accessed or used other than to make such new copy
25 by virtue of the activation of the machine.

1 “(d) DEFINITIONS.—For purposes of this section—

2 “(1) the ‘maintenance’ of a machine means
3 servicing the machine in order to make it work in
4 accordance with its original specifications and any
5 changes to those specifications authorized for that
6 machine; and

7 “(2) the ‘repair’ of a machine means restoring
8 it to the state of working in accordance with its
9 original specifications and any changes to those
10 specifications authorized for that machine.”.

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