

FIFTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

SENATE
OFFICE OF THE SECRETARY

10 AUG -2 P5:43

SENATE
S. No. 2287

RECEIVED BY:

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

Republic Act No. 8293, also known as the Intellectual Property, Part IV on the Law on Copyright, Chapter 10, Section 193, provides:

“Scope of Moral Rights. The author of a work shall, independently of the economic rights in Section 177 or the grant of an assignment or license with respect to such right, have the right:

x x x x

199.3. To object to any distortion, mutilation, or other modification of, or other derogatory action in relation to, his work which would be prejudicial to his honor or reputation; and

199.4. To restrain the use of his name with respect to any work not of his creation or in a distorted version of his work.”

The integrity of a motion picture is comprised and diminished when the motion picture is sold, leased or exhibited in a materially altered form. As a result, the reputation of the artistic author of a motion picture may be harmed when the original work is sold, leased, or exhibited in a materially altered form.

This bill requires that 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 its film packaging), shall include a label which clearly and conspicuously discloses certain information. The disclosure procedure would guarantee the rights of the author under the cited provision of R.A. No. 8293, and also protects the public from being misled.*

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
acr.

* This bill was originally filed during the Thirteenth Congress, First Regular Session.

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SENATE
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1 AN ACT
2 TO REQUIRE CERTAIN DISCLOSURES RELATING TO MATERIALLY ALTERED
3 FILMS

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

4 SECTION 1. *Short Title.* – This Act shall be known as the "Film Disclosure Act."

5 SECTION 2. *Declaration of Policy.* – It is the policy of the state to protect and secure
6 the rights of scientists, inventors, artists, and other gifted citizens to their intellectual property
7 and creations.

8 SECTION 3. *Definition of Terms.* – For the purposes of this Act, the term:

9 (A) "Film" or "Motion Picture" means a theatrical motion picture after its publication;

10 (B) "Artistic Author" means –

11 (1) The principal director, principal screenwriter, and, to the extent a theatrical
12 motion picture is colorized or its photographic images materially altered, the
13 principal cinematographer of the film; or

14 (2) In the event that an individual listed in subparagraph (1) is deceased or
15 incapacitated, the heir or heirs of that individual;

16 (C) "To colorize" or "colorization" means to add color, by whatever means, to a
17 published version of a theatrical motion picture originally made in black and white;

18 (D) "Distributor" means any person, vendor, or syndicator who engages in the
19 wholesale distribution of motion pictures to any exhibitor, network, retail provider,
20 or other person who publicly performs motion pictures by means of any technology,

1 except such term shall not include laboratories or other providers of technical
2 services to the motion picture, video or television industry;

3 (E) “Heir” means any person to whom a right passes by bequest or by the applicable
4 laws of succession;

5 (F) “Lexiconing” means to alter the sound track to conform the speed of the vocal or
6 musical portion of a theatrical motion picture which has been the subject of time
7 compression or expansion;

8 (G) “Exhibitor” means any local broadcast station, cable system, airline, or motion
9 picture theatre or other person that publicly performs a motion picture by means of
10 any technology;

11 (H) “Material alteration” means any change, with the exception of changes excluded by
12 this subparagraph, made to a motion picture after its publication. Material
13 alteration includes, but is not limited to, the processes of colorization, lexiconing,
14 time compression or expansion, panning, and scanning and editing (purposeful or
15 accidental removal of existing material or insertion of new material). Material
16 alteration does not include insertions for commercial breaks or public service
17 announcements, editing to comply with the requirements of the government agency
18 or entity concerned, transfer of film to videotape, or any other secondary media now
19 in existence or developed hereafter, preparation of a motion picture for foreign
20 distribution (subtitling and editing limited to those alterations made under foreign
21 standards which are no more stringent than existing standards) or legitimate film
22 preservation activities (the primary purpose of which is the restoration of the
23 motion picture to its original version);

24 (I) “Network” means any person who distributes motion pictures to broadcasting
25 stations or cable systems on a regional or national basis for public performance on
26 an interconnected basis;

27 (J) “Panning and Scanning” means the process by which a motion picture, composed
28 for viewing on theatre screens, is adapted for reviewing on television screens by
29 modification of the aspect ratio (ratio of width to height) of the motion picture and

1 the selection, by someone other than the motion picture's principal director, of some
2 portion of the entire picture for viewing;

3 (K) "Professional Guild Registry" means a list of names and addresses of persons
4 readily available from the files of the appropriate associations, guilds, or groups
5 from: (1) directors; (2) screenwriters; and (3) cinematographers;

6 (L) "Publication", with respect to a motion picture, means the first paid public
7 exhibition of the work following previews, trial runs and festivals;

8 (M) "Retail Provider" means the proprietor of a retail outlet that sells or leases motion
9 pictures for home use;

10 (N) "Secondary Media" means any medium, including but not limited to video cassette
11 or video disc, other than television broadcast or theatrical release, now in existence
12 or hereafter developed, by which motion pictures are sold, leased, or distributed to
13 the public;

14 (O) "Syndicator" means any person who distributes a motion picture to a broadcast
15 television station, cable television system, or any other means of distribution by
16 which programming is delivered to television viewers;

17 (P) "Motion Picture" means a motion picture of sixty (60) minutes duration or greater,
18 intended for exhibition, public performance, public sale, or lease. Such term does
19 not include episodic television programs of less than sixty (60) minutes duration
20 (exclusive of commercials), motion pictures prepared for private commercial or
21 industrial purposes, and advertisements;

22 (Q) "Time Compression" and "Time Expansion" mean to alter the speed of a theatrical
23 motion picture or a portion thereof with the result of shortening or lengthening the
24 running time of the work in order to fit the picture into a television schedule, airline
25 schedule, or secondary media length; and

26 (R) "Vendor" means the wholesaler or packager of a motion picture which is intended
27 for wholesale distribution to retail providers.

1 SECTION 4. *Film Disclosures Required.* –

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

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

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

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

27 (C) Whenever a distributor or network exploits a motion picture which has already been
28 materially altered, such distributor or network shall not be required to satisfy the obligations set
29 forth in paragraph (B) (1), (2), and (3), if –

1 (1) Such distributor or network does not further materially alter such motion
2 picture; and

3 (2) Such motion picture was materially altered by another distributor or network
4 that complied fully with all of the obligations set forth in subsection (2).

5 (D) The requirement of a good faith effort under subparagraph (B)(1) is satisfied if a
6 distributor or network that has not previously been notified by each individual in Section 3(B):

7 (1) Requests in writing the name and address of each such individual from the
8 appropriate Professional Guild Registry, indicating a response date of no
9 earlier than thirty (30) days following the date of the request, by which the
10 appropriate professional guild must respond; and

11 (2) Upon receipt of such information from the appropriate professional guild
12 within the time specified in the request, notifies each such individual
13 reasonably in advance of the date upon which the motion picture is to be
14 released into any secondary market.

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

20 (E) The obligations of an exhibitor shall be limited to –

21 (1) Broadcasting, cablecasting, exhibiting, or distributing all labels required under
22 this section in their entirety as included with or distributed by the network or
23 distributor of the motion picture; and

24 (2) Including or affixing a label as described in paragraphs (E) and (G) on a
25 materially altered motion picture as required under paragraph (1)(A) for any
26 material alterations performed by the exhibitor to which the individuals
27 described in Section 3(B) have objected through the questionnaire procedure
28 described in paragraph (1)(B)(iii).

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

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

8 (G) There shall be no consideration given in exchange for an artistic author's waiver of
9 any objection or waiver of the right to object under this subsection.

10 (H) Any artistic author of a motion picture publicly exhibited or offered to the public
11 through sale or lease within the Philippines who believed he is or is likely to be damaged by a
12 violation of this subsection may obtain appropriate relief with respect to any violation of this
13 paragraph without regard to the nationality or domicile of the artistic author.

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

22 (1) May be served on the parties against whom such injunction is granted
23 anywhere in the Philippines where they may be found; and

24 (2) Shall be operative and may be enforced by proceedings to punish for
25 contempt, or otherwise, by the court by which such injunction was granted, or
26 by any other court in whose jurisdiction the defendant may be found.

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

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

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

7 (I) Any disclosure requirements imposed under a law respecting the material alteration of
8 theatrical motion pictures are preempted.

9 (J) To facilitate location of a potentially aggrieved party, each individual identified in
10 Section 3(B) may notify the copyright owner of the motion picture or, as appropriate, one or
11 more of the organizations maintaining a Professional Guild Registry. These organizations may
12 maintain a current registry of persons so notifying them and may make available such
13 information in their possession to facilitate the location of any individual so registered for
14 purposes of paragraph (A)(2). No cause of action shall accrue against any of the professional
15 guilds listed in such section for failure to provide information pursuant to paragraph (A).

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

20 “THIS FILM IS NOT THE VERSION ORIGINALLY RELEASED.
21 _____ mins. and _____ secs. have been cut [or, if appropriate, added]. The
22 [insert, if appropriate: heirs of the] director, _____, and [insert, if
23 appropriate the heirs of the] screenwriter, _____, object because
24 this alteration changes the narrative and/or characterization. It has (also) been
25 panned and scanned. The director and [insert, if appropriate: the heirs of the]
26 cinematographer, _____, object because this alteration removes
27 visual information and changes the composition of the images. It has (also) been
28 colorized. Colors have been added by computer to the original black and white

1 images. The director and cinematographer object to this alteration because it
2 eliminates the black and white photography and changes the photographic images
3 of the actors. It has (also) been electronically speeded up (or slowed down). The
4 director objects because this alteration changes the pace of the performances.”

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

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

14 “THIS FILM IS NOT THE VERSION ORIGINALLY RELEASED.”

15 (M) A label for a film package of a materially altered motion picture shall consist of –

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

20 (2) An area of a rectangle on the side of the package which bears, as appropriate,
21 one (1) or more of the statements listed in paragraph (K) in a conspicuous and
22 legible type in contrast by typography, layout, or color with other printed
23 matter on the package.

24 (N) The questionnaire required under paragraph (A)(2) shall consist of the following
25 statement and related questions:

26 “In order to conform [insert name of motion picture], of which you are an
27 'artistic author' (or the heir thereto), to ancillary media such as television, airline

1 exhibition, video cassettes, video discs, or any other media hereafter developed,
2 do you object to:

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

5 Yes / No

6 (2) Time compression/time expansion/lexiconing?

7 Yes / No

8 (3) Panning and scanning?

9 Yes / No

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

12 Yes / No

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

15 Yes / No"

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

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

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

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

Approved,