

ARTISTS' RIGHTS AND THEFT PREVENTION ACT OF 2004

Mr. FRIST. I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 482, S. 1932.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1932) to provide criminal penalties for unauthorized recording of motion pictures in a motion picture exhibit facility, to provide criminal and civil penalties for unauthorized distribution of commercial prerelease copyrighted works, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert in lieu thereof the following: (Strike the part shown in black brackets and insert the part shown in italic.)

S. 1932

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 "Artists' Rights and Theft Prevention Act of 2003" or the "ART Act".]

SEC. 2. CONGRESSIONAL FINDINGS.

[Congress finds the following:

[(1) Intellectual property, among other things, represents the ideas, imagination and creativity needed to innovate long before a product is brought to market. As such, it is fundamental to the continued economic, social, and cultural development of society and deserves the protection of our laws.

[(2) Music, film, software, and all forms of intellectual property represent one of the strongest and most significant sectors of the United States economy, as demonstrated by the fact that these industries

[(A) accounted for more than 5 percent of the United States Gross Domestic Product (GDP), or \$535,100,000,000 in 2001;

[(B) employ almost 6 percent of all United States employment; and

[(C) led all major industry sectors in foreign sales and exports in 2001.

[(3) In an attempt to combat the growing use of the Internet and technology for the illegal reproduction and distribution of copyrighted materials, Congress unanimously passed and President Clinton signed the "No Electronic Theft" or "NET" Act in 1997. The NET Act is designed to strengthen copyright and trademark laws and to permit the prosecution of individuals in cases involving large scale illegal reproduction or distribution of copyrighted works where the infringers act willfully.

[(4) Under the NET Act's requirement of economic harm, investigations by law enforcement of copyright infringements are particularly resource intensive and pose significant challenges. In the interest of broader deterrence and in order to facilitate the prosecution of particularly egregious copyright violations, it is important to recognize that a significant level of economic harm can be reached by the distribution of so called "prelease" commercial works.

[(5) The use of camcorders and other audiovisual recording devices in movie theaters to make illegal copies of films is posing a serious threat to the motion picture industry. According to a recent industry study, 92.4 percent of the first copies of movies available for download on the Internet originate from camcorders.

[(6) Given the difficulty of enforcement, online theft of music, film, software, and all forms of intellectual property continues to rise. The negative effects on this large segment of the United States economy are significant, as exemplified by almost a 31 percent drop in sales for the music industry from mid-year 2000 to mid-year 2003, which even critics of the industry acknowledge to be heavily influenced by the rampant distribution of pirated music.

[(7) Federal legislation is necessary and warranted to combat the most egregious forms of online theft of intellectual property and its significant, negative economic impact on the United States economy because

[(A) Article 1, section 8 of the Constitution confers upon Congress the power "[t]o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries," as well as the power "[t]o regulate Commerce with foreign nations, and among the several States.";

[(B) the importance of the music, film, software and other intellectual property-based industries to the overall health of the United States economy is well documented and significant; and

[(C) theft and distribution of intellectual property across State and international lines occurs on a regular basis.

SEC. 3. CRIMINAL PENALTIES FOR UNAUTHORIZED RECORDING OF MOTION PICTURES IN A MOTION PICTURE EXHIBITION FACILITY.

[(a) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended by adding after section 2319A the following new section:

["§2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility

["(a) OFFENSE.—Whoever, without the consent of the copyright owner, knowingly uses or attempts to use an audiovisual recording device in a motion picture exhibition facility to transmit or make a copy of a motion picture or other audiovisual work protected under title 17, United States Code, or any part thereof, in a motion picture exhibition facility shall—

["(1) be imprisoned for not more than 3 years, fined under this title, or both; or

["(2) if the offense is a second or subsequent offense, be imprisoned for not more than 6 years, fined under this title, or both.

["(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court in its judgment of conviction shall, in addition to any penalty provided, order the forfeiture and destruction or other disposition of all unauthorized copies of motion pictures or other audiovisual works protected under title 17, United States Code, or parts thereof, and any audiovisual recording devices or other equipment used in connection with the offense.

["(c) AUTHORIZED ACTIVITIES.—This section does not prevent any lawfully authorized investigative, protective, or intelligence activity by an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or a person acting pursuant to a contract with the United States, a State, or a political subdivision of a State.

["(d) VICTIM IMPACT STATEMENT.—

["(1) IN GENERAL.—During the preparation of the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, victims of an offense under this section shall be permitted to submit to the probation officer 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) CONTENTS.—A victim impact statement submitted under this subsection shall include—

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

["(B) holders of intellectual property rights in the works described in subparagraph (A); and

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

["(e) DEFINITIONS.—As used in this section, the following definitions shall apply:

["(1) AUDIOVISUAL WORK, COPY, AND MOTION PICTURE.—The terms 'audiovisual work', 'copy', and 'motion picture' have, respectively, the meanings given those terms in section 101 of title 17, United States Code.

["(2) AUDIOVISUAL RECORDING DEVICE.—The term 'audiovisual recording device' means a digital or analog photographic or video camera, or any other technology capable of enabling the recording or transmission of a copyrighted motion picture or other audiovisual work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device.

["(3) MOTION PICTURE EXHIBITION FACILITY.—The term 'motion picture exhibition facility' means any theater, screening room, lobby, indoor or outdoor screening venue, ballroom, or other premises where copyrighted motion pictures or other audiovisual works are publicly exhibited, regardless of whether an admission fee is charged."

[(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2319A the following:

["2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility."

SEC. 4. CRIMINAL INFRINGEMENT OF A COMMERCIAL PRERELEASE COPYRIGHTED WORK.

[Section 2319 of title 18, United States Code, is amended—

[(1) by redesignating subsection (e) as subsection (f); and

[(2) by adding after subsection (d) the following:

["(e)(1) For purposes of subsections (b) and (c) of this section and of section 506(a) of title 17, United States Code, in the case of a computer program, a nondramatic musical work, a motion picture or other audiovisual work, or a sound recording protected under title 17, United States Code, that is being prepared for commercial distribution, it shall be conclusively presumed that a person distributed at least 10 copies or phonorecords of the work, and that such copies or phonorecords have a total retail value of more than \$2,500, if that person—

["(A) distributes such work by making it available on a computer network accessible to members of the public who are able to reproduce the work through such access without the express consent of the copyright owner; and

["(B) knew or should have known that the work was intended for commercial distribution.

["(2) For purposes of paragraph (1), a work protected under title 17, United States Code, is being prepared for commercial distribution—

["(A) when at the time of unauthorized distribution, the copyright owner had a reasonable expectation of substantial commercial distribution and the work had not yet been so distributed; or

["(B) in the case of a motion picture, protected under title 17, United States Code, when at the time of unauthorized distribution, the work had been made available for

viewing in motion picture exhibition facilities, but had not been made available to the general public in the United States in a format intended to permit viewing outside motion picture exhibition facilities as defined in section 2319B.”.

[SEC. 5. CIVIL REMEDIES FOR INFRINGEMENT OF A COMMERCIAL PRERELEASE COPYRIGHTED WORK.]

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

“(1) by striking the first instance of “The copyright” and inserting the following:

“(1) IN GENERAL. The copyright”; and (2) by adding at the end the following:

“(2) DAMAGE FOR PRERELEASE INFRINGEMENT.—

“(A) IN GENERAL. In the case of a computer program, a non-dramatic musical work, a motion picture or other audiovisual work, or a sound recording protected under title 17, United States Code, that is being prepared for commercial distribution, actual damages shall be presumed conclusively to be no less than \$2,500 per infringement, if a person—

“(i) distributes such work by making it available on a computer network accessible to members of the public who are able to reproduce the work through such access without the express consent of the copyright owner; and

“(ii) knew or should have known that the work was intended for commercial distribution.

“(B) WORK PREPARED FOR DISTRIBUTION. For purposes of subparagraph (A), a work protected under this title is being prepared for commercial distribution—

“(i) when at the time of unauthorized distribution, the copyright owner had a reasonable expectation of substantial commercial distribution and the work had not yet been so distributed; or

“(ii) in the case of a motion picture, protected under this title, when at the time of unauthorized distribution, the work had been made available for viewing in motion picture exhibition facilities, but had not been made available to the general public in the United States in a format intended to permit viewing outside motion picture exhibition facilities as defined in section 2319B of title 18.”.

SEC. 6. SENTENCING GUIDELINES.

“(a) IN GENERAL. Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission shall—

“(1) review the Federal sentencing guidelines with respect to offenses involving the illegal reproduction and distribution of copyrighted works in violation of Federal law, including violations of section 2319 and section 2319B of title 18, United States Code;

“(2) amend the Federal sentencing guidelines, as necessary, to provide for increased penalties for offenses involving the illegal reproduction and distribution of works protected under title 17, United States Code, in a manner that reflects the serious nature of, and need to deter, such offenses;

“(3) submit a report to Congress that details its findings and amendments; and

“(4) take such other action that the Commission considers necessary to carry out this Act.

“(b) CONSULTATION.—In carrying out this section, the United States Sentencing Commission shall seek input from the Department of Justice, copyright owners, and other interested parties.

[SEC. 7. AUTHORIZATION.]

[There is authorized to be appropriated to the Department of Justice an additional \$5,000,000 for each of fiscal years 2005, 2006, 2007, 2008, and 2009 to prosecute violations of section 2319 of title 18, United States Code.]

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Artists’ Rights and Theft Prevention Act of 2004” or the “ART Act”.

SEC. 2. CONGRESSIONAL FINDINGS.

Congress finds the following:

(1) Intellectual property—

(A) represents the ideas, imagination and creativity needed to innovate long before a product is brought to market;

(B) is fundamental to the continued economic, social, and cultural development of society; and

(C) deserves the protection of our laws.

(2) Music, film, software, and all other forms of intellectual property represent one of the strongest and most significant sectors of the United States economy, as demonstrated by the fact that these industries—

(A) accounted for more than 5 percent of the United States Gross Domestic Product, or \$535,100,000,000 in 2001;

(B) represent almost 6 percent of all United States employment; and

(C) led all major industry sectors in foreign sales and exports in 2001.

(3) In an attempt to combat the growing use of the Internet and technology for the illegal reproduction and distribution of copyrighted materials, Congress unanimously passed and President Clinton signed the “No Electronic Theft (NET) Act” in 1997. The NET Act is designed to strengthen copyright and trademark laws and to permit the prosecution of individuals in cases involving large-scale illegal reproduction or distribution of copyrighted works where the infringers act willfully.

(4) Under the No Electronic Theft (NET) Act’s economic harm requirement, investigations by law enforcement of copyright infringements are particularly resource intensive and pose significant challenges. In the interest of broader deterrence and in order to facilitate the prosecution of particularly egregious copyright violations, it is important to recognize that a significant level of economic harm can be reached by the distribution of prerelease commercial works.

(5) The use of camcorders and other audiovisual recording devices in movie theaters to make illegal copies of films is posing a serious threat to the motion picture industry. According to a recent industry study, 92.4 percent of the first copies of movies available for download on the Internet originate from camcorders.

(6) Given the difficulty of enforcement, online theft of music, film, software, and all forms of intellectual property continues to rise. The negative effects on this large segment of the United States economy are significant, as exemplified by almost a 31 percent drop in sales for the music industry from the middle of 2000 to the middle of 2003.

(7) Federal legislation is necessary and warranted to combat the most egregious forms of online theft of intellectual property and its significant, negative economic impact on the United States economy because—

(A) Article 1, section 8 of the United States Constitution gives Congress the power “[t]o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries,” as well as the power “[t]o regulate Commerce with foreign nations, and among the several States.”;

(B) the importance of the music, film, software and other intellectual property-based industries to the overall health of the United States economy is well documented and significant; and

(C) theft and unauthorized distribution of intellectual property across State and international lines occurs on a regular basis.

SEC. 3. CRIMINAL PENALTIES FOR UNAUTHORIZED RECORDING OF MOTION PICTURES IN A MOTION PICTURE EXHIBITION FACILITY.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by adding after section 2319A the following new section:

“§2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility

“(a) OFFENSE.—Any person who, without the authorization of the copyright owner, knowingly uses or attempts to use an audiovisual recording device to transmit or make a copy of a motion picture or other audiovisual work protected under title 17, or any part thereof, from a performance of such work in a motion picture exhibition facility, shall—

“(1) be imprisoned for not more than 3 years, fined under this title, or both; or

“(2) if the offense is a second or subsequent offense, be imprisoned for no more than 6 years, fined under this title, or both.

“(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court in its judgment of conviction shall, in addition to any penalty provided, order the forfeiture and destruction or other disposition of all unauthorized copies of motion pictures or other audiovisual works protected under title 17, or parts thereof, and any audiovisual recording devices or other equipment used in connection with the offense.

“(c) AUTHORIZED ACTIVITIES.—This section does not prevent any lawfully authorized investigative, protective, or intelligence activity by an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or a person acting under a contract with the United States, a State, or a political subdivision of a State.

“(d) IMMUNITY FOR THEATERS.—With reasonable cause, the owner or lessee of a facility where a motion picture is being exhibited, the authorized agent or employee of such owner or lessee, the licensor of the motion picture being exhibited, or the agent or employee of such licensor—

“(1) may detain, in a reasonable manner and for a reasonable time, any person suspected of a violation of this section for the purpose of questioning or summoning a law enforcement officer; and

“(2) shall not be held liable in any civil or criminal action arising out of a detention under paragraph (1).

“(e) VICTIM IMPACT STATEMENT.—

“(1) IN GENERAL.—During the preparation of the presentence report under rule 32(c) of the Federal Rules of Criminal Procedure, victims of an offense under this section shall be permitted to submit to the probation officer 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) CONTENTS.—A victim impact statement submitted under this subsection shall include—

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

“(B) holders of intellectual property rights in the works described in subparagraph (A); and

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

“(f) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) TITLE 17 DEFINITIONS.—The terms ‘audiovisual work’, ‘copy’, ‘copyright owner’, ‘motion picture’, ‘motion picture exhibition facility’, and ‘transmit’ have, respectively, the meanings given those terms in sections 101 of title 17.

“(2) AUDIOVISUAL RECORDING DEVICE.—The term ‘audiovisual recording device’ means a digital or analog photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted motion picture or other audiovisual

work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device.”

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2319A the following:

“2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility.”

“(c) **DEFINITION.**—Section 101 of title 17, United States Code, is amended by inserting after the definition of “Motion pictures” the following:

“The term ‘motion picture exhibition facility’ means a movie theater, screening room, or other venue that is being used primarily for the exhibition of a copyrighted motion picture, if such exhibition is open to the public or is made to an assembled group of viewers outside of a normal circle of a family and its social acquaintances.”

SEC. 4. CRIMINAL INFRINGEMENT OF A WORK BEING PREPARED FOR COMMERCIAL DISTRIBUTION.

(a) **PROHIBITED ACTS.**—Section 506(a) of title 17, United States Code, is amended to read as follows:

“(a) **CRIMINAL INFRINGEMENT.**—

“(1) **IN GENERAL.**—Any person who willfully infringes a copyright shall be punished as provided under section 2319 of title 18, if the infringement was committed—

“(A) for purposes of commercial advantage or private financial gain;

“(B) by the reproduction or distribution, including by electronic means, during any 180-day period, of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than \$1,000; or

“(C) by the distribution of a work being prepared for commercial distribution, by making it available on a computer network accessible to members of the public if such person knew or should have known that the work was intended for commercial distribution.

“(2) **EVIDENCE.**—For purposes of this subsection, evidence of reproduction or distribution of a copyrighted work, by itself, shall not be sufficient to establish willful infringement of a copyright.

“(3) **DEFINITION.**—In this subsection, the term ‘work being prepared for commercial distribution’ means—

“(A) a computer program, a musical work, a motion picture or other audiovisual work, or a sound recording, if at the time of unauthorized distribution—

“(i) the copyright owner has a reasonable expectation of commercial distribution; and

“(ii) the copies or phonorecords of the work have not been commercially distributed; or

“(B) a motion picture, if at the time of unauthorized distribution, the motion picture—

“(i) has been made available for viewing in a motion picture exhibition facility; and

“(ii) has not been made available in copies for sale to the general public in the United States in a format intended to permit viewing outside a motion picture exhibition facility.”

(b) **CRIMINAL PENALTIES.**—Section 2319 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “Whoever” and inserting “Any person who”; and

(B) by striking “and (c) of this section” and inserting “, (c), and (d)”; and

(2) in subsection (b), by striking “section 506(a)(1)” and inserting “section 506(a)(1)(A);

(3) in subsection (c), by striking “section 506(a)(2) of title 17, United States Code” and inserting “section 506(a)(1)(B) of title 17”; and

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

(5) by adding after subsection (c) the following:

“(d) Any person who commits an offense under section 506(a)(1)(C) of title 17—

“(1) shall be imprisoned not more than 3 years, fined under this title or both;

“(2) shall be imprisoned not more than 5 years, fined under this title, or both, if the offense was committed for purposes of commercial advantage or private financial gain;

“(3) shall be imprisoned not more than 6 years, fined under this title, or both, if the offense is a second or subsequent offense; and

“(4) shall be imprisoned not more than 10 years, fined under this title, or both, if the offense is a second or subsequent offense under paragraph (2).”; and

(6) in subsection (f), as redesignated—

(A) in paragraph (1), by striking “and” at the end;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(3) the term ‘financial gain’ has the meaning given the term in section 101 of the title 17; and

“(4) the term ‘work being prepared for commercial distribution’ has the meaning given the term in section 506(a) of title 17.”

SEC. 5. CIVIL REMEDIES FOR INFRINGEMENT OF A WORK BEING PREPARED FOR COMMERCIAL DISTRIBUTION.

(a) **PREREGISTRATION.**—Section 408 of title 17, United States Code, is amended by adding at the end the following:

“(f) **PREREGISTRATION OF WORKS BEING PREPARED FOR COMMERCIAL DISTRIBUTION.**—

“(1) **RULEMAKING.**—Not later than 180 days after the date of enactment of this Act, the Register of Copyrights shall issue regulations to establish procedures for preregistration of a work that is being prepared for commercial distribution and has not been published.

“(2) **CLASS OF WORKS.**—The regulations established under paragraph (1) shall permit preregistration for any work that is in a class of works that the Register determines has had a history of infringement prior to authorized commercial distribution.

“(3) **APPLICATION FOR REGISTRATION.**—Not later than 3 months after the first publication of the work, the applicant shall submit to the Copyright Office—

“(A) an application for registration of the work;

“(B) a deposit; and

“(C) the applicable fee.

“(4) **EFFECT OF UNTIMELY APPLICATION.**—An action for infringement under this chapter shall be dismissed, and no award of statutory damages or attorney fees shall be made for a preregistered work, if the items described in paragraph 3 are not submitted to the Copyright Office in proper form within the earlier of—

“(A) 3 months after the first publication of the work; or

“(B) 1 month after the copyright owner has learned of the infringement.”

(b) **INFRINGEMENT ACTIONS.**—Section 411(a) of title 17, United States Code, is amended by inserting “preregistration or” after “shall be instituted until”.

(c) **EXCLUSION.**—Section 412 of title 17, United States Code, is amended by inserting “, an action for infringement of the copyright of a work that has been preregistered under section 408(f) before the commencement of the infringement” after “section 106A(a)”.

SEC. 6. FEDERAL SENTENCING GUIDELINES.

(a) **REVIEW AND AMENDMENT.**—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of intellectual property rights crimes, including any offense under—

(1) section 506, 1201, or 1202 of title 17, United States Code; or

(2) section 2318, 2319, 2319A, 2319B, or 2320 of title 18, United States Code.

(b) **AUTHORIZATION.**—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.

(c) **RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.**—In carrying out this subsection, the United States Sentencing Commission shall—

(1) take all appropriate measures to ensure that the Federal sentencing guidelines and policy statements described in subsection (a) are sufficiently stringent to deter, and adequately reflect the nature of, intellectual property rights crimes;

(2) determine whether to provide a sentencing enhancement for those convicted of the offenses described in subsection (a), if the conduct involves the display, performance, publication, reproduction, or distribution of a copyrighted work before it has been authorized by the copyright owner, whether in the media format used by the infringing party or in any other media format;

(3) determine whether the scope of “uploading” set forth in application note 3 of section 2B5.3 of the Federal sentencing guidelines is adequate to address the loss attributable to people who broadly distribute copyrighted works without authorization over the Internet; and

(4) determine whether the sentencing guidelines and policy statements applicable to the offenses described in subsection (a) adequately reflect any harm to victims from copyright infringement if law enforcement authorities cannot determine how many times copyright material has been reproduced or distributed.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appointed to the Department of Justice \$5,000,000 for each of the fiscal years 2005, 2006, 2007, 2008, and 2009 to prosecute violations of intellectual property rights as set forth under sections 2318, 2319, 2319A, 2319B, and 2320 of title 18, United States Code.

Mr. LEAHY. Madam President, I am glad that the Senate can today pass the ART Act, a piece of legislation that will help protect America's movies from a form of piracy that has become all too prevalent. This legislation will provide law enforcement with another important tool in fighting the harms wreaked by intellectual property theft, which robs our innovators—not to mention all those working behind the scenes—of compensation owed to them for producing films that carry American culture around the globe. The Motion Picture Association of America estimates that the movie industry loses \$3 billion worldwide to piracy each and every year.

Too often, we think of movie piracy as a disease whose symptoms are manifest only in foreign territories. While it is true that much of the movie industry's losses occur due to lax intellectual property enforcement in countries where the authorities are either ill-equipped or disinclined to enforce creators' rights, there is much we can do in this country to get our own IP house in order.

I appreciate that Senator HATCH, Senator FEINSTEIN, and Senator CORNYN have been so willing to address my concerns that the bill as introduced might inadvertently have a negative impact on the TEACH Act. In the 107th Congress, Senator HATCH and I worked

to pass the TEACH Act, which ensured that educators could use limited portions of dramatic literary and musical works, audiovisual works, and sound recordings, in addition to the complete versions of non-dramatic literary and musical works that were already permitted, and that they could use the Internet to do so.

I also appreciate my colleagues' willingness to eliminate the presumptions in the criminal liability provisions, and to take up the Copyright Office's creative ideas for addressing pre-release works.

Were it not for their willingness to address these concerns, I would not have been able to offer my support for this bill. I thank my colleagues for their assurances as well as for their hard work in gaining passage of this important legislation.

Mr. FRIST. I ask unanimous consent that the committee substitute amendment be adopted, the bill, as amended, be read the third time and passed, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1932), as amended, was read the third time, and passed.

SERVITUDE AND EMANCIPATION ARCHIVAL RESEARCH CLEARINGHOUSE ACT OF 2005

Mr. FRIST. Madam President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 589, S. 1292.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1292) to establish a servitude and emancipation archival research clearinghouse in the National Archives.

There being no objection, the Senate proceeded to consider the bill had been reported from the Committee on Governmental Affairs, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 1292

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 "Servitude and Emancipation Archival Research Clearinghouse Act of 2003" or the "SEARCH Act of 2003".

SEC. 2. ESTABLISHMENT OF DATABASE.

(a) IN GENERAL.—The Archivist of the United States shall establish, as a part of the National Archives, a national database consisting of historic records of servitude and emancipation in the United States to assist African Americans in researching their genealogy.

(b) MAINTENANCE.—The database established by this Act shall be maintained by the National Historical Publications and Records Commission.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—
(1) \$5,000,000 to establish the national database authorized by this Act; [and]

(2) *such sums as are necessary to operate and maintain the national database authorized by this Act; and*

[(2)](3) \$5,000,000 to provide grants to States [and colleges and universities.] *colleges and universities, libraries, and museums to preserve local records of servitude and emancipation.*

Mr. FRIST. Madam President, I ask unanimous consent that the committee amendments be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The bill (S. 1292), as amended, was read the third time and passed, as follows:

S. 1292

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 "Servitude and Emancipation Archival Research Clearinghouse Act of 2004" or the "SEARCH Act of 2004".

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(a) IN GENERAL.—The Archivist of the United States shall establish, as a part of the National Archives, a national database consisting of historic records of servitude and emancipation in the United States to assist African Americans in researching their genealogy.

(b) MAINTENANCE.—The database established by this Act shall be maintained by the National Historical Publications and Records Commission.

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(1) \$5,000,000 to establish the national database authorized by this Act;

(2) *such sums as are necessary to operate and maintain the national database authorized by this Act; and*

(3) \$5,000,000 to provide grants to States, colleges and universities, libraries, and museums to preserve local records of servitude and emancipation.

IDENTITY THEFT PENALTY ENHANCEMENT ACT

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1731, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1731) to amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Madam President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1731) was read the third time and passed.

MEASURE READ THE FIRST TIME—H.R. 4359

Mr. FRIST. Madam President, I understand that H.R. 4359 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4359) to amend the Internal Revenue Code of 1986 to increase the child tax credit.

Mr. FRIST. Madam President, I ask for its second reading, and in order to place the bill on the calendar under provisions of rule XIV, I object to further proceedings on this matter.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

MEASURE PLACED ON THE CALENDAR—H.R. 1218

Mr. FRIST. Madam President, I understand there is a bill at the desk which is due for a second reading.

The PRESIDING OFFICER. The clerk will read the bill for the second time by title.

The legislative clerk read as follows:

A bill (H.R. 1218) to require contractors with the Federal Government to possess a satisfactory record of integrity and business ethics.

Mr. FRIST. Madam President, I object to further proceedings on the measure at this time in order to place the bill on the calendar under the provisions of rule XIV.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

TRIBAL FOREST PROTECTION ACT OF 2004

Mr. FRIST. Madam President, I ask unanimous consent that the Senate now proceed to consideration of H.R. 3846 which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3846) to authorize the Secretary of Agriculture and the Secretary of the Interior to enter into an agreement or contract with Indian tribes meeting certain criteria to carry out projects to protect Indian forest land.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3846) was read the third time and passed.