

116TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend title 18, United States Code, to prohibit illicit digital transmission services.

---

IN THE SENATE OF THE UNITED STATES

Mr. TILLIS (for himself, Mr. LEAHY, Mrs. BLACKBURN, Ms. HIRONO, Ms. CORTEZ MASTO, Mr. CORNYN, Mr. BLUMENTHAL, Mr. COONS, Mrs. LOEFFLER, and Mr. PERDUE) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

---

**A BILL**

To amend title 18, United States Code, to prohibit illicit digital transmission services.

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 “Protecting Lawful  
5 Streaming Act of 2020”.

6 **SEC. 2. ILLICIT DIGITAL TRANSMISSION SERVICES.**

7 (a) AMENDMENT.—Chapter 113 of title 18, United  
8 States Code, is amended by inserting after section 2319B  
9 the following:

1 **“§ 2319C. Illicit digital transmission services**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the terms ‘audiovisual work’, ‘computer  
4 program’, ‘copies’, ‘copyright owner’, ‘digital trans-  
5 mission’, ‘financial gain’, ‘motion picture’, ‘motion  
6 picture exhibition facility’, ‘perform’, ‘phonorecords’,  
7 ‘to perform a work “publicly”’, ‘sound recording’,  
8 and ‘transmit’ have the meanings given those terms  
9 in section 101 of title 17;

10 “(2) the term ‘digital transmission service’  
11 means a service that has the primary purpose of  
12 publicly performing works by digital transmission;

13 “(3) the terms ‘publicly perform’ and ‘public  
14 performance’ refer to the exclusive rights of a copy-  
15 right owner under paragraphs (4) and (6) of section  
16 106 (relating to exclusive rights in copyrighted  
17 works) of title 17, as limited by sections 107  
18 through 122 of title 17; and

19 “(4) the term ‘work being prepared for com-  
20 mercial public performance’ means—

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

1                   “(i) the copyright owner has a reason-  
2                   able expectation of commercial public per-  
3                   formance; and

4                   “(ii) the copies or phonorecords of the  
5                   work have not been commercially publicly  
6                   performed in the United States by or with  
7                   the authorization of the copyright owner;  
8                   or

9                   “(B) a motion picture, if, at the time of  
10                  unauthorized public performance, the motion  
11                  picture—

12                   “(i)(I) has been made available for  
13                   viewing in a motion picture exhibition facil-  
14                   ity; and

15                   “(II) has not been made available in  
16                   copies for sale to the general public in the  
17                   United States by or with the authorization  
18                   of the copyright owner in a format in-  
19                   tended to permit viewing outside a motion  
20                   picture exhibition facility; or

21                   “(ii) had not been commercially pub-  
22                   licly performed in the United States by or  
23                   with the authorization of the copyright  
24                   owner more than 24 hours before the un-  
25                   authorized public performance.

1           “(b) PROHIBITED ACT.—It shall be unlawful to will-  
2 fully, and for purposes of commercial advantage or private  
3 financial gain, offer or provide to the public a digital  
4 transmission service that—

5           “(1) is primarily designed or provided for the  
6 purpose of publicly performing works protected  
7 under title 17 by means of a digital transmission  
8 without the authority of the copyright owner or the  
9 law;

10           “(2) has no commercially significant purpose or  
11 use other than to publicly perform works protected  
12 under title 17 by means of a digital transmission  
13 without the authority of the copyright owner or the  
14 law; or

15           “(3) is intentionally marketed by or at the di-  
16 rection of that person to promote its use in publicly  
17 performing works protected under title 17 by means  
18 of a digital transmission without the authority of the  
19 copyright owner or the law.

20           “(c) PENALTIES.—Any person who violates sub-  
21 section (b) shall be, in addition to any penalties provided  
22 for under title 17 or any other law—

23           “(1) fined under this title, imprisoned not more  
24 than 3 years, or both;

1           “(2) shall be fined under this title, imprisoned  
2           not more than 5 years, or both, if the offense was  
3           committed in connection with 1 or more works being  
4           prepared for commercial public performance, if the  
5           person knew or should have known that the work  
6           was being prepared for commercial public perform-  
7           ance; and

8           “(3) shall be fined under this title, imprisoned  
9           not more than 10 years, or both, if the offense is a  
10          second or subsequent offense under this section or  
11          section 2319(a).

12          “(d) RULE OF CONSTRUCTION.—Nothing in this sec-  
13          tion shall be construed to—

14                 “(1) affect the interpretation of any other pro-  
15                 vision of civil copyright law, including the limitations  
16                 of liability set forth in section 512 of title 17, or  
17                 principles of secondary liability; or

18                 “(2) prevent any Federal or State authority  
19                 from enforcing cable theft.”.

20          (b) TABLE OF SECTIONS AMENDMENT.—The table of  
21          section for chapter 113 of title 18, United States Code,  
22          is amended by inserting after the item relating to section  
23          2319B the following:

“2319C. Illicit digital transmission services.”.