

108TH CONGRESS  
2D SESSION

# S. 3021

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## AN ACT

To provide for the protection of intellectual property rights  
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 “Family Entertainment  
5 and Copyright Act of 2004”.

1 **TITLE I—ARTISTS’ RIGHTS AND**  
 2 **THEFT PREVENTION**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “Artists’ Rights and  
 5 Theft Prevention Act of 2004” or the “ART Act”.

6 **SEC. 102. CRIMINAL PENALTIES FOR UNAUTHORIZED RE-**  
 7 **CORDING OF MOTION PICTURES IN A MO-**  
 8 **TION PICTURE EXHIBITION FACILITY.**

9 (a) IN GENERAL.—Chapter 113 of title 18, United  
 10 States Code, is amended by adding after section 2319A  
 11 the following new section:

12 **“§ 2319B. Unauthorized recording of motion pictures**  
 13 **in a motion picture exhibition facility**

14 “(a) OFFENSE.—Any person who, without the au-  
 15 thorization of the copyright owner, knowingly uses or at-  
 16 tempts to use an audiovisual recording device to transmit  
 17 or make a copy of a motion picture or other audiovisual  
 18 work protected under title 17, or any part thereof, from  
 19 a performance of such work in a motion picture exhibition  
 20 facility, shall—

21 “(1) be imprisoned for not more than 3 years,  
 22 fined under this title, or both; or

23 “(2) if the offense is a second or subsequent of-  
 24 fense, be imprisoned for no more than 6 years, fined  
 25 under this title, or both.

1 The possession by a person of an audiovisual recording  
2 device in a motion picture exhibition facility may be con-  
3 sidered as evidence in any proceeding to determine wheth-  
4 er that person committed an offense under this subsection,  
5 but shall not, by itself, be sufficient to support a conviction  
6 of that person for such offense.

7       “(b) FORFEITURE AND DESTRUCTION.—When a per-  
8 son is convicted of a violation of subsection (a), the court  
9 in its judgment of conviction shall, in addition to any pen-  
10 alty provided, order the forfeiture and destruction or other  
11 disposition of all unauthorized copies of motion pictures  
12 or other audiovisual works protected under title 17, or  
13 parts thereof, and any audiovisual recording devices or  
14 other equipment used in connection with the offense.

15       “(c) AUTHORIZED ACTIVITIES.—This section does  
16 not prevent any lawfully authorized investigative, protec-  
17 tive, or intelligence activity by an officer, agent, or em-  
18 ployee of the United States, a State, or a political subdivi-  
19 sion of a State, or a person acting under a contract with  
20 the United States, a State, or a political subdivision of  
21 a State.

22       “(d) IMMUNITY FOR THEATERS.—With reasonable  
23 cause, the owner or lessee of a facility where a motion  
24 picture is being exhibited, the authorized agent or em-  
25 ployee of such owner or lessee, the licensor of the motion

1 picture being exhibited, or the agent or employee of such  
2 licensor—

3 “(1) may detain, in a reasonable manner and  
4 for a reasonable time, any person suspected of a vio-  
5 lation of this section for the purpose of questioning  
6 or summoning a law enforcement officer; and

7 “(2) shall not be held liable in any civil or  
8 criminal action arising out of a detention under  
9 paragraph (1).

10 “(e) VICTIM IMPACT STATEMENT.—

11 “(1) IN GENERAL.—During the preparation of  
12 the presentence report under rule 32(c) of the Fed-  
13 eral Rules of Criminal Procedure, victims of an of-  
14 fense under this section shall be permitted to submit  
15 to the probation officer a victim impact statement  
16 that identifies the victim of the offense and the ex-  
17 tent and scope of the injury and loss suffered by the  
18 victim, including the estimated economic impact of  
19 the offense on that victim.

20 “(2) CONTENTS.—A victim impact statement  
21 submitted under this subsection shall include—

22 “(A) producers and sellers of legitimate  
23 works affected by conduct involved in the of-  
24 fense;

1           “(B) holders of intellectual property rights  
2           in the works described in subparagraph (A);  
3           and

4           “(C) the legal representatives of such pro-  
5           ducers, sellers, and holders.

6           “(f) STATE LAW NOT PREEMPTED.—Nothing in this  
7           section may be construed to annul or limit any rights or  
8           remedies under the laws of any State.

9           “(g) DEFINITIONS.—In this section, the following  
10          definitions shall apply:

11          “(1) TITLE 17 DEFINITIONS.—The terms  
12          ‘audiovisual work’, ‘copy’, ‘copyright owner’, ‘motion  
13          picture’, ‘motion picture exhibition facility’, and  
14          ‘transmit’ have, respectively, the meanings given  
15          those terms in section 101 of title 17.

16          “(2) AUDIOVISUAL RECORDING DEVICE.—The  
17          term ‘audiovisual recording device’ means a digital  
18          or analog photographic or video camera, or any  
19          other technology or device capable of enabling the  
20          recording or transmission of a copyrighted motion  
21          picture or other audiovisual work, or any part there-  
22          of, regardless of whether audiovisual recording is the  
23          sole or primary purpose of the device.”.

24          (b) CLERICAL AMENDMENT.—The table of sections  
25          at the beginning of chapter 113 of title 18, United States

1 Code, is amended by inserting after the item relating to  
 2 section 2319A the following:

“2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility.”.

3 (c) DEFINITION.—Section 101 of title 17, United  
 4 States Code, is amended by inserting after the definition  
 5 of “Motion pictures” the following:

6 “The term ‘motion picture exhibition facility’  
 7 means a movie theater, screening room, or other  
 8 venue that is being used primarily for the exhibition  
 9 of a copyrighted motion picture, if such exhibition is  
 10 open to the public or is made to an assembled group  
 11 of viewers outside of a normal circle of a family and  
 12 its social acquaintances.”.

13 **SEC. 103. CRIMINAL INFRINGEMENT OF A WORK BEING**  
 14 **PREPARED FOR COMMERCIAL DISTRIBUTION.**  
 15 **TION.**

16 (a) PROHIBITED ACTS.—Section 506(a) of title 17,  
 17 United States Code, is amended to read as follows:

18 “(a) CRIMINAL INFRINGEMENT.—

19 “(1) IN GENERAL.—Any person who willfully  
 20 infringes a copyright shall be punished as provided  
 21 under section 2319 of title 18, if the infringement  
 22 was committed—

23 “(A) for purposes of commercial advantage  
 24 or private financial gain;

1           “(B) by the reproduction or distribution,  
2 including by electronic means, during any 180–  
3 day period, of 1 or more copies or phonorecords  
4 of 1 or more copyrighted works, which have a  
5 total retail value of more than \$1,000; or

6           “(C) by the distribution of a work being  
7 prepared for commercial distribution, by mak-  
8 ing it available on a computer network acces-  
9 sible to members of the public, if such person  
10 knew or should have known that the work was  
11 intended for commercial distribution.

12           “(2) EVIDENCE.—For purposes of this sub-  
13 section, evidence of reproduction or distribution of a  
14 copyrighted work, by itself, shall not be sufficient to  
15 establish willful infringement of a copyright.

16           “(3) DEFINITION.—In this subsection, the term  
17 ‘work being prepared for commercial distribution’  
18 means—

19           “(A) a computer program, a musical work,  
20 a motion picture or other audiovisual work, or  
21 a sound recording, if at the time of unauthor-  
22 ized distribution—

23           “(i) the copyright owner has a reason-  
24 able expectation of commercial distribu-  
25 tion; and

1 “(ii) the copies or phonorecords of the  
2 work have not been commercially distrib-  
3 uted; or

4 “(B) a motion picture, if at the time of un-  
5 authorized distribution, the motion picture—

6 “(i) has been made available for view-  
7 ing in a motion picture exhibition facility;  
8 and

9 “(ii) has not been made available in  
10 copies for sale to the general public in the  
11 United States in a format intended to per-  
12 mit viewing outside a motion picture exhi-  
13 bition facility.”.

14 (b) CRIMINAL PENALTIES.—Section 2319 of title 18,  
15 United States Code, is amended—

16 (1) in subsection (a)—

17 (A) by striking “Whoever” and inserting  
18 “Any person who”; and

19 (B) by striking “and (c) of this section”  
20 and inserting “, (c), and (d)”;

21 (2) in subsection (b), by striking “section  
22 506(a)(1)” and inserting “section 506(a)(1)(A)”;

23 (3) in subsection (c), by striking “section  
24 506(a)(2) of title 17, United States Code” and in-  
25 serting “section 506(a)(1)(B) of title 17”;

1 (4) by redesignating subsections (d) and (e) as  
2 subsections (e) and (f), respectively;

3 (5) by adding after subsection (c) the following:

4 “(d) Any person who commits an offense under sec-  
5 tion 506(a)(1)(C) of title 17—

6 “(1) shall be imprisoned not more than 3 years,  
7 fined under this title, or both;

8 “(2) shall be imprisoned not more than 5 years,  
9 fined under this title, or both, if the offense was  
10 committed for purposes of commercial advantage or  
11 private financial gain;

12 “(3) shall be imprisoned not more than 6 years,  
13 fined under this title, or both, if the offense is a sec-  
14 ond or subsequent offense; and

15 “(4) shall be imprisoned not more than 10  
16 years, fined under this title, or both, if the offense  
17 is a second or subsequent offense under paragraph  
18 (2).”; and

19 (6) in subsection (f), as redesignated—

20 (A) in paragraph (1), by striking “and” at  
21 the end;

22 (B) in paragraph (2), by striking the pe-  
23 riod at the end and inserting a semicolon; and

24 (C) by adding at the end the following:

1           “(3) the term ‘financial gain’ has the meaning  
2           given the term in section 101 of title 17; and

3           “(4) the term ‘work being prepared for com-  
4           mercial distribution’ has the meaning given the term  
5           in section 506(a) of title 17.”.

6 **SEC. 104. CIVIL REMEDIES FOR INFRINGEMENT OF A WORK**  
7                           **BEING PREPARED FOR COMMERCIAL DIS-**  
8                           **TRIBUTION.**

9           (a) PREREGISTRATION.—Section 408 of title 17,  
10 United States Code, is amended by adding at the end the  
11 following:

12           “(f) PREREGISTRATION OF WORKS BEING PRE-  
13 PARED FOR COMMERCIAL DISTRIBUTION.—

14           “(1) RULEMAKING.—Not later than 180 days  
15           after the date of enactment of this subsection, the  
16           Register of Copyrights shall issue regulations to es-  
17           tablish procedures for preregistration of a work that  
18           is being prepared for commercial distribution and  
19           has not been published.

20           “(2) CLASS OF WORKS.—The regulations estab-  
21           lished under paragraph (1) shall permit  
22           preregistration for any work that is in a class of  
23           works that the Register determines has had a his-  
24           tory of infringement prior to authorized commercial  
25           distribution.

1           “(3) APPLICATION FOR REGISTRATION.—Not  
 2 later than 3 months after a the first publication of  
 3 a work preregistered under this subsection, the ap-  
 4 plicant shall submit to the Copyright Office—

5                   “(A) an application for registration of the  
 6 work;

7                   “(B) a deposit; and

8                   “(C) the applicable fee.

9           “(4) EFFECT OF UNTIMELY APPLICATION.—An  
 10 action under this chapter for infringement of a  
 11 preregistered work, in a case in which the infringe-  
 12 ment commenced no later than 2 months after the  
 13 first publication of the work shall be dismissed if the  
 14 items described in paragraph (3) are not submitted  
 15 to the Copyright Office in proper form within the  
 16 earlier of—

17                   “(A) 3 months after the first publication of  
 18 the work; or

19                   “(B) 1 month after the copyright owner  
 20 has learned of the infringement.”.

21           (b) INFRINGEMENT ACTIONS.—Section 411(a) of  
 22 title 17, United States Code, is amended by inserting  
 23 “preregistration or” after “shall be instituted until”.

24           (c) EXCLUSION.—Section 412 of title 17, United  
 25 States Code, is amended by inserting “, an action for in-

1 fringement of the copyright of a work that has been  
2 preregistered under section 408(f) before the commence-  
3 ment of the infringement and that has an effective date  
4 of registration not later than the earlier of 3 months after  
5 the first publication of the work or 1 month after the copy-  
6 right owner has learned of the infringement,” after “sec-  
7 tion 106A(a)”.

8 **SEC. 105. FEDERAL SENTENCING GUIDELINES.**

9 (a) REVIEW AND AMENDMENT.—Not later than 180  
10 days after the date of enactment of this Act, the United  
11 States Sentencing Commission, pursuant to its authority  
12 under section 994 of title 28, United States Code, and  
13 in accordance with this section, shall review and, if appro-  
14 priate, amend the Federal sentencing guidelines and policy  
15 statements applicable to persons convicted of intellectual  
16 property rights crimes, including any offense under—

17 (1) section 506, 1201, or 1202 of title 17,  
18 United States Code; or

19 (2) section 2318, 2319, 2319A, 2319B, or 2320  
20 of title 18, United States Code.

21 (b) AUTHORIZATION.—The United States Sentencing  
22 Commission may amend the Federal sentencing guidelines  
23 in accordance with the procedures set forth in section  
24 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note)

1 as though the authority under that section had not ex-  
2 pired.

3 (c) RESPONSIBILITIES OF UNITED STATES SEN-  
4 TENCING COMMISSION.—In carrying out this section, the  
5 United States Sentencing Commission shall—

6 (1) take all appropriate measures to ensure that  
7 the Federal sentencing guidelines and policy state-  
8 ments described in subsection (a) are sufficiently  
9 stringent to deter, and adequately reflect the nature  
10 of, intellectual property rights crimes;

11 (2) determine whether to provide a sentencing  
12 enhancement for those convicted of the offenses de-  
13 scribed in subsection (a), if the conduct involves the  
14 display, performance, publication, reproduction, or  
15 distribution of a copyrighted work before it has been  
16 authorized by the copyright owner, whether in the  
17 media format used by the infringing party or in any  
18 other media format;

19 (3) determine whether the scope of “uploading”  
20 set forth in application note 3 of section 2B5.3 of  
21 the Federal sentencing guidelines is adequate to ad-  
22 dress the loss attributable to people who broadly dis-  
23 tribute copyrighted works without authorization over  
24 the Internet; and

1           (4) determine whether the sentencing guidelines  
 2           and policy statements applicable to the offenses de-  
 3           scribed in subsection (a) adequately reflect any harm  
 4           to victims from copyright infringement if law en-  
 5           forcement authorities cannot determine how many  
 6           times copyright material has been reproduced or dis-  
 7           tributed.

8       **TITLE II—EXEMPTION FROM IN-**  
 9       **FRINGEMENT FOR SKIPPING**  
 10      **AUDIO AND VIDEO CONTENT**  
 11      **IN MOTION PICTURES**

12      **SEC. 201. SHORT TITLE.**

13           This title may be cited as the “Family Movie Act of  
 14      2004”.

15      **SEC. 202. EXEMPTION FROM INFRINGEMENT FOR SKIPPING**  
 16                           **AUDIO AND VIDEO CONTENT IN MOTION PIC-**  
 17                           **TURES.**

18           (a) IN GENERAL.—Section 110 of title 17, United  
 19      States Code, is amended—

20           (1) in paragraph (9), by striking “and” after  
 21      the semicolon at the end;

22           (2) in paragraph (10), by striking the period at  
 23      the end and inserting “; and”;

24           (3) by inserting after paragraph (10) the fol-  
 25      lowing:

1           “(11) the making imperceptible, by or at the di-  
2           rection of a member of a private household, of lim-  
3           ited portions of audio or video content of a motion  
4           picture, during a performance in or transmitted to  
5           that household for private home viewing, from an  
6           authorized copy of the motion picture, or the cre-  
7           ation or provision of a computer program or other  
8           technology that enables such making imperceptible  
9           and that is designed and marketed for such use at  
10          the direction of a member of a private household, if  
11          no fixed copy of the altered version of the motion  
12          picture is created by such computer program or  
13          other technology.”; and

14           (4) by adding at the end the following:

15          “For purposes of paragraph (11), the term ‘making  
16          imperceptible’ does not include the addition of audio or  
17          video content that is performed or displayed over or in  
18          place of existing content in a motion picture.

19          “Nothing in paragraph (11) shall be construed to  
20          imply further rights under section 106 of this title, or to  
21          have any effect on defenses or limitations on rights grant-  
22          ed under any other section of this title or under any other  
23          paragraph of this section.”.

24          (c) EXEMPTION FROM TRADEMARK INFRINGE-  
25          MENT.—Section 32 of the Trademark Act of 1946 (15

1 U.S.C. 1114) is amended by adding at the end the fol-  
2 lowing:

3       “(3)(A) Any person who engages in the conduct de-  
4 scribed in paragraph (11) of section 110 of title 17,  
5 United States Code, and who complies with the require-  
6 ments set forth in that paragraph is not liable on account  
7 of such conduct for a violation of any right under this Act.  
8 This subparagraph does not preclude liability, nor shall  
9 it be construed to restrict the defenses or limitations on  
10 rights granted under this Act, of a person for conduct not  
11 described in paragraph (11) of section 110 of title 17,  
12 United States Code, even if that person also engages in  
13 conduct described in paragraph (11) of section 110 of  
14 such title.

15       “(B) A manufacturer, licensee, or licensor of tech-  
16 nology that enables the making of limited portions of  
17 audio or video content of a motion picture imperceptible  
18 as described in subparagraph (A) is not liable on account  
19 of such manufacture or license for a violation of any right  
20 under this Act, if such manufacturer, licensee, or licensor  
21 ensures that the technology provides a clear and con-  
22 spicuous notice at the beginning of each performance that  
23 the performance of the motion picture is altered from the  
24 performance intended by the director or copyright holder  
25 of the motion picture. The limitations on liability in sub-

1 paragraph (A) and this subparagraph shall not apply to  
2 a manufacturer, licensee, or licensor of technology that  
3 fails to comply with this paragraph.

4 “(C) The requirement under subparagraph (B) to  
5 provide notice shall apply only with respect to technology  
6 manufactured after the end of the 180-day period begin-  
7 ning on the date of the enactment of the Family Movie  
8 Act of 2004.

9 “(D) Any failure by a manufacturer, licensee, or li-  
10 censor of technology to qualify for the exemption under  
11 subparagraphs (A) and (B) shall not be construed to cre-  
12 ate an inference of liability for trademark infringement for  
13 any such party that engages in conduct described in para-  
14 graph (11) of section 110 of title 17, United States  
15 Code.”.

16 (d) DEFINITION.—In this section, the term “Trade-  
17 mark Act of 1946” means the Act entitled “An Act to  
18 provide for the registration and protection of trademarks  
19 used in commerce, to carry out the provisions of certain  
20 international conventions, and for other purposes”, ap-  
21 proved July 5, 1946 (15 U.S.C. 1051 et seq.).

1           **TITLE III—NATIONAL FILM**  
 2                   **PRESERVATION**  
 3       **Subtitle A—Reauthorization of the**  
 4       **National Film Preservation Board**

5       **SEC. 301. SHORT TITLE.**

6           This subtitle may be cited as the “National Film  
 7       Preservation Act of 2004”.

8       **SEC. 302. REAUTHORIZATION AND AMENDMENT.**

9           (a) DUTIES OF THE LIBRARIAN OF CONGRESS.—Sec-  
 10       tion 103 of the National Film Preservation Act of 1996  
 11       (2 U.S.C. 179m) is amended—

12                   (1) in subsection (b)—

13                           (A) by striking “film copy” each place that  
 14                           term appears and inserting “film or other ap-  
 15                           proved copy”;

16                           (B) by striking “film copies” each place  
 17                           that term appears and inserting “film or other  
 18                           approved copies”; and

19                           (C) in the third sentence, by striking  
 20                           “copyrighted” and inserting “copyrighted, mass  
 21                           distributed, broadcast, or published”; and

22                   (2) by adding at the end the following:

23                   “(c) COORDINATION OF PROGRAM WITH OTHER  
 24       COLLECTION, PRESERVATION, AND ACCESSIBILITY AC-  
 25       TIVITIES.—In carrying out the comprehensive national

1 film preservation program for motion pictures established  
2 under the National Film Preservation Act of 1992, the  
3 Librarian, in consultation with the Board established pur-  
4 suant to section 104, shall—

5           “(1) carry out activities to make films included  
6           in the National Film registry more broadly acces-  
7           sible for research and educational purposes, and to  
8           generate public awareness and support of the Reg-  
9           istry and the comprehensive national film preserva-  
10          tion program;

11           “(2) review the comprehensive national film  
12          preservation plan, and amend it to the extent nec-  
13          essary to ensure that it addresses technological ad-  
14          vances in the preservation and storage of, and access  
15          to film collections in multiple formats; and

16           “(3) wherever possible, undertake expanded ini-  
17          tiatives to ensure the preservation of the moving  
18          image heritage of the United States, including film,  
19          videotape, television, and born digital moving image  
20          formats, by supporting the work of the National  
21          Audio-Visual Conservation Center of the Library of  
22          Congress, and other appropriate nonprofit archival  
23          and preservation organizations.”.

1 (b) NATIONAL FILM PRESERVATION BOARD.—Sec-  
2 tion 104 of the National Film Preservation Act of 1996  
3 (2 U.S.C. 179n) is amended—

4 (1) in subsection (a)(1) by striking “20” and  
5 inserting “22”;

6 (2) in subsection (a) (2) by striking “three”  
7 and inserting “5”;

8 (3) in subsection (d) by striking “11” and in-  
9 serting “12”; and

10 (4) by striking subsection (e) and inserting the  
11 following:

12 “(e) REIMBURSEMENT OF EXPENSES.—Members of  
13 the Board shall serve without pay, but may receive travel  
14 expenses, including per diem in lieu of subsistence, in ac-  
15 cordance with sections 5702 and 5703 of title 5, United  
16 States Code.”.

17 (c) NATIONAL FILM REGISTRY.—Section 106 of the  
18 National Film Preservation Act of 1996 (2 U.S.C. 179p)  
19 is amended by adding at the end the following:

20 “(e) NATIONAL AUDIO-VISUAL CONSERVATION CEN-  
21 TER.—The Librarian shall utilize the National Audio-Vis-  
22 ual Conservation Center of the Library of Congress at  
23 Culpeper, Virginia, to ensure that preserved films included  
24 in the National Film Registry are stored in a proper man-

1 ner, and disseminated to researchers, scholars, and the  
2 public as may be appropriate in accordance with—

3 “(1) title 17, United States Code; and

4 “(2) the terms of any agreements between the  
5 Librarian and persons who hold copyrights to such  
6 audiovisual works.”.

7 (d) USE OF SEAL.—Section 107 (a) of the National  
8 Film Preservation Act of 1996 (2 U.S.C. 179q(a)) is  
9 amended—

10 (1) in paragraph (1), by inserting “in any for-  
11 mat” after “or any copy”; and

12 (2) in paragraph (2), by striking “or film copy”  
13 and inserting “in any format”.

14 (e) EFFECTIVE DATE.—Section 113 of the National  
15 Film Preservation Act of 1996 (2 U.S.C. 179w) is amend-  
16 ed by striking “7” and inserting “12”.

17 **Subtitle B—Reauthorization of the**  
18 **National Film Preservation**  
19 **Foundation**

20 **SEC. 311. SHORT TITLE.**

21 This subtitle may be cited as the “National Film  
22 Preservation Foundation Reauthorization Act of 2004”.

23 **SEC. 312. REAUTHORIZATION AND AMENDMENT.**

24 (a) BOARD OF DIRECTORS.—Section 151703 of title  
25 36, United States Code, is amended—

1           (1) in subsection (b)(2)(A), by striking “nine”  
2           and inserting “12”; and

3           (2) in subsection (b)(4), by striking the second  
4           sentence and inserting “There shall be no limit to  
5           the number of terms to which any individual may be  
6           appointed.”.

7           (b) POWERS.—Section 151705 of title 36, United  
8           States Code, is amended in subsection (b) by striking  
9           “District of Columbia” and inserting “the jurisdiction in  
10          which the principal office of the corporation is located”.

11          (c) PRINCIPAL OFFICE.—Section 151706 of title 36,  
12          United States Code, is amended by inserting “, or another  
13          place as determined by the board of directors” after “Dis-  
14          trict of Columbia”.

15          (d) AUTHORIZATION OF APPROPRIATIONS.—Section  
16          151711 of title 36, United States Code, is amended by  
17          striking subsections (a) and (b) and inserting the fol-  
18          lowing:

19          “(a) AUTHORIZATION OF APPROPRIATIONS.—There  
20          are authorized to be appropriated to the Library of Con-  
21          gress amounts necessary to carry out this chapter, not to  
22          exceed \$530,000 for each of the fiscal years 2004 through  
23          2008. These amounts are to be made available to the cor-  
24          poration to match any private contributions (whether in

1 currency, services, or property) made to the corporation  
2 by private persons and State and local governments.

3 “(b) LIMITATION RELATED TO ADMINISTRATIVE EX-  
4 PENSES.—Amounts authorized under this section may not  
5 be used by the corporation for management and general  
6 or fundraising expenses as reported to the Internal Rev-  
7 enue Service as part of an annual information return re-  
8 quired under the Internal Revenue Code of 1986.”.

9 **TITLE IV—PRESERVATION OF**  
10 **ORPHAN WORKS**

11 **SEC. 401. SHORT TITLE.**

12 This title may be cited as the “Preservation of Or-  
13 phan Works Act”.

14 **SEC. 402. REPRODUCTION OF COPYRIGHTED WORKS BY LI-**  
15 **BRARIES AND ARCHIVES.**

16 Section 108(i) of title 17, United States Code, is  
17 amended by striking “(b) and (c)” and inserting “(b), (c),  
18 and (h)”.

1 **TITLE V—ANTICOUNTERFEIT-**  
 2 **ING PROVISIONS AND FRAUD-**  
 3 **ULENT ONLINE IDENTITY**  
 4 **SANCTIONS**

5 **Subtitle A—Anticounterfeiting**  
 6 **Provisions**

7 **SEC. 501. SHORT TITLE.**

8 This subtitle may be cited as the “Anticounterfeiting  
 9 Act of 2004”.

10 **SEC. 502. PROHIBITION AGAINST TRAFFICKING IN COUN-**  
 11 **TERFEIT COMPONENTS.**

12 (a) IN GENERAL.—Section 2318 of title 18, United  
 13 States Code, is amended—

14 (1) by striking the section heading and insert-  
 15 ing the following:

16 **“§ 2318. Trafficking in counterfeit labels, illicit labels,**  
 17 **or counterfeit documentation or pack-**  
 18 **aging”;**

19 (2) by striking subsection (a) and inserting the  
 20 following:

21 “(a) Whoever, in any of the circumstances described  
 22 in subsection (c), knowingly traffics in—

23 “(1) a counterfeit label or illicit label affixed to,  
 24 enclosing, or accompanying, or designed to be af-  
 25 fixed to, enclose, or accompany—

1 “(A) a phonorecord;

2 “(B) a copy of a computer program;

3 “(C) a copy of a motion picture or other  
4 audiovisual work;

5 “(D) a copy of a literary work;

6 “(E) a copy of a pictorial, graphic, or  
7 sculptural work;

8 “(F) a work of visual art; or

9 “(G) documentation or packaging; or

10 “(2) counterfeit documentation or packaging,

11 shall be fined under this title or imprisoned for not more  
12 than 5 years, or both.”;

13 (3) in subsection (b)—

14 (A) in paragraph (2), by striking “and”  
15 after the semicolon;

16 (B) in paragraph (3)—

17 (i) by striking “and ‘audiovisual work’  
18 have” and inserting the following: “‘audio-  
19 visual work’, ‘literary work’, ‘pictorial,  
20 graphic, or sculptural work’, ‘sound record-  
21 ing’, ‘work of visual art’, and ‘copyright  
22 owner’ have”; and

23 (ii) by striking the period at the end  
24 and inserting a semicolon; and

25 (C) by adding at the end the following:

1           “(4) the term ‘illicit label’ means a genuine cer-  
2           tificate, licensing document, registration card, or  
3           similar labeling component—

4                   “(A) that is used by the copyright owner  
5           to verify that a phonorecord, a copy of a com-  
6           puter program, a copy of a motion picture or  
7           other audiovisual work, a copy of a literary  
8           work, a copy of a pictorial, graphic, or sculp-  
9           tural work, a work of visual art, or documenta-  
10          tion or packaging is not counterfeit or infring-  
11          ing of any copyright; and

12                   “(B) that is, without the authorization of  
13          the copyright owner—

14                   “(i) distributed or intended for dis-  
15          tribution not in connection with the copy,  
16          phonorecord, or work of visual art to which  
17          such labeling component was intended to  
18          be affixed by the respective copyright  
19          owner; or

20                   “(ii) in connection with a genuine cer-  
21          tificate or licensing document, knowingly  
22          falsified in order to designate a higher  
23          number of licensed users or copies than  
24          authorized by the copyright owner, unless  
25          that certificate or document is used by the

1 copyright owner solely for the purpose of  
2 monitoring or tracking the copyright own-  
3 er's distribution channel and not for the  
4 purpose of verifying that a copy or phono-  
5 record is noninfringing;

6 “(5) the term ‘documentation or packaging’  
7 means documentation or packaging, in physical  
8 form, for a phonorecord, copy of a computer pro-  
9 gram, copy of a motion picture or other audiovisual  
10 work, copy of a literary work, copy of a pictorial,  
11 graphic, or sculptural work, or work of visual art;  
12 and

13 “(6) the term ‘counterfeit documentation or  
14 packaging’ means documentation or packaging that  
15 appears to be genuine, but is not.”;

16 (4) in subsection (c)—

17 (A) by striking paragraph (3) and insert-  
18 ing the following:

19 “(3) the counterfeit label or illicit label is af-  
20 fixed to, encloses, or accompanies, or is designed to  
21 be affixed to, enclose, or accompany—

22 “(A) a phonorecord of a copyrighted sound  
23 recording or copyrighted musical work;

24 “(B) a copy of a copyrighted computer  
25 program;

1           “(C) a copy of a copyrighted motion pic-  
2           ture or other audiovisual work;

3           “(D) a copy of a literary work;

4           “(E) a copy of a pictorial, graphic, or  
5           sculptural work;

6           “(F) a work of visual art; or

7           “(G) copyrighted documentation or pack-  
8           aging; or”]; and

9           (B) in paragraph (4), by striking “for a  
10          computer program”; and

11         (5) in subsection (d)—

12           (A) by inserting “or illicit labels” after  
13          “counterfeit labels” each place it appears; and

14           (B) by inserting before the period at the  
15          end the following: “, and of any equipment, de-  
16          vice, or material used to manufacture, repro-  
17          duce, or assemble the counterfeit labels or illicit  
18          labels”.

19         (b) CIVIL REMEDIES.—Section 2318 of title 18,  
20         United States Code, is further amended by adding at the  
21         end the following:

22           “(f) CIVIL REMEDIES.—

23           “(1) IN GENERAL.—Any copyright owner who  
24          is injured, or is threatened with injury, by a viola-

1       tion of subsection (a) may bring a civil action in an  
2       appropriate United States district court.

3               “(2) DISCRETION OF COURT.—In any action  
4       brought under paragraph (1), the court—

5                       “(A) may grant 1 or more temporary or  
6       permanent injunctions on such terms as the  
7       court determines to be reasonable to prevent or  
8       restrain a violation of subsection (a);

9                       “(B) at any time while the action is pend-  
10      ing, may order the impounding, on such terms  
11      as the court determines to be reasonable, of any  
12      article that is in the custody or control of the  
13      alleged violator and that the court has reason-  
14      able cause to believe was involved in a violation  
15      of subsection (a); and

16                      “(C) may award to the injured party—

17                               “(i) reasonable attorney fees and  
18      costs; and

19                               “(ii)(I) actual damages and any addi-  
20      tional profits of the violator, as provided in  
21      paragraph (3); or

22                               “(II) statutory damages, as provided  
23      in paragraph (4).

24               “(3) ACTUAL DAMAGES AND PROFITS.—

1           “(A) IN GENERAL.—The injured party is  
2 entitled to recover—

3           “(i) the actual damages suffered by  
4 the injured party as a result of a violation  
5 of subsection (a), as provided in subpara-  
6 graph (B) of this paragraph; and

7           “(ii) any profits of the violator that  
8 are attributable to a violation of subsection  
9 (a) and are not taken into account in com-  
10 puting the actual damages.

11           “(B) CALCULATION OF DAMAGES.—The  
12 court shall calculate actual damages by  
13 multiplying—

14           “(i) the value of the phonorecords,  
15 copies, or works of visual art which are, or  
16 are intended to be, affixed with, enclosed  
17 in, or accompanied by any counterfeit la-  
18 bels, illicit labels, or counterfeit docu-  
19 mentation or packaging, by

20           “(ii) the number of phonorecords, cop-  
21 ies, or works of visual art which are, or are  
22 intended to be, affixed with, enclosed in, or  
23 accompanied by any counterfeit labels, il-  
24 licit labels, or counterfeit documentation or  
25 packaging.

1           “(C) DEFINITION.—For purposes of this  
2 paragraph, the ‘value’ of a phonorecord, copy,  
3 or work of visual art is—

4           “(i) in the case of a copyrighted  
5 sound recording or copyrighted musical  
6 work, the retail value of an authorized pho-  
7 norecord of that sound recording or musi-  
8 cal work;

9           “(ii) in the case of a copyrighted com-  
10 puter program, the retail value of an au-  
11 thORIZED copy of that computer program;

12           “(iii) in the case of a copyrighted mo-  
13 tion picture or other audiovisual work, the  
14 retail value of an authorized copy of that  
15 motion picture or audiovisual work;

16           “(iv) in the case of a copyrighted lit-  
17 erary work, the retail value of an author-  
18 ized copy of that literary work;

19           “(v) in the case of a pictorial, graphic,  
20 or sculptural work, the retail value of an  
21 authorized copy of that work; and

22           “(vi) in the case of a work of visual  
23 art, the retail value of that work.

24           “(4) STATUTORY DAMAGES.—The injured party  
25 may elect, at any time before final judgment is ren-

1       dered, to recover, instead of actual damages and  
2       profits, an award of statutory damages for each vio-  
3       lation of subsection (a) in a sum of not less than  
4       \$2,500 or more than \$25,000, as the court considers  
5       appropriate.

6               “(5) SUBSEQUENT VIOLATION.—The court may  
7       increase an award of damages under this subsection  
8       by 3 times the amount that would otherwise be  
9       awarded, as the court considers appropriate, if the  
10       court finds that a person has subsequently violated  
11       subsection (a) within 3 years after a final judgment  
12       was entered against that person for a violation of  
13       that subsection.

14               “(6) LIMITATION ON ACTIONS.—A civil action  
15       may not be commenced under this subsection unless  
16       it is commenced within 3 years after the date on  
17       which the claimant discovers the violation of sub-  
18       section (a).”.

19       (c) CONFORMING AMENDMENT.—The item relating  
20       to section 2318 in the table of sections for chapter 113  
21       of title 18, United States Code, is amended to read as  
22       follows:

“2318. Trafficking in counterfeit labels, illicit labels, or counterfeit documenta-  
tion or packaging.”.

1 **SEC. 503. OTHER RIGHTS NOT AFFECTED.**

2 (a) CHAPTERS 5 AND 12 OF TITLE 17; ELECTRONIC  
3 TRANSMISSIONS.—The amendments made by this  
4 subtitle—

5 (1) shall not enlarge, diminish, or otherwise af-  
6 fect any liability or limitations on liability under sec-  
7 tions 512, 1201, or 1202 of title 17, United States  
8 Code; and

9 (2) shall not be construed to apply—

10 (A) in any case, to the electronic trans-  
11 mission of a genuine certificate, licensing docu-  
12 ment, registration card, similar labeling compo-  
13 nent, or documentation or packaging described  
14 in paragraph (4) or (5) of section 2318(b) of  
15 title 18, United States Code, as amended by  
16 this subtitle; and

17 (B) in the case of a civil action under sec-  
18 tion 2318(f) of title 18, United States Code, to  
19 the electronic transmission of a counterfeit label  
20 or counterfeit documentation or packaging de-  
21 fined in paragraph (1) or (6) of section 2318(b)  
22 of title 18, United States Code.

23 (b) FAIR USE.—The amendments made by this sub-  
24 title shall not affect the fair use, under section 107 of title  
25 17, United States Code, of a genuine certificate, licensing  
26 document, registration card, similar labeling component,

1 or documentation or packaging described in paragraph (4)  
2 or (5) of section 2318(b) of title 18, United States Code,  
3 as amended by this subtitle.

## 4 **Subtitle B—Fraudulent Online** 5 **Identity Sanctions**

### 6 **SEC. 511. SHORT TITLE.**

7 This subtitle may be cited as the “Fraudulent Online  
8 Identity Sanctions Act”.

### 9 **SEC. 512. AMENDMENT TO TRADEMARK ACT OF 1946.**

10 Section 35 of the Act entitled “An Act to provide for  
11 the registration and protection of trademarks used in com-  
12 merce, to carry out the provisions of certain international  
13 conventions, and for other purposes”, approved July 5,  
14 1946 (commonly referred to as the “Trademark Act of  
15 1946”; 15 U.S.C. 1117), is amended by adding at the end  
16 the following new subsection:

17 “(e) In the case of a violation referred to in this sec-  
18 tion, it shall be a rebuttable presumption that the violation  
19 is willful for purposes of determining relief if the violator,  
20 or a person acting in concert with the violator, knowingly  
21 provided or knowingly caused to be provided materially  
22 false contact information to a domain name registrar, do-  
23 main name registry, or other domain name registration  
24 authority in registering, maintaining, or renewing a do-  
25 main name used in connection with the violation. Nothing

1 in this subsection limits what may be considered a willful  
2 violation under this section.”.

3 **SEC. 513. AMENDMENT TO TITLE 17, UNITED STATES CODE.**

4 Section 504(e) of title 17, United States Code, is  
5 amended by adding at the end the following new para-  
6 graph:

7 “(3) (A) In a case of infringement, it shall be  
8 a rebuttable presumption that the infringement was  
9 committed willfully for purposes of determining re-  
10 lief if the violator, or a person acting in concert with  
11 the violator, knowingly provided or knowingly caused  
12 to be provided materially false contact information  
13 to a domain name registrar, domain name registry,  
14 or other domain name registration authority in reg-  
15 istering, maintaining, or renewing a domain name  
16 used in connection with the infringement.

17 “(B) Nothing in this paragraph limits what  
18 may be considered willful infringement under this  
19 subsection.

20 “(C) For purposes of this paragraph, the term  
21 ‘domain name’ has the meaning given that term in  
22 section 45 of the Act entitled ‘An Act to provide for  
23 the registration and protection of trademarks used  
24 in commerce, to carry out the provisions of certain  
25 international conventions, and for other purposes’

1 approved July 5, 1946 (commonly referred to as the  
2 ‘Trademark Act of 1946’; 15 U.S.C. 1127).”.

3 **SEC. 514. AMENDMENT TO TITLE 18, UNITED STATES CODE.**

4 (a) SENTENCING ENHANCEMENT.—Section 3559 of  
5 title 18, United States Code, is amended by adding at the  
6 end the following:

7 “(f)(1) If a defendant who is convicted of a felony  
8 offense (other than offense of which an element is the false  
9 registration of a domain name) knowingly falsely reg-  
10 istered a domain name and knowingly used that domain  
11 name in the course of that offense, the maximum impris-  
12 onment otherwise provided by law for that offense shall  
13 be doubled or increased by 7 years, whichever is less.

14 “(2) As used in this subsection—

15 “(A) the term ‘falsely registers’ means registers  
16 in a manner that prevents the effective identification  
17 of or contact with the person who registers; and

18 “(B) the term ‘domain name’ has the meaning  
19 given that term in section 45 of the Act entitled ‘An  
20 Act to provide for the registration and protection of  
21 trademarks used in commerce, to carry out the pro-  
22 visions of certain international conventions, and for  
23 other purposes’ approved July 5, 1946 (commonly  
24 referred to as the ‘Trademark Act of 1946’) (15  
25 U.S.C. 1127).”.

1 (b) UNITED STATES SENTENCING COMMISSION.—

2 (1) DIRECTIVE.—Pursuant to its authority  
3 under section 994(p) of title 28, United States Code,  
4 and in accordance with this section, the United  
5 States Sentencing Commission shall review and  
6 amend the sentencing guidelines and policy state-  
7 ments to ensure that the applicable guideline range  
8 for a defendant convicted of any felony offense car-  
9 ried out online that may be facilitated through the  
10 use of a domain name registered with materially  
11 false contact information is sufficiently stringent to  
12 deter commission of such acts.

13 (2) REQUIREMENTS.—In carrying out this sub-  
14 section, the Sentencing Commission shall provide  
15 sentencing enhancements for anyone convicted of  
16 any felony offense furthered through knowingly pro-  
17 viding or knowingly causing to be provided materi-  
18 ally false contact information to a domain name reg-  
19 istrar, domain name registry, or other domain name  
20 registration authority in registering, maintaining, or  
21 renewing a domain name used in connection with the  
22 violation.

23 (3) DEFINITION.—For purposes of this sub-  
24 section, the term “domain name” has the meaning  
25 given that term in section 45 of the Act entitled “An

1 Act to provide for the registration and protection of  
2 trademarks used in commerce, to carry out the pro-  
3 visions of certain international conventions, and for  
4 other purposes”, approved July 5, 1946 (commonly  
5 referred to as the “Trademark Act of 1946”; 15  
6 U.S.C. 1127).

7 **SEC. 515. CONSTRUCTION.**

8 (a) **FREE SPEECH AND PRESS.**—Nothing in this sub-  
9 title shall enlarge or diminish any rights of free speech  
10 or of the press for activities related to the registration or  
11 use of domain names.

12 (b) **DISCRETION OF COURTS IN DETERMINING RE-**  
13 **LIEF.**—Nothing in this subtitle shall restrict the discretion  
14 of a court in determining damages or other relief to be  
15 assessed against a person found liable for the infringement  
16 of intellectual property rights.

17 (c) **DISCRETION OF COURTS IN DETERMINING**  
18 **TERMS OF IMPRISONMENT.**—Nothing in this subtitle shall  
19 be construed to limit the discretion of a court to determine  
20 the appropriate term of imprisonment for an offense under  
21 applicable law.

1 **TITLE VI—COOPERATIVE RE-**  
2 **SEARCH AND TECHNOLOGY**  
3 **ENHANCEMENT**

4 **SEC. 601. SHORT TITLE.**

5 This title may be cited as the “Cooperative Research  
6 and Technology Enhancement (CREATE) Act of 2004”.

7 **SEC. 602. COLLABORATIVE EFFORTS ON CLAIMED INVEN-**  
8 **TIONS.**

9 Section 103(e) of title 35, United States Code, is  
10 amended to read as follows:

11 “(c)(1) Subject matter developed by another person,  
12 which qualifies as prior art only under one or more of sub-  
13 sections (e), (f), and (g) of section 102 of this title, shall  
14 not preclude patentability under this section where the  
15 subject matter and the claimed invention were, at the time  
16 the claimed invention was made, owned by the same per-  
17 son or subject to an obligation of assignment to the same  
18 person.

19 “(2) For purposes of this subsection, subject matter  
20 developed by another person and a claimed invention shall  
21 be deemed to have been owned by the same person or sub-  
22 ject to an obligation of assignment to the same person if—

23 “(A) the claimed invention was made by or on  
24 behalf of parties to a joint research agreement that

1 was in effect on or before the date the claimed in-  
2 vention was made;

3 “(B) the claimed invention was made as a re-  
4 sult of activities undertaken within the scope of the  
5 joint research agreement; and

6 “(C) the application for patent for the claimed  
7 invention discloses or is amended to disclose the  
8 names of the parties to the joint research agree-  
9 ment.

10 “(3) For purposes of paragraph (2), the term ‘joint  
11 research agreement’ means a written contract, grant, or  
12 cooperative agreement entered into by two or more per-  
13 sons or entities for the performance of experimental, devel-  
14 opmental, or research work in the field of the claimed in-  
15 vention.”.

16 **SEC. 603. EFFECTIVE DATE.**

17 (a) IN GENERAL.—The amendments made by this  
18 title shall apply to any patent granted on or after the date  
19 of the enactment of this Act.

20 (b) SPECIAL RULE.—The amendments made by this  
21 title shall not affect any final decision of a court or the  
22 United States Patent and Trademark Office rendered be-  
23 fore the date of the enactment of this Act, and shall not  
24 affect the right of any party in any action pending before  
25 the United States Patent and Trademark Office or a court

1 on the date of the enactment of this Act to have that par-  
 2 ty’s rights determined on the basis of the provisions of  
 3 title 35, United States Code, in effect on the day before  
 4 the date of the enactment of this Act.

5           **TITLE VII—PROFESSIONAL**  
 6                           **BOXING SAFETY**

7   **SEC. 701. SHORT TITLE; TABLE OF CONTENTS.**

8           (a) **SHORT TITLE.**—This title may be cited as the  
 9 “Professional Boxing Amendments Act of 2004”.

10          (b) **TABLE OF CONTENTS.**—The table of contents for  
 11 this title is as follows:

- Sec. 701. Short title; table of contents.
- Sec. 702. Amendment of Professional Boxing Safety Act of 1996.
- Sec. 703. Definitions.
- Sec. 704. Purposes.
- Sec. 705. United States Boxing Commission approval, or ABC or commission sanction, required for matches.
- Sec. 706. Safety standards.
- Sec. 707. Registration.
- Sec. 708. Review.
- Sec. 709. Reporting.
- Sec. 710. Contract requirements.
- Sec. 711. Coercive contracts.
- Sec. 712. Sanctioning organizations.
- Sec. 713. Required disclosures by sanctioning organizations.
- Sec. 714. Required disclosures by promoters and broadcasters.
- Sec. 715. Judges and referees.
- Sec. 716. Medical registry.
- Sec. 717. Conflicts of interest.
- Sec. 718. Enforcement.
- Sec. 719. Repeal of deadwood.
- Sec. 720. Recognition of tribal law.
- Sec. 721. Establishment of United States Boxing Commission.
- Sec. 722. Study and report on definition of promoter.
- Sec. 723. Effective date.

1 **SEC. 702. AMENDMENT OF PROFESSIONAL BOXING SAFETY**  
2 **ACT OF 1996.**

3 Except as otherwise expressly provided, whenever in  
4 this title an amendment or repeal is expressed in terms  
5 of an amendment to, or repeal of, a section or other provi-  
6 sion, the reference shall be considered to be made to a  
7 section or other provision of the Professional Boxing Safe-  
8 ty Act of 1996 (15 U.S.C. 6301 et seq.).

9 **SEC. 703. DEFINITIONS.**

10 (a) IN GENERAL.—Section 2 (15 U.S.C. 6301) is  
11 amended to read as follows:

12 **“SEC. 2. DEFINITIONS.**

13 “In this Act:

14 “(1) COMMISSION.—The term ‘Commission’  
15 means the United States Boxing Commission.

16 “(2) BOUT AGREEMENT.—The term ‘bout  
17 agreement’ means a contract between a promoter  
18 and a boxer that requires the boxer to participate in  
19 a professional boxing match for a particular date.

20 “(3) BOXER.—The term ‘boxer’ means an indi-  
21 vidual who fights in a professional boxing match.

22 “(4) BOXING COMMISSION.—The term ‘boxing  
23 commission’ means an entity authorized under State  
24 or tribal law to regulate professional boxing  
25 matches.

1           “(5) BOXER REGISTRY.—The term ‘boxer reg-  
2           istry’ means any entity certified by the Commission  
3           for the purposes of maintaining records and identi-  
4           fication of boxers.

5           “(6) BOXING SERVICE PROVIDER.—The term  
6           ‘boxing service provider’ means a promoter, man-  
7           ager, sanctioning body, licensee, or matchmaker.

8           “(7) CONTRACT PROVISION.—The term ‘con-  
9           tract provision’ means any legal obligation between  
10          a boxer and a boxing service provider.

11          “(8) INDIAN LANDS; INDIAN TRIBE.—The  
12          terms ‘Indian lands’ and ‘Indian tribe’ have the  
13          meanings given those terms by paragraphs (4) and  
14          (5), respectively, of section 4 of the Indian Gaming  
15          Regulatory Act (25 U.S.C. 2703).

16          “(9) LICENSEE.—The term ‘licensee’ means an  
17          individual who serves as a trainer, corner man, sec-  
18          ond, or cut man for a boxer.

19          “(10) MANAGER.—The term ‘manager’ means a  
20          person other than a promoter who, under contract,  
21          agreement, or other arrangement with a boxer, un-  
22          dertakes to control or administer, directly or indi-  
23          rectly, a boxing-related matter on behalf of that  
24          boxer, including a person who is a booking agent for  
25          a boxer.

1           “(11) MATCHMAKER.—The term ‘matchmaker’  
2 means a person that proposes, selects, and arranges  
3 for boxers to participate in a professional boxing  
4 match.

5           “(12) PHYSICIAN.—The term ‘physician’ means  
6 a doctor of medicine legally authorized to practice  
7 medicine by the State in which the physician per-  
8 forms such function or action and who has training  
9 and experience in dealing with sports injuries, par-  
10 ticularly head trauma.

11           “(13) PROFESSIONAL BOXING MATCH.—The  
12 term ‘professional boxing match’ means a boxing  
13 contest held in the United States between individ-  
14 uals for financial compensation. The term ‘profes-  
15 sional boxing match’ does not include a boxing con-  
16 test that is regulated by a duly recognized amateur  
17 sports organization, as approved by the Commission.

18           “(14) PROMOTER.—The term ‘promoter’—

19                   “(A) means the person primarily respon-  
20 sible for organizing, promoting, and producing  
21 a professional boxing match; but

22                   “(B) does not include a hotel, casino, re-  
23 sort, or other commercial establishment hosting  
24 or sponsoring a professional boxing match  
25 unless—

1           “(i) the hotel, casino, resort, or other  
2           commercial establishment is primarily re-  
3           sponsible for organizing, promoting, and  
4           producing the match; and

5           “(ii) there is no other person primarily  
6           responsible for organizing, promoting, and  
7           producing the match.

8           “(15) PROMOTIONAL AGREEMENT.—The term  
9           ‘promotional agreement’ means a contract, for the  
10          acquisition of rights relating to a boxer’s participa-  
11          tion in a professional boxing match or series of box-  
12          ing matches (including the right to sell, distribute,  
13          exhibit, or license the match or matches), with—

14           “(A) the boxer who is to participate in the  
15          match or matches; or

16           “(B) the nominee of a boxer who is to par-  
17          ticipate in the match or matches, or the nomi-  
18          nee is an entity that is owned, controlled or  
19          held in trust for the boxer unless that nominee  
20          or entity is a licensed promoter who is con-  
21          veying a portion of the rights previously ac-  
22          quired.

23           “(16) STATE.—The term ‘State’ means each of  
24          the 50 States, Puerto Rico, the District of Columbia,

1 and any territory or possession of the United States,  
2 including the Virgin Islands.

3 “(17) SANCTIONING ORGANIZATION.—The term  
4 ‘sanctioning organization’ means an organization,  
5 other than a boxing commission, that sanctions pro-  
6 fessional boxing matches, ranks professional boxers,  
7 or charges a sanctioning fee for professional boxing  
8 matches in the United States—

9 “(A) between boxers who are residents of  
10 different States; or

11 “(B) that are advertised, otherwise pro-  
12 moted, or broadcast (including closed circuit  
13 television) in interstate commerce.

14 “(18) SUSPENSION.—The term ‘suspension’ in-  
15 cludes within its meaning the temporary revocation  
16 of a boxing license.

17 “(19) TRIBAL ORGANIZATION.—The term ‘trib-  
18 al organization’ has the same meaning as in section  
19 4(l) of the Indian Self-Determination and Education  
20 Assistance Act (25 U.S.C. 450b(l)).”.

21 (b) CONFORMING AMENDMENT.—Section 21 (15  
22 U.S.C. 6312) is amended to read as follows:

1 **“SEC. 21. PROFESSIONAL BOXING MATCHES CONDUCTED**  
2 **ON INDIAN LANDS.**

3 “(a) IN GENERAL.—Notwithstanding any other pro-  
4 vision of law, a tribal organization may establish a boxing  
5 commission to regulate professional boxing matches held  
6 on Indian land under the jurisdiction of that tribal organi-  
7 zation.

8 “(b) STANDARDS AND LICENSING.—A tribal organi-  
9 zation that establishes a boxing commission shall, by tribal  
10 ordinance or resolution, establish and provide for the im-  
11 plementation of health and safety standards, licensing re-  
12 quirements, and other requirements relating to the con-  
13 duct of professional boxing matches that are at least as  
14 restrictive as—

15 “(1) the otherwise applicable requirements of  
16 the State in which the Indian land on which the pro-  
17 fessional boxing match is held is located; or

18 “(2) the guidelines established by the United  
19 States Boxing Commission.

20 “(c) APPLICATION OF ACT TO BOXING MATCHES ON  
21 TRIBAL LANDS.—The provisions of this Act apply to pro-  
22 fessional boxing matches held on tribal lands to the same  
23 extent and in the same way as they apply to professional  
24 boxing matches held in any State.”.

1 **SEC. 704. PURPOSES.**

2 Section 3(2) (15 U.S.C. 6302(2)) is amended by  
3 striking “State”.

4 **SEC. 705. UNITED STATES BOXING COMMISSION APPROVAL,**  
5 **OR ABC OR COMMISSION SANCTION, RE-**  
6 **QUIRED FOR MATCHES.**

7 (a) IN GENERAL.—Section 4 (15 U.S.C. 6303) is  
8 amended to read as follows:

9 **“SEC. 4. APPROVAL OR SANCTION REQUIREMENT.**

10 “(a) IN GENERAL.—No person may arrange, pro-  
11 mote, organize, produce, or fight in a professional boxing  
12 match within the United States unless the match—

13 “(1) is approved by the Commission; and

14 “(2) is held in a State, or on tribal land of a  
15 tribal organization, that regulates professional box-  
16 ing matches in accordance with standards and cri-  
17 teria established by the Commission.

18 “(b) APPROVAL PRESUMED.—

19 “(1) IN GENERAL.—For purposes of subsection  
20 (a), the Commission shall be presumed to have ap-  
21 proved any match other than—

22 “(A) a match with respect to which the  
23 Commission has been informed of an alleged  
24 violation of this Act and with respect to which  
25 it has notified the supervising boxing commis-  
26 sion that it does not approve;

1           “(B) a match advertised to the public as a  
2           championship match;

3           “(C) a match scheduled for 10 rounds or  
4           more; or

5           “(D) a match in which 1 of the boxers  
6           has—

7                   “(i) suffered 10 consecutive defeats in  
8                   professional boxing matches; or

9                   “(ii) has been knocked out 5 consecu-  
10                  tive times in professional boxing matches.

11           “(2) DELEGATION OF APPROVAL AUTHORITY.—  
12           Notwithstanding paragraph (1), the Commission  
13           shall be presumed to have approved a match de-  
14           scribed in subparagraph (B), (C), or (D) of para-  
15           graph (1) if—

16                   “(A) the Commission has delegated in  
17                   writing its approval authority with respect to  
18                   that match to a boxing commission; and

19                   “(B) the boxing commission has approved  
20                   the match.

21           “(3) KNOCKED-OUT DEFINED.—Except as may  
22           be otherwise provided by the Commission by rule, in  
23           paragraph (1)(D)(ii), the term ‘knocked out’ means  
24           knocked down and unable to continue after a count

1 of 10 by the referee or stopped from continuing be-  
2 cause of a technical knockout.”.

3 (b) CONFORMING AMENDMENT.—Section 19 (15  
4 U.S.C. 6310) is repealed.

5 **SEC. 706. SAFETY STANDARDS.**

6 Section 5 (15 U.S.C. 6304) is amended—

7 (1) by striking “requirements or an alternative  
8 requirement in effect under regulations of a boxing  
9 commission that provides equivalent protection of  
10 the health and safety of boxers:” and inserting “re-  
11 quirements:”;

12 (2) by adding at the end of paragraph (1) “The  
13 examination shall include testing for infectious dis-  
14 eases in accordance with standards established by  
15 the Commission.”;

16 (3) by striking paragraph (2) and inserting the  
17 following:

18 “(2) An ambulance continuously present on  
19 site.”;

20 (4) by redesignating paragraphs (3) and (4) as  
21 paragraphs (4) and (5), respectively, and inserting  
22 after paragraph (2) the following:

23 “(3) Emergency medical personnel with appro-  
24 priate resuscitation equipment continuously present  
25 on site.”; and

1           (5) by striking “match.” in paragraph (5), as  
2           redesignated, and inserting “match in an amount  
3           prescribed by the Commission.”.

4 **SEC. 707. REGISTRATION.**

5           Section 6 (15 U.S.C. 6305) is amended—

6           (1) by inserting “or Indian tribe” after “State”  
7           the second place it appears in subsection (a)(2);

8           (2) by striking the first sentence of subsection  
9           (c) and inserting “A boxing commission shall, in ac-  
10          cordance with requirements established by the Com-  
11          mission, make a health and safety disclosure to a  
12          boxer when issuing an identification card to that  
13          boxer.”;

14          (3) by striking “should” in the second sentence  
15          of subsection (c) and inserting “shall, at a min-  
16          imum,”; and

17          (4) by adding at the end the following:

18          “(d) COPY OF REGISTRATION AND IDENTIFICATION  
19          CARDS TO BE SENT TO COMMISSION.—A boxing commis-  
20          sion shall furnish a copy of each registration received  
21          under subsection (a), and each identification card issued  
22          under subsection (b), to the Commission.”.

23 **SEC. 708. REVIEW.**

24          Section 7 (15 U.S.C. 6306) is amended—

1 (1) by striking “that, except as provided in sub-  
2 section (b), no” in subsection (a)(2) and inserting  
3 “that no”;

4 (2) by striking paragraphs (3) and (4) of sub-  
5 section (a) and inserting the following:

6 “(3) Procedures to review a summary suspen-  
7 sion when a hearing before the boxing commission is  
8 requested by a boxer, licensee, manager, match-  
9 maker, promoter, or other boxing service provider  
10 which provides an opportunity for that person to  
11 present evidence.”;

12 (3) by striking subsection (b); and

13 (4) by striking “(a) PROCEDURES.—”.

14 **SEC. 709. REPORTING.**

15 Section 8 (15 U.S.C. 6307) is amended—

16 (1) by striking “48 business hours” and insert-  
17 ing “2 business days”;

18 (2) by striking “bxoing” and inserting “box-  
19 ing”; and

20 (3) by striking “each boxer registry.” and in-  
21 sserting “the Commission.”.

22 **SEC. 710. CONTRACT REQUIREMENTS.**

23 Section 9 (15 U.S.C. 6307a) is amended to read as  
24 follows:

1 **“SEC. 9. CONTRACT REQUIREMENTS.**

2       “(a) IN GENERAL.—The Commission, in consultation  
3 with the Association of Boxing Commissions, shall develop  
4 guidelines for minimum contractual provisions that shall  
5 be included in each bout agreement, boxer-manager con-  
6 tract, and promotional agreement. Each boxing commis-  
7 sion shall ensure that these minimal contractual provisions  
8 are present in any such agreement or contract submitted  
9 to it.

10       “(b) FILING AND APPROVAL REQUIREMENTS.—

11           “(1) COMMISSION.—A manager or promoter  
12 shall submit a copy of each boxer-manager contract  
13 and each promotional agreement between that man-  
14 ager or promoter and a boxer to the Commission,  
15 and, if requested, to the boxing commission with ju-  
16 risdiction over the bout.

17           “(2) BOXING COMMISSION.—A boxing commis-  
18 sion may not approve a professional boxing match  
19 unless a copy of the bout agreement related to that  
20 match has been filed with it and approved by it.

21       “(c) BOND OR OTHER SURETY.—A boxing commis-  
22 sion may not approve a professional boxing match unless  
23 the promoter of that match has posted a surety bond,  
24 cashier’s check, letter of credit, cash, or other security  
25 with the boxing commission in an amount acceptable to  
26 the boxing commission.”.

1 **SEC. 711. COERCIVE CONTRACTS.**

2 Section 10 (15 U.S.C. 6307b) is amended—

3 (1) by striking paragraph (3) of subsection (a);

4 (2) by inserting “OR ELIMINATION” after “MAN-  
5 DATORY” in the heading of subsection (b); and

6 (3) by inserting “or elimination” after “manda-  
7 tory” in subsection (b).

8 **SEC. 712. SANCTIONING ORGANIZATIONS.**

9 (a) IN GENERAL.—Section 11 (15 U.S.C. 6307c) is  
10 amended to read as follows:

11 **“SEC. 11. SANCTIONING ORGANIZATIONS.**

12 “(a) OBJECTIVE CRITERIA.—Within 1 year after the  
13 date of enactment of the Professional Boxing Amendments  
14 Act of 2004, the Commission shall develop guidelines for  
15 objective and consistent written criteria for the rating of  
16 professional boxers based on the athletic merits and pro-  
17 fessional record of the boxers. Within 90 days after the  
18 Commission’s promulgation of the guidelines, each sanc-  
19 tioning organization shall adopt the guidelines and follow  
20 them.

21 “(b) NOTIFICATION OF CHANGE IN RATING.—A  
22 sanctioning organization shall, with respect to a change  
23 in the rating of a boxer previously rated by such organiza-  
24 tion in the top 10 boxers—

25 “(1) post a copy, within 7 days after the  
26 change, on its Internet website or home page, if any,

1 including an explanation of the change, for a period  
2 of not less than 30 days;

3 “(2) provide a copy of the rating change and a  
4 thorough explanation in writing under penalty of  
5 perjury to the boxer and the Commission;

6 “(3) provide the boxer an opportunity to appeal  
7 the ratings change to the sanctioning organization;  
8 and

9 “(4) apply the objective criteria for ratings re-  
10 quired under subsection (a) in considering any such  
11 appeal.

12 “(c) CHALLENGE OF RATING.—If, after disposing  
13 with an appeal under subsection (b)(3), a sanctioning or-  
14 ganization receives a petition from a boxer challenging  
15 that organization’s rating of the boxer, it shall (except to  
16 the extent otherwise required by the Commission), within  
17 7 days after receiving the petition—

18 “(1) provide to the boxer a written explanation  
19 under penalty of perjury of the organization’s rating  
20 criteria, its rating of the boxer, and the rationale or  
21 basis for its rating (including a response to any spe-  
22 cific questions submitted by the boxer); and

23 “(2) submit a copy of its explanation to the As-  
24 sociation of Boxing Commissions and the Commis-  
25 sion for their review.”.

1 (b) CONFORMING AMENDMENTS.—Section 18(e) (15  
2 U.S.C. 6309(e)) is amended—

3 (1) by striking “FEDERAL TRADE COMMIS-  
4 SION,” in the subsection heading and inserting  
5 “UNITED STATES BOXING COMMISSION”; and

6 (2) by striking “Federal Trade Commission,” in  
7 paragraph (1) and inserting “United States Boxing  
8 Commission,”.

9 **SEC. 713. REQUIRED DISCLOSURES BY SANCTIONING OR-**  
10 **GANIZATIONS.**

11 Section 12 (15 U.S.C. 6307d) is amended—

12 (1) by striking the matter preceding paragraph  
13 (1) and inserting “Within 7 days after a professional  
14 boxing match of 10 rounds or more, the sanctioning  
15 organization, if any, for that match shall provide to  
16 the Commission, and, if requested, to the boxing  
17 commission in the State or on Indian land respon-  
18 sible for regulating the match, a written statement  
19 of—”;

20 (2) by striking “will assess” in paragraph (1)  
21 and inserting “has assessed, or will assess,”; and

22 (3) by striking “will receive” in paragraph (2)  
23 and inserting “has received, or will receive,”.

1 **SEC. 714. REQUIRED DISCLOSURES BY PROMOTERS AND**  
2 **BROADCASTERS.**

3 Section 13 (15 U.S.C. 6307e) is amended—

4 (1) by striking “**PROMOTERS.**” in the section  
5 caption and inserting “**PROMOTERS AND BROAD-**  
6 **CASTERS.**”;

7 (2) by striking so much of subsection (a) as  
8 precedes paragraph (1) and inserting the following:

9 “(a) DISCLOSURES TO BOXING COMMISSIONS AND  
10 THE COMMISSION.—Within 7 days after a professional  
11 boxing match of 10 rounds or more, the promoter of any  
12 boxer participating in that match shall provide to the  
13 Commission, and, if requested, to the boxing commission  
14 in the State or on Indian land responsible for regulating  
15 the match—”;

16 (3) by striking “writing,” in subsection (a)(1)  
17 and inserting “writing, other than a bout agreement  
18 previously provided to the commission,”;

19 (4) by striking “all fees, charges, and expenses  
20 that will be” in subsection (a)(3)(A) and inserting  
21 “a written statement of all fees, charges, and ex-  
22 penses that have been, or will be,”;

23 (5) by inserting “a written statement of” before  
24 “all” in subsection (a)(3)(B);

25 (6) by inserting “a statement of” before “any”  
26 in subsection (a)(3)(C);

1           (7) by striking the matter in subsection (b) fol-  
2           lowing “BOXER.—” and preceding paragraph (1)  
3           and inserting “Within 7 days after a professional  
4           boxing match of 10 rounds or more, the promoter of  
5           the match shall provide to each boxer participating  
6           in the bout or match with whom the promoter has  
7           a bout or promotional agreement a statement  
8           of—”;

9           (8) by striking “match;” in subsection (b)(1)  
10          and inserting “match, and that the promoter has  
11          paid, or agreed to pay, to any other person in con-  
12          nection with the match;” and

13          (9) by adding at the end the following:

14          “(d) REQUIRED DISCLOSURES BY BROADCASTERS.—

15                 “(1) IN GENERAL.—A broadcaster that owns  
16                 the television broadcast rights for a professional box-  
17                 ing match of 10 rounds or more shall, within 7 days  
18                 after that match, provide to the Commission—

19                         “(A) a statement of any advance, guar-  
20                         antee, or license fee paid or owed by the broad-  
21                         caster to a promoter in connection with that  
22                         match;

23                         “(B) a copy of any contract executed by or  
24                         on behalf of the broadcaster with—

1                   “(i) a boxer who participated in that  
2                   match; or

3                   “(ii) the boxer’s manager, promoter,  
4                   promotional company, or other representa-  
5                   tive or the owner or representative of the  
6                   site of the match; and

7                   “(C) a list identifying sources of income  
8                   received from the broadcast of the match.

9                   “(2) COPY TO BOXING COMMISSION.—Upon re-  
10                  quest from the boxing commission in the State or  
11                  Indian land responsible for regulating a match to  
12                  which paragraph (1) applies, a broadcaster shall  
13                  provide the information described in paragraph (1)  
14                  to that boxing commission.

15                  “(3) CONFIDENTIALITY.—The information pro-  
16                  vided to the Commission or to a boxing commission  
17                  pursuant to this subsection shall be confidential and  
18                  not revealed by the Commission or a boxing commis-  
19                  sion, except that the Commission may publish an  
20                  analysis of the data in aggregate form or in a man-  
21                  ner which does not disclose confidential information  
22                  about identifiable broadcasters.

23                  “(4) TELEVISION BROADCAST RIGHTS.—In  
24                  paragraph (1), the term ‘television broadcast rights’  
25                  means the right to broadcast the match, or any part

1       thereof, via a broadcast station, cable service, or  
2       multichannel video programming distributor as such  
3       terms are defined in section 3(5), 602(6), and  
4       602(13) of the Communications Act of 1934 (47  
5       U.S.C. 153(5), 602(6), and 602(13), respectively).”.

6       **SEC. 715. JUDGES AND REFEREES.**

7       (a) IN GENERAL.—Section 16 (15 U.S.C. 6307h) is  
8       amended—

9               (1) by inserting “(a) LICENSING AND ASSIGN-  
10       MENT REQUIREMENT.—” before “No person”;

11              (2) by striking “certified and approved” and in-  
12       serting “selected”;

13              (3) by inserting “or Indian lands” after  
14       “State”; and

15              (4) by adding at the end the following:

16       “(b) CHAMPIONSHIP AND 10-ROUND BOUTS.—In ad-  
17       dition to the requirements of subsection (a), no person  
18       may arrange, promote, organize, produce, or fight in a  
19       professional boxing match advertised to the public as a  
20       championship match or in a professional boxing match  
21       scheduled for 10 rounds or more unless all referees and  
22       judges participating in the match have been licensed by  
23       the Commission.

24       “(c) ROLE OF SANCTIONING ORGANIZATION.—A  
25       sanctioning organization may provide a list of judges and

1 referees deemed qualified by that organization to a boxing  
2 commission, but the boxing commission shall select, li-  
3 cense, and appoint the judges and referees participating  
4 in the match.

5       “(d) ASSIGNMENT OF NONRESIDENT JUDGES AND  
6 REFEREES.—A boxing commission may assign judges and  
7 referees who reside outside that commission’s State or In-  
8 dian land.

9       “(e) REQUIRED DISCLOSURE.—A judge or referee  
10 shall provide to the boxing commission responsible for reg-  
11 ulating a professional boxing match in a State or on In-  
12 dian land a statement of all consideration, including reim-  
13 bursement for expenses, that the judge or referee has re-  
14 ceived, or will receive, from any source for participation  
15 in the match. If the match is scheduled for 10 rounds or  
16 more, the judge or referee shall also provide such a state-  
17 ment to the Commission.”.

18       (b) CONFORMING AMENDMENT.—Section 14 (15  
19 U.S.C. 6307f) is repealed.

20 **SEC. 716. MEDICAL REGISTRY.**

21       The Act is amended by inserting after section 13 (15  
22 U.S.C. 6307e) the following:

23 **“SEC. 14. MEDICAL REGISTRY.**

24       “(a) IN GENERAL.—The Commission shall establish  
25 and maintain, or certify a third party entity to establish

1 and maintain, a medical registry that contains comprehen-  
2 sive medical records and medical denials or suspensions  
3 for every licensed boxer.

4 “(b) CONTENT; SUBMISSION.—The Commission shall  
5 determine—

6 “(1) the nature of medical records and medical  
7 suspensions of a boxer that are to be forwarded to  
8 the medical registry; and

9 “(2) the time within which the medical records  
10 and medical suspensions are to be submitted to the  
11 medical registry.

12 “(c) CONFIDENTIALITY.—The Commission shall es-  
13 tablish confidentiality standards for the disclosure of per-  
14 sonally identifiable information to boxing commissions  
15 that will—

16 “(1) protect the health and safety of boxers by  
17 making relevant information available to the boxing  
18 commissions for use but not public disclosure; and

19 “(2) ensure that the privacy of the boxers is  
20 protected.”.

21 **SEC. 717. CONFLICTS OF INTEREST.**

22 Section 17 (15 U.S.C. 6308) is amended—

23 (1) by striking “enforces State boxing laws,” in  
24 subsection (a) and inserting “implements State or

1 tribal boxing laws, no officer or employee of the  
2 Commission,”;

3 (2) by striking “belong to,” and inserting “hold  
4 office in,” in subsection (a);

5 (3) by striking the last sentence of subsection  
6 (a);

7 (4) by striking subsection (b) and inserting the  
8 following:

9 “(b) BOXERS.—A boxer may not own or control, di-  
10 rectly or indirectly, an entity that promotes the boxer’s  
11 bouts if that entity is responsible for—

12 “(1) executing a bout agreement or promotional  
13 agreement with the boxer’s opponent; or

14 “(2) providing any payment or other compensa-  
15 tion to—

16 “(A) the boxer’s opponent for participation  
17 in a bout with the boxer;

18 “(B) the boxing commission that will regu-  
19 late the bout; or

20 “(C) ring officials who officiate at the  
21 bout.”.

22 **SEC. 718. ENFORCEMENT.**

23 Section 18 (15 U.S.C. 6309) is amended—

1           (1) by striking “(a) INJUNCTIONS.—” in sub-  
2           section (a) and inserting “(a) ACTIONS BY ATTOR-  
3           NEY GENERAL.—”;

4           (2) by striking “enforces State boxing laws,” in  
5           subsection (b)(3) and inserting “implements State or  
6           tribal boxing laws, any officer or employee of the  
7           Commission,”;

8           (3) by inserting “has engaged in or” after “or-  
9           ganization” in subsection (c);

10          (4) by striking “subsection (b)” in subsection  
11          (c)(3) and inserting “subsection (b), a civil penalty,  
12          or”; and

13          (5) by striking “boxer” in subsection (d) and  
14          inserting “person”.

15 **SEC. 719. REPEAL OF DEADWOOD.**

16          Section 20 (15 U.S.C. 6311) is repealed.

17 **SEC. 720. RECOGNITION OF TRIBAL LAW.**

18          Section 22 (15 U.S.C. 6313) is amended—

19          (1) by insert “**OR TRIBAL**” in the section  
20          heading after “**STATE**”; and

21          (2) by inserting “or Indian tribe” after  
22          “State”.

1 **SEC. 721. ESTABLISHMENT OF UNITED STATES BOXING**  
 2 **COMMISSION.**

3 (a) IN GENERAL.—The Act is amended by adding at  
 4 the end the following:

5 **“TITLE II—UNITED STATES**  
 6 **BOXING COMMISSION**

7 **“SEC. 201. PURPOSE.**

8 “The purpose of this title is to protect the health,  
 9 safety, and welfare of boxers and to ensure fairness in the  
 10 sport of professional boxing.

11 **“SEC. 202. UNITED STATES BOXING COMMISSION.**

12 “(a) IN GENERAL.—The United States Boxing Com-  
 13 mission is established as a commission within the Depart-  
 14 ment of Commerce.

15 “(b) MEMBERS.—

16 “(1) IN GENERAL.—The Commission shall con-  
 17 sist of 3 members appointed by the President, by  
 18 and with the advice and consent of the Senate.

19 “(2) QUALIFICATIONS.—

20 “(A) IN GENERAL.—Each member of the  
 21 Commission shall be a citizen of the United  
 22 States who—

23 “(i) has extensive experience in pro-  
 24 fessional boxing activities or in a field di-  
 25 rectly related to professional sports;

1           “(ii) is of outstanding character and  
2           recognized integrity; and

3           “(iii) is selected on the basis of train-  
4           ing, experience, and qualifications and  
5           without regard to political party affiliation.

6           “(B) SPECIFIC QUALIFICATIONS FOR CER-  
7           TAIN MEMBERS.—At least 1 member of the  
8           Commission shall be a former member of a local  
9           boxing authority. If practicable, at least 1 mem-  
10          ber of the Commission shall be a physician or  
11          other health care professional duly licensed as  
12          such.

13          “(C) DISINTERESTED PERSONS.—No  
14          member of the Commission may, while serving  
15          as a member of the Commission—

16                 “(i) be engaged as a professional  
17                 boxer, boxing promoter, agent, fight man-  
18                 ager, matchmaker, referee, judge, or in any  
19                 other capacity in the conduct of the busi-  
20                 ness of professional boxing;

21                 “(ii) have any pecuniary interest in  
22                 the earnings of any boxer or the proceeds  
23                 or outcome of any boxing match; or

24                 “(iii) serve as a member of a boxing  
25                 commission.

1           “(3) BIPARTISAN MEMBERSHIP.—Not more  
2 than 2 members of the Commission may be members  
3 of the same political party.

4           “(4) GEOGRAPHIC BALANCE.—Not more than 2  
5 members of the Commission may be residents of the  
6 same geographic region of the United States when  
7 appointed to the Commission. For purposes of the  
8 preceding sentence, the area of the United States  
9 east of the Mississippi River is a geographic region,  
10 and the area of the United States west of the Mis-  
11 sissippi River is a geographic region.

12           “(5) TERMS.—

13           “(A) IN GENERAL.—The term of a mem-  
14 ber of the Commission shall be 3 years.

15           “(B) REAPPOINTMENT.—Members of the  
16 Commission may be reappointed to the Com-  
17 mission.

18           “(C) MIDTERM VACANCIES.—A member of  
19 the Commission appointed to fill a vacancy in  
20 the Commission occurring before the expiration  
21 of the term for which the member’s predecessor  
22 was appointed shall be appointed for the re-  
23 mainder of that unexpired term.

24           “(D) CONTINUATION PENDING REPLACE-  
25 MENT.—A member of the Commission may

1           serve after the expiration of that member's  
2           term until a successor has taken office.

3           “(6) REMOVAL.—A member of the Commission  
4           may be removed by the President only for cause.

5           “(c) EXECUTIVE DIRECTOR.—

6           “(1) IN GENERAL.—The Commission shall em-  
7           ploy an Executive Director to perform the adminis-  
8           trative functions of the Commission under this Act,  
9           and such other functions and duties of the Commis-  
10          sion as the Commission shall specify.

11          “(2) DISCHARGE OF FUNCTIONS.—Subject to  
12          the authority, direction, and control of the Commis-  
13          sion the Executive Director shall carry out the func-  
14          tions and duties of the Commission under this Act.

15          “(d) GENERAL COUNSEL.—The Commission shall  
16          employ a General Counsel to provide legal counsel and ad-  
17          vice to the Executive Director and the Commission in the  
18          performance of its functions under this Act, and to carry  
19          out such other functions and duties as the Commission  
20          shall specify.

21          “(e) STAFF.—The Commission shall employ such ad-  
22          ditional staff as the Commission considers appropriate to  
23          assist the Executive Director and the General Counsel in  
24          carrying out the functions and duties of the Commission  
25          under this Act.

1 “(f) COMPENSATION.—

2 “(1) MEMBERS OF COMMISSION.—

3 “(A) IN GENERAL.—Each member of the  
4 Commission shall be compensated at a rate  
5 equal to the daily equivalent of the annual rate  
6 of basic pay prescribed for level IV of the Exec-  
7utive Schedule under section 5315 of title 5,  
8 United States Code, for each day (including  
9 travel time) during which such member is en-  
10gaged in the performance of the duties of the  
11 Commission.

12 “(B) TRAVEL EXPENSES.—The members  
13 of the Commission shall be allowed travel ex-  
14penses, including per diem in lieu of subsist-  
15ence, at rates authorized for employees of agen-  
16cies under subchapter I of chapter 57 of title 5,  
17 United States Code, while away from their  
18 homes or regular places of business in the per-  
19formance of services for the Commission.

20 “(2) EXECUTIVE DIRECTOR AND STAFF.—The  
21 Commission shall fix the compensation of the Execu-  
22tive Director, the General Counsel, and other per-  
23sonnel of the Commission. The rate of pay for the  
24 Executive Director, the General Counsel, and other  
25 personnel may not exceed the rate payable for level

1 V of the Executive Schedule under section 5316 of  
2 title 5, United States Code.

3 **“SEC. 203. FUNCTIONS.**

4 “(a) PRIMARY FUNCTIONS.—The primary functions  
5 of the Commission are—

6 “(1) to protect the health, safety, and general  
7 interests of boxers consistent with the provisions of  
8 this Act; and

9 “(2) to ensure uniformity, fairness, and integ-  
10 rity in professional boxing.

11 “(b) SPECIFIC FUNCTIONS.—The Commission  
12 shall—

13 “(1) administer title I of this Act;

14 “(2) promulgate uniform standards for profes-  
15 sional boxing in consultation with the Association of  
16 Boxing Commissions;

17 “(3) except as otherwise determined by the  
18 Commission, oversee all professional boxing matches  
19 in the United States;

20 “(4) work with the boxing commissions of the  
21 several States and tribal organizations—

22 “(A) to improve the safety, integrity, and  
23 professionalism of professional boxing in the  
24 United States;

1           “(B) to enhance physical, medical, finan-  
2           cial, and other safeguards established for the  
3           protection of professional boxers; and

4           “(C) to improve the status and standards  
5           of professional boxing in the United States;

6           “(5) ensure, in cooperation with the Attorney  
7           General (who shall represent the Commission in any  
8           judicial proceeding under this Act), the chief law en-  
9           forcement officer of the several States, and other ap-  
10          propriate officers and agencies of Federal, State,  
11          and local government, that Federal and State laws  
12          applicable to professional boxing matches in the  
13          United States are vigorously, effectively, and fairly  
14          enforced;

15          “(6) review boxing commission regulations for  
16          professional boxing and provide assistance to such  
17          authorities in meeting minimum standards pre-  
18          scribed by the Commission under this title;

19          “(7) serve as the coordinating body for all ef-  
20          forts in the United States to establish and maintain  
21          uniform minimum health and safety standards for  
22          professional boxing;

23          “(8) if the Commission determines it to be ap-  
24          propriate, publish a newspaper, magazine, or other

1 publication and establish and maintain a website  
2 consistent with the purposes of the Commission;

3 “(9) procure the temporary and intermittent  
4 services of experts and consultants to the extent au-  
5 thorized by section 3109(b) of title 5, United States  
6 Code, at rates the Commission determines to be rea-  
7 sonable; and

8 “(10) promulgate rules, regulations, and guid-  
9 ance, and take any other action necessary and prop-  
10 er to accomplish the purposes of, and consistent  
11 with, the provisions of this title.

12 “(c) PROHIBITIONS.—The Commission may not—

13 “(1) promote boxing events or rank professional  
14 boxers; or

15 “(2) provide technical assistance to, or author-  
16 ize the use of the name of the Commission by, box-  
17 ing commissions that do not comply with require-  
18 ments of the Commission.

19 “(d) USE OF NAME.—The Commission shall have the  
20 exclusive right to use the name ‘United States Boxing  
21 Commission’. Any person who, without the permission of  
22 the Commission, uses that name or any other exclusive  
23 name, trademark, emblem, symbol, or insignia of the Com-  
24 mission for the purpose of inducing the sale or exchange  
25 of any goods or services, or to promote any exhibition, per-

1 formance, or sporting event, shall be subject to suit in a  
 2 civil action by the Commission for the remedies provided  
 3 in the Act of July 5, 1946 (commonly known as the  
 4 ‘Trademark Act of 1946’; 15 U.S.C. 1051 et seq.).

5 **“SEC. 204. LICENSING AND REGISTRATION OF BOXING PER-**  
 6 **SONNEL.**

7 “(a) LICENSING.—

8 “(1) REQUIREMENT FOR LICENSE.—No person  
 9 may compete in a professional boxing match or serve  
 10 as a boxing manager, boxing promoter, or sanc-  
 11 tioning organization for a professional boxing match  
 12 except as provided in a license granted to that per-  
 13 son under this subsection.

14 “(2) APPLICATION AND TERM.—

15 “(A) IN GENERAL.—The Commission  
 16 shall—

17 “(i) establish application procedures,  
 18 forms, and fees;

19 “(ii) establish and publish appropriate  
 20 standards for licenses granted under this  
 21 section; and

22 “(iii) issue a license to any person  
 23 who, as determined by the Commission,  
 24 meets the standards established by the  
 25 Commission under this title.

1           “(B) DURATION.—A license issued under  
2 this section shall be for a renewable—

3                   “(i) 4-year term for a boxer; and

4                   “(ii) 2-year term for any other person.

5           “(C) PROCEDURE.—The Commission may  
6 issue a license under this paragraph through  
7 boxing commissions or in a manner determined  
8 by the Commission.

9           “(b) LICENSING FEES.—

10                   “(1) AUTHORITY.—The Commission may pre-  
11 scribe and charge reasonable fees for the licensing of  
12 persons under this title. The Commission may set,  
13 charge, and adjust varying fees on the basis of clas-  
14 sifications of persons, functions, and events deter-  
15 mined appropriate by the Commission.

16                   “(2) LIMITATIONS.—In setting and charging  
17 fees under paragraph (1), the Commission shall en-  
18 sure that, to the maximum extent practicable—

19                           “(A) club boxing is not adversely effected;

20                           “(B) sanctioning organizations and pro-  
21 moters pay comparatively the largest portion of  
22 the fees; and

23                           “(C) boxers pay as small a portion of the  
24 fees as is possible.

1           “(3) COLLECTION.—Fees established under this  
2           subsection may be collected through boxing commis-  
3           sions or by any other means determined appropriate  
4           by the Commission.

5   **“SEC. 205. NATIONAL REGISTRY OF BOXING PERSONNEL.**

6           “(a) REQUIREMENT FOR REGISTRY.—The Commis-  
7           sion shall establish and maintain (or authorize a third  
8           party to establish and maintain) a unified national com-  
9           puterized registry for the collection, storage, and retrieval  
10          of information related to the performance of its duties.

11          “(b) CONTENTS.—The information in the registry  
12          shall include the following:

13                 “(1) BOXERS.—A list of professional boxers  
14                 and data in the medical registry established under  
15                 section 114 of this Act, which the Commission shall  
16                 secure from disclosure in accordance with the con-  
17                 fidentiality requirements of section 114(c).

18                 “(2) OTHER PERSONNEL.—Information (perti-  
19                 nent to the sport of professional boxing) on boxing  
20                 promoters, boxing matchmakers, boxing managers,  
21                 trainers, cut men, referees, boxing judges, physi-  
22                 cians, and any other personnel determined by the  
23                 Commission as performing a professional activity for  
24                 professional boxing matches.

1 **“SEC. 206. CONSULTATION REQUIREMENTS.**

2 “The Commission shall consult with the Association  
3 of Boxing Commissions—

4 “(1) before prescribing any regulation or estab-  
5 lishing any standard under the provisions of this  
6 title; and

7 “(2) not less than once each year regarding  
8 matters relating to professional boxing.

9 **“SEC. 207. MISCONDUCT.**

10 “(a) **SUSPENSION AND REVOCATION OF LICENSE OR**  
11 **REGISTRATION.—**

12 “(1) **AUTHORITY.—**The Commission may, after  
13 notice and opportunity for a hearing, suspend or re-  
14 voke any license issued under this title if the Com-  
15 mission finds that—

16 “(A) the license holder has violated any  
17 provision of this Act;

18 “(B) there are reasonable grounds for be-  
19 lief that a standard prescribed by the Commis-  
20 sion under this title is not being met, or that  
21 bribery, collusion, intentional losing, racket-  
22 eering, extortion, or the use of unlawful threats,  
23 coercion, or intimidation have occurred in con-  
24 nection with a license; or

1           “(C) the suspension or revocation is nec-  
2           essary for the protection of health and safety or  
3           is otherwise in the public interest.

4           “(2) PERIOD OF SUSPENSION.—

5           “(A) IN GENERAL.—A suspension of a li-  
6           cense under this section shall be effective for a  
7           period determined appropriate by the Commis-  
8           sion except as provided in subparagraph (B).

9           “(B) SUSPENSION FOR MEDICAL REA-  
10          SONS.—In the case of a suspension or denial of  
11          the license of a boxer for medical reasons by the  
12          Commission, the Commission may terminate  
13          the suspension or denial at any time that a phy-  
14          sician certifies that the boxer is fit to partici-  
15          pate in a professional boxing match. The Com-  
16          mission shall prescribe the standards and proce-  
17          dures for accepting certifications under this  
18          subparagraph.

19          “(3) PERIOD OF REVOCATION.—In the case of  
20          a revocation of the license of a boxer, the revocation  
21          shall be for a period of not less than 1 year.

22          “(b) INVESTIGATIONS AND INJUNCTIONS.—

23                 “(1) AUTHORITY.—The Commission may—

24                         “(A) conduct any investigation that it con-  
25                         siders necessary to determine whether any per-

1 son has violated, or is about to violate, any pro-  
2 vision of this Act or any regulation prescribed  
3 under this Act;

4 “(B) require or permit any person to file  
5 with it a statement in writing, under oath or  
6 otherwise as the Commission shall determine,  
7 as to all the facts and circumstances concerning  
8 the matter to be investigated;

9 “(C) in its discretion, publish information  
10 concerning any violations; and

11 “(D) investigate any facts, conditions,  
12 practices, or matters to aid in the enforcement  
13 of the provisions of this Act, in the prescribing  
14 of regulations under this Act, or in securing in-  
15 formation to serve as a basis for recommending  
16 legislation concerning the matters to which this  
17 Act relates.

18 “(2) POWERS.—

19 “(A) IN GENERAL.—For the purpose of  
20 any investigation under paragraph (1) or any  
21 other proceeding under this title—

22 “(i) any officer designated by the  
23 Commission may administer oaths and af-  
24 firmations, subpoena or otherwise compel  
25 the attendance of witnesses, take evidence,

1           and require the production of any books,  
2           papers, correspondence, memoranda, or  
3           other records the Commission considers  
4           relevant or material to the inquiry; and

5                   “(ii) the provisions of sections 6002  
6           and 6004 of title 18, United States Code,  
7           shall apply.

8                   “(B) WITNESSES AND EVIDENCE.—The  
9           attendance of witnesses and the production of  
10          any documents under subparagraph (A) may be  
11          required from any place in the United States,  
12          including Indian land, at any designated place  
13          of hearing.

14                   “(3) ENFORCEMENT OF SUBPOENAS.—

15                   “(A) CIVIL ACTION.—In case of contumacy  
16          by, or refusal to obey a subpoena issued to, any  
17          person, the Commission may file an action in  
18          any district court of the United States within  
19          the jurisdiction of which an investigation or  
20          proceeding is carried out, or where that person  
21          resides or carries on business, to enforce the at-  
22          tendance and testimony of witnesses and the  
23          production of books, papers, correspondence,  
24          memorandums, and other records. The court  
25          may issue an order requiring the person to ap-

1           pear before the Commission to produce records,  
2           if so ordered, or to give testimony concerning  
3           the matter under investigation or in question.

4           “(B) FAILURE TO OBEY.—Any failure to  
5           obey an order issued by a court under subpara-  
6           graph (A) may be punished as contempt of that  
7           court.

8           “(C) PROCESS.—All process in any con-  
9           tempt case under subparagraph (A) may be  
10          served in the judicial district in which the per-  
11          son is an inhabitant or in which the person may  
12          be found.

13          “(4) EVIDENCE OF CRIMINAL MISCONDUCT.—

14          “(A) IN GENERAL.—No person may be ex-  
15          cused from attending and testifying or from  
16          producing books, papers, contracts, agreements,  
17          and other records and documents before the  
18          Commission, in obedience to the subpoena of  
19          the Commission, or in any cause or proceeding  
20          instituted by the Commission, on the ground  
21          that the testimony or evidence, documentary or  
22          otherwise, required of that person may tend to  
23          incriminate the person or subject the person to  
24          a penalty or forfeiture.

1           “(B) LIMITED IMMUNITY.—No individual  
2           may be prosecuted or subject to any penalty or  
3           forfeiture for, or on account of, any transaction,  
4           matter, or thing concerning the matter about  
5           which that individual is compelled, after having  
6           claimed a privilege against self-incrimination, to  
7           testify or produce evidence, documentary or  
8           otherwise, except that the individual so testi-  
9           fying shall not be exempt from prosecution and  
10          punishment for perjury committed in so testi-  
11          fying.

12          “(5) INJUNCTIVE RELIEF.—If the Commission  
13          determines that any person is engaged or about to  
14          engage in any act or practice that constitutes a vio-  
15          lation of any provision of this Act, or of any regula-  
16          tion prescribed under this Act, the Commission may  
17          bring an action in the appropriate district court of  
18          the United States, the United States District Court  
19          for the District of Columbia, or the United States  
20          courts of any territory or other place subject to the  
21          jurisdiction of the United States, to enjoin the act  
22          or practice, and upon a proper showing, the court  
23          shall grant without bond a permanent or temporary  
24          injunction or restraining order.

1           “(6) MANDAMUS.—Upon application of the  
2 Commission, the district courts of the United States,  
3 the United States District Court for the District of  
4 Columbia, and the United States courts of any terri-  
5 tory or other place subject to the jurisdiction of the  
6 United States, shall have jurisdiction to issue writs  
7 of mandamus commanding any person to comply  
8 with the provisions of this Act or any order of the  
9 Commission.

10           “(c) INTERVENTION IN CIVIL ACTIONS.—

11           “(1) IN GENERAL.—The Commission, on behalf  
12 of the public interest, may intervene of right as pro-  
13 vided under rule 24(a) of the Federal Rules of Civil  
14 Procedure in any civil action relating to professional  
15 boxing filed in a district court of the United States.

16           “(2) AMICUS FILING.—The Commission may  
17 file a brief in any action filed in a court of the  
18 United States on behalf of the public interest in any  
19 case relating to professional boxing.

20           “(d) HEARINGS BY COMMISSION.—Hearings con-  
21 ducted by the Commission under this Act shall be public  
22 and may be held before any officer of the Commission.  
23 The Commission shall keep appropriate records of the  
24 hearings.

1 **“SEC. 208. NONINTERFERENCE WITH BOXING COMMIS-**  
2 **SIONS.**

3 “(a) NONINTERFERENCE.—Nothing in this Act pro-  
4 hibits any boxing commission from exercising any of its  
5 powers, duties, or functions with respect to the regulation  
6 or supervision of professional boxing or professional box-  
7 ing matches to the extent not inconsistent with the provi-  
8 sions of this Act.

9 “(b) MINIMUM STANDARDS.—Nothing in this Act  
10 prohibits any boxing commission from enforcing local  
11 standards or requirements that exceed the minimum  
12 standards or requirements promulgated by the Commis-  
13 sion under this Act.

14 **“SEC. 209. ASSISTANCE FROM OTHER AGENCIES.**

15 “Any employee of any executive department, agency,  
16 bureau, board, commission, office, independent establish-  
17 ment, or instrumentality may be detailed to the Commis-  
18 sion, upon the request of the Commission, on a reimburs-  
19 able or nonreimbursable basis, with the consent of the ap-  
20 propriate authority having jurisdiction over the employee.  
21 While so detailed, an employee shall continue to receive  
22 the compensation provided pursuant to law for the employ-  
23 ee’s regular position of employment and shall retain, with-  
24 out interruption, the rights and privileges of that employ-  
25 ment.

1 **“SEC. 210. REPORTS.**

2 “(a) ANNUAL REPORT.—The Commission shall sub-  
3 mit a report on its activities to the Senate Committee on  
4 Commerce, Science, and Transportation and the House of  
5 Representatives Committee on Commerce each year. The  
6 annual report shall include—

7 “(1) a detailed discussion of the activities of the  
8 Commission for the year covered by the report; and

9 “(2) an overview of the licensing and enforce-  
10 ment activities of the State and tribal organization  
11 boxing commissions.

12 “(b) PUBLIC REPORT.—The Commission shall annu-  
13 ally issue and publicize a report of the Commission on the  
14 progress made at Federal and State levels and on Indian  
15 lands in the reform of professional boxing, which shall in-  
16 clude comments on issues of continuing concern to the  
17 Commission.

18 “(c) FIRST ANNUAL REPORT ON THE COMMIS-  
19 SION.—The first annual report under this title shall be  
20 submitted not later than 2 years after the effective date  
21 of this title.

22 **“SEC. 211. INITIAL IMPLEMENTATION.**

23 “(a) TEMPORARY EXEMPTION.—The requirements  
24 for licensing under this title do not apply to a person for  
25 the performance of an activity as a boxer, boxing judge,  
26 or referee, or the performance of any other professional

1 activity in relation to a professional boxing match, if the  
 2 person is licensed by a boxing commission to perform that  
 3 activity as of the effective date of this title.

4 “(b) EXPIRATION.—The exemption under subsection  
 5 (a) with respect to a license issued by a boxing commission  
 6 expires on the earlier of—

7 “(A) the date on which the license expires;

8 or

9 “(B) the date that is 2 years after the date  
 10 of the enactment of the Professional Boxing  
 11 Amendments Act of 2004.

12 **“SEC. 212. AUTHORIZATION OF APPROPRIATIONS.**

13 “(a) IN GENERAL.—There are authorized to be ap-  
 14 propriated for the Commission for each fiscal year such  
 15 sums as may be necessary for the Commission to perform  
 16 its functions for that fiscal year.

17 “(b) RECEIPTS CREDITED AS OFFSETTING COLLEC-  
 18 TIONS.—Notwithstanding section 3302 of title 31, United  
 19 States Code, any fee collected under this title—

20 “(1) shall be credited as offsetting collections to  
 21 the account that finances the activities and services  
 22 for which the fee is imposed;

23 “(2) shall be available for expenditure only to  
 24 pay the costs of activities and services for which the  
 25 fee is imposed; and

1 “(3) shall remain available until expended.”.

2 (b) CONFORMING AMENDMENTS.—

3 (1) PBSA.—The Professional Boxing Safety  
4 Act of 1996, as amended by this Act, is further  
5 amended—

6 (A) by striking section 1 and inserting the  
7 following:

8 **“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

9 “(a) SHORT TITLE.—This Act may be cited as the  
10 ‘Professional Boxing Safety Act’.

11 “(b) TABLE OF CONTENTS.—The table of contents  
12 for this Act is as follows:

“Section 1. Short title; table of contents.

“Sec. 2. Definitions.

“TITLE I—PROFESSIONAL BOXING SAFETY

“Sec. 101. Purposes.

“Sec. 102. Approval or sanction requirement.

“Sec. 103. Safety standards.

“Sec. 104. Registration.

“Sec. 105. Review.

“Sec. 106. Reporting.

“Sec. 107. Contract requirements.

“Sec. 108. Protection from coercive contracts.

“Sec. 109. Sanctioning organizations.

“Sec. 110. Required disclosures to State boxing commissions by sanctioning or-  
ganizations.

“Sec. 111. Required disclosures by promoters and broadcasters.

“Sec. 112. Medical registry.

“Sec. 113. Confidentiality.

“Sec. 114. Judges and referees.

“Sec. 115. Conflicts of interest.

“Sec. 116. Enforcement.

“Sec. 117. Professional boxing matches conducted on Indian lands.

“Sec. 118. Relationship with State or Tribal law.

“TITLE II—UNITED STATES BOXING COMMISSION

“Sec. 201. Purpose.

“Sec. 202. United States Boxing Commission.

“Sec. 203. Functions.

“Sec. 204. Licensing and registration of boxing personnel.

“Sec. 205. National registry of boxing personnel.

“Sec. 206. Consultation requirements.

“Sec. 207. Misconduct.

“Sec. 208. Noninterference with boxing commissions

“Sec. 209. Assistance from other agencies.

“Sec. 210. Reports.

“Sec. 211. Initial implementation.

“Sec. 212. Authorization of appropriations.”;

1 (B) by inserting before section 3 the fol-  
2 lowing:

3 **“TITLE I—PROFESSIONAL**  
4 **BOXING SAFETY”;**

5 (C) by redesignating sections 3, 4, 5, 6, 7,  
6 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, and  
7 22 as sections 101 through 118, respectively;

8 (D) by striking subsection (a) of section  
9 113, as redesignated, and inserting the fol-  
10 lowing:

11 “(a) IN GENERAL.—Except to the extent required in  
12 a legal, administrative, or judicial proceeding, a boxing  
13 commission, an Attorney General, or the Commission may  
14 not disclose to the public any matter furnished by a pro-  
15 moter under section 111.”;

16 (E) by striking “section 13” in subsection  
17 (b) of section 113, as redesignated, and insert-  
18 ing “section 111”;

19 (F) by striking “9(b), 10, 11, 12, 13, 14,  
20 or 16,” in paragraph (1) of section 116(b), as

1 redesignated, and inserting “107, 108, 109,  
2 110, 111, or 114,”;

3 (G) by striking “9(b), 10, 11, 12, 13, 14,  
4 or 16” in paragraph (2) of section 116(b), as  
5 redesignated, and inserting “107, 108, 109,  
6 110, 111, or 114”;

7 (H) by striking “section 17(a)” in sub-  
8 section (b)(3) of section 116, as redesignated,  
9 and inserting “section 115(a)”;

10 (I) by striking “section 10” in subsection  
11 (e)(3) of section 116, as redesignated, and in-  
12 serting “section 108”; and

13 (J) by striking “of this Act” each place it  
14 appears in sections 101 through 120, as redesi-  
15 gnated, and inserting “of this title”.

16 (2) COMPENSATION OF MEMBERS.—Section  
17 5315 of title 5, United States Code, is amended by  
18 adding at the end the following:

19 “Members of the United States Boxing Com-  
20 mission.”.

21 **SEC. 722. STUDY AND REPORT ON DEFINITION OF PRO-**  
22 **MOTER.**

23 (a) STUDY.—The United States Boxing Commission  
24 shall conduct a study on how the term “promoter” should

1 be defined for purposes of the Professional Boxing Safety  
2 Act.

3 (b) HEARINGS.—As part of that study, the Commis-  
4 sion shall hold hearings and solicit testimony at those  
5 hearings from boxers, managers, promoters, premium,  
6 cable, and satellite program service providers, hotels, casi-  
7 nos, resorts, and other commercial establishments that  
8 host or sponsor professional boxing matches, and other in-  
9 terested parties with respect to the definition of that term  
10 as it is used in the Professional Boxing Safety Act.

11 (c) REPORT.—Not later than 12 months after the  
12 date of the enactment of this Act, the Commission shall  
13 submit to the Committee on Commerce, Science, and  
14 Transportation of the Senate and the Committee on En-  
15 ergy and Commerce of the House of Representatives a re-  
16 port on the study conducted under subsection (a). The re-  
17 port shall—

18 (1) set forth a proposed definition of the term  
19 “promoter” for purposes of the Professional Boxing  
20 Safety Act; and

21 (2) describe the findings, conclusions, and ra-  
22 tionale of the Commission for the proposed defini-  
23 tion, together with any recommendations of the  
24 Commission, based on the study.

1 **SEC. 723. EFFECTIVE DATE.**

2 (a) IN GENERAL.—Except as provided in subsection  
3 (b), the amendments made by this title shall take effect  
4 on the date of enactment of this Act.

5 (b) 1-YEAR DELAY FOR CERTAIN TITLE II PROVI-  
6 SIONS.—Sections 205 through 212 of the Professional  
7 Boxing Safety Act of 1996, as added by section 721(a)  
8 of this title, shall take effect 1 year after the date of enact-  
9 ment of this Act.

Passed the Senate November 20, 2004.

Attest:

*Secretary.*



108TH CONGRESS  
2D SESSION

**S. 3021**

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**AN ACT**

To provide for the protection of intellectual  
property rights and for other purposes.