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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protecting Lawful Streaming Act of 2020”.

SEC. 2. ILLICIT DIGITAL TRANSMISSION SERVICES.

(a) AMENDMENT.—Chapter 113 of title 18, United States Code, is amended by inserting after section 2319B the following:
§2319C. Illicit digital transmission services

“(a) DEFINITIONS.—In this section—


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

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

“(4) the term ‘work being prepared for commercial public performance’ means—

“(A) a computer program, a musical work, a motion picture or other audiovisual work, or a sound recording, if, at the time of unauthorized public performance—
“(i) the copyright owner has a reason-
able expectation of commercial public per-
formance; and

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

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

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

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

“(ii) had not been commercially pub-
licly performed in the United States by or
with the authorization of the copyright
owner more than 24 hours before the un-
authorized public performance.
“(b) Prohibited Act.—It shall be unlawful to willfully, and for purposes of commercial advantage or private financial gain, offer or provide to the public a digital transmission service that—

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

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

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

“(c) Penalties.—Any person who violates subsection (b) shall be, in addition to any penalties provided for under title 17 or any other law—

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

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

“(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

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

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

(b) TABLE OF SECTIONS AMENDMENT.—The table of section for chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section

2319B the following:

“2319C. Illicit digital transmission services.”.