



House of Representatives

File No. 694

General Assembly

February Session, 2004 **(Reprint of File No. 497)**

Substitute House Bill No. 5653
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
April 30, 2004

**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 by means of any
4 technology, and (2) "motion picture theater" means a movie theater or
5 screening room that, at the time of the offense, is being used for the
6 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 be
11 guilty of a class B misdemeanor.

12 (c) Whenever the owner or lessee of a motion picture theater where
13 a motion picture is being exhibited, or an employee or authorized
14 agent of such owner or lessee, has reasonable grounds to believe that a

15 person is operating or attempting to operate an audiovisual recording
 16 function of a device in such theater in violation of subsection (b) of this
 17 section, such owner, lessee, employee or agent may question such
 18 person as to such person's name and address and may detain such
 19 person for a time sufficient to summon a police officer to the premises.
 20 No other information shall be required of such person until a police
 21 officer has taken such person into custody. For the purposes of this
 22 subsection, "reasonable grounds" means knowledge that a person has
 23 operated or attempted to operate an audiovisual recording function of
 24 a device in such theater.

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

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

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

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

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. 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).¹ Any revenue gain from imposed fines would be minimal.

House Amendment “A” reduced the criminal penalty that may be imposed under the bill by making an offense a class B misdemeanor rather than a class A misdemeanor for a first offense or class D felony for subsequent offenses. This change would reduce the potential cost for incarceration and/or supervision of offenders in the community. It would also reduce the potential, minimal revenue gain from fines.

Detail

¹ 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.

A class B misdemeanor is punishable by up to six months' imprisonment and/or a fine of up to \$1,000.

A class A misdemeanor is punishable by up to one year imprisonment and/or a fine of up to \$2,000.

A class D felony is punishable by up to five years' imprisonment and/or a fine of up to \$5,000.

OLR Bill Analysis

sHB 5653 (as amended by House "A")*

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 movie theater or screening room 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. The detainee is not required to provide any other information until taken into police custody.

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. "Reasonable grounds" are defined as knowledge that a person has operated or attempted to operate an audio-visual recording function of a device in the theater.

*House Amendment "A" (1) makes all offenses class B misdemeanors, eliminating the graduated sanctions contained in the original bill; (2) restricts the law's applicability to movie theaters and screening rooms, eliminating "other venues" designated in the original bill; (3) adds the definition of "reasonable grounds"; and (4) allows detainees to give no information other than their names and addresses until taken into police custody.

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

Offenses are class B misdemeanors, punishable by imprisonment for up to six months, fines of up to \$1,000, 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