



House of Representatives

General Assembly

File No. 497

February Session, 2004

Substitute House Bill No. 5653

House of Representatives, April 6, 2004

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE UNLAWFUL USE OF A RECORDING DEVICE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2004*) (a) As used in this
2 section: (1) "Audiovisual recording function" means the capability of a
3 device to record or transmit a motion picture or any part thereof by
4 means of any technology, and (2) "motion picture theater" means a
5 movie theater, screening room or other venue that, at the time of the
6 offense, is being used primarily for the exhibition of a motion picture.

7 (b) Any person who knowingly operates an audiovisual recording
8 function of a device in a motion picture theater while a motion picture
9 is being exhibited without the consent of the owner or lessee of such
10 theater and with the intent to record such motion picture shall, for a
11 first offense, be guilty of a class A misdemeanor and, for a second
12 offense, be guilty of a class D felony.

13 (c) Whenever the owner or lessee of a motion picture theater where
 14 a motion picture is being exhibited, or an employee or authorized
 15 agent of such owner or lessee, has reasonable grounds to believe that a
 16 person is operating or attempting to operate an audiovisual recording
 17 function of a device in such theater in violation of subsection (b) of this
 18 section, such owner, lessee, employee or agent may question such
 19 person as to such person's name and address and may detain such
 20 person for a time sufficient to summon a police officer to the premises.
 21 Any person so questioned by such owner, lessee, employee or agent
 22 shall promptly identify himself or herself by name and address.

23 (d) In any civil action by a person detained under the provisions of
 24 subsection (c) of this section against the person so detaining him or
 25 her, or the principal or employer of such person, arising out of such
 26 questioning or detention by any such owner, lessee, employee or
 27 agent, evidence that the defendant had reasonable grounds to believe
 28 that the plaintiff was, at the time in question, operating or attempting
 29 to operate an audiovisual recording function of a device in a motion
 30 picture theater while a motion picture was being exhibited without the
 31 consent of the owner or lessee of such facility shall create a rebuttable
 32 presumption that the plaintiff was so operating or attempting to
 33 operate such audiovisual recording function.

34 (e) The provisions of this section shall not apply to the operation of
 35 an audiovisual recording function of a device by any authorized
 36 employee or agent of a local, state or federal law enforcement agency
 37 while such employee or agent is engaged in authorized investigative,
 38 protective, law enforcement or intelligence gathering activities.

39 (f) Nothing in this section shall preclude prosecution of a person
 40 under any other provision of the general statutes.

This act shall take effect as follows:	
Section 1	October 1, 2004

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Judicial Department (Probation); Correction, Dept.	GF - Cost	Potential	Potential
Resources of the General Fund	GF - Potential Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes camcorder piracy a crime when it occurs in a facility where a motion picture is being exhibited. It also provides graduated sanctions for offenses.¹ The number of offenses that could occur is uncertain. There is a potential cost to incarcerate offenders or supervise them on probation. The annual cost of imprisonment is about \$25,000; the average annual cost of probation supervision by the Judicial Department’s Court Support Services Division is estimated to be \$2,000 (excluding services) to \$3,300 (including services.)² Any revenue gain from imposed fines would be minimal.

¹ Under the bill, first offenses are class A misdemeanors (punishable by imprisonment for up to one year and/or a fine of up to \$2,000); second and subsequent offenses are class D felonies, which are punishable by imprisonment for one to five years and/or a fine of up to \$5,000.

² It is anticipated that such individuals would be placed on medium-level supervision or higher. The averages include direct and indirect (overhead) costs to the Judicial Department, in addition to fringe benefits.

OLR Bill Analysis

sHB 5653

AN ACT CONCERNING THE UNLAWFUL USE OF A RECORDING DEVICE

SUMMARY:

With some exceptions, this bill makes camcorder piracy a crime when it occurs in a facility where a motion picture is being exhibited. It applies to operators of audiovisual equipment who knowingly use their recording or transmitting capabilities with the intention of recording a motion picture, or part of one, without permission from both the facility's owner or lessee and the movie's licensor. It permits facility owners or lessees and their employees or authorized agents to ask the name and address of people they reasonably believe are engaging, or attempting to engage, in camcorder piracy and to detain them until the police arrive. It requires the detained person to promptly give his name and address when asked.

When a detainee sues over the detention, the bill establishes a rebuttable presumption that he was violating or attempting to violate the law when evidence is produced that the defendant had reasonable grounds to believe that this was occurring at the time of the detention.

EFFECTIVE DATE: October 1, 2004

EXCEPTIONS

The bill exempts (1) people using audiovisual recording devices in private residences and libraries; (2) law enforcement employees or agents engaged in authorized investigative, protective, law enforcement, or intelligence-gathering activities; and (3) salesmen in retail stores.

PENALTIES

First offenses are class A misdemeanors, punishable by imprisonment for up to one year, fines of up to \$2,000, or both. Second offenses are class D felonies, punishable by imprisonment for one to five years,

finer of up to \$5,000, or both.

The bill does not preclude prosecuting camcorder piracy under other state laws.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0