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1. Bill	2. Date	3. Pages
S.893	Oct 3, 1992 (140)	H11129-30

4. Action:

PASSED UNDER SUSPENSION OF THE RULES

Penalties for copyright infringement: S. 893, amended, to amend title 18, United States Code, to impose criminal sanctions for violation of software copyright. Agreed to amend the title;

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FELONY PENALTIES FOR COPYRIGHT INFRINGEMENT

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 893) to amend title 18, United States Code, with respect to the criminal penalties for copyright infringement, as amended.

The Clerk read as follows:

S. 893

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CRIMINAL PENALTIES FOR COPYRIGHT INFRINGEMENT.

Section 2319(b) of title 18, United States Code, is amended to read as follows:

"(b) Any person who commits an offense under subsection (a) of this section—

"(1) shall be imprisoned not more than 5 years, or fined in the amount set forth in this title, or both, if the offense consists of

the reproduction or distribution, during any 180-day period, of at least 10 copies or phonorecords, of 1 or more copyrighted works, with a retail value of more than $2,500;

"(2) shall be imprisoned not more than 10 years, or fined in the amount set forth in this title, or both, if the offense is a second or subsequent offense under paragraph (1); and

"(3) shall be imprisoned not more than 1 year, or fined in the amount set forth in this title, or both, in any other case.".

SEC. 2. CONFORMING AMENDMENTS.

Section 2319(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "'sound recording', 'motion picture', 'audiovisual work', 'phonorecord'," and inserting "'phonorecord'"; and

(2) in paragraph (2) by striking '1118" and inserting "120".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

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

(Mr. HUGHES asked and was given permission to revise and extend his remarks.)

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

Mr. Speaker, I rise in strong support of S. 893, a bill to harmonize the felony penalty provisions for infringement of copyrighted works. Piracy costs copyright industries millions of dollars a year through displaced sales. Piracy also causes loss of jobs and reduction in the creation of new works.

The bill we take up today contains important safeguards to ensure that isolated but unauthorized copying, and ordinary business disputes are not subject to felony penalties. One of those safeguards is a stringent mens rea requirement. No criminal liability may be imposed unless the conduct was done willfully and for purpose of commercial advantage or private financial gain.

The second safeguard is a threshold requirement that the defendant must have infringed at least 10 copies of one or more copyrighted works having a retail value of more than $2,500 within a 180-day period.

This is a good bill and I urge its adoption by the House.

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

Mr. Speaker, I rise in support of S. 893 which would provide criminal penalties for the infringement of all types of copyright. The recent hearing held by the Intellectual Property Subcommittee on Senator HATCH'S bill, S. 893, clearly documented the need to provide felony penalties for copyright infringement of computer programs. Estimates of lost revenue from software piracy run in the billions of dollars both in the United States and abroad. Current misdemeanor penalties have proven inadequate for stemming software piracy. In 1982, when Congress enacted criminal provisions to protect movies and records from piracy, the computer software industry was not even in existence. Today however, it is a vital component of the U.S. economy that needs enhanced protection for its creative work product.

In addition to providing felony penalties to protect computer software, support was expressed at the subcommittee's hearing for revising the Copyright Act to extend the felony provisions to all types of copyrighted works. The version of S. 893 before us today adopts this across-the-board or generic approach as opposed to proceeding with the current piecemeal approach and I commend the chairman of the Subcommittee, the gentleman from New Jersey [Mr. HUGHES], for developing it and for his excellent work on this issue. In addition to providing strong copyright protection for all copyrighted works, the provisions in S. 893 should prove helpful to our various copyright related industries' antipiracy efforts in other countries. Mr. Speaker, S. 893 is solid legislation and I urge my colleagues' support for it.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the Senate bill, S. 893, as amended.

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

The title of the Senate bill was amended so as to read: "An Act to amend title 18, United States Code, with respect to the criminal penalties for copyright infringement."

A motion to reconsider was laid on the table.