

S. 1257

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 "Digital Theft Deterrence and Copyright Damages Improvement Act of 1999".

SEC. 2. STATUTORY DAMAGES ENHANCEMENT.

Section 504(c) of title 17, United States Code, is amended—

(1) in paragraph (1)—
(A) by striking "\$500" and inserting "\$750"; and

(B) by striking "\$20,000" and inserting "\$30,000"; and

(2) in paragraph (2)—
(A) by inserting "(A)" after "(2)";
(B) by striking "\$100,000" and inserting "\$150,000";

(C) by inserting after the second sentence the following:

"(B) In a case where the copyright owner demonstrates that the infringement was part of a repeated pattern or practice of willful infringement, the court may increase the award of statutory damages to a sum of not more than \$250,000 per work.;" and

(D) by striking "The court shall remit statutory damages" and inserting the following:

"(C) The court shall remit statutory damages".

Passed the Senate July 1, 1999.

MOTION OFFERED BY MR. COBLE

Mr. COBLE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. COBLE moves to strike all after the enacting clause of the Senate bill, S. 1257, and to insert in lieu thereof the text of H.R. 1761 as it passed the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "to amend provisions of title 17, United States Code, relating to penalties, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 1761) was laid on the table.

GENERAL LEAVE

Mr. COBLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1761, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 5:15 p.m.

Accordingly (at 5 o'clock and 3 minutes p.m.), the House stood in recess until approximately 5:15 p.m.

□ 1717

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro

those who use or distribute intellectual property have an incentive to comply with the law. The inflation adjustments provided in H.R. 1761 accomplish that objective.

Secondly, at a hearing held this past May, the Subcommittee on Courts and Intellectual Property heard evidence that the current sentencing guidelines for intellectual property crimes is not sufficiently stringent to deter such crimes.

□ 1700

The subcommittee's conclusion ratified by the committee was that the current guideline with its reliance on the value of the infringing item should be replaced with a guideline based on the retail price of the infringed upon item. At the same time, as a result of quite productive discussions with the staff of the sentencing commission, we acknowledged the commission's ability to make reasonable adjustments, aggravating or mitigating, as appropriate.

Mr. Speaker, I want to thank the chairman of the subcommittee for bringing this bill to the floor and for his consistent work in bringing bills to strengthen our intellectual property laws to the floor.

Mr. Speaker, I yield back the balance of my time.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend from California, and I was about to do the same to him. We have worked very closely on this. This has taken a good amount of time, both on the part of gentleman from California (Mr. BERMAN) and me as well as other members of the subcommittee and staff. All have done a good job. This is an important piece of legislation.

Mr. ROGAN. Mr. Speaker, copyright violations, particularly those via the Internet, are a growing problem. H.R. 1761 the Copyright Damages Improvement Act of 1999 ensures that changes in federal law keep up with changes in technology. This bill provides an effective deterrent against copyright infringers and Internet privacy. I am pleased to join the chairman of the Courts and Intellectual Property Subcommittee, Mr. COBLE, and the gentleman from Virginia Mr. GOODLATTE, along with the ranking member of the subcommittee, the gentleman from California Mr. BERMAN, to make these significant improvements to the Copyright Act and the No Electronic Theft Act.

H.R. 1761 will increase the amount of statutory damages available for copyright infringement. Specifically, this bill, as amended, increases existing penalties for infringement by 50%. Further, the bill clarifies Congress' intent that the United States Sentencing Commission consider the retail price of a legitimate infringed-upon work and the quantity of the infringed upon works when determining sentencing guidelines for intellectual property offenses.

During the subcommittee's hearing on the "Implementation of the NET Act and Enforcement Against Internet Privacy," the concern raised about the lack of prosecutions being brought by the Justice Department and the

Sentencing Commission's failure to address Congress' desire to impose strict penalties for violators. The committee heard how the price that pirated material is sold for on the black market is often the value used for prosecution, not the actual value of the copyrighted item. This is wrong. My bill clarifies that the Sentencing Commission shall use the retail price and quantity of the infringed-upon goods as bases for determining their value.

Finally, I want to recognize and thank all of the interested parties who came together to work out the compromise language that is contained in the manager's amendment today. These needed changes will give added protections to copyright owners by strengthening the deterrents for intellectual property theft, and enable the Department of Justice to better prosecute crimes against copyright owners.

Mr. Speaker, it is crucial that our country remain the leader in the protection and enforcement of intellectual property rights. H.R. 1761 increases the damages for copyright infringement, and serves as a strict deterrent for those who try to skirt the law. I urge my colleagues to support the passage of this bill in its amended form.

Mr. COBLE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MILLER of Florida). The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and pass the bill, H.R. 1761, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. COBLE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1257) to amend statutory damages provisions of title 17, United States Code, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. BERMAN. Mr. Speaker, reserving the right to object, I do so simply to yield to my friend from North Carolina to indicate his intentions with respect to bringing up the Senate bill at this time.

Mr. COBLE. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from North Carolina.

Mr. COBLE. Mr. Speaker, the purpose of this request is to amend the companion Senate bill and send it back to the Senate with the amendment that the House just passed.

Mr. BERMAN. Mr. Speaker, reclaiming my time, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

tempore (Mr. MILLER of Florida) at 5 o'clock and 17 minutes p.m.

APPOINTMENT OF CONFEREES ON H.R. 2488, FINANCIAL FREEDOM ACT OF 1999

Mr. ARCHER. Mr. Speaker, pursuant to clause 1 of rule XXII and by the direction of the Committee on Ways and Means, I move to take from the Speaker's table the bill (H.R. 2488) to provide for reconciliation pursuant to sections 105 and 211 of the concurrent resolution on the budget for fiscal year 2000, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ARCHER) is recognized for 1 hour.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the customary motion to go to the conference with the Senate. I understand that the minority has a motion to instruct which is debatable for 1 hour, so I would yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ARCHER).

The motion was agreed to.

MOTION TO INSTRUCT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. RANGEL moves that (1) in order to preserve 100 percent of the Social Security Trust Fund surpluses for the Social Security program and to preserve 50 percent of the currently projected non-Social Security surpluses for purposes of reducing the publicly held national debt, and;

(2) in order to insure that there will be adequate budgetary resources available to extend the solvency of the Social Security and Medicare systems, and to provide a Medicare prescription drug benefit.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill, H.R. 2488 be instructed, to the extent permitted within the scope of conference, to insist on limiting the net 10-year tax reduction provided in the conference report to not more than 25 percent of the currently projected non-Social Security surpluses (or if greater, the smallest tax reduction permitted within the scope of the conference).

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) and the gentleman from Texas (Mr. ARCHER) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, few people in the country and a lot of people in the House of Representatives are unaware as to what this procedure is in terms of going to conference. Civics 101 would dictate that the House and Senate conferees are trying to come out in a conference in working out their differences so that we can send a tax cut bill to the President of the United

States for his consideration so that it would become law.

Yet, Mr. Speaker, nobody in the House or the Senate, no Democrats or Republicans, truly believe that anybody believes the President is going to sign such a bill.

This thing rushed through the Committee on Ways and Means in 1 day. And why? Because it was already pre-packaged. We already had an offer from the majority that we had to refuse. A similar thing occurred in the Senate.

So this evening we meet for the first time. Do we really meet to work out our differences in order to have a tax cut bill? No. We meet to see how Republicans in the House and Republicans in the Senate can fashion a bill to such an extent that they know that the President of the United States will have to veto it. And so instead of talking as legislators, instead of talking as tax writers, we are having a political meeting to determine the campaign for the year 2000.

Chairman Greenspan had indicated that he thought it would be best for the economy for us just to take a deep breath, to do nothing. To just allow hundreds of billions of dollars to pay down our national debt, to give a tax cut for everybody by reducing the interest for everybody. And then we say that after we take a look at this objective suggestion by Chairman Greenspan, we should do what every responsible citizen would want us to do, and that is to find out how much money do we owe? How much money do we have? And why not pay off some of this debt before we move forward?

The Republicans would suggest, oh, my God, we have to return this money to the taxpayers because if we do not, we will spend it. Well, I know it is a very small majority that they have, but they still are the majority. They still are the leaders. And unless we have an implosion, unless we have an exodus, it seems as though they will have the majority at least until the year 2000. So what are they afraid of if they are the ones that are in control of the spending?

So we just hope that the motion to instruct the conferees is save Social Security, save Medicare, and let the conference say we do not need a political statement, but we are going to come back together, send this bill quickly to the President to get the veto that you are begging for, and then we will not have to debate throughout August what the tax bill would have been, but we can work together not as Democrats, not as Republicans, but Members of the House and Senate to say to America we fixed the Social Security system, we fixed the Medicare system, we fixed the prescription drugs that are so necessary for our senior citizens. Now we will review and see what in the responsible way we can do to reduce the tax burdens on all of America and not just the richest among us.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume, and I rise in opposition to the motion to instruct conferees.

Mr. Speaker, this motion it is almost identical to the motion to recommit that was offered by the minority when the tax bill was debated on the floor of the House and perhaps we might simplify things by simply stipulating to the debate that occurred on that motion and then we could just go to a vote.

But I am not sure that I am quite as eloquent as the gentleman from Oklahoma (Mr. WATTS); but I would say, Mr. Speaker, that the American people are caught in a tax trap. The longer they work, the harder they work, the more they pay. And that is wrong.

Now the American people are simply paying too much. Perhaps it was unexpected, but they are paying too much. And the strongest proof of this is that the IRS is now accumulating more cash and will accumulate more cash in the future.

Americans are sending too much money to Washington and there is actually more money than is projected for the government's needs in which to operate.

Mr. Speaker, the problem is not that Washington does not have enough money. The problem is that Washington does not spend money efficiently, prudently, productively. We should begin to cut out the waste instead of saying we have got to have more money and more money and more money.

I know there are those who believe that Washington knows best how to spend the people's money and they should not be given the opportunity to do it because maybe they might make a mistake; but it is their money, not ours and I am proud that the House and Senate on a bipartisan basis think this is unfair and have passed good plans to let people keep more of their money. Yes, the plans are different, but they are both based on the principle that all Americans deserve to keep more of what they have earned. After all, it is their money. If we keep it in Washington, politicians will most surely spend it.

That has been the way it has been throughout history. And over the last hundred years right here in Washington, over 70 percent of all of the surpluses that have ever been generated into the Federal Government have been spent by politicians. Unfortunately, the motion before us is designed to keep hundreds of billions of dollars in excess taxpayer money in Washington to be spent. All along, we warned that there would be enormous pressure and great temptation to spend this budget surplus on more government programs, and it looks like we were right. But, Mr. Speaker, we do not need full-time government and part-time families. We need part-time government and full-time families.

This motion guts broad-based tax relief for the taxpayers who created the