

So despite its flaws, this benefit may provide relief to some seniors. That is why I have been holding town halls in my district to provide information to hundreds of seniors about this benefit since sign-up began. That is how I know first-hand that even months later that the plethora of plans is confusing and the various components of the benefit are still not clear to many.

I am convinced that there is a better way. That is why I am a cosponsor of the Medicare Prescription Drug Savings and Choices Act, H.R. 752 introduced by Representative BERRY and H.R. 5263, recently introduced by Representative DONNA CHRISTENSEN. These bills would extend the enrollment period and provide immediate fixes to the Medicare Part D benefit.

However, the will to make these changes for the benefit of our seniors by the Republican leaders in the House and Administration does not exist.

Given this fact, while the federal legislation that authorized these plans is far from perfect, until a more comprehensive and more affordable prescription drug plan becomes available, I urge seniors to research your options.

Seniors who do not already have prescription drug coverage should consider enrolling in a Medicare Part D plan of their choice before the May 15, 2006 deadline.

Seniors who already have prescription drug coverage should check with their existing plan and consider whether a change in insurance is in their best interest before May 15, 2006.

The May 15 deadline is less than one week away.

There could be serious consequences for seniors if you delay, resulting in an unfair 7 percent lifetime premium penalty.

The consequences of not making a choice are dire, so I urge seniors to make a choice before May 15, 2006 about Medicare Part D.

Mr. Speaker, our Nation's seniors deserve comprehensive and affordable prescription drug coverage through the Medicare benefit.

Making this a reality should be our goal for the future. In the meantime, let's extend the deadline and fix the flaws of the Medicare Part D program for our seniors. They deserve no less.

SECURITY AND ACCOUNTABILITY FOR EVERY PORT ACT

SPEECH OF

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 2006

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4954) to improve maritime and cargo security through enhanced layered defenses, and for other purposes:

Ms. ROYBAL-ALLARD. Madam Chairman, while I would have preferred a more proactive and comprehensive plan such as that proposed by the Democratic "Real Security Agenda", I rise today in support of H.R. 4954, the Security and Accountability For Every (SAFE) Port Act because it is a step in the right direction.

As a member of the Homeland Security Appropriations subcommittee, I am well aware of

the vulnerabilities of our nation's ports. In fact, the 9/11 Commission report concluded that terrorists have the "opportunity to do harm as great or greater in maritime and surface transportation" than the September 11 terrorist attacks.

Our nation's seaports handle over 95 percent of our foreign trade, more than \$1 trillion annually. The ports of Los Angeles/Long Beach near my district form the largest container port complex in the nation. These ports processed more than 35,000 cargo containers a day in 2005, and accounted for some 40 percent of all container traffic nationwide.

Given the volume of our shipping trade, a terrorist attack against the ports of Los Angeles/Long Beach, or any major commercial seaport for that matter, would freeze commercial shipping business, close all seaports for an indefinite time, and have a devastating impact on our national economy. This is not a wild estimate or an exaggeration for effect. We have only to look at the work stoppage at the LA/Long Beach ports in 2002 that directly impacted businesses across the country and cost the national economy approximately \$1 billion a day.

When approved, the SAFE Port Act will make progress toward protecting the physical infrastructure of our seaports as well as our national economy which is so clearly dependent on the commercial shipping business.

I believe the following three provisions in the bill are particularly important.

First, the bill requires the development of plans to address supply chain security and the resumption of trade in the aftermath of a terrorist attack. Securing the supply chain against cargo-tampering is critical to decreasing the likelihood that weapons of mass destruction make it aboard ships bound for the United States. Ensuring that our ports can resume trade operations as soon as possible following any terrorist will mitigate the economic cost of any such attack.

Second, the bill also mandates that Transportation Worker Identification Cards to be issued to port workers. Standardizing identification cards will better enable us to determine who should have access to sensitive areas at our ports and it will make it more difficult to counterfeit the ID cards.

Lastly, the bill more than doubles present funding for the successful port security grant program to \$400 million At the current rate of funding, securing the physical infrastructure of our ports would take decades to complete.

Despite these and other important provisions, I continue to be disappointed that the rule for this bill did not allow consideration of amendments by my Democratic colleagues that would have further enhanced the protection of our ports and our economy.

For example, the Thompson Amendment would have added 1600 new Customs and Border Protection officers at our Nation's ports. Having adequate staff to inspect incoming cargo is a basic first step toward securing incoming cargo.

Additionally, the Langevin Amendment would have accelerated the installation of radiation detection monitors at our seaports. This is important because inspection of every incoming cargo container isn't realistic given the volume of trade. We are foolish not to maximize and expedite the full use of technology to scan containers for radiation that may reveal weapons of mass destruction.

Lastly, Democrats sought to mandate 100 percent screening overseas, of cargo containers bound for U.S. seaports to protect the homeland from hidden shipments of weapons of mass destruction.

Democratic proposals were common sense improvements to the bill and would have better prepared us for the increased security concerns facing our country. The House should not have been denied the opportunity to openly debate these important issues.

The additional inspection officers, scanning equipment, and mandated cargo screening that these amendments proposed are not inexpensive plans and would have required significant investments. However, we cannot afford to not make these necessary investments and risk a far greater cost in terms of our economy and loss of American lives.

Madam Chairman, port security is national security. This bill is a good step in the right direction toward securing our ports, our economy, and our Nation. However, I hope the conference committee will improve the bill further by addressing the issues of customs inspection officers, radiation detection monitors, and cargo screening that the Democrats proposed.

THE PLATFORM EQUALITY AND REMEDIES FOR RIGHTS HOLD- ERS IN MUSIC ACT OF 2006

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. BERMAN. Mr. Speaker, today I join my colleague MARY BONO in introducing "The Platform Equality and Remedies for Rights Holders in Music Act of 2006" (Perform Act) which we hope will be the first step in addressing the convergence of digital radio and distribution technology. This bill mirrors the PERFORM ACT introduced by my colleagues two weeks ago in the Senate. The purpose of the PERFORM ACT is to address current inequities in the Section 114 compulsory license of the Copyright Act.

One of America's greatest treasures is its intellectual property. In cities and towns across the nation and in countries around the world, American music is heard throughout the streets. People are consuming more music than ever. Yet the music industry is in crisis. The total value for the music industry at retail declined from \$14.5 billion in 1999 to \$12.1 billion in 2004. In March 2005 alone, 243 million songs were downloaded from illicit peer-to-peer services (NPD Musicwatch).

Our Founding Fathers recognized that in order for America to be at the forefront of creativity they must support and incentivize musicians to pursue their art by providing necessary protection to these original works to produce a return on investment in those works.

In that vein, in 1995 Congress took a step forward and established a limited performance right for digital sound recordings. However, while with one hand Congress granted a right to creators when their music is performed digitally, with the other hand it took away by requiring that this new limited right be subject to a government compulsory license for radio-like services. Therefore, as we continue with

this debate we must remember that copyright owners cannot negotiate a fair market price for their works in the marketplace for digital radio, and cannot withhold access to their works as leverage in the marketplace to negotiate for necessary content protection on digital radio.

Cable, satellite, and Internet radio services are granted a compulsory license to broadcast (perform) music as long as they pay the statutorily defined fee (or another negotiated rate) and abide by the terms and conditions of the government license.

We are fortunate that with the evolution of new technologies there are many legal music distribution services currently available. Cable, Internet and satellite platform providers all compete to provide consumers their choice of music, anytime, in any place, in any format. While I am encouraged by the many options, I am concerned that certain features of the new devices turn radio, or performance services, into distribution services. This increased functionality may cause the unintended consequence of bypassing the typical marketplace distribution channels by allowing the consumer to turn broadcasts into downloads. This utility enables consumers to create an unlicensed music library without paying the artist.

However, just as consumers have certain expectations when it comes to radio usage, copyright owners have a reasonable expectation to be compensated for both the performance right (where a copy is listened to but not kept by the consumer such as a broadcast or concert) and the copying of their works into a library (such as a download or reproduction). This bill seeks the appropriate balance between promoting the creativity of music and fostering the innovation of technology.

Some say the legislation is unnecessary because they assert that current business models are technically legal. While I myself refrain from statutory interpretation, the question for Congress now is how to formulate the right policy to ensure that creators receive adequate compensation for their work and that fair rules apply evenly across all platforms of music that deliver similar services to consumers. Some say this legislation is lacking because it does not provide parity across all broadcasting platforms. While I believe there should be a full performance right for all digital transmissions, across all broadcasting platforms, the bill provides a step in the right direction.

We hope that with introduction of this companion bill in the House to the PERFORM Act in the Senate, Congress will act quickly to level the playing field between technologies and ensure rightful compensation to artists.

In order to level the playing field for those technologies currently covered by Section 114, this bill establishes parity in the rules and regulations covering service platforms (satellite, webcasters, cable) by ensuring that satellite, webcasters, and cable operators are required to operate under the same rate standard and content protection rules. Under the bill, the performance license will only be available for behavior that constitutes a performance, and will require a radio service that wants to engage in a distribution business model to get a distribution license in the free marketplace like its competitors.

For services coupled with new and proposed devices that permit subscribers to search for and keep permanent copies of songs included in the broadcaster's program-

ming without ever listening to the program and where subscribers simply scroll through a list of songs and pick those they want to keep without ever buying the song or paying additional subscription fees a service will not be able to take advantage of the 114 license unless they get a necessary distribution license in the marketplace.

The ability to enable automatic, organized copying and storage of individual songs that replace the sale of downloads or subscriptions by competitive distribution services such as Napster, Rhapsody, and iTunes should not be allowed without similar rules and compensation requirements. If listeners are able to instantly make a free copy of the song they are listening to, they will have little reason to purchase it. The use of a performance license should not be a shield against providing the requisite payment for the reproduction or distribution.

Section 1 provides parity in the rate standard for the technologies currently covered under the section 114 license. All licenses under section 112 and 114 will have their rates set under the same standard, a fair market value standard, that would more closely replicate aggregate deals in the marketplace. Fair Market Value is a standard that is used hundreds of times in the laws of the United States and is one that replicates to the closest extent possible to free marketplace. Currently, the rate for satellite and cable music services are set under factors contained in Section 801(b) of the Copyright Act. The rate for Internet services is a "willing buyer, willing seller" standard that approximates what a particular willing buyer would pay a particular willing seller in the marketplace. The bill sets the standard at "fair market value" to provide broad-based market-influenced compensation to creators across all platforms.

Section 2 provides that the technologies which broadcast sound recordings provide adequate protection to the content. These provisions ensure that all licensees under section 114 have similar content protection requirements, which respond to marketplace developments but include recording for legitimate time shifting purposes.

The bill also requires that licensees use reasonably available technology to prevent copying of the transmission to prevent against third party "stream-ripping"—the use of tools created by third parties that captures the stream, and then disaggregates the songs for storage in a manner that substitutes for a sale. However, any content protection system must allow for reasonable recording. Most notably the bill allows for all manual consumer recording to the extent such recording is consistent with fair use under Section 107 of the Copyright Act.

Section 3 provides a placeholder for the Copyright Office to convene a meeting with interested stakeholders to discuss creation of a category of new interactive services. Currently, one of the most contested issues in the license is the definition of interactivity. The question is "how much consumer influence is allowed before the experience has transitioned from a purely listening service to an interactive service?". The definition of interactivity itself impacts whether one can take advantage of the compulsory license, and the share of the royalty to the artists, musicians and other vocalists. I am hopeful that the Copyright Office will be able to provide some guidance and recommendations for Congress.

Finally, while not included in the bill, I do believe at some point soon, Congress needs to take another look at the Audio Home Recording Act. I don't believe that the royalties provided by the AHRA were ever intended to substitute for the marketplace licenses afforded end-to-end transmission and distribution services. The AHRA was intended to protect music creators from serial copying using off-the-shelf consumer electronics devices, not to enable transmission services to transform themselves into distribution services that provide an unlicensed download that substitutes for record sales. The time has come to re-evaluate the act in light of new technologies and changing business models.

I do not want to suggest that this bill is a "perfect" solution. Thus, I remain open to suggestions for amending the language to improve its efficacy or rectify any unintended consequences.

This bill attempts to strike a balance between providing adequate protection to our musicians and continuing to support new innovative technologies. My goal is to preserve the legitimate marketplace by reserving downloading capability for those services that appropriately pay for it. I hope the parties can work together to reach further consensus on how to achieve parity between technologies and provide rightful compensation to our artists.

OPENING OF THE MOTHER HALE LEARNING CENTER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 2006

Mr. RANGEL. Mr. Speaker, I rise today to recognize the significance of the Mother Hale Learning Center by entering into the record an article from the New York CaribNews that celebrates the official opening of the MHLC in Harlem, New York.

Clara Hale, best known as "Mother Hale," was a prominent philanthropist, social activist and child care worker who founded Hale House in New York City and created a sanctuary for drug-addicted and AIDS-infected infants and their mothers.

As a foster care parent in 1940, Mother Hale provided a home to over 40 children of all ethnic and religious backgrounds over the next 25 years. As problems associated with drug abuse exploded in Harlem, Mother Hale expanded her home for infants addicted before birth. It was the first—and only known program—in the U.S. designed to deal with infants born addicted to illegal drugs.

Clara Hale was a rare individual who devoted her life to caring for over 800 unwanted children. She left her loving imprint on the lives of thousands. When Mother Hale passed away in December, 1992, her daughter, Lorraine Hale carried on her mother's mission.

The Mother Hale Learning Center is an expansion of the work Hale House does through its residential programs. It also allows for affordable childcare to the Harlem community.

This dedication of the Mother Hale Learning Center, as detailed in the attached article, is recognized as the perfect present to honor the legacy of Mother Clara Hale.

Mr. Speaker: I congratulate everyone associated with this notable community resource