



**CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE**

March 14, 2005

S. 167

Family Entertainment and Copyright Act of 2005

As ordered reported by the House Committee on the Judiciary on March 9, 2005

SUMMARY

S. 167 would make several changes to current law regarding copyrighted works. The bill would specifically authorize the appropriation of \$530,000 each year over the 2005-2009 period to the Library of Congress for preserving films in the Library's collection. Assuming appropriation of the specified amounts, CBO estimates that implementing the bill would have no significant cost in 2005 and would cost nearly \$3 million over the 2005-2009 period. Enacting the bill would not have a significant effect on revenues or direct spending.

S. 167 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments. S. 167 would impose private-sector mandates as defined in UMRA. CBO estimates that the direct cost of those mandates would fall well below the annual threshold established by UMRA for private-sector mandates (\$123 million in 2005, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 167 is shown in the following table. For this estimate, CBO assumes that the bill will be enacted in fiscal year 2005. CBO assumes that the amounts authorized by the bill will be appropriated for each fiscal year and that outlays will follow the historical rate of spending for these activities. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By Fiscal Year, in Millions of Dollars					
	2005	2006	2007	2008	2009	2010
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	1	1	1	1	1	0
Estimated Outlays	*	1	1	1	1	0

NOTE: * = less than \$500,000.

BASIS OF ESTIMATE

S. 167 would make several changes to laws affecting copyrighted materials. Assuming the appropriation of the specified amounts, CBO estimates that implementing the act would not have a significant cost in 2005 and would cost nearly \$3 million over the 2005-2009 period. Enacting this legislation would not have a significant effect on direct spending or revenues.

Spending Subject to Appropriation

Filtering Technology. Title II of S. 167 would specify that technology used to filter certain material out of movies for private viewing would not constitute a violation of copyright or trademark law. CBO estimates that implementing title II would have no effect on federal spending.

Film Preservation. Title III would authorize the appropriation of nearly \$3 million over the 2005-2009 period to the Library of Congress for preserving films in the Library's collection. It also would make technical changes to current law regarding film preservation. CBO estimates that implementing title III would not have a significant cost in 2005 and would cost about \$3 million over the 2005-2009 period.

Revenues and Direct Spending

Title I would establish new federal crimes for the unauthorized recording of motion pictures in movie theaters or other venues and would provide for increased penalties for other acts relating to copyright infringement. Because those prosecuted and convicted under the act could be subject to criminal fines, the federal government might collect additional fines if the legislation is enacted. Collections of such fines are recorded in the budget as revenues (i.e.,

governmental receipts), which are deposited in the Crime Victims Fund and later spent. CBO expects that any additional revenues and direct spending would be less than \$500,000 annually because of the relatively small number of cases likely to be affected.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 167 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of states, local, or tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 167 would impose two private-sector mandates as defined in UMRA. CBO estimates that the direct cost of those mandates would fall well below the annual threshold established by UMRA for private-sector mandates (\$123 million in 2005, adjusted annually for inflation).

First, the bill would impose a private-sector mandate on copyright owners. Section 202 would limit the right of copyright owners to collect compensation under copyright law from persons using or manufacturing a technology that enables making limited changes to a motion picture for a private home viewing. According to testimony from the Patent and Trademark Office and other sources, no such compensation is currently received by copyright owners. Therefore, CBO estimates that the direct cost of the mandate, measured as net income forgone, would be small or zero.

Second, section 202 would impose a private-sector mandate on manufacturers, licensees, and licensors of technology (manufactured six months or more after the bill's enactment) that enables the making of limited portions of audio or video content of a motion picture imperceptible. Such manufacturers, licensees, or licensors would be required to ensure that the technology provides a clear and conspicuous notice that the performance of the motion picture is altered from the performance intended by the director or copyright holder of the motion picture. Complying with the mandate would exempt such manufacturers, licensees, or licensors from liability under section 32 of the Trademark Act of 1946. The direct cost of the mandate on those private-sector entities would be the total cost of providing the notice less the direct savings achieved by limiting their liability. CBO has no basis for determining the direct savings for the exemption from trademark liability. However, according to government and other sources, the technology to provide the required notice is readily available and is currently used by some manufacturers. Thus, CBO expects that the direct cost to comply with the mandate, if any, would be minimal.

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