



620616

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: WD	.	
3/25/2008	.	
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1 The Committee on Commerce (Diaz de la Portilla) recommended the  
 2 following **amendment**:

**Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause  
6 and insert:

8 Section 1. Subsection (3) of section 540.11, Florida  
9 Statutes, is amended to read:

10 540.11 Unauthorized copying of phonograph records, disk,  
11 wire, tape, film, or other article on which sounds are  
12 recorded.--

13 (3) (a) It is unlawful:

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

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16 transported, or possess for any of these purposes any article  
17 with the knowledge, or with reasonable grounds to know, that the  
18 sounds thereon have been transferred without the consent of the  
19 owner.

20 2. To sell or offer for sale or resale, advertise, cause  
21 the sale or resale of, rent, transport or cause to be rented or  
22 transported, or possess for any of these purposes any article  
23 embodying any performance, whether live before an audience or  
24 transmitted by wire or through the air by radio or television,  
25 which was recorded without the consent of the performer.

26 3. Knowingly, for commercial advantage or private  
27 financial gain to sell or resell, offer for sale or resale,  
28 advertise, cause the sale or resale of, rent, transport or cause  
29 to be rented or transported, or possess for such purposes, any  
30 phonograph record, disk, wire, tape, film, or other article on  
31 which sounds are recorded, unless the outside cover, box, or  
32 jacket clearly and conspicuously discloses the actual name and  
33 address of the manufacturer thereof, and the name of the actual  
34 performer or group.

35 (b)1. A person who violates paragraph (a) commits a felony  
36 of the third degree, punishable as provided in s. 775.082, by a  
37 fine of up to \$250,000, or both if the offense involves at least  
38 1,000 unauthorized articles embodying sound or at least 65  
39 unauthorized audiovisual articles during any 180-day period or  
40 is a second or subsequent conviction under either this  
41 subparagraph or subparagraph 2. of this subsection.

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



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

48 3. A person who otherwise violates this subsection commits  
49 a misdemeanor of the first degree, punishable as provided in s.  
50 775.082, by a fine of up to \$25,000, or both.

51 4. The court shall order a person who violates paragraph  
52 (a) to make restitution to an owner who suffered injury  
53 resulting from the violation or to the trade association  
54 representing such owner. The amount of restitution shall be  
55 based on the aggregate average wholesale value of authorized  
56 articles that correspond with the unauthorized articles involved  
57 in the offense, unless a greater value can be proven. The order  
58 shall also include investigative costs relating to the offense.

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

60  
61 ===== T I T L E A M E N D M E N T =====

62 And the title is amended as follows:

63 Delete everything before the enacting clause  
64 and insert:

65 A bill to be entitled  
66 An act relating to unauthorized copies of recordings;  
67 amending s. 540.11, F.S.; requiring a court to order a  
68 person who violates state law regarding the unauthorized  
69 sale, resale, rental, or transportation of certain  
70 articles to make restitution to the owner who suffered  
71 injury resulting from the violation or to the trade



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72 | association representing such owner; requiring that the  
73 | amount of restitution be based on the aggregate average  
74 | wholesale value of authorized articles that correspond  
75 | with the unauthorized articles involved in the offense,  
76 | including investigative costs relating to the offense;  
77 | providing an effective date.