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(Original Signature of Member)

110TH CONGRESS
1ST SESSION

H. R.

To provide parity in radio performance rights under title 17, United States Code, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. BERMAN (for himself, Mr. ISSA, Mr. CONYERS, Mr. SHADEGG, Ms. HARMAN, and Mrs. BLACKBURN) introduced the following bill; which was referred to the Committee on _____

A BILL

To provide parity in radio performance rights under title 17, United States Code, 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. SHORT TITLE.**

4 This Act may be cited as the “Performance Rights
5 Act”.

1 **SEC. 2. EQUITABLE TREATMENT FOR TERRESTRIAL**
2 **BROADCASTS.**

3 (a) PERFORMANCE RIGHT APPLICABLE TO RADIO
4 TRANSMISSIONS GENERALLY.—Section 106(6) of title 17,
5 United States Code, is amended to read as follows:

6 “(6) in the case of sound recordings, to perform
7 the copyrighted work publicly by means of an audio
8 transmission.”.

9 (b) INCLUSION OF TERRESTRIAL BROADCASTS IN
10 EXISTING PERFORMANCE RIGHT.—Section 114(d)(1) of
11 title 17, United States Code, is amended—

12 (1) in the matter preceding subparagraph (A),
13 by striking “a digital” and inserting “an”; and

14 (2) by striking subparagraph (A).

15 (c) INCLUSION OF TERRESTRIAL BROADCASTS IN
16 EXISTING STATUTORY LICENSE SYSTEM.—Section
17 114(j)(6) of title 17, United States Code, is amended by
18 striking “digital”.

19 **SEC. 3. SPECIAL TREATMENT FOR SMALL, NONCOMMER-**
20 **CIAL, EDUCATIONAL, AND RELIGIOUS STA-**
21 **TIONS AND CERTAIN USES.**

22 (a) SMALL, NONCOMMERCIAL, EDUCATIONAL, AND
23 RELIGIOUS RADIO STATIONS.—

24 (1) IN GENERAL.—Section 114(f)(2) of title 17,
25 United States Code, is amended by adding at the
26 end the following:

1 “(D) Notwithstanding the provisions of sub-
2 paragraphs (A) through (C), each individual terres-
3 trial broadcast station that has gross revenues in
4 any calendar year of less than \$1,250,000 may elect
5 to pay for its over-the-air nonsubscription broadcast
6 transmissions a royalty fee of \$5,000 per year, in
7 lieu of the amount such station would otherwise be
8 required to pay under this paragraph. Such royalty
9 fee shall not be taken into account in determining
10 royalty rates in a proceeding under chapter 8, or in
11 any other administrative, judicial, or other Federal
12 Government proceeding.

13 “(E) Notwithstanding the provisions of sub-
14 paragraphs (A) through (C), each individual terres-
15 trial broadcast station that is a public broadcasting
16 entity as defined in section 118(f) may elect to pay
17 for its over-the-air nonsubscription broadcast trans-
18 missions a royalty fee of \$1,000 per year, in lieu of
19 the amount such station would otherwise be required
20 to pay under this paragraph. Such royalty fee shall
21 not be taken into account in determining royalty
22 rates in a proceeding under chapter 8, or in any
23 other administrative, judicial, or other Federal Gov-
24 ernment proceeding.”.

1 (2) PAYMENT DATE.—A payment under sub-
2 paragraph (D) or (E) of section 114(f)(2) of title
3 17, United States Code, as added by paragraph (1),
4 shall not be due until the due date of the first roy-
5 alty payments for nonsubscription broadcast trans-
6 missions that are determined, after the date of the
7 enactment of this Act, under such section 114(f)(2)
8 by reason of the amendment made by section 2(b)(2)
9 of this Act.

10 (b) TRANSMISSION OF RELIGIOUS SERVICES; INCI-
11 DENTAL USES OF MUSIC.—Section 114(d)(1) of title 17,
12 United States Code, as amended by section 2(b), is further
13 amended by inserting the following before subparagraph
14 (B):

15 “(A) an eligible nonsubscription trans-
16 mission of—

17 “(i) services at a place of worship or
18 other religious assembly; and

19 “(ii) an incidental use of a musical
20 sound recording;”.

21 **SEC. 4. AVAILABILITY OF PER PROGRAM LICENSE.**

22 Section 114(f)(2)(B) of title 17, United States Code,
23 is amended by inserting after the second sentence the fol-
24 lowing new sentence: “Such rates and terms shall include

1 a per program license option for terrestrial broadcast sta-
2 tions that make limited feature uses of sound recordings.”

3 **SEC. 5. NO HARMFUL EFFECTS ON SONGWRITERS.**

4 (a) **PRESERVATION OF ROYALTIES ON UNDERLYING**
5 **WORKS.**—Section 114(i) of title 17, United States Code,
6 is amended in the second sentence by striking “It is the
7 intent of Congress that royalties” and inserting “Royal-
8 ties”.

9 (b) **PUBLIC PERFORMANCE RIGHTS AND ROYAL-**
10 **TIES.**—Nothing in this Act shall adversely affect in any
11 respect the public performance rights of or royalties pay-
12 able to songwriters or copyright owners of musical works.