

"I can honestly say we were shocked," Ginsburg told the Globe. "I can assure you we're going to make sure there is a thorough investigation."

Here is one in the Boston Herald:

They're going to make a movie about the Big Dig.

They'll call it "The Poseidon Adventure." Or maybe "15 Billion Dollars Under the Sea." Or "Voyage to the Bottom of the Tunnel."

Another day, another flood. And Wednesday was a dry day, too, as you well recall, if you were caught in the traffic jam for two or three hours. It hadn't rained in a week, but suddenly there was a flood. It was a small gusher, a Newton Lower Falls type of cascade. But you have to wonder, how long until we get a Niagara down there in the Liberty Tunnel?

... In case you've forgotten, the Big Dig cost \$14.6 billion.

And it leaks. It has more holes in it than a "60 Minutes" investigation.

Riding into the tunnel is like going through a car wash, only you can't get a wax job. The next time they have a grand opening ribbon-cutting down there, they should forget the elephants and invite SpongeBob SquarePants instead.

How many more times do we have to endure Fat Matt Amarillo, the bloated hack who runs the Big Dig, at a press conference, flopping like a fish, as SpongeBob would say? Talk about nautical nonsense.

To quote Fat Matt: "I'm not a happy customer."

"I didn't know he was a customer," said Christy Mihos, the former Pike board member. "I thought he was the boss."

Only when there's a ribbon to be cut.

I commend this article to all of my colleagues' reading. It is very entertaining. And since it is such a sad kind of a situation, maybe there is room—

Why don't we just rename the tunnel after SpongeBob SquarePants? Absorbent and yellow and porous is he—just like the tunnel.

I think that is pretty much of a high point or low point of my selective reading from articles from the Boston Globe and the Boston Herald and the Associated Press.

Mr. President, in summary, this is a serious situation. I do not believe the taxpayers of America should pay any more money in this effort. No funds have been recovered from Bechtel/Parsons Brinckerhoff, although the Turnpike Authority and the Commonwealth have filed suit against the joint venture.

I hope we can get this cleared up as soon as possible. I would assume next year the Commerce Committee will have additional oversight hearings on this issue. This is not a good day for the taxpayers of America.

FAMILY ENTERTAINMENT AND COPYRIGHT ACT OF 2004

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3021, which was introduced earlier today by Senators HATCH and LEAHY.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3021) to provide for the protection of intellectual property rights and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the McCain amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, and that any statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4074) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (S. 3021), as amended, was read the third time and passed, as follows:

S. 3021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Entertainment and Copyright Act of 2004".

TITLE I—ARTISTS' RIGHTS AND THEFT PREVENTION

SEC. 101. SHORT TITLE.

This title may be cited as the "Artists' Rights and Theft Prevention Act of 2004" or the "ART Act".

SEC. 102. CRIMINAL PENALTIES FOR UNAUTHORIZED RECORDING OF MOTION PICTURES IN A MOTION PICTURE EXHIBITION FACILITY.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by adding after section 2319A the following new section:

"§2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility

"(a) OFFENSE.—Any person who, without the authorization of the copyright owner, knowingly uses or attempts to use an audiovisual recording device to transmit or make a copy of a motion picture or other audiovisual work protected under title 17, or any part thereof, from a performance of such work in a motion picture exhibition facility, shall—

"(1) be imprisoned for not more than 3 years, fined under this title, or both; or

"(2) if the offense is a second or subsequent offense, be imprisoned for not more than 6 years, fined under this title, or both.

The possession by a person of an audiovisual recording device in a motion picture exhibition facility may be considered as evidence in any proceeding to determine whether that person committed an offense under this subsection, but shall not, by itself, be sufficient to support a conviction of that person for such offense.

"(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court in its judgment of conviction shall, in addition to any penalty provided, order the forfeiture and destruction or other disposition of all unauthorized copies of motion pictures or other audiovisual works protected under title 17, or parts thereof, and any audiovisual recording devices or other equipment used in connection with the offense.

"(c) AUTHORIZED ACTIVITIES.—This section does not prevent any lawfully authorized in-

vestigative, protective, or intelligence activity by an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or a person acting under a contract with the United States, a State, or a political subdivision of a State.

"(d) IMMUNITY FOR THEATERS.—With reasonable cause, the owner or lessee of a facility where a motion picture is being exhibited, the authorized agent or employee of such owner or lessee, the licensor of the motion picture being exhibited, or the agent or employee of such licensor—

"(1) may detain, in a reasonable manner and for a reasonable time, any person suspected of a violation of this section for the purpose of questioning or summoning a law enforcement officer; and

"(2) shall not be held liable in any civil or criminal action arising out of a detention under paragraph (1).

"(e) VICTIM IMPACT STATEMENT.—

"(1) IN GENERAL.—During the preparation of the presentence report under rule 32(c) of the Federal Rules of Criminal Procedure, victims of an offense under this section shall be permitted to submit to the probation officer a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

"(2) CONTENTS.—A victim impact statement submitted under this subsection shall include—

"(A) producers and sellers of legitimate works affected by conduct involved in the offense;

"(B) holders of intellectual property rights in the works described in subparagraph (A); and

"(C) the legal representatives of such producers, sellers, and holders.

"(f) STATE LAW NOT PREEMPTED.—Nothing in this section may be construed to annul or limit any rights or remedies under the laws of any State.

"(g) DEFINITIONS.—In this section, the following definitions shall apply:

"(1) TITLE 17 DEFINITIONS.—The terms 'audiovisual work', 'copy', 'copyright owner', 'motion picture', 'motion picture exhibition facility', and 'transmit' have, respectively, the meanings given those terms in section 101 of title 17.

"(2) AUDIOVISUAL RECORDING DEVICE.—The term 'audiovisual recording device' means a digital or analog photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted motion picture or other audiovisual work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2319A the following:

"2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility."

(c) DEFINITION.—Section 101 of title 17, United States Code, is amended by inserting after the definition of "Motion pictures" the following:

"The term 'motion picture exhibition facility' means a movie theater, screening room, or other venue that is being used primarily for the exhibition of a copyrighted motion picture, if such exhibition is open to the public or is made to an assembled group of viewers outside of a normal circle of a family and its social acquaintances."