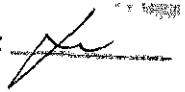


FOURTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
Second Regular Session )

8 JUL -2 110:16

SENATE

RECEIVED BY: 

S.B. No. 2426

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Introduced by Senator Ramon Bong Revilla, Jr.

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**EXPLANATORY NOTE**

Creativity and innovation are not mere buzzwords floating with the fashion of the day. These are the key to development and competitiveness.

Motion pictures are important both as a medium for the communication of ideas and the expression of the artistic impulse. Hence, it is essential to maintain the integrity not only of the motion pictures but also television programs, or related promotional materials by preserving it in it's the same condition and protecting it against illegal insertions or alterations.

Likewise, it is important that the intellectual creation of artists, inventors and others be recognized and protected.

This bill seeks to protect and secure the rights of inventors, artists and other gifted citizens to their intellectual property and creations. Also to ensure that the Intellectual Property (IP) System promotes creativity and innovation among our artists, scientists, inventors, innovators and other creators of IP and its users.

The passage of this measure is earnestly sought.

  
RAMON BONG REVILLA, JR.

FOURTEENTH CONGRESS OF THE )  
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AN ACT  
TO REQUIRE CERTAIN DISCLOSURES RELATING TO  
MATERIALLY ALTERED FILMS

*Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:*

**Section 1. Short Title.** This Act shall be known as the "Film Disclosure Act."

**Section 2. Declaration of Policy.** - It is the policy of the state to protect and secure the rights of scientists, inventors, artists, and other gifted citizens to their intellectual property and creations.

**Section 3. Definition of Terms.** -For the purposes of this Act, the term:

- (a) Film or Motion Picture - means a theatrical motion picture after its publication;
- (b) Artistic Author means –
  - 1. The principal director, principal screenwriter, and principal cinematographer of the film; or
  - 2. In the event that an individual listed in subparagraph (1) is deceased or incapacitated, the heir or heirs of that individual;
- (c) To colorize or colorization - means to add color, by whatever means, to a published version of a theatrical motion picture originally made in black and white;
- (d) Distributor - means any person, vendor, or syndicator who engages in the wholesale distribution of motion pictures to any exhibitor, network, retail provider, or other person, who publicly performs motion pictures by means of any technology, except such term shall not include laboratories or other providers of technical services to the motion picture, video or television industry.
- (e) Heir - means any person to whom a right passes by bequest or by the applicable laws of succession;

- (f) Lexiconing - means to alter the sound track to conform the speed of the vocal or musical portion of a theatrical motion picture which has been the subject of time compression or expansion;
- (g) Exhibitor - means any local broadcast station, cable system, airline, or motion picture theatre or other person that publicly performs a motion picture by means of any technology;
- (h) Material alteration - means any change, with the exception of changes excluded by this subparagraph, made to a motion picture after its publication. Material alteration includes, but is not limited to, the processes of colorization, lexiconing, time compression or expansion, panning, and scanning and editing (purposeful or accidental removal of existing material or insertion of new material). Material alteration does not include insertions for commercial breaks or public service announcements, editing to comply with the requirements of the government agency or entity concerned, transfer of film to videotape, or any other secondary media now in existence or developed hereafter, preparation of a motion picture for foreign distribution (subtitling and editing limited to those alterations made under foreign standards which are no more stringent than existing standards) or legitimate film preservation activities (the primary purpose of which is the restoration of the motion picture to its original version);
- (i) Network - means any person who distributes motion pictures to broadcasting stations or cable systems on a regional or national basis for public performance on an interconnected basis;
- (j) Panning and Scanning - means the process by which a motion picture, composed for viewing on theatre screens, is adapted for reviewing on television screens by modification of the aspect ratio (ratio of width to height) of the motion picture and the selection, by someone other than the motion picture's principal director, of some portion of the entire picture for viewing;
- (k) Professional Guild Registry - means a list of names and addresses of persons readily available from the files of the appropriate associations, guilds, or groups from: (1) directors; (2) screenwriters; and (3) cinematographers;
- (l) Publication, with respect to a motion picture - means the first paid public exhibition of the work following previews, trial runs and festivals;
- (m) Retail Provider - means the proprietor of a retail outlet that sells or leases motion pictures for home use;
- (n) Secondary Media - means any medium, including but not limited to video cassette or video disc, other than television broadcast or theatrical release, now in existence or hereafter developed, by which motion pictures are sold, leased, or distributed to the public;
- (o) Syndicator - means any person who distributes a motion picture to a broadcast television station, cable television system, or any other means of distribution by which programming is delivered to television viewers;
- (p) Motion Picture - means a motion picture of sixty (60) minutes duration or greater, intended for exhibition, public performance, public sale, or lease. Such term does not include episodic television programs of less than sixty

(60) minutes duration (exclusive of commercials), motion pictures prepared for private commercial or industrial purposes, and advertisements;

- (q) Time Compression and Time Expansion - mean to alter the speed of a theatrical motion picture or a portion thereof with the result of shortening or lengthening the running time of the work in order to fit the picture into a television schedule, airline schedule, or secondary media length; and
- (r) Vendor - means the wholesaler or packager of a motion picture which is intended for wholesale distribution to retail providers.

**Section 4. *Film Disclosures Required.* –**

(a) Each public exhibition of a materially altered motion picture, and each copy of a materially altered motion picture, offered to the public through sale or lease (including film packaging), shall include a label which clearly and conspicuously discloses the following:

- (1) The film has been materially altered from the form in which it was first released to the public
- (2) The nature of the alteration; and
- (3) The fact of objection, if any, by the artistic authors of the motion picture to any such alternation.

(b) Any distributor or network that proposes to exploit a materially altered film in the manner set forth in the preceding paragraph shall –

- (1) Make a good faith effort to notify in writing and by registered mail and in a reasonable amount of time prior to such exploitation those individuals described in Section 3(b);
- (2) Determine the objections of any individuals so notified to any specific materials alteration of the motion picture;
- (3) Determine the objection of any individual so notified by the questionnaire set forth in paragraph (h) of this Section to any type of future material alterations which are in addition to those specifically proposed for the motion picture to be exploited;
- (4) Include or affix the label required under paragraph (a) of this Section prior to the public performance of a materially altered motion picture already in distribution or the initial distribution of a materially-altered motion picture to any exhibitor or retail provider of motion pictures intended for home use; and
- (5) In the event of affirmative objections by the artistic author to any future material alterations, include or affix such objections to any copy of a motion picture distributed or transmitted to any exhibitor or retail provider.

(c) Whenever a distributor or network exploits a motion picture which has already been materially altered, such distributor or network shall not

be required to satisfy the obligations set forth in paragraph (b) (1), (2), and (3), of this section if-

- (1) Such distributor or network does not further materially alter such motion picture; and
  - (2) Such motion picture was materially altered by another distributor or network that complied fully with all of the obligations set forth in subsection (2)
- (d) The requirement of a good faith effort under subparagraph (b)(1) of this Section is satisfied if a distributor or network that has not previously been notified by each individual in Section 3(b):

- (1) Requests in writing the name and address of such individual from the appropriate Professional Guild Registry, indicating a response date of no earlier than thirty (30) days following the date of the request, by which the appropriate professional guild must respond; and
- (2) Upon receipt of such information from the appropriate professional guild within the time specified in the request, notifies each such individual reasonably in advance of the date upon which the motion picture is to be released into any secondary market.

The notice to the artistic author shall contain a specific date, no earlier than thirty (30) days following the date of such notice, by which the individual so notified shall respond. Failure of the artistic author or the appropriate professional guild to respond within the time period specified shall relieve the distributor or network of all liability under paragraph (b) of this Section (except for clause (4) of such paragraph);

(e) The obligations of an exhibitor shall be limited to --

- (1) Broadcasting, cable casting, exhibiting, or distributing all labels required under this section in their entirety as included with or distributed by the network or distributor of the motion picture; and
- (2) Including or affixing a label as described in Section 3 paragraphs (e) and (g) on a materially altered motion picture as required under paragraph (1)(a) of this section for any material alterations performed by the exhibitor to which the individuals described in Section 3(b) have objected through the questionnaire procedure described in paragraph (2)(b)(3) of this Section.

(f) The provisions of this paragraph shall apply with respect to motion pictures intended for home use through either retail purchase or rental, except no requirement imposed under this paragraph shall apply to a motion picture which has been packed for distribution to retail providers before the effective date of this section.

The obligations of a retail provider of motion pictures intended for home use shall be limited to including or distributing all labels required under this section in their entirety as affixed or included by a distributor or network.

- (g) There shall be no consideration given in exchange for an artistic author's waiver of any objection or waiver of the right to object under this subsection.
- (h) Any artistic author of a motion picture publicly exhibited or offered to the public through sale or lease within the Philippines who believed he is or is likely to be damaged by a violation of this subsection may obtain appropriate relief with respect to any violation of this paragraph without regard to the nationality or domicile of the artistic author.

In any action under the preceding paragraph, the court shall have power to grant injunctions, according to the principles of equity and upon such terms as the court may deem reasonable, to prevent the violation of any right of an artistic author. Any such injunction may include a provision directing the defendant to file with the court and serve on the plaintiff within thirty (30) days after the service on the defendant of such injunction, or such extended period as the court may direct, a report in writing under oath setting forth in detail the manner and form in which the defendant has complied with the injunction. Any such injunction granted upon hearing, after notice to the defendant -

- (1) May be served on the parties against whom such injunction is granted anywhere in the Philippines where they may be found; and
- (2) Shall be operative and may be enforced by proceedings to punish for contempt, or otherwise, by the court by which such injunction was granted, or by any other court in whose jurisdiction the defendant may be found.

When a violation of any right of an artistic author shall have been established in any civil action arising under this section, the plaintiff shall be entitled to the remedies provided by law.

In any action under the first paragraph, the court may order that all film packaging of a materially altered motion picture (including film packages of motion pictures intended for home use through either retail purchase or rental) that is the subject of the violation shall be delivered up and destroyed.

No action shall be maintained under this subsection unless it is commenced within one (1) year after the claim accrues.

- (i) Any disclosure requirements imposed under a law respecting the material alteration of theatrical motion pictures are pre-empted.
- (j) To facilitate location of a potentially aggrieved party, each individual identified in Section 3(b) may notify the copyright owner of the motion picture or, as appropriate, one or more of the organizations maintaining a Professional Guild Registry. These organizations may

maintain a current registry of persons so notifying them and may make available such information in their possession to facilitate the location of any individual so registered for purposes of paragraph (a)(2) of Section 4. No cause of action shall accrue against any of the professional guilds listed in such section for failure to provide information pursuant to paragraph (a).

- (k) A label for a materially altered version of a theatrical motion picture intended for public performance or home use shall consist of a panel card immediately preceding and adjacent to the commencement of the motion picture, which bears one (1) or more of the following statements, as appropriate, in legible type and displayed on a conspicuous and readable basis:

“THIS FILM IS NOT THE VERSION ORIGINALLY RELEASED. \_\_\_\_\_ mins. and \_\_\_\_ secs. have been cut [or, if appropriate, added]. The [insert, if appropriate: heirs of the] director, , and [insert, if appropriate the heirs of the] screenwriter, , object because this alteration changes the narrative and/or characterization. It has (also) been panned and scanned. The director and [insert, if appropriate: the heirs of the] cinematographer, , object because this alteration removes visual information and changes the composition of the images. It has (also) been colorized. Colors have been added by computer to the original black and white images. The director and cinematographer object to this alteration because it eliminates the black and white photography and changes the photographic images of the actors. It has (also) been electronically speeded up (or slowed down). The director objects because this alteration changes the pace of the performances.”

A label for a motion picture that has been materially altered in a manner not described by any of the label elements set forth in the preceding paragraph shall contain a statement similar in form and substance to those set forth in the preceding paragraph which accurately describes the material alteration and objection of the artistic author.

- (l) A label for a motion picture which has been materially altered in multiple ways, or of which an individual served as more than one (1) artistic author, including the principal director and principal screenwriter, need only state the name of the artistic author once, in the first objection of the artistic author so listed. In addition, a label for a motion picture which has been materially altered in multiple ways needs only state once, at the beginning of the label:

“THIS FILM IS NOT THE VERSION ORIGINALLY RELEASED.”

- (m) A label for a film package of a materially altered motion picture shall consist of—

- (1) An area of a rectangle in front of the package which bears, as appropriate, one (1) or more of the statements listed in paragraph (k) in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package; and
- (2) An area of a rectangle on the side of the package which bears, as appropriate, one (1) or more of the statements listed

in paragraph (k) in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

- (n) The questionnaire required under paragraph (A)(2) of this Section shall consist of the following statement and related questions:

“In order to conform [insert name of motion picture], of which you are an ‘artistic author’ (or the heir thereto), to ancillary media such as television, airline exhibition, video cassettes, video discs, or any other media hereafter developed, do you object to:

- (1) Editing (purposeful or accidental deletion or addition of program material)?

Yes/No

- (2) Time compression/tie expansion/lexiconing?

Yes/no

- (3) Panning and Scanning?

Yes/No

- (4) Colorization, if the motion picture was originally made in black and white?

Yes/No

- (5) If the artistic author of the motion picture listed above is deceased or incapacitated, are you the heir of the artistic author?

Yes/No

**Section 5. Penalties.** Any person who shall violate the provisions of this Act shall be subject to a fine of not less than Five Thousand Pesos (P5,000.00) but not more than Twenty Thousand Pesos (P20,000.00), or imprisonment of not less than three (3) months but not more than six (6) years, or both, at the discretion of the court.

**Section 6. Separability Clause.** If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

**Section 7. Repealing Clause.** Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provision of this Act is hereby repealed, modified, or amended accordingly.

**Section 8. Effectivity Clause.** This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,