

## S 2603

Junk Fax Prevention Act of 2004

**Congress:** 108 (2003–2005, Ended)

**Chamber:** Senate

**Policy Area:** Science, Technology, Communications

**Introduced:** Jun 24, 2004

**Current Status:** Passed Senate with an amendment by Unanimous Consent.

**Latest Action:** Passed Senate with an amendment by Unanimous Consent. (Dec 8, 2004)

**Official Text:** <https://www.congress.gov/bill/108th-congress/senate-bill/2603>

### Sponsor

**Name:** Sen. Smith, Gordon H. [R-OR]

**Party:** Republican • **State:** OR • **Chamber:** Senate

### Cosponsors (14 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Allen, George [R-VA]	R · VA		Jun 24, 2004
Sen. Hollings, Ernest F. [D-SC]	D · SC		Jun 24, 2004
Sen. Sununu, John E. [R-NH]	R · NH		Jun 24, 2004
Sen. Breaux, John B. [D-LA]	D · LA		Jun 25, 2004
Sen. Lautenberg, Frank R. [D-NJ]	D · NJ		Jul 12, 2004
Sen. Burns, Conrad R. [R-MT]	R · MT		Jul 13, 2004
Sen. Nelson, Bill [D-FL]	D · FL		Jul 13, 2004
Sen. Bunning, Jim [R-KY]	R · KY		Jul 14, 2004
Sen. Snowe, Olympia J. [R-ME]	R · ME		Jul 14, 2004
Sen. Craig, Larry E. [R-ID]	R · ID		Jul 19, 2004
Sen. Dorgan, Byron L. [D-ND]	D · ND		Jul 19, 2004
Sen. Lott, Trent [R-MS]	R · MS		Jul 21, 2004
Sen. Stevens, Ted [R-AK]	R · AK		Jul 21, 2004
Sen. Carper, Thomas R. [D-DE]	D · DE		Sep 20, 2004

### Committee Activity

Committee	Chamber	Activity	Date
Commerce, Science, and Transportation Committee	Senate	Reported By	Sep 28, 2004

### Subjects & Policy Tags

#### Policy Area:

Science, Technology, Communications

## Related Bills

Bill	Relationship	Last Action
108 HR 4600	Related bill	<b>Jul 23, 2004:</b> Read twice and referred to the Committee on Commerce, Science, and Transportation.

**Title I: Junk Faxes - Junk Fax Prevention Act of 2004 - (Sec. 102)** Amends the Communications Act of 1934 to prohibit a person from using any telephone facsimile (fax) machine, computer, or other device to send, to another fax machine, an unsolicited advertisement unless the unsolicited advertisement: (1) is from a sender with an established business relationship with the recipient, and the fax number used was obtained through voluntary communication; and (2) contains a notice allowing a recipient to opt-out from any further advertisements. Adds to the information required in opt-out notices, including that: (1) such notice be clear and conspicuous and appear on the first page of the advertisement; (2) a sender's failure to comply with an opt-out request is unlawful; (3) the notice include a domestic contact telephone and fax number for the recipient to transmit an opt-out request; and (4) the opt-out request is cost-free to the recipient. Authorizes the Federal Communications Commission (FCC) to: (1) allow professional or trade associations that are tax-exempt nonprofit organizations to send unsolicited advertisements to members; and (2) limit the duration of an established business relationship exception.

(Sec. 103) Requires an annual report from the FCC to Congress regarding junk fax enforcement during the preceding year.

(Sec. 104) Directs the Comptroller General to: (1) conduct a study of junk fax enforcement; and (2) report study results to specified congressional committees.

**Title II: Professional Boxing Safety - Professional Boxing Amendments Act of 2004 - (Sec. 202)** Amends the Professional Boxing Safety Act of 1996 to: (1) authorize a tribal organization to establish a boxing commission to regulate professional boxing matches held on Indian land; and (2) make its provisions applicable to professional boxing matches held on tribal lands to the same extent and in the same way as they apply to matches held in any State. Requires health and safety standards and licensing requirements for matches to be at least as restrictive as: (1) standards and requirements in the State in which the Indian land is located; or (2) the guidelines established by the United States Boxing Commission (USBC) (established in this title).

(Sec. 205) Prohibits any person from arranging, promoting, organizing, producing, or fighting in a match within the United States unless the match is: (1) approved by the USBC; and (2) held in a State or on tribal land that regulates professional boxing matches in accordance with standards and criteria established by the USBC.

(Sec. 206) Repeals provisions allowing the use of alternative requirements for the protection of the health and safety of boxers during matches. Requires: (1) pre-fight boxer physical examinations to include testing for infectious diseases; and (2) continuous on-site presence during any match of an ambulance and emergency medical personnel with resuscitation equipment.

(Sec. 207) Provides for boxing registration with the appropriate boxing commission of an Indian tribe.

Requires (current law urges) a boxing commission to make a health and safety disclosure to a boxer when issuing an identification card. Requires a copy of each boxer registration and each identification card to be furnished to the USBC.

(Sec. 208) Requires each boxing commission to establish procedures for review of a summary suspension when a hearing is requested which provides an opportunity for a person to present evidence. Repeals procedures for allowing a boxer under suspension in a State to participate in a match outside that State.

(Sec. 210) Requires the USBC (currently Association of Boxing Commissioners) to develop guidelines for boxing

contracting requirements and for rating professional boxers. Provides for notification of a change in rating.

(Sec. 213) Requires the sanctioning organization for a match and its promoter to provide disclosures of charges, fees, and contractual agreements within seven days of a match of ten rounds or more.

(Sec. 214) Requires statements of bout fees and charges to be written. Requires broadcasters broadcasting a match of ten rounds or more to provide the USBC with: (1) a statement of any advance, guarantee, or license fee paid to a promoter in connection with the match; (2) a copy of any relevant executed contracts concerning such match; and (3) a list of sources of income received from the broadcast of the match. Requires: (1) an affected boxing commission, upon request, to be furnished copies of all such information; and (2) the protection of the confidentiality of all broadcaster information provided.

(Sec. 215) Prohibits a promoter from arranging a championship match or a match scheduled for ten rounds or more unless all participating judges and referees have been licensed by the USBC. Allows a sanctioning organization to provide a list of judges and referees deemed qualified, but requires the boxing commission to select, license, and appoint the participating judges and referees. Authorizes the assignment of nonresident judges and referees. Requires all participating judges and referees to disclose all consideration received for participation.

(Sec. 216) Directs the USBC to establish and maintain a registry of comprehensive medical records and medical denials or suspensions for every licensed boxer.

(Sec. 217) Applies conflict-of-interest provisions to USBC officers and employees and boxers, and requirements for enforcement of this title.

(Sec. 219) Repeals requirements for certain studies concerning boxer pensions and health and safety issues.

(Sec. 221) Establishes the USBC as a commission within the Department of Commerce to protect the health, safety, and general interests of boxers and to ensure uniformity, fairness, and integrity in professional boxing. Provides for the licensing and registration of boxing personnel, including managers, promoters, and sanctioning organizations. Requires the USBC to establish and maintain a national computerized registry of such personnel. Authorizes the USBC to suspend or revoke boxer licenses or registrations for violating or failing to meet standards of the Professional Boxing Safety Act of 1996 or when necessary to protect health, safety, or the public interest. Requires annual USBC reports to specified congressional committees on its activities. Requires such reports to include an overview of licensing and enforcement activities of State and tribal organization boxing commissions. Authorizes appropriations.

Renames the Professional Boxing Safety Act of 1996 as the Professional Boxing Safety Act.

(Sec. 222) Requires the USBC to study and report to specified congressional committees on how the term "promoter" should be defined for purposes of the renamed Act.

**Title III: Artists' Rights and Theft Prevention - Artists' Rights and Theft Prevention Act of 2004 or ART Act - (Sec. 302)**  
Amends the Federal criminal code to prohibit the use of an audiovisual recording device to transmit or copy a protected audiovisual work from a performance in a motion picture exhibition facility without the authorization of the copyright owner. Requires a court, upon a conviction, to order the forfeiture and destruction of unauthorized copies and of equipment used in such an offense. Permits a facility owner, motion picture licensor, or employee thereof to detain any person suspected of violating such prohibition for purposes of questioning or summoning a law enforcement officer. Grants such parties immunity from liability for such detention. Requires that victims be permitted to submit for inclusion in

the presentence report a victim impact statement identifying the injuries and losses suffered.

(Sec. 303) Establishes criminal penalties for willful copyright infringement by the distribution of a computer program, musical work, motion picture or other audiovisual work, or sound recording being prepared for commercial distribution by making it available on a computer network accessible to members of the public, if the person knew or should have known that the work was intended for commercial distribution.

(Sec. 304) Directs the Register of Copyrights to issue regulations to establish procedures for preregistration of a work that is being prepared for commercial distribution and has not been published. Requires such regulations to permit preregistration for any work that is in a class of works that the Register determines has had a history of infringement prior to authorized commercial distribution. Requires the applicant to submit, within three months after the work's first publication, an application for registration, a deposit, and the applicable fee. Directs that an application for infringement be dismissed, and prohibits any award of statutory damages or attorney fees, for a preregistered work if those items are not submitted to the Copyright Office in proper form within the earlier of: (1) three months after the work's first publication; or (2) one month after the copyright owner has learned of the infringement.

(Sec. 305) Directs the U.S. Sentencing Commission to review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of intellectual property rights offenses, including trafficking in counterfeit labels for phonorecords and copies of motion pictures and unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances. Directs such Commission to: (1) take measures to ensure that the guidelines and policy statements are sufficiently stringent to deter, and adequately reflect the nature of, intellectual property crimes; (2) determine whether to provide a sentencing enhancement for those convicted of the listed offenses if the conduct involves the display, performance, publication, reproduction, or distribution of a copyrighted work before it has been authorized; (3) determine whether the scope of "uploading" set forth in the sentencing guidelines is adequate to address the loss attributable to people who broadly distribute copyrighted works over the Internet without authorization; and (4) determine whether the sentencing guidelines and policy statements adequately reflect any harm to victims from copyright infringement if law enforcement authorities cannot determine how many times copyrighted material has been reproduced or distributed.

**Title IV: Exemption from Infringement for Skipping Audio and Video Content In Motion Pictures - Family Movie Act of 2004 - (Sec. 402)** Amends Federal copyright law to create an exemption from copyright infringement for: (1) the making imperceptible, by or at the direction of a private household, of limited portions of audio or video content of a motion picture during a performance in or transmitted to that household for private home viewing from an authorized copy of the motion picture; or (2) the creation or provision of technology that enables such editing, is designed and marketed for such use, creates no fixed copy of the altered version, and makes no changes, deletions or additions to commercial advertisements or promotional announcements that would otherwise be performed or displayed.

Amends the Trademark Act of 1946 to protect from liability for trademark infringement: (1) persons who engage in the above-referenced conduct; and (2) manufacturers of technology that enables such editing if notice is provided that the performance of the movie is altered from the director's or copyright holder's intended performance.

**Title V: National Film Preservation - Subtitle A: Reauthorization of the National Film Preservation Board - National Film Preservation Act of 2004 - (Sec. 502)** Amends the National Film Preservation Act of 1996 to expand the use of the National Film Registry seal, which indicates that a film has been included in the Registry and is the Registry version of the film, for use on other approved copies of the Registry version of the film. Allows only the copyright owner or an authorized licensee of the copyright owner to place the seal on any film or other approved copy of the Registry version of

a film selected for inclusion in the National Film Registry in the case of mass distributed, broadcast, or published works.

Directs the Librarian of Congress, in consultation with the National Film Registry Board, to: (1) carry out activities to make films included in the National Film Registry more broadly accessible for research and educational purposes and to generate public awareness and support of the Registry and the comprehensive national film preservation program; (2) review the comprehensive national film preservation plan, and amend it to ensure that it addresses technological advances in preserving, storing, and accessing film collections in multiple formats; and (3) whenever possible, undertake expanded initiatives to ensure the preservation of the moving image heritage of the United States by supporting the work of the National Audio-Visual Conservation Center of the Library of Congress at Culpeper Virginia, and other appropriate nonprofit archival and preservation organizations.

Increases the number of members on the National Film Preservation Board, the maximum number of members-at-large that the Librarian may appoint, and the number of members required for a quorum.

Directs the Librarian to utilize the National Audiovisual Conservation Center to ensure that preserved films included in the Registry are stored in a proper manner, and disseminated to researchers, scholars, and the public as may be appropriate in accordance with U.S. copyright law and the terms of any agreements between the Librarian and persons who hold copyrights to such audiovisual works.

Extends the prohibition on the unapproved use of the National Film Registry seal to any format of such a film.

Reauthorizes provisions regarding film preservation for four additional years.

**Subtitle B: Reauthorization of the National Film Preservation Foundation** - National Film Preservation Foundation Reauthorization Act of 2004 - (Sec. 612) Amends Federal law to remove the limit on the number of terms that a director on the National Film Preservation Foundation may serve.

Allows the Foundation's board of directors to determine the location of its principal office.

Authorizes appropriations to the Library of Congress for the Foundation.

**Title VII: Preservation of Orphan Works** - Preservation of Orphan Works Act - (Sec. 702) Provides that the limitation on rights of reproduction and distribution of copyrighted works does not apply to the authority of libraries or archives, during the last 20 years of any term of copyright of a published work to reproduce, distribute, display, or perform in facsimile or digital form a copy or phonorecord of such work for purposes of preservation, scholarship, or research when certain conditions apply.

**Title VIII: Anticounterfeiting Provisions and Fraudulent Online Identity Sanctions - Subtitle A: Anticounterfeiting Provisions** - Anticounterfeiting Act of 2004 - (Sec. 802) Rewrites Federal criminal code provisions regarding trafficking in counterfeit labels. Prohibits knowingly trafficking in: (1) a counterfeit label affixed to, enclosing, or accompanying (currently, affixed to) a phonorecord, a copy of a computer program, a copy of a motion picture or other audiovisual work, or documentation or packaging; or (2) counterfeit documentation or packaging. Expands the definition of "counterfeit label" to include a genuine label that is: (1) distributed for a product for which it was not intended, without authorization of the copyright owner; or (2) altered to falsify the number of authorized copies, the authorized user, or the edition of the program.

Authorizes the court, when a person is convicted of violating this Act, to order the forfeiture and destruction or other disposition of any equipment, device, or material used to manufacture, reproduce, or assemble the counterfeit labels.

Authorizes a copyright owner who is injured, or threatened with injury, by a violation of this Act to bring a civil action in U.S. district court. Authorizes the court: (1) to grant one or more temporary or permanent injunctions to prevent or restrain violations of this Act; (2) to order the impounding of any article in the alleged violator's custody or control that the court has reasonable cause to believe was involved in a violation; and (3) to award to the injured party reasonable attorney fees and costs, actual damages, and any additional profits of the violator or statutory damages, as specified. Sets forth provisions regarding subsequent violations and limitation on actions.

**Subtitle B: Fraudulent Online Identity Sanctions** - Fraudulent Online Identity Sanctions Act - (Sec. 812) Amends the Trademark Act of 1946 and Federal copyright law to make it a violation of trademark and copyright law if a person knowingly provided, or caused to be provided, materially false contact information in making, maintaining, or renewing the registration of a domain name used in connection with the violation.

(Sec. 814) Amends the Federal criminal code to require the maximum imprisonment otherwise provided for a felony offense to be doubled or increased by seven years, whichever is less, if the defendant knowingly falsely registers a domain name and uses that domain name in the course of the felony offense. Directs the U.S. Sentencing Commission to review and amend sentencing guidelines with respect to a conviction for the false registration and use of a domain name during the course of a felony offense.

**Title IX: Cooperative Research and Technology Enhancement** - Cooperative Research and Technology Enhancement (CREATE) Act of 2004 - (Sec. 902) Amends Federal patent law to provide that patentability is not precluded on the basis of obviousness where subject matter which qualifies as prior art is developed by a person different from the person claiming the invention if: (1) the claimed invention was made by or on behalf of parties to a joint research agreement that was in effect on or before the date the claimed invention was made; (2) the claimed invention was made as a result of activities undertaken within the scope of the agreement; and (3) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the agreement. Defines "joint research agreement" to mean a written contract, grant, or cooperative agreement entered into by two or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.

## Actions Timeline

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- **Dec 8, 2004:** Measure laid before Senate by unanimous consent. (consideration: CR S12020)
- **Dec 8, 2004:** Passed/agreed to in Senate: Passed Senate with an amendment by Unanimous Consent.
- **Dec 8, 2004:** Passed Senate with an amendment by Unanimous Consent.
- **Sep 28, 2004:** Committee on Commerce, Science, and Transportation. Reported by Senator McCain without amendment. With written report No. 108-381. Additional views filed.
- **Jul 22, 2004:** Committee on Commerce, Science, and Transportation. Ordered to be reported without amendment favorably.
- **Jun 24, 2004:** Introduced in Senate
- **Jun 24, 2004:** Sponsor introductory remarks on measure. (CR 6/25/2004 S7481)
- **Jun 24, 2004:** Read twice and referred to the Committee on Commerce, Science, and Transportation. (text of measure as introduced: CR 6/25/2004 S7481-7483)

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