

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

HOUSE BILL 1094
RATIFIED BILL

AN ACT TO MODIFY 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.

(a1) Misdemeanor Offense. – Any person who knowingly operates or attempts to operate a device capable of functioning as a digital or analog photographic camera for the purpose of recording, copying, or transmitting a part of a motion picture not greater than one image, without the written consent of the motion picture theater owner shall be guilty of a Class 1 misdemeanor.

(b) Felony 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-felony, punishable as provided in subsection (c) 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 1-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).
 - b. A Class I felony, if the violation is a second or subsequent offense under this section-section, with a minimum fine of five thousand dollars (\$5,000).
- (2) If a person is convicted of any violation of this section, the court, in its judgment of conviction, shall order the forfeiture and destruction or other disposition of the following:
 - a. All unauthorized copies of motion pictures or other audiovisual works, or any parts thereof.
 - b. All implements, devices, and equipment used or intended to be used in connection with the offense.

(d) Immunity of Certain Persons. – The owner or lessee of a motion picture theater, or the authorized agent or employee of the owner or lessee, who detains any person shall not be held civilly liable for claims arising out of such detention, when the

detention is upon the premises of the motion picture theater or in a reasonable proximity thereto, is in a reasonable manner for a reasonable length of time, and, if in detaining the person, the owner, lessee, agent, or employee had, at the time of the detention, probable cause to believe that the person committed an offense under this section. If the person being detained by the owner, lessee, agent, or employee is a minor under the age of 18 years, the owner, lessee, agent, or employee shall call or notify, or make a reasonable effort to call or notify, the parent or guardian of the minor during the period of detention. An owner, lessee, agent, or employee who makes a reasonable effort to call or notify the parent or guardian of the minor shall not be held civilly liable for failing to notify the parent or guardian of the minor.

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

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

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

Beverly E. Perdue
President of the Senate

Joe Hackney
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____m. this _____ day of _____, 2007