

By the Committee on Commerce, Economic Opportunities, and  
Consumer Services; and Senator Atwater

310-2091-04

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 commits a felony  
9           of the third degree; providing for the  
10          imposition of criminal fines; authorizing the  
11          theater owner to detain a person in violation  
12          of the act; providing immunity to the theater  
13          owner for detaining a person in violation of  
14          the act while awaiting the arrival of a law  
15          enforcement officer; providing an exception to  
16          the immunity; providing that an employee or  
17          agent of certain law enforcement, protective  
18          services, or investigative agencies may operate  
19          an audiovisual recording device as part of a  
20          lawfully authorized activity; providing an  
21          effective date.

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

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

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

28           (a) "Audiovisual recording function" means the  
29 capability of a camera, an audio or video recorder, or any  
30 other device to record, transfer sounds or images, or transmit

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1 a motion picture or any part thereof by means of any  
2 technology now known or later developed.

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

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

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

16 (3) IMMUNITY.--A theater owner may detain, in a  
17 reasonable manner and for a reasonable period, any person whom  
18 the owner believes in good faith has violated or is violating  
19 this section. The theater owner may not be held liable in any  
20 civil action arising out of measures taken in the course of  
21 detaining the person while awaiting the arrival of a law  
22 enforcement officer, unless the plaintiff can show by clear  
23 and convincing evidence that the measures were manifestly  
24 unreasonable or the period of detention was unreasonably long.

25 (4) LAW ENFORCEMENT OFFICIALS.--This section does not  
26 prevent an employee or agent of an investigative agency, law  
27 enforcement agency, protective services agency, or  
28 intelligence-gathering agency from operating an audiovisual  
29 recording device in a motion picture theater where a motion  
30 picture is being exhibited as part of a lawfully authorized

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1 investigative, protective, law enforcement, or  
2 intelligence-gathering activity.

3 (5) LIMITATION.--This section does not prevent the  
4 prosecution of an offense under any other law.

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

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7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
8 COMMITTEE SUBSTITUTE FOR  
9 Senate Bill 1928

10 The committee substitute:

- 11 -- Removes a prohibition against operating an audiovisual  
12 recording device in a motion picture theater without the  
13 express written consent of the licensor of the motion  
14 picture being exhibited.
- 15 -- Limits a prohibition against operating an audiovisual  
16 recording device in a motion picture theater to those  
17 times when a motion picture is being exhibited.
- 18 -- Revises the term "motion picture theater" to remove a  
19 provision that limits a prohibition against operating of  
20 an audiovisual recording device in a motion picture  
21 theater to theaters exhibiting motion pictures to the  
22 public; to remove a specific exemption from the  
23 prohibition for personal residences; and to specify that  
24 the prohibition applies in any venue when used primarily  
25 to exhibit a motion picture.
- 26 -- Removes a specific exemption for retail establishments  
27 from a prohibition against operating an audiovisual  
28 recording device in a motion picture theater.
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