

## Calendar No. 77

112TH CONGRESS  
1ST SESSION**S. 978**

To amend the criminal penalty provision for criminal infringement of a copyright, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 12, 2011

Ms. KLOBUCHAR (for herself, Mr. CORNYN, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JUNE 20 (legislative day, JUNE 16), 2011

Reported by Mr. LEAHY, without amendment

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**A BILL**

To amend the criminal penalty provision for criminal infringement of a copyright, 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,*

3 **SECTION 1. CRIMINAL INFRINGEMENT OF A COPYRIGHT.**

4 (a) AMENDMENTS TO SECTION 2319 OF TITLE 18.—

5 Section 2319 of title 18, United States Code, is amend-  
6 ed—

7 (1) in subsection (b)—

1 (A) by redesignating paragraphs (2) and  
2 (3) as paragraphs (3) and (4), respectively; and

3 (B) by inserting after paragraph (1) the  
4 following:

5 “(2) shall be imprisoned not more than 5 years,  
6 fined in the amount set forth in this title, or both,  
7 if—

8 “(A) the offense consists of 10 or more  
9 public performances by electronic means, during  
10 any 180-day period, of 1 or more copyrighted  
11 works; and

12 “(B)(i) the total retail value of the per-  
13 formances, or the total economic value of such  
14 public performances to the infringer or to the  
15 copyright owner, would exceed \$2,500; or

16 “(ii) the total fair market value of licenses  
17 to offer performances of those works would ex-  
18 ceed \$5,000;” and

19 (2) in subsection (f), by striking paragraph (2)  
20 and inserting the following:

21 “(2) the terms ‘reproduction’, ‘distribution’,  
22 and ‘public performance’ refer to the exclusive rights  
23 of a copyright owner under clauses (1), (3), (4), and  
24 (6), respectively of section 106 (relating to exclusive

1 rights in copyrighted works), as limited by sections  
2 107 through 122, of title 17;”.

3 (b) AMENDMENT TO SECTION 506 OF TITLE 17.—

4 Section 506(a) of title 17, United States Code, is amend-  
5 ed—

6 (1) in paragraph (1)(C), by inserting “or public  
7 performance” after “distribution” the first place it  
8 appears; and

9 (2) in paragraph (3)—

10 (A) in subparagraph (A), by inserting “or  
11 public performance” after “unauthorized dis-  
12 tribution”; and

13 (B) in subparagraph (B), by inserting “or  
14 public performance” after “distribution”.

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