

108TH CONGRESS
1ST SESSION

H. R. 3559

To amend title 10, United States Code, to allow faculty members at Department of Defense service academies and schools of professional military education to secure copyrights for certain scholarly works that they produce as part of their official duties in order to submit such works for publication, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 20, 2003

Mr. PLATTS introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Transportation and Infrastructure, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 10, United States Code, to allow faculty members at Department of Defense service academies and schools of professional military education to secure copyrights for certain scholarly works that they produce as part of their official duties in order to submit such works for publication, and for other purposes.

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

1 **SECTION 1. LIMITED AUTHORITY FOR DEPARTMENT OF**
2 **DEFENSE PERSONNEL WHO ARE FACULTY**
3 **MEMBERS AT DEPARTMENT OF DEFENSE**
4 **SCHOOLS OR OTHER ACADEMIES TO SECURE**
5 **COPYRIGHTS FOR CERTAIN SCHOLARLY**
6 **WORKS.**

7 (a) **AUTHORITY.**—(1) Chapter 53 of title 10, United
8 States Code, is amended by inserting after section 1033
9 the following new section:

10 **“§ 1033a. Faculty of service academies and Depart-**
11 **ment of Defense professional schools: lim-**
12 **ited authority to secure copyrights for**
13 **certain works**

14 “(a) **AUTHORITY.**—Subject to regulations prescribed
15 under subsection (f), a person who is a member of the
16 Army, Navy, Air Force, or Marine Corps, or a civilian em-
17 ployee of the Department of Defense, and is a faculty
18 member of an institution described in subsection (e) may,
19 notwithstanding section 105 or 201(b) of title 17, secure
20 copyright protection under title 17 for a qualifying work,
21 but only for the purposes of submitting such work for pub-
22 lication in a scholarly journal, publication, or other edited
23 work for which such a copyright is a requirement for con-
24 sideration for publication or otherwise as may be pre-
25 scribed under regulations under this section.

1 “(b) QUALIFYING WORKS.—A work is a qualifying
2 work for purposes of this section if the work—

3 “(1) is prepared as part of a person’s official
4 duties; and

5 “(2) meets such criteria as the Secretary of De-
6 fense may prescribe by regulation as a scholarly
7 work for which copyright protection as provided in
8 subsection (a) is warranted.

9 “(c) TRANSFER OF COPYRIGHT.—Upon acceptance
10 for publication of a work for which copyright protection
11 exists by reason of subsection (a), the person holding the
12 copyright shall transfer the copyright to the owner or pub-
13 lisher of the medium in which the work will be published.

14 “(d) ROYALTIES, ETC.—No royalties or other com-
15 pensation may be accepted by a person described in sub-
16 section (a) by reason of copyright protection that exists
17 by reason of subsection (a).

18 “(e) COVERED INSTITUTIONS.—The institutions re-
19 ferred to in subsection (a) are the following:

20 “(1) The United States Military Academy,
21 United States Naval Academy, and United States
22 Air Force Academy.

23 “(2) The National Defense University.

24 “(3) Any war college of the armed forces.

1 “(4) Any graduate-level college or university of
2 the Department of Defense.

3 “(5) The Coast Guard Academy.

4 “(6) The United States Merchant Marine Acad-
5 emy.

6 “(f) REGULATIONS.—The Secretary of Defense shall
7 prescribe regulations for the purposes of this section. Such
8 regulations shall include provisions specifying the types of
9 works for which copyright protection may be secured by
10 a person described in subsection (a).”.

11 (2) The table of sections at the beginning of such
12 chapter is amended by inserting after the item relating
13 to section 1033 the following new item:

 “1033a. Faculty of service academies and Department of Defense professional
 schools: limited authority to secure copyrights for certain
 works.”.

14 (b) EFFECTIVE DATE.—Section 1033a of title 10,
15 United States Code, as added by subsection (a), shall
16 apply only with respect to works that, as determined under
17 regulations prescribed under that section, are produced
18 after the date of the enactment of this Act.

19 (c) DEADLINE FOR REGULATIONS.—The Secretary of
20 Defense shall prescribe regulations under subsection (f) of
21 section 1033a of title 10, United States Code, as added
22 by subsection (a), not later than 180 days after the date
23 of the enactment of this Act.

1 **SEC. 2. LIMITED AUTHORITY FOR FACULTY MEMBERS AT**
2 **COAST GUARD ACADEMY TO SECURE COPY-**
3 **RIGHTS FOR CERTAIN SCHOLARLY WORKS.**

4 (a) **AUTHORITY.**—(1) Chapter 9 of title 14, United
5 States Code, is amended by inserting after section 196 the
6 following new section:

7 **“§ 197. Limited authority for faculty members to se-**
8 **ecure copyrights for certain works**

9 “(a) **AUTHORITY.**—Subject to regulations prescribed
10 under subsection (f), a person who is a member of the
11 Coast Guard, or a civilian employee of the Coast Guard,
12 and is a faculty member of an institution described in sub-
13 section (e) may, notwithstanding section 105 or 201(b) of
14 title 17, secure copyright protection under title 17 for a
15 qualifying work, but only for the purposes of submitting
16 such work for publication in a scholarly journal, publica-
17 tion, or other edited work for which such a copyright is
18 a requirement for consideration for publication or other-
19 wise as may be prescribed under regulations under this
20 section.

21 “(b) **QUALIFYING WORKS.**—A work is a qualifying
22 work for purposes of this section if the work—

23 “(1) is prepared as part of a person’s official
24 duties; and

25 “(2) meets such criteria as the Secretary may
26 prescribe by regulation as a scholarly work for which

1 copyright protection as provided in subsection (a) is
2 warranted.

3 “(c) TRANSFER OF COPYRIGHT.—Upon acceptance
4 for publication of a work for which copyright protection
5 exists by reason of subsection (a), the person holding the
6 copyright shall transfer the copyright to the owner or pub-
7 lisher of the medium in which the work will be published.

8 “(d) ROYALTIES, ETC.—No royalties or other com-
9 pensation may be accepted by a person described in sub-
10 section (a) by reason of copyright protection that exists
11 by reason of subsection (a).

12 “(e) COVERED INSTITUTIONS.—The institutions re-
13 ferred to in subsection (a) are the following:

14 “(1) The Coast Guard Academy.

15 “(2) The United States Merchant Marine Acad-
16 emy.

17 “(3) The United States Military Academy,
18 United States Naval Academy, and United States
19 Air Force Academy.

20 “(4) The National Defense University.

21 “(5) Any war college of the armed forces.

22 “(6) Any graduate-level college or university of
23 the Department of Defense.

24 “(f) REGULATIONS.—The Secretary shall prescribe
25 regulations for the purposes of this section. Such regula-

1 tions shall include provisions specifying the types of works
 2 for which copyright protection may be secured by a person
 3 described in subsection (a).”.

4 (2) The table of sections at the beginning of such
 5 chapter is amended by inserting after the item relating
 6 to section 196 the following new item:

“197. Limited authority for faculty members to secure copyrights for certain
 works.”.

7 (b) EFFECTIVE DATE.—Section 197 of title 14,
 8 United States Code, as added by subsection (a), shall
 9 apply only with respect to works that, as determined under
 10 regulations prescribed under that section, are produced
 11 after the date of the enactment of this Act.

12 (c) DEADLINE FOR REGULATIONS.—The Secretary of
 13 the department in which the Coast Guard is operating
 14 shall prescribe regulations under subsection (f) of section
 15 197 of title 14, United States Code, as added by sub-
 16 section (a), not later than 180 days after the date of the
 17 enactment of this Act.

18 **SEC. 3. LIMITED AUTHORITY FOR FACULTY MEMBERS AT**
 19 **UNITED STATES MERCHANT MARINE ACAD-**
 20 **EMY TO SECURE COPYRIGHTS FOR CERTAIN**
 21 **WORKS.**

22 (a) AUTHORITY.— Title XIII of the Merchant Marine
 23 Act, 1936 (46 App. U.S.C. 1295 et seq.) is amended by
 24 adding at the end the following new section:

1 **“SEC. 1308. LIMITED AUTHORITY FOR FACULTY MEMBERS**
2 **TO SECURE COPYRIGHTS FOR CERTAIN**
3 **WORKS.**

4 “(a) **AUTHORITY.**—Subject to regulations prescribed
5 under subsection (f), a person who is an employee of the
6 Department of Transportation and is a faculty member
7 of an institution described in subsection (e) may, notwith-
8 standing section 105 or 201(b) of title 17, secure copy-
9 right protection under title 17 for a qualifying work, but
10 only for the purposes of submitting such work for publica-
11 tion in a scholarly journal, publication, or other edited
12 work for which such a copyright is a requirement for con-
13 sideration for publication or otherwise as may be pre-
14 scribed under regulations under this section.

15 “(b) **QUALIFYING WORKS.**—A work is a qualifying
16 work for purposes of this section if the work—

17 “(1) is prepared as part of a person’s official
18 duties; and

19 “(2) meets such criteria as the Secretary of
20 Transportation may prescribe by regulation as a
21 scholarly work for which copyright protection as pro-
22 vided in subsection (a) is warranted.

23 “(c) **TRANSFER OF COPYRIGHT.**—Upon acceptance
24 for publication of a work for which copyright protection
25 exists by reason of subsection (a), the person holding the

1 copyright shall transfer the copyright to the owner or pub-
2 lisher of the medium in which the work will be published.

3 “(d) ROYALTIES, ETC.—No royalties or other com-
4 pensation may be accepted by a person described in sub-
5 section (a) by reason of copyright protection that exists
6 by reason of subsection (a).

7 “(e) COVERED INSTITUTIONS.—The institutions re-
8 ferred to in subsection (a) are the following:

9 “(1) The United States Merchant Marine Acad-
10 emy.

11 “(2) The Coast Guard Academy.

12 “(3) The United States Military Academy,
13 United States Naval Academy, and United States
14 Air Force Academy.

15 “(4) The National Defense University.

16 “(5) Any war college of the armed forces.

17 “(6) Any graduate-level college or university of
18 the Department of Defense.

19 “(f) REGULATIONS.—The Secretary of Transpor-
20 tation shall prescribe regulations for the purposes of this
21 section. Such regulations shall include provisions speci-
22 fying the types of works for which copyright protection
23 may be secured by a person described in subsection (a).”.

24 (b) EFFECTIVE DATE.—Section 1308 of Merchant
25 Marine Act, 1936, as added by subsection (a), shall apply

1 only with respect to works that, as determined under regu-
2 lations prescribed under that section, are produced after
3 the date of the enactment of this Act.

4 (c) DEADLINE FOR REGULATIONS.—The Secretary of
5 Transportation shall prescribe regulations under section
6 1308 of Merchant Marine Act, 1936, as added by sub-
7 section (a), not later than 180 days after the date of the
8 enactment of this Act.

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