
By: **Delegates Sophocleus, Vallario, Anderson, Boschert, Cadden, Cane, Carter, V. Clagett, Costa, Dumais, Dwyer, Elmore, Gilleland, Gutierrez, Kelley, Leopold, Love, McConkey, McMillan, Menes, Petzold, and Simmons**

Introduced and read first time: January 28, 2004

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

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CHAPTER _____

1 AN ACT concerning

2 **Criminal Law - Motion Picture Theaters - Prohibition against Audiovisual**
3 **Recording**

4 FOR the purpose of prohibiting a person from knowingly operating an audiovisual
5 recording function of a device in a motion picture theater without the consent of
6 certain persons under certain circumstances; providing immunity from civil
7 liability to a certain owner, lessee, agent, or employee who detains or causes the
8 arrest of a certain person under certain circumstances; making the provisions of
9 this Act severable; and generally relating to audiovisual recording in motion
10 picture theaters.

11 BY repealing and reenacting, with amendments,
12 Article - Courts and Judicial Proceedings
13 Section 5-402
14 Annotated Code of Maryland
15 (2002 Replacement Volume and 2003 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Criminal Law
18 Section 7-308
19 Annotated Code of Maryland
20 (2002 Volume and 2003 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Courts and Judicial Proceedings**

4 5-402.

5 (A) A merchant or an agent or employee of the merchant who detains or causes
6 the arrest of any person shall not be held civilly liable for detention, slander,
7 malicious prosecution, false imprisonment, or false arrest of the person detained or
8 arrested, whether the detention or arrest takes place by the merchant or by his agent
9 or employee, if in detaining or in causing the arrest of the person, the merchant or the
10 agent or employee of the merchant had, at the time of the detention or arrest,
11 probable cause to believe that the person committed the crime of "theft," as prohibited
12 by § 7-104 of the Criminal Law Article, of property of the merchant from the premises
13 of the merchant.

14 (B) AN OWNER OR LESSEE OF A MOTION PICTURE THEATER OR AN AGENT OR
15 EMPLOYEE OF THE OWNER OR LESSEE WHO DETAINS OR CAUSES THE ARREST OF
16 ANY PERSON MAY NOT BE HELD CIVILLY LIABLE FOR DETENTION, DEFAMATION,
17 MALICIOUS PROSECUTION, FALSE IMPRISONMENT, OR FALSE ARREST OF THE
18 PERSON DETAINED OR ARRESTED, IF IN DETAINING OR CAUSING THE ARREST OF
19 THE PERSON, THE OWNER, LESSEE, AGENT, OR EMPLOYEE HAD, AT THE TIME OF THE
20 DETENTION OR ARREST, PROBABLE CAUSE TO BELIEVE THAT THE PERSON
21 COMMITTED IN THE MOTION PICTURE THEATER A VIOLATION OF § 7-308(E) OF THE
22 CRIMINAL LAW ARTICLE.

23 **Article - Criminal Law**

24 7-308.

25 (a) (1) In this section the following words have the meanings indicated.

26 (2) "Deliver" means to sell, rent, distribute, or circulate.

27 (3) "Performance" includes a live performance and a performance that is
28 transmitted by wire, radio, or television.

29 (4) "Recorded article" means a phonograph record, disc, wire, tape, film,
30 videocassette, or other article on which sounds are recorded or otherwise stored.

31 (b) (1) This subsection applies only to sound recordings initially fixed before
32 February 15, 1972.

33 (2) Except as otherwise provided in this section, a person may not
34 knowingly transfer or cause to be transferred any sounds recorded on a recorded
35 article to any other recorded article:

36 (i) with the intent to sell or cause to be sold for profit or used to
37 promote the sale of any product; and

1 (ii) without the consent of the owner of the original fixation of
2 sounds embodied in the master recorded article.

3 (c) Except as otherwise provided in this section, a person may not knowingly
4 deliver, offer for delivery, possess for delivery, cause to be delivered, cause to be
5 offered for delivery, or cause to be possessed for delivery a recorded article or device:

6 (1) on which sounds have been transferred without the consent of the
7 owner of the original fixation of sounds embodied in the master recorded article; or

8 (2) embodying a performance without the consent of the performer.

9 (d) (1) Except as otherwise provided in this section, a person may not
10 knowingly transfer to or cause to be transferred to a recorded article on which sounds
11 or images have been transferred or stored any performance:

12 (i) with the intent to sell or cause to be sold for profit or used to
13 promote the sale of any product; and

14 (ii) without the consent of the performer.

15 (2) A person may not knowingly deliver, offer for delivery, or possess for
16 the purpose of delivery a recorded article on which sounds or images have been
17 transferred or stored, unless the recorded article bears in a prominent place on its
18 outside face or package:

19 (i) the actual name and street address of the transferor of the
20 sounds or images; and

21 (ii) the actual name of the performer or group.

22 (E) A PERSON MAY NOT KNOWINGLY OPERATE AN AUDIOVISUAL RECORDING
23 FUNCTION OF A DEVICE IN A MOTION PICTURE THEATER WITHOUT THE CONSENT
24 OF:

25 (1) THE OWNER OR LESSEE OF THE THEATER; AND

26 (2) THE LICENSOR OF THE MOTION PICTURE BEING EXHIBITED.

27 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
28 Act or the application thereof to any person or circumstance is held invalid for any
29 reason in a court of competent jurisdiction, the invalidity does not affect other
30 provisions or any other application of this Act which can be given effect without the
31 invalid provision or application, and for this purpose the provisions of this Act are
32 declared severable.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2004.

