

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
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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:

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

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

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

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

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

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

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

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