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Citation: 5 William H. Manz Federal Copyright Law The Histories of the Major Enactments of the 105th S7959 1999

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(b) LIMITATIONS.—

(1) NO COMPETITION WITH U.S.-BUILT VESSELS.—A vessel issued a certificate of documentation under subsection (a)(1) may not operate in the coastwise cruise trade on a route served by a cruise vessel built in the United States operating under the authority of section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Act of June 19, 1886 (46 U.S.C. App. 289), section 12105(a)(2) of title 46, United States Code, or any other authority of law in effect on or before the date of enactment of this Act.

(2) HAWAIIAN ROUTES PROHIBITED.—A vessel issued a certificate of documentation under subsection (a)(1), or constructed under a binding contract referred to in that subsection, may not operate between or among the islands of Hawaii.

SEC. 3. CONSTRUCTION STANDARDS.

A vessel issued a certificate of documentation under subsection (a)(1) that meets the standards and conditions for the issuance of a control verification certificate for a cruise vessel documented under the laws of a foreign country embarking passengers in the United States is deemed to be in compliance with section 3309 of title 46, United States Code.

SEC. 4. FOREIGN TRANSFER.

Notwithstanding section 9(c) of the Shipping Act, 1916 (46 U.S.C. App. 808), a cruise vessel issued a certificate of documentation under subsection (a)(1), or constructed under a binding contract referred to in that subsection, may be placed under foreign registry after its documentation under subsection (a) or its initial documentation (in the case of a vessel so constructed), but the Secretary shall revoke the coastwise endorsement issued for any such vessel when it is placed under foreign registry.

SEC. 5. DEFINITIONS.

In this Act:

(1) COASTWISE CRUISE TRADE.—The term "coastwise cruise trade" means the transportation of passengers in coastwise trade between points in the United States, either directly or by way of a foreign point, or originating and terminating at the same point in the United States.

(2) CRUISE VESSEL.—The term "cruise vessel" means a vessel that—

(A) is at least 10,000 gross tons as measured under chapter 142 of title 46, United States Code; and

(B) has berth or stateroom accommodations for at least 275 passengers.•

By Mr. GRAMS:

S. 2291. A bill to amend title 17, United States Code, to prevent the misappropriation of collections of information; to the Committee on the Judiciary.

COLLECTIONS OF INFORMATION ANTIPIRACY ACT

Mr. GRAMS. Mr. President, I rise today to introduce the "Collections of Information Antipiracy Act." This legislation is similar to H.R. 2652, legislation already passed unanimously by our colleagues in the House of Representatives on May 19 of this year that is currently pending before the Judiciary Committee.

My legislation presents a much-needed Federal, legislative protection for databases. It is a fair and balanced bill that recognizes the need for database owners to receive adequate legal protection that provides them the incentives necessary to continue investing in database production.

The bill also acknowledges that users must continue to have access to timely and innovative database products and services.

America produces and uses some 65 percent of the world's databases.

Our database industry spans an enormous range of products and services—from collection of information about antidotes to poisons, to valuable collections of business and financial data, to databases of medical procedures and practice guidelines used to assure reliable and effective patient care.

These companies have been pioneers in offering innovative and easily accessible databases in any number of formats that meet consumer needs.

The myriad of databases produced in the United States are used by the business community, researchers, educators, government officials, and citizens to gain knowledge and make decisions that affect every aspect of our lives.

Yet, despite technological innovations, creating and offering databases in the marketplace is neither cheap nor easy.

Not only must database owners expend substantial resources on the collection of data, they must also maintain and distribute these information products, while continually updating them and responding to the demands of their customers.

Many American jobs depend on a healthy, vibrant U.S. database industry. These companies employ thousands of editors, researchers, and others. They invest millions of dollars in hardware and software to manage these large masses of information.

Despite the enormous value of these databases to our economy and society, American database owners are under a dual threat.

On the one hand, after a 1991 Supreme Court decision, it is increasingly unclear whether most databases are adequately protected from piracy by U.S. copyright law.

Lower courts since 1991 have handed down several decisions that have diminished the number and types of databases that are protected under the compilation copyright provisions in the 1976 Copyright Act.

In addition, these decisions have stated that even if databases as a whole may qualify for this limited copyright protection, the facts contained in them are freely available for the taking and re-use by others—including competing database producers—without authorization or compensation.

Although database producers do have means other than a new Federal law to seek protection, none has proven adequate, as is evidenced in the study completed by the U.S. Copyright Office last August.

Contract law, for example, binds only the parties to the contract and in any case varies from State to State and it also varies from country to country.

Technological protections are beginning to appear and are slowly being implemented in the online world, but they offer no protection to databases that are produced in other formats.

Some States have adopted doctrines of misappropriation; however, these legal protections are far from being uniform and offer no solace to database producers in States where such legal safeguards are not in place.

The European Union has begun implementing a new directive protecting databases in their own countries, but only those produced in the European Union or in countries that offer comparable protections. This law clearly is designed to disadvantage database owners not located in an EU country. Great Britain, Germany, Spain, and most Scandinavian nations have already made changes in their own laws to implement the EU directive, and also a European official recently predicted that within a few years, as many as 35 of our trading partners in Europe and the Russian Federation will have similar laws in place.

Unless the United States passes a law that is comparable to that now governing Europe, more and more American database owners may feel the need to move some or all of their operations overseas in an effort, to thwart potential piracy of their products and services by unscrupulous competitors or vendors.

As I mentioned previously, Mr. President, American database producers are anxious to continue producing valuable databases for worldwide use. However, the technologies present in today's world that allow for easy copying and redistribution of information threaten a producer's ability to continue receiving a fair return on the tremendous investments required to produce quality databases.

Coupled with the inadequacy of U.S. law to protect investment in databases and the threat posed by the EU directive, it is clear to me that Congress—and more importantly, the Senate—must act quickly if we are to preserve the American lead in database production and use.

The "Collections of Information Antipiracy Act" offers a solution to the threats faced by American database owners by helping to provide the right to stop harmful practices that affect the marketplace for that database.

This legislation uses Congress' powers under the Commerce clause of the Constitution to protect only those databases used in commerce.

Protection is limited to those databases whose owners have invested substantial monetary or other resources in gathering, organizing, or maintaining a collection of information.

It contains a definition of what constitutes a protected collection that is broad enough to offer effective protection to the wide range of products and services that would benefit from a new Federal law.

This legislation also contains numerous and important exceptions to the protections granted. For example, it makes clear that databases may be

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used for legitimate purposes of verification and news reporting. It offers special exceptions to nonprofit users, such as researchers, scientists, and educators. The bill also states clearly that no one is precluded from gathering the same facts contained on one database owner's product and creating another database—but again, as long as those facts are not stolen from the original database owner. Finally, the bill recognizes the importance of unfettered public access to Government databases by specifically denying protection to any database created by a governmental entity—whether Federal, State, or local—or any database that a Government agency seeks to have created and distributed under an exclusive licensing arrangement. Mr. President, the concepts that lie behind the Collections of Information Antipiracy Act, and many of its specific provisions, have been debated for more than 2 years now. The House-passed bill now before the Senate Judiciary Committee was the subject of two hearings that included witnesses from nearly every affected community—both producers and users of databases. Indeed, the bill I introduce today is a much-improved version of the legislation first introduced in the House, and many provisions have been added that strike a fair balance between the needs of database producers for adequate protection and the also requirements that users have fair access to these private-sector products and services. There should be no fear that database producers will exert extraordinary control over their products and services. But, this legislation contains not only a special savings clause preserving our antitrust laws, but it also specifies low penalties against any nonprofit user who may run afoul of this new law. In closing, Mr. President, I am convinced it is time for this body to act to protect the interests of database owners and users in the United States. The bill I am introducing today represents a reasonable and fair means of doing so, and I urge my colleagues to join with me in working during these few remaining days of the 105th Congress to consider and pass this very important piece of legislation.

ADDITIONAL COSPONSORS

S. 778

At the request of Mr. LUGAR, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 778, a bill to authorize a new trade and investment policy for sub-Saharan Africa.

S. 1251

At the request of Mr. D'AMATO, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1754

At the request of Mr. FRIST, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1754, a bill to amend the Public Health Service Act to consolidate and reauthorize health professions and minority and disadvantaged health professions and disadvantaged health education programs, and for other purposes.

S. 1758

At the request of Mr. LUGAR, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1758, a bill to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests.

S. 1976

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 1976, a bill to increase public awareness of the plight of victims of crime with developmental disabilities, to collect data to measure the magnitude of the problem, and to develop strategies to address the safety and justice needs of victims .of crime with developmental disabilities.

S. 2128

At the request of Mr. STEVENS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

SENATE CONCURRENT RESOLUTION 107

At the request of Mr. LOTT, the name of the Senator from Indiana (Mr. COATS) was added as a cosponsor of Senate Concurrent Resolution 107, a concurrent resolution affirming United States commitments to Taiwan.

AMENDMENT NO. 3109

At the request of Mr. ABRAHAM his name was added as a cosponsor of amendment No. 3109 proposed to S. 1882, a bill to reauthorize the Higher Education Act of 1965, and for other purposes.

AMENDMENTS SUBMITTED

AFFIRMING U.S. COMMITMENTS UNDER THE TAIWAN RELATIONS ACT

LOTT AMENDMENT NO. 3121

Mr. LOTT proposed an amendment to the concurrent resolution (S. Con. Res. 107) affirming U.S. commitments under the Taiwan Relations Act; as follows:

On page 2, line 8, strike "with the consent of the people of Taiwan,".

RELATIVE TO TAIWAN ADMISSION TO MULTILATERAL ECONOMIC INSTITUTIONS

HELMS AMENDMENT NO. 3122

Mr. GRAMS (for Mr. HELMS) proposed an amendment to the concurrent resolution (S. Con. Res. 30) expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development; as follows:

Strike all after the resolving clause and insert the following: That it is the sense of the Senate (the House of Representatives concurring) that it should be United States policy to—

(1) support changes to the International Monetary Fund Charter that would allow the Republic of China on Taiwan and other qualified economies to become members of the International Monetary Fund; and

(2) support the admission of Taiwan to membership in other international economic organizations for which it is qualified, including the International Bank for Reconstruction and Development.

Strike the preamble and insert the following:

Whereas the Republic of China on Taiwan (hereafter referred to as "Taiwan") possesses a free economy with the 19th largest gross domestic product in the world;

Whereas Taiwan has the 14th largest trading economy in the world and the 7th largest amount of foreign investment in the world and holds one of the largest amounts of foreign exchange reserves in the world;

Whereas Taiwan is a democracy committed to the economic and political norms of the international community;

Whereas the purpose of the International Monetary Fund (hereafter referred to as "IMF") is to promote exchange stability, to establish a multilateral system of payments, to facilitate the expansion of world trade, and to provide capital to assist developing nations;

Whereas changes to the IMF Charter that would allow Taiwan and other qualified economies to become members of the IMF would benefit the world economy, especially those developing countries in need of capital, and would contribute to the purposes of the IMF;

Whereas the IMF aims to further economic liberalization and globalization and conducts conferences, exchanges, and training programs in international monetary management which would be beneficial to Taiwan;

Whereas membership in the IMF is a prerequisite for accession to the International Bank for Reconstruction and Development and to regional banks in which Taiwan's membership would be beneficial; and

Whereas Taiwan is already a member of regional multilateral economic institutions including the Asia-Pacific Economic Cooperation Forum and the Asian Development Bank: Now, therefore, be it

Amend the title so as to read: "Expressing the sense of Congress that the rules of multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development, should be amended to allow membership for the Republic of China on Taiwan and other qualified economies.".

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