

HOUSE BILL REPORT

SJM 8001

As Reported By House Committee On:
Energy & Utilities

Brief Description: Requesting amending the Copyright Act to address current situations.

Sponsors: Senator Sutherland.

Brief History:

Reported by House Committee on:
Energy & Utilities, March 23, 1993, DPA.

HOUSE COMMITTEE ON ENERGY & UTILITIES

Majority Report: Do pass as amended. Signed by 9 members: Representatives Grant, Chair; Finkbeiner, Vice Chair; Casada, Ranking Minority Member; Miller, Assistant Ranking Minority Member; Johanson; Kessler; Kremen; Long; and Ludwig.

Staff: Harry Reinert (786-7110).

Background: Copyright law is subject to federal control. The Copyright Act of 1976 is the most recent comprehensive revision enacted by Congress.

Under U.S. copyright law, a performance of copyrighted music requires a license or the permission of the copyright owner. A performance includes music played on a radio or television. Owners of copyrights sometimes assign their rights to licensing organizations such as the American Society of Composers, Authors and Publishers (ASCAP).

The Copyright Act provides some exemptions from the licensing requirement. One exemption allows the "broadcast" of a transmission, such as a radio or television program, on a single receiver if the receiver is "of a kind commonly used in private homes," and if no charge is made to see or hear the transmission and the transmission is not retransmitted.

This exemption was included in the 1976 act as a response to a 1975 United States Supreme Court decision holding that the prior Copyright Act did not require a license or permission by a restaurant owner who had installed a four-speaker system for the benefit of customers and employees.

Legislative history indicates that Congress intended to cover systems that had been converted to commercial use, but wished to exclude "small commercial establishments whose proprietors merely bring onto their premises standard radio or television equipment and turn it on for their customers' enjoyment...." The federal courts have considered several cases in which stores or restaurants have installed multiple speaker systems. These systems have been held to violate the terms of the exemption and require a license from the copyright holder. There do not appear to have been any reported cases which have specifically addressed the issue of what size of television is "of a kind commonly used in private homes."

Summary of Amended Bill: Congress is asked to re-examine the 1976 Copyright Act in light of current technological and commercial considerations. Congress is also asked to amend the Copyright Act to exempt from licensing requirements any noncommercial performances of copyrighted music on television if the performance has only an indirect benefit to the person who permits the performance. Congress is further asked to designate a federal agency to adopt rules and provide definitions for the provisions of the Copyright Act.

Amended Bill Compared to Original Bill: The amendment corrects a quotation from a federal statute.

Fiscal Note: Not requested.

Testimony For: Since the 1976 Copyright Act was enacted, the size of television sets commonly found in people's homes has changed. The licensing organization ASCAP engages in what amounts to legal blackmail to obtain royalty payments from small business owners who receive no direct benefit from having televisions or radios in their business premises.

Testimony Against: None.

Witnesses: Ray Eggert, Pied Piper Pizza (pro); Len Rodgers, KVAN Radio (Pro); Becky Bogard, Washington State Association of Broadcasters (pro); Jeff Cox, Washington Retail Association (pro); and Ron Sellar, Washington State Licensed Beverage Association (pro).