

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 687
Corrected Copy 3/22/05

Short Title: Pirating Movies.

(Public)

Sponsors: Representatives Gibson, Wright, Brubaker, and McComas (Primary Sponsors), and Stiller.

Referred to: Judiciary IV.

March 17, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE THE CRIMINAL OFFENSE OF UNLAWFUL OPERATION
3 OF AN AUDIOVISUAL RECORDING DEVICE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 14 of the General Statutes is amended by adding a
6 new Article to read:

7 "Article 58A.

8 "Audiovisual Recordings.

9 **§ 14-440.1. Unlawful operation of an audiovisual recording device.**

10 (a) Definitions. – The following definitions apply to this section:

11 (1) "Audiovisual recording function" means the capability of a device to
12 record or transmit a motion picture or any part thereof by means of any
13 technology now known or later developed.

14 (2) "Motion picture theater" means a movie theater, screening room, or
15 other venue that is being utilized primarily for the exhibition of a
16 motion picture at the time of the offense.

17 (b) Offense. – It is unlawful for any person knowingly to operate the audiovisual
18 recording function of any device in a motion picture theater, while a motion picture is
19 being exhibited, without the written consent of the motion picture theater owner.

20 (c) Penalty. – A violation of this section is punishable as follows:

21 (1) Unless the conduct is covered under some other provision of law
22 providing greater punishment, any person convicted of a violation of
23 this section is guilty of:

24 a. A Class 1 misdemeanor, if the violation is a first offense under
25 this section.

26 b. A Class I felony, if the violation is a second or subsequent
27 offense under this section.

1 (2) If a person is convicted of any violation of this section, the court, in its
2 judgment of conviction, shall order the forfeiture and destruction or
3 other disposition of the following:

4 a. All infringing articles.

5 b. All implements, devices, and equipment used or intended to be
6 used in the manufacture of the infringing articles.

7 (d) Immunity of The Real Property Owner. – The owner or lessee of a motion
8 picture theater, or the authorized agent or employee of such owner or lessee, who alerts
9 law enforcement authorities of an alleged violation of this section shall not be liable in
10 any civil action arising out of measures taken by the owner, lessee, agent, or employee
11 in good faith believed to have violated this section while awaiting the arrival of law
12 enforcement authorities, unless the plaintiff can show by clear and convincing evidence
13 that the measures were manifestly unreasonable or the period of detention was
14 unreasonably long.

15 (e) This section does not prevent any lawfully authorized investigative,
16 protective, law enforcement, or intelligence gathering employee or agent of a local,
17 State, or federal government from operating any audiovisual recording device in a
18 motion picture theater, as part of lawfully authorized investigative, protective, law
19 enforcement, or intelligence gathering activities."

20 **SECTION 2.** This act becomes effective December 1, 2005, and applies to
21 offenses committed on or after that date.