

a sound recording or the musical work embodied therein, including by means of a digital transmission, under sections 106(4) and 106(6), (ii) except for compulsory licensing under the conditions specified by this section, the exclusive rights to reproduce and distribute the sound recording and the musical work embodied therein under sections 106(1) and 106(3), including by means of a digital phonorecord delivery, or (iii) any other rights under any other provision of section 106, or remedies available under this title, as such rights or remedies exist either before or after the date of enactment of the Digital Performance Right in Sound Recordings Act of 1995.

“(L) The provisions of this section concerning digital phonorecord deliveries shall not apply to any exempt transmissions or retransmissions under section 114(d)(1). The exemptions created in section 114(d)(1) do not expand or reduce the rights of copyright owners under section 106(1) through (5) with respect to such transmissions and retransmissions.”; and

(5) by adding after subsection (c) the following:

“(d) DEFINITION.—As used in this section, the following term has the following meaning: A ‘digital phonorecord delivery’ is each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording, regardless of whether the digital transmission is also a public performance of the sound recording or any nondramatic musical work embodied therein. A digital phonorecord delivery does not result from a real-time, noninteractive subscription transmission of a sound recording where no reproduction of the sound recording or the musical work embodied therein is made from the inception of the transmission through to its receipt by the transmission recipient in order to make the sound recording audible.”.

#### SEC. 5. CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 101 of title 17, United States Code, is amended by inserting after the definition of “device”, “machine”, or “process” the following:

“A ‘digital transmission’ is a transmission in whole or in part in a digital or other non-analog format.”.

(b) LIMITATIONS ON EXCLUSIVE RIGHTS: SECONDARY TRANSMISSIONS.—Section 111(c)(1) of title 17, United States Code, is amended in the first sentence by inserting “and section 114(d)” after “of this subsection”.

(c) LIMITATIONS ON EXCLUSIVE RIGHTS: SECONDARY TRANSMISSIONS OF SUPERSTATIONS AND NETWORK STATIONS FOR PRIVATE HOME VIEWING.—

(1) Section 119(a)(1) of title 17, United States Code, is amended in the first sentence by inserting “and section 114(d)” after “of this subsection”.

(2) Section 119(a)(2)(A) of title 17, United States Code, is amended in the first sentence by inserting “and section 114(d)” after “of this subsection”.

(d) COPYRIGHT ARBITRATION ROYALTY PANELS.—

(1) Section 801(b)(1) of title 17, United States Code, is amended in the first and second sentences by striking “115” each place it appears and inserting “114, 115.”.

(2) Section 802(c) of title 17, United States Code, is amended in the third sentence by striking “section 111, 116, or 119,” and inserting “section 111, 114, 116, or 119, any person entitled to a compulsory license under section 114(d), any person entitled to a compulsory license under section 115.”.

(3) Section 802(g) of title 17, United States Code, is amended in the third sentence by inserting “114,” after “111.”.

(4) Section 802(h)(2) of title 17, United States Code, is amended by inserting “114,” after “111.”.

(5) Section 803(a)(1) of title 17, United States Code, is amended in the first sentence by striking “115” and inserting “114, 115” and by striking “and (4)” and inserting “(4) and (5)”.

(6) Section 803(a)(3) of title 17, United States Code, is amended by inserting before the period “or as prescribed in section 115(c)(3)(D)”.

(7) Section 803(a) of title 17, United States Code, is amended by inserting after paragraph (4) the following new paragraph:

“(5) With respect to proceedings under section 801(b)(1) concerning the determination of reasonable terms and rates of royalty payments as provided in section 114, the Librarian of Congress shall proceed when and as provided by that section.”.

#### SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 3 months after the date of enactment of this Act, except that the provisions of sections 114(e) and 114(f) of title 17, United States Code (as added by section 3 of this Act) shall take effect immediately upon the date of enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Similar House bills (H.R. 1506) and (H.R. 587) were laid on the table.

#### GENERAL LEAVE

Mr. MOORHEAD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

#### PROVIDING FOR DISTRIBUTION OF USIA FILM “FRAGILE RING OF LIFE”

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2070) to provide for the distribution within the United States of the U.S. Information Agency film entitled “Fragile Ring of Life.”

The Clerk read as follows:

H.R. 2070

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

#### SECTION 1. DISTRIBUTION WITHIN THE UNITED STATES OF THE UNITED STATES INFORMATION AGENCY FILM ENTITLED “FRAGILE RING OF LIFE”.

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1(a)) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled “Fragile Ring of Life”; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

(C) make copies of that film available for purchase and public viewing within the United States.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SMITH] and the gentleman from Virginia [Mr. MORAN] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SMITH].

□ 1545

Mr. Speaker, I yield myself such time as I may consume.

(Mr. SMITH of New Jersey asked and was given permission to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, I rise in support of H.R. 2070 as introduced by our colleague, Mr. MORAN. This legislation authorizes the distribution within the United States of a specific film, “The Fragile Ring of Life” produced by the U.S. Information Agency.

This legislation is necessary because section 501 of the Smith Mundt Act of 1948 prevents the release within the United States of products commissioned by the U.S. Information Agency for 12 years.

The intent of the Smith Mundt Act is to prevent the executive branch from using the U.S. Information Agency as a political tool within the United States. While this is a reasonable objective, over the years Congress has approved the early release of several films and videotape programs through legislative action. The decision to waive the Smith Mundt Act restriction on domestic dissemination is usually based on finding the material offers worthwhile educational or cultural information of interest or value to American citizens.

The “Fragile Ring of Life” does meet these standards. The film discusses programs operating around the world that are focused on protecting sea life and coral reefs. In addition, it provides a useful summary of various efforts to establish environmentally sound practices within countries that rely upon the sea for food, commerce, or tourism.

I urge support for H.R. 2070 so that this film may be made available to domestic viewers.

Mr. Speaker, I reserve the balance of my time.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume.

This is a very simple, straightforward, noncontroversial bill. It simply allows the film that the U.S. Information Agency sponsored, the “Fragile Ring of Fire,” to be distributed within the United States.

If it were not for this legislation, this film could not be shown for another 12 years, because, as the gentleman from