

110TH CONGRESS  
1ST SESSION

# S. 2500

To provide fair compensation to artists for use of their sound recordings.

---

## IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2007

Mr. LEAHY (for himself, Mr. HATCH, Mrs. FEINSTEIN, and Mr. CORKER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

## A BILL

To provide fair compensation to artists for use of their sound recordings.

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 “Performance Rights  
5 Act”.

6 **SEC. 2. EQUITABLE TREATMENT FOR TERRESTRIAL**  
7 **BROADCASTS.**

8 (a) PERFORMANCE RIGHT APPLICABLE TO RADIO  
9 TRANSMISSIONS GENERALLY.—Section 106(6) of title 17,  
10 United States Code, is amended to read as follows:



1           (1) IN GENERAL.—Section 114(f)(2) of title 17,  
2           United States Code, is amended by adding at the  
3           end the following:

4           “(D) Notwithstanding the provisions of sub-  
5           paragraphs (A) through (C), each individual terres-  
6           trial broadcast station that has gross revenues in  
7           any calendar year of less than \$1,250,000 may elect  
8           to pay for its over-the-air nonsubscription broadcast  
9           transmissions a royalty fee of \$5,000 per year, in  
10          lieu of the amount such station would otherwise be  
11          required to pay under this paragraph. Such royalty  
12          fee shall not be taken into account in determining  
13          royalty rates in a proceeding under chapter 8, or in  
14          any other administrative, judicial, or other Federal  
15          Government proceeding.

16          “(E) Notwithstanding the provisions of sub-  
17          paragraphs (A) through (C), each individual terres-  
18          trial broadcast station that is a public broadcasting  
19          entity as defined in section 118(f) may elect to pay  
20          for its over-the-air nonsubscription broadcast trans-  
21          missions a royalty fee of \$1,000 per year, in lieu of  
22          the amount such station would otherwise be required  
23          to pay under this paragraph. Such royalty fee shall  
24          not be taken into account in determining royalty  
25          rates in a proceeding under chapter 8, or in any

1 other administrative, judicial, or other Federal Gov-  
 2 ernment proceeding.”.

3 (2) PAYMENT DATE.—A payment under sub-  
 4 paragraph (D) or (E) of section 114(f)(2) of title  
 5 17, United States Code, as added by paragraph (1),  
 6 shall not be due until the due date of the first roy-  
 7 alty payments for nonsubscription broadcast trans-  
 8 missions that are determined, after the date of the  
 9 enactment of this Act, under such section 114(f)(2)  
 10 by reason of the amendment made by section 2(b)(2)  
 11 of this Act.

12 (b) TRANSMISSION OF RELIGIOUS SERVICES; INCI-  
 13 DENTAL USES OF MUSIC.—Section 114(d)(1) of title 17,  
 14 United States Code, as amended by section 2(b), is further  
 15 amended by inserting the following before subparagraph  
 16 (B):

17 “(A) an eligible nonsubscription trans-  
 18 mission of—

19 “(i) services at a place of worship or  
 20 other religious assembly; and

21 “(ii) an incidental use of a musical  
 22 sound recording;”.

23 **SEC. 4. AVAILABILITY OF PER PROGRAM LICENSE.**

24 Section 114(f)(2)(B) of title 17, United States Code,  
 25 is amended by inserting after the second sentence the fol-

1 lowing new sentence: “Such rates and terms shall include  
2 a per program license option for terrestrial broadcast sta-  
3 tions that make limited feature uses of sound recordings.”.

4 **SEC. 5. NO HARMFUL EFFECTS ON SONGWRITERS.**

5 (a) **PRESERVATION OF ROYALTIES ON UNDERLYING**  
6 **WORKS.**—Section 114(i) of title 17, United States Code,  
7 is amended in the second sentence by striking “It is the  
8 intent of Congress that royalties” and inserting “Royal-  
9 ties”.

10 (b) **PUBLIC PERFORMANCE RIGHTS AND ROYAL-**  
11 **TIES.**—Nothing in this Act shall adversely affect in any  
12 respect the public performance rights of or royalties pay-  
13 able to songwriters or copyright owners of musical works.

○