

Chapter 11¹

Sound Recordings and Music Videos

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§ 1101 · Unauthorized fixation and trafficking in sound recordings and music videos

(a) **UNAUTHORIZED ACTS.**— Anyone who, without the consent of the performer or performers involved—

(1) fixes the sounds or sounds and images of a live musical performance in a copy or phonorecord, or reproduces copies or phonorecords of such a performance from an unauthorized fixation,

(2) transmits or otherwise communicates to the public the sounds or sounds and images of a live musical performance, or

(3) distributes or offers to distribute, sells or offers to sell, rents or offers to rent, or traffics in any copy or phonorecord fixed as described in paragraph (1), regardless of whether the fixations occurred in the United States, shall be subject to the remedies provided in sections 502 through 505, to the same extent as an infringer of copyright.

(b) **DEFINITION.**— In this section, the term “traffic” has the same meaning as in section 2320(e) of title 18.²

(c) **APPLICABILITY.**— This section shall apply to any act or acts that occur on or after the date of the enactment of the Uruguay Round Agreements Act.

(d) **STATE LAW NOT PREEMPTED.**— Nothing in this section may be construed to annul or limit any rights or remedies under the common law or statutes of any State.

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1. In 1994, the Uruguay Round Agreements Act added chapter 11, entitled “Sound Recordings and Music Videos,” to Title 17. Pub. L. No. 103-465, 108 Stat. 4809, 4974.

2. The Protecting American Goods and Services Act of 2005 amended the definition of “traffic” in section 1101(b) of Title 17 to incorporate by reference the definition of traffic in subsection 2320(e)(2) of title 18. Pub. L. No. 109-181, 120 Stat. 285, 288. But the definition is no longer contained in subsection 2320(e)(2) of Title 18 because the National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, 125 Stat. 1298, 1499, moved it to subsection 2320(f)(5) of Title 18 which states: “the term ‘traffic’ means to transport, transfer, or otherwise dispose of, to another, for purposes of commercial advantage or private financial gain, or to make, import, export, obtain control of, or possess, with intent to so transport, transfer, or otherwise dispose of.” The definition in section 2320(f)(5) is the same as it was in section 2320(e)(2).