

1                                   A bill to be entitled  
 2           An act relating to unauthorized copies of recordings;  
 3           amending s. 540.11, F.S.; requiring that a person who  
 4           violates state law regarding the unauthorized sale,  
 5           resale, rental, or transportation of certain articles on  
 6           which sounds are recorded pay restitution to the owner or  
 7           lawful producer of the master recording, master disc,  
 8           master tape, master videotape, master film, or other  
 9           device or article from which sounds or visual images were  
 10          derived or to the trade association representing such  
 11          owner or lawful producer who suffered injury resulting  
 12          from the violation; requiring that the order of  
 13          restitution be based on the aggregate wholesale value of  
 14          lawfully manufactured and authorized recorded devices  
 15          corresponding to the nonconforming recorded devices  
 16          involved in the offense, including investigative costs  
 17          relating to the offense; providing an effective date.

18  
 19   Be It Enacted by the Legislature of the State of Florida:

20  
 21           Section 1. Subsection (3) of section 540.11, Florida  
 22   Statutes, is amended to read:

23           540.11 Unauthorized copying of phonograph records, disk,  
 24   wire, tape, film, or other article on which sounds are  
 25   recorded.--

26           (3) (a) It is unlawful:

27           1. To sell or offer for sale or resale, advertise, cause  
 28   the sale or resale of, rent, transport or cause to be rented or

HB 1133

2008

29 transported, or possess for any of these purposes any article  
30 with the knowledge, or with reasonable grounds to know, that the  
31 sounds thereon have been transferred without the consent of the  
32 owner.

33 2. To sell or offer for sale or resale, advertise, cause  
34 the sale or resale of, rent, transport or cause to be rented or  
35 transported, or possess for any of these purposes any article  
36 embodying any performance, whether live before an audience or  
37 transmitted by wire or through the air by radio or television,  
38 which was recorded without the consent of the performer.

39 3. Knowingly, for commercial advantage or private  
40 financial gain to sell or resell, offer for sale or resale,  
41 advertise, cause the sale or resale of, rent, transport or cause  
42 to be rented or transported, or possess for such purposes, any  
43 phonograph record, disk, wire, tape, film, or other article on  
44 which sounds are recorded, unless the outside cover, box, or  
45 jacket clearly and conspicuously discloses the actual name and  
46 address of the manufacturer thereof, and the name of the actual  
47 performer or group.

48 (b)1. A person who violates paragraph (a) commits a felony  
49 of the third degree, punishable as provided in s. 775.082, by a  
50 fine of up to \$250,000, or both if the offense involves at least  
51 1,000 unauthorized articles embodying sound or at least 65  
52 unauthorized audiovisual articles during any 180-day period or  
53 is a second or subsequent conviction under either this  
54 subparagraph or subparagraph 2. of this subsection.

55 2. A person who violates paragraph (a) commits a felony of  
56 the third degree, punishable as provided in s. 775.082, by a

HB 1133

2008

57 fine of up to \$150,000, or both if the offense involves more  
58 than 100 but less than 1,000 unauthorized articles embodying  
59 sound or more than 7 but less than 65 unauthorized audiovisual  
60 articles during any 180-day period.

61 3. A person who otherwise violates this subsection commits  
62 a misdemeanor of the first degree, punishable as provided in s.  
63 775.082, by a fine of up to \$25,000, or both.

64 4. A person who violates paragraph (a) shall be required  
65 to make restitution to the owner or lawful producer of a master  
66 recording, master disc, master tape, master videotape, master  
67 film, or other device or article from which sounds or visual  
68 images were derived who suffered injury resulting from the  
69 violation or to the trade association representing such owner or  
70 lawful producer. The order of restitution shall be based on the  
71 aggregate wholesale value of lawfully manufactured and  
72 authorized recorded devices corresponding to the nonconforming  
73 recorded devices involved in the offense and shall include  
74 investigative costs relating to the offense.

75 Section 2. This act shall take effect July 1, 2008.