

By Senator Atwater

25-1142-04

1 A bill to be entitled
2 An act relating to the unlawful use of a
3 recording device in a motion picture theater;
4 providing definitions; providing that a person
5 who knowingly operates the audiovisual
6 recording function of any device in a motion
7 picture theater without the express written
8 consent of the theater owner and the licensor
9 of the motion picture being exhibited commits a
10 felony of the third degree; providing for the
11 imposition of criminal fines; authorizing the
12 theater owner or licensor to detain a person in
13 violation of the act; providing immunity to the
14 theater owner or licensor for detaining a
15 person in violation of the act while awaiting
16 the arrival of a law enforcement officer;
17 providing an exception to the immunity;
18 providing that an employee or agent of certain
19 law enforcement, protective services, or
20 investigative agencies may operate an
21 audiovisual recording device as part of a
22 lawfully authorized activity; directing that
23 the act does not apply to a person operating an
24 audiovisual recording function of a device in a
25 retail establishment when demonstrating the use
26 of the device for sales purposes; providing an
27 effective date.
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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Unlawful use of a recording device in a
2 motion picture theater.--

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

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

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

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

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

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

25 (3) IMMUNITY.--A theater owner or licensor may detain,
26 in a reasonable manner and for a reasonable period, any person
27 whom the owner or licensor believes in good faith has violated
28 or is violating this section. The theater owner or licensor
29 may not be held liable in any civil action arising out of
30 measures taken in the course of detaining the person while
31 awaiting the arrival of a law enforcement officer, unless the

1 plaintiff can show by clear and convincing evidence that the
2 measures were manifestly unreasonable or the period of
3 detention was unreasonably long.

4 (4) LAW ENFORCEMENT OFFICIALS.--This section does not
5 prevent an employee or agent of an investigative agency, law
6 enforcement agency, protective services agency, or
7 intelligence-gathering agency from operating an audiovisual
8 recording device in a motion picture theater where a motion
9 picture is being exhibited as part of a lawfully authorized
10 investigative, protective, law enforcement, or
11 intelligence-gathering activity.

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

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

19 Section 2. This act shall take effect July 1, 2004.

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22 SENATE SUMMARY

23 Provides that a person who knowingly operates the
24 audiovisual recording function of any device in a motion
25 picture theater without the express written consent of
26 the theater owner and of the licensor of the motion
27 picture being exhibited commits a felony of the third
28 degree. Authorizes the imposition of criminal fines.
29 Grants immunity to the theater owner or the licensor for
30 detaining a person whom the theater owner or licensor
31 believes violated the act. Provides an exception to the
immunity. Provides that certain law enforcement employees
or agents may operate an audiovisual recording device as
part of a lawfully authorized activity. Directs 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.