

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4077
OFFERED BY MR. SMITH OF TEXAS

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "Piracy Deterrence and
3 Education Act of 2004".

4 **SEC. 2. FINDINGS.**

5 The Congress finds as follows:

6 (1) The Internet, while changing the way our
7 society communicates, has also changed the nature
8 of many crimes, including the theft of intellectual
9 property.

10 (2) Trafficking in infringing copyrighted works
11 through increasingly sophisticated electronic means,
12 including peer-to-peer file trading networks, Internet
13 chat rooms, and news groups, threatens lost jobs,
14 lost income for creators, lower tax revenue, and
15 higher prices for honest purchasers.

16 (3) The most popular peer-to-peer file trading
17 software programs have been downloaded by com-
18 puter users over ~~1~~ 600,000,000 times. At any one time



1 there are over 3,000,000 users simultaneously using
2 just one of these services. Each month, on average,
3 over 2,300,000,000 digital-media files are trans-
4 ferred among users of peer-to-peer systems.

5 (4) Many computer users simply believe that
6 they will not be caught or prosecuted for their con-
7 duct.

8 (5) The security and privacy threats posed by
9 certain peer-to-peer networks extend beyond users
10 inadvertently enabling a hacker to access files. Mil-
11 lions of copies of one of the most popular peer-to-
12 peer networks contain software that could allow an
13 independent company to take over portions of users'
14 computers and Internet connections and has the ca-
15 pacity to keep track of users' online habits.

16 (6) In light of these considerations, Federal law
17 enforcement agencies should actively pursue crimi-
18 nals who steal the copyrighted works of others, and
19 prevent such activity through enforcement and
20 awareness. The public should be educated about the
21 security and privacy risks associated with being con-
22 nected to certain peer-to-peer networks.



1 **SEC. 3. VOLUNTARY PROGRAM OF DEPARTMENT OF JUSTICE.**
2

3 (a) VOLUNTARY PROGRAM.—The Attorney General is
4 authorized to establish a program under which the De-
5 partment of Justice, in cases where persons who are sub-
6 sscribers of Internet service providers appear to be engag-
7 ing in copyright infringing conduct in the course of using
8 that Internet service, would send to the Internet Service
9 providers notices that warn such persons of the penalties
10 for such copyright infringement. The Internet service pro-
11 viders may forward the notices to such persons.

12 (b) LIMITATIONS ON PROGRAM.—

13 (1) EXTENT AND LENGTH OF PROGRAM.—The
14 program under subsection (a) shall terminate at the
15 end of the 18-month period beginning on the date of
16 the enactment of this Act and shall be limited to not
17 more than 10,000 notices.

18 (2) PRIVACY PROTECTIONS.—No Internet serv-
19 ice provider that receives a notice from the Depart-
20 ment of Justice under subsection (a) may disclose to
21 the Department any identifying information about
22 the subscriber that is the subject of the notice except
23 pursuant to court order or other applicable legal
24 process that requires such disclosure.

25 (c) REIMBURSEMENT OF INTERNET SERVICE PRO-
26 VIDERS.—The Department of Justice shall reimburse



1 Internet Service providers for all reasonable costs incurred
2 by such service providers in forwarding notices under sub-
3 section (a).

4 (d) REPORTS TO CONGRESS.—The Attorney General
5 shall submit to the Congress a report on the program es-
6 tablished under subsection (a) both at the time the pro-
7 gram is initiated and at the conclusion of the program.

8 **SEC. 4. DESIGNATION AND TRAINING OF AGENTS IN COM-**
9 **PUTER HACKING AND INTELLECTUAL PROP-**
10 **ERTY UNITS.**

11 (a) DESIGNATION OF AGENTS IN CHIPS UNITS.—
12 The Attorney General shall ensure that any unit in the
13 Department of Justice responsible for investigating com-
14 puter hacking or responsible for investigating intellectual
15 property crimes is assigned at least one agent to support
16 such unit for the purpose of investigating crimes relating
17 to the theft of intellectual property.

18 (b) TRAINING.—The Attorney General shall ensure
19 that each agent assigned under subsection (a) has received
20 training in the investigation and enforcement of intellec-
21 tual property crimes.

22 **SEC. 5. EDUCATION PROGRAM.**

23 (a) ESTABLISHMENT.—There shall be established
24 within the Office of the Associate Attorney General of the
25 United States an Internet Use Education Program.



1 (b) PURPOSE.—The purpose of the Internet Use
2 Education Program shall be to—

3 (1) educate the general public concerning the
4 value of copyrighted works and the effects of the
5 theft of such works on those who create them; and

6 (2) educate the general public concerning the
7 privacy, security, and other risks of using the Inter-
8 net to obtain illegal copies of copyrighted works.

9 (c) SECTOR SPECIFIC MATERIALS.—The Internet
10 Use Educational Program shall, to the extent appropriate,
11 develop materials appropriate to Internet users in dif-
12 ferent sectors of the general public where criminal copy-
13 right infringement is a concern. The Attorney General
14 shall consult with appropriate interested parties in devel-
15 oping such sector-specific materials.

16 (d) CONSULTATIONS.—The Attorney General shall
17 consult with the Register of Copyrights and the Secretary
18 of Commerce in developing the Internet Use Education
19 Program under this section.

20 (e) PROHIBITION ON USE OF CERTAIN FUNDS.—The
21 program created under this section shall not use funds or
22 resources of the Department of Justice allocated for crimi-
23 nal investigation or prosecution.

24 (f) ADDITIONAL PROHIBITION ON THE USE OF
25 FUNDS.—The program created under this section shall



1 not use any funds or resources of the Department of Jus-
2 tice allocated for the Civil Rights Division of the Depart-
3 ment, including any funds allocated for the enforcement
4 of civil rights or the Voting Rights Act of 1965.

5 **SEC. 6. ACTIONS BY THE GOVERNMENT OF THE UNITED**
6 **STATES.**

7 Section 411(a) of title 17, United States Code, is
8 amended in the first sentence by striking "Except for"
9 and inserting "Except for an action brought by the Gov-
10 ernment of the United States or by any agency or instru-
11 mentality thereof, or" .

12 **SEC. 7. AUTHORIZED APPROPRIATIONS.**

13 There are authorized to be appropriated to the De-
14 partment of Justice for fiscal year 2005 not less than
15 \$15,000,000 for the investigation and prosecution of viola-
16 tions of title 17, United States Code.

17 **SEC. 8. CRIMINAL PENALTIES FOR UNAUTHORIZED RE-**
18 **CORDING OF MOTION PICTURES IN A MO-**
19 **TION PICTURE EXHIBITION FACILITY.**

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



1 **“§ 2319B. Unauthorized recording of motion pictures**
2 **in a motion picture exhibition facility**

3 “(a) OFFENSE.—Any person who, without the au-
4 thorization of the copyright owner, knowingly uses or at-
5 tempts to use an audiovisual recording device to transmit
6 or make a copy of a motion picture or other audiovisual
7 work protected under title 17, or any part thereof, from
8 a performance of such work in a motion picture exhibition
9 facility, shall—

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

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

15 The possession by a person of an audiovisual recording
16 device in a motion picture exhibition facility may be con-
17 sidered as evidence in any proceeding to determine wheth-
18 er that person committed an offense under this subsection,
19 but shall not, by itself, be sufficient to support a conviction
20 of that person for such offense.

21 “(b) FORFEITURE AND DESTRUCTION.—When a per-
22 son is convicted of an offense under subsection (a), the
23 court in its judgment of conviction shall, in addition to
24 any penalty provided, order the forfeiture and destruction
25 or other disposition of all unauthorized copies of motion
26 pictures or other audiovisual works protected under title



1 17, or parts thereof, and any audiovisual recording devices
2 or other equipment used in connection with the offense.

3 “(c) AUTHORIZED ACTIVITIES.—This section does
4 not prevent any lawfully authorized investigative, protec-
5 tive, or intelligence activity by an officer, agent, or em-
6 ployee of the United States, a State, or a political subdivi-
7 sion of a State, or by a person acting under a contract
8 with the United States, a State, or a political subdivision
9 of a State.

10 “(d) IMMUNITY FOR THEATERS AND AUTHORIZED
11 PERSONS.—With reasonable cause, the owner or lessee of
12 a motion picture facility where a motion picture is being
13 exhibited, the authorized agent or employee of such owner
14 or lessee, the licensor of the motion picture being exhib-
15 ited, or the agent or employee of such licensor—

16 “(1) may detain, in a reasonable manner and
17 for a reasonable time, any person suspected of com-
18 mitting an offense under this section for the purpose
19 of questioning that person or summoning a law en-
20 forcement officer; and

21 “(2) shall not be held liable in any civil or
22 criminal action by reason of a detention under para-
23 graph (1).

24 “(e) VICTIM IMPACT STATEMENT.—



1 “(1) IN GENERAL.—During the preparation of
2 the presentence report under rule 32(c) of the Fed-
3 eral Rules of Criminal Procedure, victims of an of-
4 fense under this section shall be permitted to submit
5 to the probation officer a victim impact statement
6 that identifies the victim of the offense and the ex-
7 tent and scope of the injury and loss suffered by the
8 victim, including the estimated economic impact of
9 the offense on that victim.

10 “(2) CONTENTS.—A victim impact statement
11 submitted under this subsection shall include—

12 “(A) producers and sellers of legitimate
13 works affected by conduct involved in the of-
14 fense;

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

18 “(C) the legal representatives of such pro-
19 ducers, sellers, and holders.

20 “(f) DEFINITIONS.—In this section:

21 “(1) AUDIOVISUAL WORK, COPY, ETC.—The
22 terms ‘audiovisual work’, ‘copy’, ‘copyright owner’,
23 ‘motion picture’, and ‘transmit’ have, respectively,
24 the meanings given those terms in section 101 of
25 title 17.



1 “(2) AUDIOVISUAL RECORDING DEVICE.—The
2 term ‘audiovisual recording device’ means a digital
3 or analog photographic or video camera, or any
4 other technology or device capable of enabling the
5 recording or transmission of a copyrighted motion
6 picture or other audiovisual work, or any part there-
7 of, regardless of whether audiovisual recording is the
8 sole or primary purpose of the device.

9 “(3) MOTION PICTURE EXHIBITION FACILITY.—
10 The term ‘motion picture exhibition facility’ means
11 a movie theater, screening room, or other venue that
12 is being used primarily for the exhibition of a copy-
13 righted motion picture, if such exhibition is open to
14 the public or is made to an assembled group of view-
15 ers outside of a normal circle of a family and its so-
16 cial acquaintances.

17 “(g) STATE LAW NOT PREEMPTED.—Nothing in this
18 section may be construed to annul or limit any rights or
19 remedies under the laws of any State.”.

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

 “2319B. Unauthorized recording of motion pictures in a motion picture exhi-
 bition facility.”.



1 **SEC. 9. SENSE OF THE CONGRESS ON NEED TO TAKE STEPS**
2 **TO PREVENT ILLEGAL ACTIVITY ON PEER-TO-**
3 **PEER SERVICES.**

4 (a) FINDINGS.—The Congress finds as follows:

5 (1) The most popular publicly accessible peer-
6 to-peer file sharing software programs combined
7 have been downloaded worldwide over 600,000,000
8 times.

9 (2) The vast majority of software products, in-
10 cluding peer-to-peer technology, do not pose an in-
11 herent risk. Responsible persons making software
12 products should be encouraged and commended for
13 the due diligence and reasonable care they take in-
14 cluding by providing instructions, relevant informa-
15 tion in the documentation, disseminating patches,
16 updates, and other appropriate modifications to the
17 software.

18 (3) Massive volumes of illegal activity, including
19 the distribution of child pornography, viruses, and
20 confidential personal information, and copyright in-
21 fringement occur on publicly accessible peer-to-peer
22 file sharing services every day. Some publicly acces-
23 sible peer-to-peer file sharing services expose con-
24 sumers, particularly children, to serious risks, in-
25 cluding legal liability, loss of privacy, threats to com-

1 puter security, and exposure to illegal and inappro-
2 priate material.

3 (4) Several studies and reports demonstrate
4 that pornography, including child pornography, is
5 prevalent on publicly available peer-to-peer file shar-
6 ing services, and children are regularly exposed to
7 pornography when using such peer-to-peer file shar-
8 ing services.

9 (5) The full potential of peer-to-peer technology
10 to benefit consumers has yet to be realized and will
11 not be achieved until these problems are adequately
12 addressed.

13 (6) To date, the businesses that run publicly ac-
14 cessible file-sharing services have refused or failed to
15 voluntarily and sufficiently address these problems.

16 (7) Many users of publicly available peer-to-
17 peer file-sharing services are drawn to these systems
18 by the lure of obtaining "free" music and movies.

19 (8) While some users use parental controls to
20 protect children from pornography available on the
21 Internet and search engines, not all such controls
22 work on publicly accessible peer-to-peer networks.

23 (9) Businesses that run publicly accessible peer-
24 to-peer file sharing services have openly acknowl-
25 edged, and numerous studies and reports have estab-



1 lished, that these services facilitate and profit from
2 massive amounts of copyright infringement, causing
3 enormous damage to the economic well-being of the
4 copyright industries whose works are being illegally
5 “shared” and downloaded.

6 (10) The legitimate digital music marketplace
7 offers consumers a wide and growing array of
8 choices for obtaining music legally, without exposure
9 to the risks posed by publicly accessible peer-to-peer
10 file sharing services.

11 (11) The Federal Trade Commission issued a
12 Consumer Alert in July of 2003 warning consumers
13 that some file-sharing services contain damaging vi-
14 ruses and worms and, without the computer user’s
15 knowledge or consent, install spyware to monitor a
16 user’s browsing habits and send data to third parties
17 or automatically open network connections.

18 (12) Publicly available peer-to-peer file-sharing
19 services can and should adopt reasonable business
20 practices and use technology in the marketplace to
21 address the existing risks posed to consumers by
22 their services and facilitate the legitimate use of
23 peer-to-peer file sharing technology and software.

24 (b) SENSE OF CONGRESS.—It is the sense of the
25 Congress that—



1 (1) responsible software developers should be
2 commended, recognized, and encouraged for their ef-
3 forts to protect consumers;

4 (2) currently the level of ongoing and persistent
5 illegal and dangerous activity on publicly accessible
6 peer-to-peer file sharing services is harmful to con-
7 sumers, minors, and the economy; and

8 (3) therefore, the Congress and the executive
9 branch should consider all appropriate measures to
10 protect consumers and children, and prevent such il-
11 legal activity.

12 **SEC. 10. ENHANCEMENT OF CRIMINAL COPYRIGHT IN-**
13 **FRINGEMENT.**

14 (a) **CRIMINAL INFRINGEMENT.**—Section 506 of title
15 17, United States Code, is amended—

16 (1) by amending subsection (a) to read as fol-
17 lows:

18 “(a) **CRIMINAL INFRINGEMENT.**—Any person who—

19 “(1) infringes a copyright willfully and for pur-
20 poses of commercial advantage or private financial
21 gain,

22 “(2) infringes a copyright willfully by the repro-
23 duction or distribution, including by the offering for
24 distribution to the public by electronic means, during
25 any 180-day period, of 1 or more copies or



1 phonorecords of 1 or more copyrighted works, which
2 have a total retail value of more than \$1,000, or

3 “(3) infringes a copyright by the knowing dis-
4 tribution, including by the offering for distribution
5 to the public by electronic means, with reckless dis-
6 regard of the risk of further infringement, during
7 any 180-day period, of—

8 “(A) 1,000 or more copies or phonorecords
9 of 1 or more copyrighted works,

10 “(B) 1 or more copies or phonorecords of
11 1 or more copyrighted works with a total retail
12 value of more than \$10,000, or

13 “(C) 1 or more copies or phonorecords of
14 1 or more copyrighted pre-release works,”; and

15 shall be punished as provided under section 2319 of title
16 18. For purposes of this subsection, evidence of reproduc-
17 tion or distribution of a copyrighted work, by itself, shall
18 not be sufficient to establish the necessary level of intent
19 under this subsection.

20 (2) by adding at the end the following:

21 “(g) LIMITATION ON LIABILITY OF SERVICE PRO-
22 VIDERS.—No legal entity shall be liable for a violation of
23 subsection (a)(3) by reason of performing any function de-
24 scribed in subsection (a), (b), (c), or (d) of section 512
25 if such legal entity would not be liable for monetary relief



1 under section 512 by reason of performing such function.
2 Except for purposes of determining whether an entity
3 qualifies for the limitation on liability under subsection
4 (a)(3) of this section, the legal conclusion of whether an
5 entity qualifies for a limitation on liability under section
6 512 shall not be considered in a judicial determination of
7 whether the entity violates subsection (a) of this section.

8 “(h) DEFINITIONS.—In this section:

9 “(1) PRE-RELEASE WORK.—The term ‘pre-re-
10 lease work’ refers to a work protected under this
11 title which has a commercial and economic value and
12 which, at the time of the act of infringement that is
13 the basis for the offense under subsection (a)(3), the
14 defendant knew or should have known had not yet
15 been made available by the copyright owner to indi-
16 vidual members of the general public in copies or
17 phonorecords for sale, license, or rental.

18 “(2) RETAIL VALUE.— The ‘retail value’ of a
19 copyrighted work is the retail price of that work in
20 the market in which it is sold. In the case of an in-
21 fringement of a copyright by distribution, if the re-
22 tail price does not adequately reflect the economic
23 value of the infringement, then the retail value may
24 be determined using other factors, including but not
25 limited to suggested retail price, wholesale price, re-



1 placement cost of the item, licensing, or distribution-
2 related fees.”.

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

5 (1) by redesignating subsections (d) and (e) as
6 subsections (e) and (f), respectively;

7 (2) by inserting after subsection (c) the fol-
8 lowing:

9 “(d) Any person who commits an offense under sec-
10 tion 506(a)(3) of title 17—

11 “(1) shall be imprisoned not more than 3 years,
12 or fined in the amount set forth in this title, or both,
13 or, if the offense was committed for purposes of
14 commercial advantage or private financial gain, im-
15 prisoned for not more than 5 years, or fined in the
16 amount set forth in this title, or both; and

17 “(2) shall, if the offense is a second or subse-
18 quent offense under paragraph (1), be imprisoned
19 not more than 6 years, or fined in the amount set
20 forth in this title, or both, or, if the offense was
21 committed for purposes of commercial advantage or
22 private financial gain, imprisoned for not more than
23 10 years, or fined in the amount set forth in this
24 title, or both.”; and

25 (3) in subsection (f), as so redesignated—



1 (A) in paragraph (1), by striking “and”
2 after the semicolon;

3 (B) in paragraph (2), by striking the pe-
4 riod and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(3) the term ‘financial gain’ has the meaning
7 given that term in section 101 (relating to defini-
8 tions) of title 17.”.

9 (c) CIVIL REMEDIES FOR INFRINGEMENT OF A COM-
10 MERCIAL PRE-RELEASE COPYRIGHTED WORK.—Section
11 504(b) of title 17, United States Code, is amended—

12 (1) by striking “The copyright owner” and in-
13 serting the following:

14 “(1) IN GENERAL.—The copyright owner”; and

15 (2) by adding at the end the following:

16 “(2) DAMAGES FOR PRE-RELEASE INFRINGE-
17 MENT.—

18 “(A) IN GENERAL.—In the case of any
19 pre-release work, actual damages shall be pre-
20 sumed conclusively to be no less than \$10,000
21 per infringement, if a person—

22 “(i) distributes such work by making
23 it available on a computer network acces-
24 sible to members of the public; and



1 “(ii) knew or should have known that
2 the work was intended for commercial dis-
3 tribution.

4 “(B) DEFINITION.—For purposes of this
5 subsection, the term ‘pre-release work’ has the
6 meaning given that term in section 506(h). ”.

7 **SEC. 11. AMENDMENT OF FEDERAL SENTENCING GUIDE-**
8 **LINES REGARDING THE INFRINGEMENT OF**
9 **COPYRIGHTED WORKS AND RELATED**
10 **CRIMES.**

11 (a) AMENDMENT TO THE SENTENCING GUIDE-
12 LINES.—Pursuant to its authority under section 994 of
13 title 28, United States Code, and in accordance with this
14 section, the United States Sentencing Commission shall
15 review and, if appropriate, amend the sentencing guide-
16 lines and policy statements applicable to persons convicted
17 of intellectual property rights crimes, including sections
18 2318, 2319, 2319A, 2319B, 2320 of title 18, United
19 States Code, and sections 506, 1201, and 1202 of title
20 17, United States Code.

21 (b) FACTORS.—In carrying out this section, the Sen-
22 tencing Commission shall—

23 (1) take all appropriate measures to ensure that
24 the sentencing guidelines and policy statements ap-
25 plicable to the offenses described in subsection (a)



1 are sufficiently stringent to deter and adequately re-
2 flect the nature of such offenses;

3 (2) consider whether to provide a sentencing en-
4 hancement for those convicted of the offenses de-
5 scribed in subsection (a) when the conduct involves
6 the display, performance, publication, reproduction,
7 or distribution of a copyrighted work before the time
8 when the copyright owner has authorized the dis-
9 play, performance, publication, reproduction, or dis-
10 tribution of the original work, whether in the media
11 format used by the infringing good or in any other
12 media format;

13 (3) consider whether the definition of
14 “uploading” contained in Application Note 3 to
15 Guideline 2B5.3 is adequate to address the loss at-
16 tributable to people broadly distributing copyrighted
17 works over the Internet without authorization; and

18 (4) consider whether the sentencing guidelines
19 and policy statements applicable to the offenses de-
20 scribed in subsection (a) adequately reflect any harm
21 to victims from infringement in circumstances where
22 law enforcement cannot determine how many times
23 copyrighted material is reproduced or distributed.

24 (c) PROMULGATION.—The Commission may promul-
25 gate the guidelines or amendments under this section in



1 accordance with the procedures set forth in section 21(a)
2 of the Sentencing Act of 1987, as though the authority
3 under that Act had not expired.

4 **SEC. 12. EXEMPTION FROM INFRINGEMENT FOR SKIPPING**
5 **AUDIO CONTENT IN MOTION PICTURES.**

6 (a) **SHORT TITLE.**—This section may be cited as the
7 “Family Movie Act of 2004”.

8 (b) **EXEMPTION FROM COPYRIGHT AND TRADEMARK**
9 **INFRINGEMENT FOR SKIPPING OF AUDIO OR VIDEO CON-**
10 **TENT OF MOTION PICTURES.**—Section 110 of title 17,
11 United States Code, is amended—

12 (1) in paragraph (9), by striking “and” after
13 the semicolon at the end;

14 (2) in paragraph (10), by striking the period at
15 the end and inserting “; and”; and

16 (3) by inserting after paragraph (10) the fol-
17 lowing:

18 “(11)(A) the making of limited portions of
19 audio or video content of a motion picture impercep-
20 tible by or for the owner or other lawful possessor
21 of an authorized copy of that motion picture in the
22 course of viewing of that work for private use in a
23 household, by means of consumer equipment or serv-
24 ices that—



1 “(i) are operated by an individual in that
2 household;

3 “(ii) serve only such household; and

4 “(iii) do not create a fixed copy of the al-
5 tered version; and

6 “(B) the use of technology to make such audio
7 or video content imperceptible, that does not create
8 a fixed copy of the altered version.”.

9 (c) EXEMPTION FROM TRADEMARK INFRINGE-
10 MENT.—Section 32 of the Trademark Act of 1946 (15
11 U.S.C. 1114) is amended by adding at the end the fol-
12 lowing:

13 “(3)(A) Any person who engages in the conduct de-
14 scribed in paragraph (11) of section 110 of title 17,
15 United States Code, and who complies with the require-
16 ments set forth in that paragraph is not liable on account
17 of such conduct for a violation of any right under this Act.

18 “(B) A manufacturer, licensee, or licensor of tech-
19 nology that enables the making of limited portions of
20 audio or video content of a motion picture imperceptible
21 that is authorized under subparagraph (A) is not liable
22 on account of such manufacture or license for a violation
23 of any right under this Act. Such manufacturer, licensee,
24 or licensor shall ensure that the technology provides a
25 clear and conspicuous notice that the performance of the



1 motion picture is altered from the performance intended
2 by the director or copyright holder of the motion picture.

3 “(C) Any manufacturer, licensee, or licensor of tech-
4 nology described in subparagraph (B) who fails to comply
5 with the requirement under subparagraph (B) to provide
6 notice with respect to a motion picture shall be liable in
7 a civil action brought by the copyright owner of the motion
8 picture that is modified by the technology in an amount
9 not to exceed \$1,000 for each such motion picture.

10 “(D) The requirement under subparagraph (B) to
11 provide notice, and the provisions of subparagraph (C),
12 shall apply only with respect to technology manufactured
13 after the end of the 180-day period beginning on the date
14 of the enactment of the Family Movie Act of 2004.”

15 (d) DEFINITION.—In this section, the term “Trade-
16 mark Act of 1946” means the Act entitled “An Act to
17 provide for the registration and protection of trademarks
18 used in commerce, to carry out the provisions of certain
19 international conventions, and for other purposes”, ap-
20 proved July 5, 1946 (15 U.S.C. 1051 et seq.).

