

## Calendar No. 414

115TH CONGRESS  
2D SESSION**S. 2559**

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

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## IN THE SENATE OF THE UNITED STATES

MARCH 15, 2018

Mr. GRASSLEY (for himself, Mrs. FEINSTEIN, Mr. CORKER, Mr. MENENDEZ,  
Mr. HATCH, Ms. HARRIS, Mr. LEAHY, Ms. KLOBUCHAR, Mr. DURBIN,  
and Mr. KENNEDY) introduced the following bill; which was read twice  
and referred to the Committee on the Judiciary

MAY 15, 2018

Reported by Mr. GRASSLEY, without amendment

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**A BILL**

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Marrakesh Treaty Im-  
5 plementation Act”.

1 **SEC. 2. IMPLEMENTATION AMENDMENTS.**

2 (a) IN GENERAL.—Chapter 1 of title 17, United  
3 States Code, is amended—

4 (1) in section 121—

5 (A) in subsection (a)—

6 (i) by inserting “in the United States”  
7 after “distribute”;

8 (ii) by striking “, nondramatic”;

9 (iii) by inserting “or of a previously  
10 published musical work that has been fixed  
11 in the form of text or notation” after “lit-  
12 erary work”;

13 (iv) by striking “specialized formats”  
14 and inserting “accessible formats”; and

15 (v) by striking “blind or other persons  
16 with disabilities” and inserting “eligible  
17 persons”;

18 (B) in subsection (b)(1)—

19 (i) in subparagraph (A)—

20 (I) by inserting “in the United  
21 States” after “distributed”;

22 (II) by striking “a specialized  
23 format” and inserting “an accessible  
24 format”; and

1 (III) by striking “blind or other  
2 persons with disabilities” and insert-  
3 ing “eligible persons”; and

4 (ii) in subparagraph (B), by striking  
5 “a specialized format” and inserting “an  
6 accessible format”;

7 (C) in subsection (c)(3), by striking “spe-  
8 cialized formats” and inserting “accessible for-  
9 mats”; and

10 (D) in subsection (d)—

11 (i) by striking paragraphs (2) and (4);

12 (ii) by redesignating paragraph (1) as  
13 paragraph (2);

14 (iii) by redesignating paragraph (3) as  
15 paragraph (4);

16 (iv) by inserting before paragraph (2),  
17 as so redesignated, the following:

18 “(1) ‘accessible format’ means an alternative  
19 manner or form that gives an eligible person access  
20 to the work when the copy or phonorecord in the ac-  
21 cessible format is used exclusively by the eligible per-  
22 son to permit him or her to have access as feasibly  
23 and comfortably as a person without such disability  
24 as described in paragraph (3);”;

1 (v) by inserting after paragraph (2),  
2 as so redesignated, the following:

3 “(3) ‘eligible person’ means an individual who,  
4 regardless of any other disability—

5 “(A) is blind;

6 “(B) has a visual impairment or perceptual  
7 or reading disability that cannot be improved to  
8 give visual function substantially equivalent to  
9 that of a person who has no such impairment  
10 or disability and so is unable to read printed  
11 works to substantially the same degree as a  
12 person without an impairment or disability; or

13 “(C) is otherwise unable, through physical  
14 disability, to hold or manipulate a book or to  
15 focus or move the eyes to the extent that would  
16 be normally acceptable for reading; and”;

17 (vi) in paragraph (4), as so redesignated,  
18 by striking “; and” at the end and  
19 inserting a period; and

20 (2) by inserting after section 121 the following:

21 **“§ 121A. Limitations on exclusive rights: reproduc-**  
22 **tion for blind or other people with dis-**  
23 **abilities in Marrakesh Treaty countries**

24 “(a) Notwithstanding the provisions of sections 106  
25 and 602, it is not an infringement of copyright for an au-

1 thORIZED entity, acting pursuant to this section, to export  
2 copies or phonorecords of a previously published literary  
3 work or of a previously published musical work that has  
4 been fixed in the form of text or notation in accessible  
5 formats to another country when the exportation is made  
6 either to—

7           “(1) an authorized entity located in a country  
8           that is a Party to the Marrakesh Treaty; or

9           “(2) an eligible person in a country that is a  
10          Party to the Marrakesh Treaty,

11 if prior to the exportation of such copies or phonorecords,  
12 the authorized entity engaged in the exportation did not  
13 know or have reasonable grounds to know that the copies  
14 or phonorecords would be used other than by eligible per-  
15 sons.

16          “(b) Notwithstanding the provisions of sections 106  
17 and 602, it is not an infringement of copyright for an au-  
18 thorized entity or an eligible person, or someone acting  
19 on behalf of an eligible person, acting pursuant to this  
20 section, to import copies or phonorecords of a previously  
21 published literary work or of a previously published musi-  
22 cal work that has been fixed in the form of text or notation  
23 in accessible formats.

24          “(c) In conducting activities under subsection (a) or  
25 (b), an authorized entity shall establish and follow its own

1 practices, in keeping with its particular circumstances,  
2 to—

3 “(1) establish that the persons the authorized  
4 entity serves are eligible persons;

5 “(2) limit to eligible persons and authorized en-  
6 tities the distribution of accessible format copies by  
7 the authorized entity;

8 “(3) discourage the reproduction and distribu-  
9 tion of unauthorized copies;

10 “(4) maintain due care in, and records of, the  
11 handling of copies of works by the authorized entity,  
12 while respecting the privacy of eligible persons on an  
13 equal basis with others; and

14 “(5) facilitate effective cross-border exchange of  
15 accessible format copies by making publicly avail-  
16 able—

17 “(A) the titles of works for which the au-  
18 thorized entity has accessible format copies or  
19 phonorecords and the specific accessible formats  
20 in which they are available; and

21 “(B) information on the policies, practices,  
22 and authorized entity partners of the authorized  
23 entity for the cross-border exchange of acces-  
24 sible format copies.

1       “(d) Nothing in this section shall be construed to es-  
2     tablish—

3               “(1) a cause of action under this title; or

4               “(2) a basis for regulation by any Federal agen-  
5     cy.

6       “(e) Nothing in this section shall be construed to  
7     limit the ability to engage in any activity otherwise per-  
8     mitted under this title.

9       “(f) For purposes of this section—

10              “(1) the terms ‘accessible format’, ‘authorized  
11     entity’, and ‘eligible person’ have the meanings given  
12     those terms in section 121; and

13              “(2) the term ‘Marrakesh Treaty’ means the  
14     Marrakesh Treaty to Facilitate Access to Published  
15     Works by Visually Impaired Persons and Persons  
16     with Print Disabilities concluded at Marrakesh, Mo-  
17     rocco, on June 28, 2013.”.

18       (b) TABLE OF SECTIONS AMENDMENT.—The table of  
19     sections for chapter 1 of title 17, United States Code, is  
20     amended by inserting after the item relating to section  
21     121 the following:

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

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