

105TH CONGRESS  
2D SESSION

# H. R. 3209

To amend title 17, United States Code, to limit liability for copyright infringement for on-line material.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 1998

Mr. COBLE (for himself and Mr. GOODLATTE) introduced the following bill;  
which was referred to the Committee on the Judiciary

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## A BILL

To amend title 17, United States Code, to limit liability  
for copyright infringement for on-line material.

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 “On-Line Copyright In-  
5 fringement Liability Limitation Act”.

6 **SEC. 2. LIMITATIONS ON LIABILITY FOR COPYRIGHT IN-**  
7 **FRINGEMENT.**

8 (a) IN GENERAL.—Chapter 5 of title 17, United  
9 States Code, is amended by adding after section 511 the  
10 following new section:

1 **“§ 512. Limitations on liability relating to material**  
2 **on-line**

3 “(a) LIMITATION.—Notwithstanding the provisions  
4 of section 106, a provider shall not be liable for—

5 “(1) direct infringement, based solely on the in-  
6 termediate storage and transmission of material over  
7 that provider’s system or network, if—

8 “(A) the transmission was initiated by an-  
9 other person;

10 “(B) the storage and transmission is car-  
11 ried out through an automatic technological  
12 process, without any selection of that material  
13 by the provider; and

14 “(C) any copy made of the material is not  
15 retained longer than necessary for the purpose  
16 of carrying out that transmission;

17 “(2) monetary relief under section 504 or 505  
18 for contributory infringement or vicarious liability,  
19 based solely on conduct described in paragraph (1);  
20 or

21 “(3) monetary relief under section 504 or 505  
22 for contributory infringement or vicarious liability,  
23 based solely on transmitting or providing access to  
24 material over that provider’s system or network,  
25 other than conduct described in paragraph (1), if the  
26 provider—

1           “(A) does not know and is not aware of in-  
2           formation indicating that the material is in-  
3           fringing; and

4           “(B) does not receive a financial benefit di-  
5           rectly attributable to the infringing activity.

6           “(b) PROTECTION OF PRIVACY.—Nothing in sub-  
7           section (a) shall authorize or obligate a provider to access  
8           material that the provider is prohibited by law from ac-  
9           cessing, or impose an affirmative obligation to monitor or  
10          otherwise seek information indicating infringement.

11          “(c) LIMITATION BASED UPON REMOVING OR DIS-  
12          ABLING ACCESS TO INFRINGING MATERIAL.—A provider  
13          shall not be liable for any claim based on that provider’s  
14          removing or disabling on-line access to material, in re-  
15          sponse to knowledge or information indicating that the  
16          material is infringing, whether or not the material is in-  
17          fringing.

18          “(d) OTHER DEFENSES NOT AFFECTED.—Removing  
19          or disabling access to material which a provider transmits  
20          on-line or to which a provider provides on-line access, or  
21          the failure to do so, shall not adversely bear upon the con-  
22          sideration by a court of a defense to infringement asserted  
23          by that provider on the basis of section 107 or any other  
24          provision of law.

1           “(e) MISREPRESENTATIONS.—Any person who know-  
2           ingly materially misrepresents that material on-line is in-  
3           fringing shall be liable for any damages, including costs  
4           and attorneys’ fees, incurred by the alleged infringer or  
5           by any copyright owner or copyright owner’s authorized  
6           licensee who is injured by such misrepresentation, or by  
7           any provider who relies upon such misrepresentation in  
8           removing or disabling access to the material claimed to  
9           be infringing.

10           “(f) DEFINITION.—As used in this section, the term  
11           ‘provider’ means a provider of on-line services or network  
12           access.”.

13           (b) CONFORMING AMENDMENT.—The table of sec-  
14           tions for chapter 5 of title 17, United States Code, is  
15           amended by adding at the end the following:

“512. Limitations on liability relating to material on-line.”.

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