

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1094

Short Title: Increase Penalties for Audiovisual Piracy. (Public)

Sponsors: Representatives Steen, McComas, Goforth, Thomas (Primary Sponsors); Allen, Barnhart, Carney, Coates, Current, Daughtridge, Faison, Fisher, Gibson, Glazier, Johnson, Justice, McGee, Moore, Neumann, Ray, Ross, Samuelson, Stam, Stiller, Tillis, and Wray.

Referred to: Judiciary I.

March 28, 2007

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE PUNISHMENTS FOR UNLAWFUL
OPERATION OF AN AUDIOVISUAL RECORDING DEVICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-440.1 reads as rewritten:

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

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

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

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

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

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

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

a. A Class 4 ~~misdemeanor~~, I felony, if the violation is a first offense under this section-section, with a minimum fine of two thousand five hundred dollars (\$2,500).

1 b. A Class I felony, if the violation is a second or subsequent
2 offense under this ~~section~~section, with a minimum fine of five
3 thousand dollars (\$5,000).

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

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

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

11 (d) Immunity of Certain Persons. – The owner or lessee of a motion picture
12 theater, or the authorized agent or employee of the owner or lessee, who detains any
13 person shall not be held civilly liable for claims arising out of such detention, when the
14 detention is upon the premises of the motion picture theater or in a reasonable proximity
15 thereto, is in a reasonable manner for a reasonable length of time, and, if in detaining
16 the person, the owner, lessee, agent, or employee had, at the time of the detention,
17 probable cause to believe that the person committed an offense under this section. If the
18 person being detained by the owner, lessee, agent, or employee is a minor under the age
19 of 18 years, the owner, lessee, agent, or employee shall call or notify, or make a
20 reasonable effort to call or notify, the parent or guardian of the minor during the period
21 of detention. An owner, lessee, agent, or employee who makes a reasonable effort to
22 call or notify the parent or guardian of the minor shall not be held civilly liable for
23 failing to notify the parent or guardian of the minor.

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

29 **SECTION 2.** This act becomes effective December 1, 2007, and applies to
30 offenses committed on or after that date.