

“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.”

§ 2319C. Illicit digital transmission services

(a) DEFINITIONS.—In this section—

(1) the terms “audiovisual work”, “computer program”, “copies”, “copyright owner”, “digital transmission”, “financial gain”, “motion picture”, “motion picture exhibition facility”, “perform”, “phonorecords”, “publicly” (with respect to performing a work), “sound recording”, and “transmit” have the meanings given those terms in section 101 of title 17;

(2) the term “digital transmission service” means a service that has the primary purpose of publicly performing works by digital transmission;

(3) the terms “publicly perform” and “public performance” refer to the exclusive rights of a copyright owner under paragraphs (4) and (6) of section 106 (relating to exclusive rights in copyrighted works) of title 17, as limited by sections 107 through 122 of title 17; and

(4) the term “work being prepared for commercial public performance” means—

(A) a computer program, a musical work, a motion picture or other audiovisual work, or a sound recording, if, at the time of unauthorized public performance—

(i) the copyright owner has a reasonable expectation of commercial public performance; and

(ii) the copies or phonorecords of the work have not been commercially publicly performed in the United States by or with the authorization of the copyright owner; or

(B) a motion picture, if, at the time of unauthorized public performance, the motion picture—

(i) has been made available for viewing in a motion picture exhibition facility; and

(ii) has not been made available in copies for sale to the general public in the United States by or with the authorization of the copyright owner in a format intended to permit viewing outside a motion picture exhibition facility; or

(iii) had not been commercially publicly performed in the United States by or with the authorization of the copyright owner more than 24 hours before the unauthorized public performance.

(b) PROHIBITED ACT.—It shall be unlawful for a person to willfully, and for purposes of commercial advantage or private financial gain, offer or provide to the public a digital transmission service that—

(1) is primarily designed or provided for the purpose of publicly performing works protected under title 17 by means of a digital transmission without the authority of the copyright owner or the law;

(2) has no commercially significant purpose or use other than to publicly perform works

protected under title 17 by means of a digital transmission without the authority of the copyright owner or the law; or

(3) is intentionally marketed by or at the direction of that person to promote its use in publicly performing works protected under title 17 by means of a digital transmission without the authority of the copyright owner or the law.

(c) PENALTIES.—Any person who violates subsection (b) shall be, in addition to any penalties provided for under title 17 or any other law—

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

(2) fined under this title, imprisoned not more than 5 years, or both, if—

(A) the offense was committed in connection with 1 or more works being prepared for commercial public performance; and

(B) the person knew or should have known that the work was being prepared for commercial public performance; and

(3) fined under this title, imprisoned not more than 10 years, or both, if the offense is a second or subsequent offense under this section or section 2319(a).

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) affect the interpretation of any other provision of civil copyright law, including the limitations of liability set forth in section 512 of title 17, or principles of secondary liability; or

(2) prevent any Federal or State authority from enforcing cable theft or theft of service laws that are not subject to preemption under section 301 of title 17.

(Added Pub. L. 116-260, div. Q, title II, §211(a), Dec. 27, 2020, 134 Stat. 2175.)

§ 2320. Trafficking in counterfeit goods or services

(a) OFFENSES.—Whoever intentionally—

(1) traffics in goods or services and knowingly uses a counterfeit mark on or in connection with such goods or services,

(2) traffics in labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature, knowing that a counterfeit mark has been applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive,

(3) traffics in goods or services knowing that such good or service is a counterfeit military good or service the use, malfunction, or failure of which is likely to cause serious bodily injury or death, the disclosure of classified information, impairment of combat operations, or other significant harm to a combat operation, a member of the Armed Forces, or to national security, or

(4) traffics in a drug and knowingly uses a counterfeit mark on or in connection with such drug,

or attempts or conspires to violate any of paragraphs (1) through (4) shall be punished as provided in subsection (b).