

Calendar No. 122

106TH CONGRESS
1ST Session

H. R. 1761

[Report No. 106-216]

A BILL

To amend provisions of title 17, United States
Code.

JULY 1, 1999

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

Union Calendar No. 122

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[Report No. 106-216]

To amend provisions of title 17, United States Code.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 1999

Mr. ROGAN (for himself and Mr. COBLE) introduced the following bill; which
was referred to the Committee on the Judiciary

JULY 1, 1999

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend provisions of title 17, United States Code.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Copyright Damages
5 Improvement Act of 1999”.

1 **SEC. 2. STATUTORY DAMAGES ENHANCEMENT.**

2 Section 504(e) of title 17, United States Code, is
3 amended—

4 (1) in paragraph (1)—

5 (A) by striking “\$500” and inserting
6 “\$750”; and

7 (B) by striking “\$20,000” and inserting
8 “\$30,000”; and

9 (2) in paragraph (2)—

10 (A) by inserting “(A)” after “(2)”;
11

12 (B) by striking “\$100,000” and inserting
13 “\$150,000”;

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

16 “(B) In a case where the copyright owner dem-
17 onstrates that the infringement was part of a re-
18 peated pattern or practice of infringement, the court
19 may increase the award of statutory damages to a
20 sum of not more than \$250,000 per work.”; and

21 (D) by striking “The court shall remit
22 statutory damages” and inserting the following:

23 “(C) The court shall remit statutory damages”.

24 **SEC. 3. STATUTORY DAMAGES CLARIFICATION.**

25 Section 504(e) of title 17, United States Code, is
26 amended by inserting at the end the following new sen-
tence: “For purposes of chapter 5 of title 11, ‘willful’ in-

1 fringement shall be considered to be willful and malicious
2 injury to the property of another.”.

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Copyright Damages Im-*
5 *provement Act of 1999”.*

6 **SEC. 2. STATUTORY DAMAGES ENHANCEMENT.**

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

9 *(1) in paragraph (1)—*

10 *(A) by striking “\$500” and inserting*
11 *“\$750”; and*

12 *(B) by striking “\$20,000” and inserting*
13 *“\$30,000”; and*

14 *(2) in paragraph (2)—*

15 *(A) by inserting “(A)” after “(2)”;*

16 *(B) by striking “\$100,000” and inserting*
17 *“\$300,000”;*

18 *(C) by inserting after the second sentence*
19 *the following:*

20 *“(B) In a case where the copyright owner dem-*
21 *onstrates that the infringement was part of a repeated*
22 *pattern or practice of infringement, the court may in-*
23 *crease the award of statutory damages to a sum of not*
24 *more than \$250,000 per work.”; and*

1 (D) by striking “The court shall remit stat-
2 utory damages” and inserting the following:

3 “(C) The court shall remit statutory damages”.

4 **SEC. 3. SENTENCING COMMISSION GUIDELINES.**

5 Section 2(g) of the No Electronic Theft (NET) Act (28
6 U.S.C. 994 note) is amended by striking paragraph (2) and
7 inserting the following:

8 “(2) In implementing paragraph (1), the Sentencing
9 Commission shall amend the guideline applicable to crimi-
10 nal infringement of a copyright or trademark to provide
11 an enhancement based upon the retail price of the legiti-
12 mate items that are infringed upon and the quantity of the
13 infringing items. To the extent the conduct involves a viola-
14 tion of section 2319A of title 18, United States Code, the
15 enhancement shall be based upon the retail price of the in-
16 fringing items and the quantity of the infringing items.

17 “(3) Paragraph (1) shall be implemented not later
18 than 3 months after the later of—

19 “(A) the first day occurring after May 20, 1999,

20 or

21 “(B) the first day after the date of the enactment
22 of this paragraph,

23 on which sufficient members of the Sentencing Commission
24 have been confirmed to constitute a quorum.

1 “(4) *The Commission shall promulgate the guidelines*
2 *or amendments provided for under this section in accord-*
3 *ance with the procedures set forth in section 21(a) of the*
4 *Sentencing Act of 1987, as though the authority under that*
5 *Act had not expired.*”.