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SENATE JOINT MEMORIAL 8001

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State of Washington

53rd Legislature

1993 Regular Session

By Senator Sutherland

Read first time 01/13/93. Referred to Committee on Energy & Utilities.

1 TO THE HONORABLE BILL CLINTON, PRESIDENT OF THE UNITED STATES, AND  
2 TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF  
3 REPRESENTATIVES, AND TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE  
4 UNITED STATES, IN CONGRESS ASSEMBLED:

5 We, your Memorialists, the Senate and House of Representatives of  
6 the State of Washington, in legislative session assembled, respectfully  
7 represent and petition as follows:

8 WHEREAS, Under the United States Copyright Law, performances of  
9 copyrighted music must be licensed; and

10 WHEREAS, This copyright protection includes music played over  
11 television; and

12 WHEREAS, In the 1976 Copyright Act, Congress exempted noncommercial  
13 "performances" of copyrighted music if there were no direct or  
14 nondirect commercial purpose; and

15 WHEREAS, Congress attempted to provide an exemption to businesses  
16 whose proprietors merely bring a television set onto their premises for  
17 their customer's enjoyment if the television was "of the kind commonly  
18 used in private homes"; and

19 WHEREAS, There is considerable confusion over what kind of  
20 television is "of a kind commonly used in private homes"; and

1       WHEREAS, The licensing organization, the American Society of  
2 Composers, Authors and Publishers (ASCAP), has construed any television  
3 over thirty-six inches, including big screen televisions, to be other  
4 than "of a kind commonly used in private homes"; and

5       WHEREAS, ASCAP has therefore threatened a Washington state small  
6 pizza parlor with a copyright lawsuit because it has a standard forty  
7 inch television set at its establishment tuned solely to a sports  
8 channel; and

9       WHEREAS, Numerous businesses throughout Washington and the country  
10 such as restaurants, taverns, hotels and motels, retailers, beauty  
11 parlors, haircutting salons, and airports are at risk of expensive  
12 licensing fees or litigation for doing nothing more than making  
13 commercial television viewing available to customers; and

14       WHEREAS, It is necessary for Congressional intent to reflect the  
15 technological and commercial realities of our time;

16       NOW, THEREFORE, Your Memorialists respectfully pray that the  
17 President and Congress conduct a complete review of the Copyright Act  
18 to determine whether it reflects the realities of technology and its  
19 goals and policies are in need of revision.

20       BE IT RESOLVED, That the Copyright Act be amended to exempt from  
21 licensing requirements any noncommercial performance of copyrighted  
22 music over television if the performance has only an indirect benefit  
23 to the person who permits the performance; and

24       BE IT FURTHER RESOLVED, That Congress designate a federal agency to  
25 adopt rules to implement the provisions of the Copyright Act; and

26       BE IT FURTHER RESOLVED, That copies of this Memorial be immediately  
27 transmitted to the President of the United States, the President of the  
28 United States Senate, the Speaker of the House of Representatives, each  
29 member of Congress from the State of Washington, the House of  
30 Representatives Subcommittee on Intellectual Property and  
31 Administration of Justice, and the Senate Subcommittee on Patents,  
32 Copyrights and Trademarks.

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