

Legislative Epilogue

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LEGISLATIVE EPILOGUE

STEREOTYPICAL DEPICTIONS IN WISCONSIN SPORTS LOGOS

Wisconsin school boards may soon be called upon to take an affirmative role in upholding the heritage of American Indians. A Wisconsin bill introduced in March 1993 calls upon school boards to review stereotypical depictions of American Indians in school and athletic team logos, mascots, and nicknames.

As the digest of the bill states, "it is imperative that the public schools of Wisconsin create a climate in which the racial, cultural and ethnic heritage of all pupils is accorded equal respect and no group is made to feel singled out or set apart by the use of stereotypical depictions." The drafters of the bill also acknowledge that many of the depictions of American Indians include stereotypical caricatures "which would not be tolerated if depicting any other racial or ethnic group."

The stated effect of such symbols include: the perpetuation and reinforcement of outmoded and inaccurate views of American Indians, the detrimental effect that such symbols may have on the self-esteem of American Indian pupils, and the possible violation of the Wisconsin pupil anti-discrimination statute. The Senate Committee on Education recommended its passage on January 12, 1994. *1993 WI A.J.R. 27, 91st Leg. Sess.*

DISCLOSURE OF PRE-RECORDED MUSIC IN MISSOURI

On January 20, 1994, a bill was introduced into the Missouri House regarding the quality of live music performances. The bill covers any public performance of a national touring company or locally produced professional performance involving music or musical accompaniment for which a fee is charged. Under the bill, such groups would be required to clearly and conspicuously disclose in all advertisements and programs when five minutes or more of the music is recorded or otherwise reproduced. *1994 MO H.B. 1446, 87th Leg. Assembly, 2nd Regular Sess.*

TICKET SCALPING IN CALIFORNIA

Under existing law in California, it is a misdemeanor for any person who, without permission from the owner or operator of the property on which an entertainment event is to be held, sells a ticket to the event for resale. The prohibition applies if the resale price is in excess of the price printed on the ticket, and it is sold while on the grounds of the place where the event will be held.

A bill introduced into the California Senate in March 1993 proposes to add to existing law in two primary respects. First, it would be a misdemeanor for a person to sell a ticket for resale at any price in excess of 120 percent of the price printed on the ticket. In effect, this expands the prohibition of scalping beyond

the grounds where the event will be held. Second, the bill would make it a felony for any person to sell or offer to sell 20 or more tickets in violation of the current and proposed provisions. The last action taken on the bill was on January 31, 1994. *1993 CA S.B. 1019, 1993-94 Regular Sess.*

UNITED STATES INTERNATIONAL BROADCASTING ACT OF 1993

Senate Bill 1262 proposes to reorganize international broadcasting through the United States International Broadcasting Act of 1993. The proposed reorganization includes establishment of a Broadcasting Board of Governors and an International Broadcasting Bureau within the U.S. Information Agency (USIA). The Board would: (1) provide guidance and oversight to the International Broadcasting Bureau; (2) review the mission and operation of the Bureau and assess its programming within the context of U.S. foreign policy objectives; (3) review the mix of traditional Voice of America programming on at least an annual basis; and (4) protect the Bureau against political interference with broadcasting.

A primary focus of the bill is on the Asian community, as it would authorize the USIA Director to create an Asian Democracy Radio Service. The purpose behind this service would be to: (1) provide accurate information, news, and commentary about events in Asia and elsewhere in order to promote freedom and democracy in Asian countries where communications media are not fully developed or free; and (2) be a source of information about developments in Asia and a forum for a variety of opinions within Asian nations whose people do not enjoy the freedom of expression. *S. 1262, 103rd Cong., 1st Sess. (1993).*

SALE OF MULTIPLE VISUAL ARTWORKS IN PENNSYLVANIA

The June 1994 version of Pennsylvania House Bill 2893 regulates the purchase and sale of visual works of art produced in multiples. Specifically, an art merchant is prohibited from selling or consigning a multiple of a visual art object unless written notice is given to the purchaser or consignee. The coverage of the bill also extends to auctions and catalogues.

Required disclosure for visual art works includes: (1) identity of the artist; (2) whether and in what form the artist's signature is on the multiple; (3) a description of the medium or process used in creating the multiple, including whether the multiple is a reproduction; (4) the use of the master which produced the multiple; (5) what year the multiples were produced; and (6) the size of the edition.

Information required for sculptures includes: (1) the name of the artist; (2) the title of the sculpture; (3) the name of the foundry or person who produced, fabricated or carved the sculpture; (4) a description of the medium used in producing the multiple; (5) the dimensions of the sculpture; (6) the year the sculpture was cast, fabricated or carved; (7) the number of sculpture casts produced; (8) whether the artist was deceased at the time the multiple was produced; and (9) whether the multiple was authorized by the artist.

Further requirements are also proposed for limited edition sculptures. The bill also provides for warranties, remedies, enforcement, and for civil and criminal

penalties. The bill was last referred to the Committee on Consumer Affairs on June 14, 1994. *1993 PA H.B. 2893, 178th General Assembly.*

SATELLITE CARRIER COMPULSORY LICENSE EXTENSION ACT OF 1994

House Bill 1103 and Senate Bill 1485 propose to amend copyright law with respect to satellite carrier compulsory licenses. H.R. 1103 would amend Federal copyright provisions to revise the formula for computing royalty fees for secondary transmissions for private home viewing by satellite carriers. The bill also changes date and notice provisions regarding proceedings for fees to be paid by satellite carriers. H.R. 1103 became part of S. 1485 in August 1994. *H.R. 1103, 103rd Cong., 1st Sess. (1993).*

S. 1485 would require the subscriber information list submitted by a satellite carrier to include the names of its subscribers where the carrier makes secondary transmissions of a primary transmission by a network station. Furthermore, in any action relating to the violation of territorial restrictions on a statutory license for network stations, the satellite carrier has the burden of proving that a subscriber is an unserved household. Upon such a challenge, the satellite carrier must conduct signal intensity measurements to determine whether the household is unserved and, if so, de-authorize service. The network affiliate must then reimburse a carrier for any signal intensity measurement that indicates the household is an unserved household. The bill is pending and both houses have agreed on a conference. The bill was last reported in the Senate on October 7, 1994. *S. 1485, 103rd Cong., 1st Sess. (1993).*

COPYRIGHT REFORM ACT OF 1993

The Copyright Reform Act of 1993 was proposed by House Bill 897 and Senate Bill 373. House Bill 897 amends federal copyright law to grant the Librarian of Congress, currently the Register of Copyrights, the authority to enforce certain requirements concerning the deposit of copies or phonorecords for the Library of Congress. One amendment proposed is to permit, under certain conditions, a single registration for a group of works by the same author first published as contributions to collective works if it is within a five-year period. Currently, the law permits a single registration only for periodicals within a 12-month period. The bill would also require the Register to hold annual public hearings to consider proposals to amend Copyright Office regulations and practices. The hearings would focus on the elimination of deposits that are unnecessary and the simplification of registration procedures.

Other proposals made by H.R. 897 include: requiring the Register to establish a formal appeals procedure for refusals to register claims to copyright; repealing provisions that require copyright registration as a prerequisite to an infringement suit and to certain remedies for infringement; and authorizing the courts to eliminate the statutory award of damages for unknowing infringement (currently, the court may reduce such award to no less than \$200). The bill was introduced February 16, 1993, and is currently pending. *H.R. 897, 103rd Cong., 1st Sess. (1993).*

The related Senate bill is also pending. Senate Bill 373 would change existing law to require a work to be registered before an infringement action may be brought. One provision of the bill applies only to works consisting of sounds, images, or both. This provision would authorize a copyright owner to institute an infringement action before or after the first fixation takes place, where it is made simultaneously with its transmission. In this instance, proper notice to the infringer is required. The bill also replaces the Copyright Royalty Tribunal with copyright arbitration royalty panels, and authorizes owners or users of copyrighted works to petition for adjustments of compulsory license rates by the royalty panels. *S. 373, 103rd Cong., 1st Sess. (1993)*.

MONITORING OF NEWS REPORTING PROGRAMMING AS A FAIR USE EXCEPTION

Section 107 of Title 17 currently states that the use of a copyrighted work for purposes “such as criticism, comment, news reporting, teaching . . . scholarship, or research” is not an infringement of a copyright. *17 U.S.C. § 107 (1994)*. Senate Bill 23 would amend Title 17 by inserting “or monitoring news reporting programming” after “news reporting”. In effect, the bill would allow monitoring of news reporting programming to be a fair use of a copyrighted work. The last action on the bill was on January 21, 1993, when it was referred to the Senate Judiciary Committee. *S. 23, 103rd Cong., 1st Sess. (1993)*

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