

111TH CONGRESS
2^D SESSION

H. R. 5704

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

JULY 1, 2010

Mr. PLATTS (for himself, Mr. SKELTON, Mr. McKEON, Mr. SNYDER, and Mr. WITTMAN) 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, is
8 amended by inserting after section 1033 the following new
9 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 purposes of publication by a scholarly press
22 or journal for which such a copyright is normally a re-
23 quirement for publication or otherwise as may be pre-
24 scribed under regulations under this section.

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

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

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

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

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

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

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

21 “(2) The National Defense University.

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

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

25 “(5) The Coast Guard Academy.

1 “(6) The United States Merchant Marine Acad-
2 emy.

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

8 (2) The table of sections at the beginning of such
9 chapter is amended by inserting after the item relating
10 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.”.

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

16 (c) DEADLINE FOR REGULATIONS.—The Secretary of
17 Defense shall prescribe regulations under subsection (f) of
18 section 1033a of title 10, United States Code, as added
19 by subsection (a), not later than 180 days after the date
20 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, is amend-
5 ed by inserting after section 196 the following new section:

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

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

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

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

22 “(2) meets such criteria as the Secretary may
23 prescribe by regulation as a scholarly work for which
24 copyright protection as provided in subsection (a) is
25 warranted.

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

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

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

12 “(1) The Coast Guard Academy.

13 “(2) The United States Merchant Marine Acad-
14 emy.

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

18 “(4) The National Defense University.

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

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

22 “(f) REGULATIONS.—The Secretary shall prescribe
23 regulations for the purposes of this section. Such regula-
24 tions shall include provisions specifying the types of works

1 for which copyright protection may be secured by a person
2 described in subsection (a).”.

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

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

6 (b) EFFECTIVE DATE.—Section 198 of title 14,
7 United States Code, as added by subsection (a), shall
8 apply only with respect to works that, as determined under
9 regulations prescribed under that section, are produced
10 after the date of the enactment of this Act.

11 (c) DEADLINE FOR REGULATIONS.—The Secretary of
12 the department in which the Coast Guard is operating
13 shall prescribe regulations under subsection (f) of section
14 198 of title 14, United States Code, as added by sub-
15 section (a), not later than 180 days after the date of the
16 enactment of this Act.

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

21 (a) AUTHORITY.—Title XIII of the Merchant Marine
22 Act, 1936 (46 App. U.S.C. 1295 et seq.) is amended by
23 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 purposes of publication by a scholarly press or
11 journal for which such a copyright is normally a require-
12 ment for publication or otherwise as may be prescribed
13 under regulations under this section.

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

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

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

22 “(c) **TRANSFER OF COPYRIGHT.**—Upon acceptance
23 for publication of a work for which copyright protection
24 exists by reason of subsection (a), the person holding the
25 copyright shall transfer the copyright to the owner or pub-
26 lisher of the medium in which the work will be published.

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

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

7 “(1) The United States Merchant Marine Acad-
8 emy.

9 “(2) The Coast Guard Academy.

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

13 “(4) The National Defense University.

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

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

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

22 (b) EFFECTIVE DATE.—Section 1308 of Merchant
23 Marine Act, 1936, as added by subsection (a), shall apply
24 only with respect to works that, as determined under regu-

1 lations prescribed under that section, are produced after
2 the date of the enactment of this Act.

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

○