

**SENATE BILL REPORT**

**SJM 8001**

**AS REPORTED BY COMMITTEE ON ENERGY & UTILITIES,  
FEBRUARY 4, 1994**

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

**SPONSORS:** Senator Sutherland

**SENATE COMMITTEE ON ENERGY & UTILITIES**

**Majority Report:** Do pass.

Signed by Senators Sutherland, Chairman; Ludwig, Vice Chairman; Amondson, Hochstatter, Owen, Roach, A. Smith, Vognild, West and Williams.

**Staff:** David Danner (786-7784)

**Hearing Dates:** February 11, 1993; February 15, 1993; February 4, 1994

**BACKGROUND:**

Under U.S. copyright law, performances of copyrighted music must be licensed or otherwise have permission of the copyright owner. These performances include music played on television. Owners of copyrights sometimes assign their rights to licensing organizations such as the American Society of Composers, Authors and Publishers (ASCAP).

There are a few exceptions to the license/permission requirement. One of these allows businesses to use televisions for their customers' enjoyment if the television is "of a kind commonly used in private homes." The copyright act does not provide a definition of this kind of television, but ASCAP has determined that only televisions under 36 inches are "of a kind commonly used in private homes." ASCAP has threatened a copyright infringement lawsuit against a small business owner who has a 40 inch television set in his restaurant.

The copyright law and its exception were adopted in 1976. Since then technology and commercial practices have changed.

**SUMMARY:**

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 (e.g., a business owner). Congress is further asked to

designate a federal agency to adopt rules and provide definitions for the provisions of the copyright act.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:**

ASCAP (as well as other licensing organizations) has threatened several small businesses with copyright infringement lawsuits. These small businesses do not play music, they have TV sets which incidentally occasionally air music (for example, the theme to Monday night football). TVs have become common in all kinds of small businesses. Most of these businesses provide TV for their customers' enjoyment and do not charge to watch.

**TESTIMONY AGAINST:** None

**TESTIFIED:** PRO: Wayne Redjou, Smokey's Pizza; Ray Eggert, Pied Piper Pizza; Ron Sellar, Washington State Licensed Beverage Association; Lois Mason, The Spot Too Tavern; Gary McClenaghan, Bill's Place; George Teeny, Last Frontier/New Phoenix; Becky Bogard, Washington State Association of Broadcasters