

HB 1331

2004

A bill to be entitled

An act relating to the unlawful use of a recording device in a motion picture theater; providing definitions; providing that a person who knowingly operates the audiovisual recording function of any device in a motion picture theater without the express written consent of the theater owner and the licensor of the motion picture being exhibited commits a felony of the third degree; providing for the imposition of criminal fines; authorizing the theater owner or licensor to detain certain persons; providing immunity to the theater owner or licensor for detaining certain persons while awaiting the arrival of a law enforcement officer; providing an exception to such immunity; providing that an employee or agent of certain law enforcement, protective services, intelligence gathering, or investigative agencies may operate an audiovisual recording device as part of a lawfully authorized activity; directing that the act does not apply to a person operating an audiovisual recording function of a device in a retail establishment when demonstrating the use of the device for sales purposes; providing applicability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Unlawful use of a recording device in a motion picture theater.--

(1) DEFINITIONS.--As used in this section, the term:

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29 (a) "Audiovisual recording function" means the capability
 30 of a camera, an audio or video recorder, or any other device to
 31 record, transfer sounds or images, or transmit a motion picture
 32 or any part thereof by means of any technology now known or
 33 later developed.

34 (b) "Licensor" means the person who owns the intellectual
 35 property rights of the motion picture and includes an employee
 36 or agent of the licensor.

37 (c) "Motion picture theater" means any site or facility
 38 used for the exhibition of a motion picture to the public. The
 39 term does not include a personal residence.

40 (d) "Theater owner" means the owner, operator, or lessee
 41 of a motion picture theater and includes an employee or agent of
 42 the theater owner.

43 (2) PROHIBITED ACTS.--Any person who knowingly operates
 44 the audiovisual recording function of any device in a motion
 45 picture theater without the express written consent of the
 46 theater owner and the licensor of the motion picture that is
 47 being exhibited commits a felony of the third degree, punishable
 48 as provided in s. 775.082 or s. 775.083, or by a fine of up to
 49 \$25,000, or both.

50 (3) IMMUNITY.--A theater owner or licensor may detain, in
 51 a reasonable manner and for a reasonable period, any person who
 52 the owner or licensor believes in good faith has violated or is
 53 violating this section. The theater owner or licensor may not be
 54 held liable in any civil action arising out of measures taken in
 55 the course of detaining the person while awaiting the arrival of
 56 a law enforcement officer, unless the plaintiff can show by

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57 clear and convincing evidence that the measures were manifestly
 58 unreasonable or the period of detention was unreasonably long.

59 (4) LAW ENFORCEMENT OFFICIALS.--This section does not
 60 prevent an employee or agent of an investigative agency, law
 61 enforcement agency, protective services agency, or intelligence
 62 gathering agency from operating an audiovisual recording device
 63 in a motion picture theater where a motion picture is being
 64 exhibited as part of a lawfully authorized investigative,
 65 protective, law enforcement, or intelligence gathering activity.

66 (5) RETAIL ESTABLISHMENTS.--This section does not apply to
 67 a person who operates the audiovisual recording function of a
 68 device in a retail establishment solely to demonstrate the use
 69 of that device for sales purposes.

70 (6) LIMITATION.--This section does not prevent the
 71 prosecution of a violation of this section under any other law
 72 that provides more severe penalties.

73 Section 2. This act shall take effect July 1, 2004, and
 74 shall apply to offenses committed on or after that date.