

(8) An individual proprietor may not bring more than one proceeding provided for in this section for the determination of a reasonable license rate or fee under any license agreement with respect to any one performing rights society.

(9) For purposes of this section, the term “industry rate” means the license fee a performing rights society has agreed to with, or which has been determined by the court for, a significant segment of the music user industry to which the individual proprietor belongs.

(Added Pub. L. 105–298, title II, §203(a), Oct. 27, 1998, 112 Stat. 2831, §512; renumbered §513, Pub. L. 106–44, §1(c)(1), Aug. 5, 1999, 113 Stat. 221.)

AMENDMENTS

1999—Pub. L. 106–44 renumbered section 512 of this title as this section.

EFFECTIVE DATE

Section effective 90 days after Oct. 27, 1998, see section 207 of Pub. L. 105–298, set out as an Effective Date of 1998 Amendment note under section 101 of this title.

CHAPTER 6—IMPORTATION AND EXPORTATION

Sec.

- [601. Repealed.]
 602.¹ Infringing importation of copies or phonorecords.
 603. Importation prohibitions: Enforcement and disposition of excluded articles.

AMENDMENTS

2010—Pub. L. 111–295, §4(a), (b)(1)(A), Dec. 9, 2010, 124 Stat. 3180, substituted “IMPORTATION AND EXPORTATION” for “MANUFACTURING REQUIREMENTS, IMPORTATION, AND EXPORTATION” in chapter heading and struck out item 601 “Manufacture, importation, and public distribution of certain copies”.

2008—Pub. L. 110–403, title I, §105(a), Oct. 13, 2008, 122 Stat. 4259, substituted “MANUFACTURING REQUIREMENTS, IMPORTATION, AND EXPORTATION” for “MANUFACTURING REQUIREMENTS AND IMPORTATION” in chapter heading.

[§ 601. Repealed. Pub. L. 111–295, §4(a), Dec. 9, 2010, 124 Stat. 3180]

Section, Pub. L. 94–553, title I, §101, Oct. 19, 1976, 90 Stat. 2588; Pub. L. 97–215, July 13, 1982, 96 Stat. 178; Pub. L. 105–80, §12(a)(15), (16), Nov. 13, 1997, 111 Stat. 1535; Pub. L. 110–403, title I, §105(c)(2), Oct. 13, 2008, 122 Stat. 4260, related to manufacture, importation, and public distribution of certain copies of nondramatic English-language literary material protected under this title.

§ 602. Infringing importation or exportation of copies or phonorecords

(a) INFRINGING IMPORTATION OR EXPORTATION.—

(1) IMPORTATION.—Importation into the United States, without the authority of the owner of copyright under this title, of copies or phonorecords of a work that have been acquired outside the United States is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under section 501.

(2) IMPORTATION OR EXPORTATION OF INFRINGING ITEMS.—Importation into the United

States or exportation from the United States, without the authority of the owner of copyright under this title, of copies or phonorecords, the making of which either constituted an infringement of copyright, or which would have constituted an infringement of copyright if this title had been applicable, is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under sections 501 and 506.

(3) EXCEPTIONS.—This subsection does not apply to—

(A) importation or exportation of copies or phonorecords under the authority or for the use of the Government of the United States or of any State or political subdivision of a State, but not including copies or phonorecords for use in schools, or copies of any audiovisual work imported for purposes other than archival use;

(B) importation or exportation, for the private use of the importer or exporter and not for distribution, by any person with respect to no more than one copy or phonorecord of any one work at any one time, or by any person arriving from outside the United States or departing from the United States with respect to copies or phonorecords forming part of such person’s personal baggage; or

(C) importation by or for an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to no more than one copy of an audiovisual work solely for its archival purposes, and no more than five copies or phonorecords of any other work for its library lending or archival purposes, unless the importation of such copies or phonorecords is part of an activity consisting of systematic reproduction or distribution, engaged in by such organization in violation of the provisions of section 108(g)(2).

(b) IMPORT PROHIBITION.—In a case where the making of the copies or phonorecords would have constituted an infringement of copyright if this title had been applicable, their importation is prohibited. In a case where the copies or phonorecords were lawfully made, United States Customs and Border Protection has no authority to prevent their importation. In either case, the Secretary of the Treasury is authorized to prescribe, by regulation, a procedure under which any person claiming an interest in the copyright in a particular work may, upon payment of a specified fee, be entitled to notification by United States Customs and Border Protection of the importation of articles that appear to be copies or phonorecords of the work.

(Pub. L. 94–553, title I, §101, Oct. 19, 1976, 90 Stat. 2589; Pub. L. 110–403, title I, §105(b), (c)(1), Oct. 13, 2008, 122 Stat. 4259, 4260; Pub. L. 111–295, §4(c), Dec. 9, 2010, 124 Stat. 3181.)

HISTORICAL AND REVISION NOTES

HOUSE REPORT NO. 94–1476

Scope of the Section. Section 602, which has nothing to do with the manufacturing requirements of section 601, deals with two separate situations: importation of “piratical” articles (that is, copies or phonorecords

¹ So in original. Does not conform to section catchline.