115TH CONGRESS 2D SESSION

S. 2559

AN ACT

To amend title 17, United States Code, to implement the Marrakesh Treaty, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE. This Act may be cited as the "Marrakesh Treaty Im-2 3 plementation Act". SEC. 2. IMPLEMENTATION AMENDMENTS. 5 (a) IN GENERAL.—Chapter 1 of title 17, United States Code, is amended— 7 (1) in section 121— 8 (A) in subsection (a)— (i) by inserting "in the United States" 9 after "distribute"; 10 (ii) by striking ", nondramatic"; 11 (iii) by inserting "or of a previously 12 13 published musical work that has been fixed in the form of text or notation" after "lit-14 15 erary work"; 16 (iv) by striking "specialized formats" and inserting "accessible formats"; and 17 18 (v) by striking "blind or other persons with disabilities" and inserting "eligible 19 20 persons"; 21 (B) in subsection (b)(1)— 22

(i) in subparagraph (A)—

States" after "distributed";

(I) by inserting "in the United

23

24

1	(II) by striking "a specialized						
2	format" and inserting "an accessible						
3	format"; and						
4	(III) by striking "blind or other						
5	persons with disabilities" and insert						
6	ing "eligible persons"; and						
7	(ii) in subparagraph (B), by striking						
8	"a specialized format" and inserting "an						
9	accessible format";						
10	(C) in subsection $(c)(3)$, by striking "spe-						
11	cialized formats" and inserting "accessible for-						
12	mats"; and						
13	(D) in subsection (d)—						
14	(i) by striking paragraphs (2) and (4):						
15	(ii) by redesignating paragraph (1) as						
16	paragraph (2);						
17	(iii) by redesignating paragraph (3) as						
18	paragraph (4);						
19	(iv) by inserting before paragraph (2),						
20	as so redesignated, the following:						
21	"(1) 'accessible format' means an alternative						
22	manner or form that gives an eligible person access						
23	to the work when the copy or phonorecord in the ac-						
24	cessible format is used exclusively by the eligible per-						
25	son to permit him or her to have access as feasibly						

1	and comfortably as a person without such disability
2	as described in paragraph (3);";
3	(v) by inserting after paragraph (2),
4	as so redesignated, the following:
5	"(3) 'eligible person' means an individual who,
6	regardless of any other disability—
7	"(A) is blind;
8	"(B) has a visual impairment or perceptual
9	or reading disability that cannot be improved to
10	give visual function substantially equivalent to
11	that of a person who has no such impairment
12	or disability and so is unable to read printed
13	works to substantially the same degree as a
14	person without an impairment or disability; or
15	"(C) is otherwise unable, through physical
16	disability, to hold or manipulate a book or to
17	focus or move the eyes to the extent that would
18	be normally acceptable for reading; and"; and
19	(vi) in paragraph (4), as so redesig-
20	nated, by striking "; and" at the end and
21	inserting a period; and
22	(2) by inserting after section 121 the following:

1	"§ 121A. Limitations on exclusive rights: reproduc-					
2	tion for blind or other people with dis-					
3	abilities in Marrakesh Treaty countries					
4	"(a) Notwithstanding the provisions of sections 106					
5	and 602, it is not an infringement of copyright for an au-					
6	thorized entity, acting pursuant to this section, to export					
7	copies or phonorecords of a previously published literary					
8	work or of a previously published musical work that has					
9	been fixed in the form of text or notation in accessible					
10	formats to another country when the exportation is made					
11	either to—					
12	"(1) an authorized entity located in a country					
13	that is a Party to the Marrakesh Treaty; or					
14	"(2) an eligible person in a country that is a					
15	Party to the Marrakesh Treaty,					
16	if prior to the exportation of such copies or phonorecords,					
17	the authorized entity engaged in the exportation did not					
18	know or have reasonable grounds to know that the copies					
19	or phonorecords would be used other than by eligible per-					
20	sons.					
21	"(b) Notwithstanding the provisions of sections 106					
22	and 602, it is not an infringement of copyright for an au-					
23	thorized entity or an eligible person, or someone acting					
24	on behalf of an eligible person, acting pursuant to this					
25	section, to import copies or phonorecords of a previously					
26	published literary work or of a previously published musi-					

1	cal work that has been fixed in the form of text or notation
2	in accessible formats.
3	"(c) In conducting activities under subsection (a) or
4	(b), an authorized entity shall establish and follow its own
5	practices, in keeping with its particular circumstances,
6	to—
7	"(1) establish that the persons the authorized
8	entity serves are eligible persons;
9	"(2) limit to eligible persons and authorized en-
10	tities the distribution of accessible format copies by
1	the authorized entity;
12	"(3) discourage the reproduction and distribu-
13	tion of unauthorized copies;
14	"(4) maintain due care in, and records of, the
15	handling of copies of works by the authorized entity,
16	while respecting the privacy of eligible persons on an
17	equal basis with others; and
18	"(5) facilitate effective cross-border exchange of
19	accessible format copies by making publicly avail-
20	able—
21	"(A) the titles of works for which the au-
22	thorized entity has accessible format copies or
23	phonorecords and the specific accessible formats
24	in which they are available; and

1	"(B) information on the policies, practices,
2	and authorized entity partners of the authorized
3	entity for the cross-border exchange of acces-
4	sible format copies.
5	"(d) Nothing in this section shall be construed to es-
6	tablish—
7	"(1) a cause of action under this title; or
8	"(2) a basis for regulation by any Federal agen-
9	cy.
10	"(e) Nothing in this section shall be construed to
11	limit the ability to engage in any activity otherwise per-
12	mitted under this title.
13	"(f) For purposes of this section—
14	"(1) the terms 'accessible format', 'authorized
15	entity', and 'eligible person' have the meanings given
16	those terms in section 121; and
17	"(2) the term 'Marrakesh Treaty' means the
18	Marrakesh Treaty to Facilitate Access to Published
19	Works by Visually Impaired Persons and Persons
20	with Print Disabilities concluded at Marrakesh, Mo-
21	rocco, on June 28, 2013.".
22	(b) Table of Sections Amendment.—The table of
23	sections for chapter 1 of title 17, United States Code, is
24	amended by inserting after the item relating to section
25	121 the following:

"121A. Limitations on exclusive rights: reproduction for blind or other people with disabilities in Marrakesh Treaty countries.".

Passed the Senate June 28, 2018.

Attest:

Secretary.

115TH CONGRESS S. 2559

AN ACT

To amend title 17, United States Code, to implement the Marrakesh Treaty, and for other purposes.