



MOTION PICTURE ASSOCIATION

HB 1407 Memorandum Seeking Amendments February 28, 2025

The Motion Picture Association, Inc. (“MPA”) respectfully requests amendments to HB 1407 (the “Bill”) as identified herein.¹

The Bill closely tracks the language of the NO FAKES legislation introduced in Congress last year (S. 4875), which the MPA endorsed. However, as written, the Bill provides a right of action for conduct occurring outside the State of Maryland and could be invoked by individuals who are not (and have never been) domiciled in Maryland. In modifying NO FAKES for state law, the MPA believes it is critical that the scope of the Bill be tailored to conduct specific to the state. Such limitations avoid creating conflicting rights and obligations with laws in other states, including as other states enact their own versions of NO FAKES, which may differ and which may impose their own state registration requirements (as the Bill does).

Other states have such limitations in their rights of publicity statutes. For instance, in New York’s recently-enacted post-mortem right of publicity law, a “deceased performer” is defined as a person who was “*domiciled in this state at the time of death,*” and the law applies to “*acts occurring directly in this state.*” N.Y. Civil Rights Law § 50–F. California has similar limitations. See Calif. Civ. Code § 3344.1(n) (“*This section shall apply to the adjudication of liability . . . from acts occurring directly in this state.*”).

Accordingly, the MPA proposes two amendments to HB 1407, which will tailor the Bill to individuals who are domiciled in the State of Maryland and to conduct that occurs within the state.

Proposed Amendment 1: The MPA proposes amending the definition of “individual” in Section 11-1701(C) to the following:

“INDIVIDUAL” MEANS A LIVING HUMAN DOMICILED IN THIS STATE OR A DECEASED HUMAN BEING DOMICILED IN THIS STATE AT THE TIME OF HIS OR HER DEATH.

Proposed Amendment 2: The MPA additionally proposes amending Section 11-1705(A) to the following:

¹ The MPA is a not-for-profit trade association founded in 1922 to address issues of concern to the motion picture industry. Since that time, MPA has advanced the business and art of storytelling, protecting the creative and artistic freedoms of storytellers, and bringing entertainment and inspiration to audiences worldwide. The MPA’s member companies are: Netflix Studios, LLC; Paramount Pictures Corporation; Prime Amazon MGM Studios; Sony Pictures Entertainment Inc.; Universal City Studios LLC; Walt Disney Studios Motion Pictures; and Warner Bros. Entertainment, Inc. In addition, several of the MPA’s members have as corporate affiliates major news organizations (including ABC, NBC, and CBS News, and CNN) and dozens of owned-and-operated local television stations with broadcast news operations.

(A) A PERSON SHALL BE LIABLE IN AN ACTION BROUGHT UNDER § 11-1707 OF THIS SUBTITLE IF THE PERSON:

- (1) PRODUCES A DIGITAL REPLICA IN THIS STATE WITHOUT CONSENT OF THE APPLICABLE RIGHT HOLDER, OR**
- (2) PUBLISHES, REPRODUCES, DISPLAYS, DISTRIBUTES, TRANSMITS, OR OTHERWISE MAKES AVAILABLE TO THE PUBLIC IN THIS STATE A DIGITAL REPLICA WITHOUT CONSENT OF THE APPLICABLE RIGHT HOLDER.**

The MPA welcomes the opportunity to answer questions and provide additional input on the Bill. Legislators and staff seeking further information may contact the MPA's consultants in Annapolis, Nick Manis and John Favazza, at nmanis@maniscanning.com and jfavazza@maniscanning.com.