

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 687
Corrected Copy 3/22/05
Committee Substitute Favorable 5/2/05

Short Title: Pirating Movies.

(Public)

Sponsors:

Referred to:

March 17, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE THE CRIMINAL OFFENSE OF UNLAWFUL OPERATION
3 OF AN AUDIOVISUAL RECORDING DEVICE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 14 of the General Statutes is amended by adding a
6 new Article to read:

7 "Article 58A.

8 "Audiovisual Recordings.

9 **"§ 14-440.1. Unlawful operation of an audiovisual recording device.**

10 (a) Definitions. – The following definitions apply to this section:

11 (1) "Audiovisual recording device" means a digital or analog photographic
12 or video camera, or any other technology or device now known or later
13 developed, capable of recording, copying, or transmitting a motion
14 picture, or any part thereof, regardless of whether audiovisual
15 recording is the sole or primary purpose of the device.

16 (2) "Motion picture theater" means a movie theater, screening room, or
17 other venue that is being utilized primarily for the exhibition of a
18 motion picture at the time of the offense.

19 (b) Offense. – Any person who knowingly operates or attempts to operate an
20 audiovisual recording device in a motion picture theater to transmit, record, or otherwise
21 make a copy of a motion picture, or any part thereof, without the written consent of the
22 motion picture theater owner shall be guilty of a violation of this section.

23 (c) Penalty. – A violation of this section is punishable as follows:

24 (1) Unless the conduct is covered under some other provision of law
25 providing greater punishment, any person convicted of a violation of
26 this section is guilty of:

27 a. A Class 1 misdemeanor, if the violation is a first offense under
28 this section.

1 b. A Class I felony, if the violation is a second or subsequent
2 offense under this section.

3 (2) If a person is convicted of any violation of this section, the court, in its
4 judgment of conviction, shall order the forfeiture and destruction or
5 other disposition of the following:

6 a. All unauthorized copies of motion pictures or other audiovisual
7 works, or any parts thereof.

8 b. All implements, devices, and equipment used or intended to be
9 used in connection with the offense.

10 (d) Immunity of the Real Property Owner. – The owner or lessee of a motion
11 picture theater, or the authorized agent or employee of such owner or lessee, who alerts
12 law enforcement authorities of an alleged violation of this section shall not be liable in
13 any civil action arising out of measures taken by the owner, lessee, agent, or employee
14 in the course of detaining a person that the owner, lessee, agent, or employee in good
15 faith believed to have violated this section while awaiting the arrival of law enforcement
16 authorities, unless the plaintiff can show by clear and convincing evidence that the
17 measures were manifestly unreasonable or the period of detention was unreasonably
18 long.

19 (e) Authorized Activities. – This section does not prevent any lawfully
20 authorized investigative, protective, law enforcement, or intelligence gathering
21 employee or agent of a local, State, or federal government from operating any
22 audiovisual recording device in a motion picture theater, as part of lawfully authorized
23 investigative, protective, law enforcement, or intelligence gathering activities."

24 **SECTION 2.** This act becomes effective December 1, 2005, and applies to
25 offenses committed on or after that date.