

HB 1331

2004  
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## CHAMBER ACTION

1 The Committee on Public Safety & Crime Prevention recommends the  
2 following:

3  
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to the unlawful use of a recording device  
8 in a motion picture theater; providing definitions;  
9 providing that a person who knowingly operates the  
10 audiovisual recording function of any device in a motion  
11 picture theater without the express written consent of the  
12 theater owner commits a felony of the third degree;  
13 providing criminal penalties, including an increased fine;  
14 authorizing the theater owner to detain certain persons;  
15 providing immunity to the theater owner for detaining  
16 certain persons while awaiting the arrival of a law  
17 enforcement officer; providing an exception to such  
18 immunity; providing that an employee or agent of certain  
19 law enforcement, protective services, intelligence  
20 gathering, or investigative agencies may operate an  
21 audiovisual recording device as part of a lawfully  
22 authorized activity; providing applicability; providing an  
23 effective date.

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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:

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

(b) "Motion picture theater" means a movie theater, screening room, or other venue when used primarily for the exhibition of a motion picture.

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

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

(3) IMMUNITY.--A theater owner may detain, in a reasonable manner and for a reasonable period, any person who the owner has probable cause to believe has violated or is violating this section. A law enforcement officer shall be called to the scene immediately after the person is detained. The theater owner may

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52 | not be held liable in any civil or criminal action relating to  
53 | false arrest, false imprisonment, or unlawful detention arising  
54 | out of measures taken in the course of detaining the person  
55 | while awaiting the arrival of a law enforcement officer, unless  
56 | the plaintiff can show by clear and convincing evidence that the  
57 | measures were manifestly unreasonable or the period of detention  
58 | 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) LIMITATION.--This section does not prevent the  
67 | prosecution of a violation of this section under any other law.

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