

108TH CONGRESS  
2D SESSION

# H. R. 4586

To provide that making limited portions of audio or video content of motion pictures imperceptible by or for the owner or other lawful possessor of an authorized copy of that motion picture for private home viewing, and the use of technology therefor, is not an infringement of copyright or of any right under the Trademark Act of 1946.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2004

Mr. SMITH of Texas (for himself and Mr. FORBES) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide that making limited portions of audio or video content of motion pictures imperceptible by or for the owner or other lawful possessor of an authorized copy of that motion picture for private home viewing, and the use of technology therefor, is not an infringement of copyright or of any right under the Trademark Act of 1946.

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 “Family Movie Act of  
5 2004” .

1 **SEC. 2. EXEMPTION FROM COPYRIGHT INFRINGEMENT FOR**  
2 **SKIPPING OF AUDIO OR VIDEO CONTENT OF**  
3 **MOTION PICTURES.**

4 Section 110 of title 17, United States Code, is  
5 amended—

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

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

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

12 “(11)(A) the making of limited portions of  
13 audio or video content of a motion picture impercep-  
14 tible by or for the owner or other lawful possessor  
15 of an authorized copy of that motion picture in the  
16 course of viewing of that work for private use in a  
17 household, by means of consumer equipment or serv-  
18 ices that are operated by an individual in that  
19 household and serve only such household; and

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

1 **SEC. 3. EXEMPTION FROM TRADEMARK INFRINGEMENT**  
2 **FOR SKIPPING OF AUDIO OR VIDEO CONTENT**  
3 **OF MOTION PICTURES.**

4 Section 31 of the Trademark Act of 1946 (15 U.S.C.  
5 1114) is amended by adding at the end the following:

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

11 “(B) A manufacturer of technology that enables the  
12 making of limited portions of audio or video content of  
13 a motion picture imperceptible that is authorized under  
14 subparagraph (A) is not liable on account of such manu-  
15 facture for a violation of any right under this Act. Such  
16 manufacturer shall ensure that the technology provides a  
17 clear and conspicuous notice that the performance of the  
18 motion picture is altered from the performance intended  
19 by the director or copyright holder of the motion picture.

20 “(C) Any manufacturer of technology described in  
21 subparagraph (B) who fails to comply with the require-  
22 ments of subparagraph (B) with respect to a motion pic-  
23 ture shall be liable in a civil action brought by the copy-  
24 right owner of the motion picture that is modified by the  
25 technology in an amount not to exceed \$1,000 for each  
26 such motion picture.”.

1 **SEC. 4. DEFINITION.**

2       In this Act, the term “Trademark Act of 1946”  
3 means the Act entitled “An Act to provide for the registra-  
4 tion and protection of trademarks used in commerce, to  
5 carry out the provisions of certain international conven-  
6 tions, and for other purposes”, approved July 5, 1945 (15  
7 U.S.C. 1051 et seq.).

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