

2C:21-21

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2004 **CHAPTER:** 144

NJSA: 2C:21-21 (Anti-piracy)

BILL NO: A2513 (Substituted for S1550)

SPONSOR(S): Cohen and Diegnan

DATE INTRODUCED: March 11, 2004

COMMITTEE: **ASSEMBLY:** Judiciary
SENATE

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 10, 2004

SENATE: June 21, 2004

DATE OF APPROVAL: September 10, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) Original version of bill enacted

A2513

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S1515

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS:

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HEARINGS:

No

NEWSPAPER ARTICLES:

No

P.L. 2004, CHAPTER 144, *approved September 10, 2004*
Assembly, No. 2513

1 **AN ACT** concerning motion picture piracy and amending P.L.1991,
2 c.125.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 1 of P.L.1991, c.125 (C.2C:21-21), is amended to read
8 as follows:

9 1. a. This act shall be known and may be cited as the "New Jersey
10 Anti-Piracy Act."

11 b. As used in this act:

12 (1) "Sound recording" means any phonograph record, disc, tape,
13 film, wire, cartridge, cassette, player piano roll or similar material
14 object from which sounds can be reproduced either directly or with the
15 aid of a machine.

16 (2) "Owner" means (a) the person who owns the sounds fixed in
17 any master sound recording on which the original sounds were fixed
18 and from which transferred recorded sounds are directly or indirectly
19 derived; or (b) the person who owns the rights to record or authorize
20 the recording of a live performance.

21 (3) "Audiovisual work" means any work that consists of a series of
22 related images which are intrinsically intended to be shown by the use
23 of machines or devices such as projectors, viewers, or electronic
24 equipment, together with accompanying sounds, if any, regardless of
25 the nature of the material object, such as film or tape, in which the
26 work is embodied. "Audiovisual work" includes but is not limited to
27 a motion picture.

28 (4) "Audiovisual recording function" means the capability of a
29 device to record or transmit a motion picture or any part thereof by
30 means of any technology.

31 (5) "Facility" means any theater, screening room, indoor or
32 outdoor screening venue, auditorium, ballroom or other premises
33 where motion pictures are publicly exhibited but does not include a
34 library or retail establishment.

35 c. A person commits an offense who:

36 (1) Knowingly transfers, without the consent of the owner, any
37 sounds recorded on a sound recording with intent to sell the sound
38 recording onto which the sounds are transferred or to use the sound
39 recording to promote the sale of any product, provided, however, that
40 this paragraph shall only apply to sound recordings initially fixed prior
41 to February 15, 1972.

42 (2) Knowingly transports, advertises, sells, resells, rents, or offers

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 for rental, sale or resale, any sound recording or audiovisual work that
2 the person knows has been produced in violation of this act.

3 (3) Knowingly manufactures or transfers, directly or indirectly by
4 any means, or records or fixes a sound recording or audiovisual work,
5 with the intent to sell or distribute for commercial advantage or private
6 financial gain, a live performance with the knowledge that the live
7 performance has been recorded or fixed without the consent of the
8 owner of the live performance.

9 (4) For commercial advantage or private financial gain, knowingly
10 advertises or offers for sale, resale or rental, or sells, resells, rents or
11 transports, a sound recording or audiovisual work or possesses with
12 intent to advertise, sell, resell, rent or transport any sound recording
13 or audiovisual work, the label, cover, box or jacket of which does not
14 clearly and conspicuously disclose the true name and address of the
15 manufacturer, and, in the case of a sound recording, the name of the
16 actual performer or group.

17 (5) Knowingly operates an audiovisual recording function of a
18 device in a facility while a motion picture is being exhibited, for the
19 purpose of recording the motion picture, without the consent of both
20 the licensor of the motion picture and the owner or lessee of the
21 facility.

22 d. Notwithstanding the provisions of subsection b. of
23 N.J.S.2C:43-3:

24 (1) Any offense set forth in this act which involves at least 1,000
25 unlawful sound recordings or at least 65 audiovisual works within any
26 180-day period shall be punishable as a crime of the third degree and
27 a fine of up to \$250,000 may be imposed.

28 (2) Any offense which involves more than 100 but less than 1,000
29 unlawful sound recordings or more than 7 but less than 65 unlawful
30 audiovisual works within any 180-day period shall be punishable as a
31 crime of the third degree and a fine of up to \$150,000 may be
32 imposed.

33 (3) Any offense punishable under the provisions of this act not
34 described in paragraphs (1) or (2) of this subsection shall be
35 punishable for the first offense as a crime of the fourth degree and a
36 fine of up to \$25,000 may be imposed. For a second and subsequent
37 offense pursuant to this paragraph, a person shall be guilty of a crime
38 of the third degree. A fine of up to \$50,000 may be imposed for a
39 second offense pursuant to this paragraph and a fine of up to \$100,000
40 for a third and subsequent offense may be imposed.

41 e. All unlawful sound recordings and audiovisual works and any
42 equipment or components used in violation of the provisions of this act
43 shall be subject to forfeiture in accordance with the procedures set
44 forth in chapter 64 of Title 2C of the New Jersey Statutes.

45 f. The provisions of this act shall not apply to:

46 (1) Any broadcaster who, in connection with or as part of a radio
47 or television broadcast transmission, or for the purposes of archival

1 preservation, transfers any sounds or images recorded on a sound
2 recording or audiovisual work;

3 (2) Any person who, in his own home, for his own personal use,
4 and without deriving any profit, transfers any sounds or images
5 recorded on a sound recording or audiovisual work.

6 (3) Any law enforcement officer who, while engaged in the official
7 performance of his duties, transfers any sounds or images recorded on
8 a sound recording or audiovisual work.

9 g. A law enforcement officer, an owner or lessee of a facility where
10 a motion picture or a live performance is being exhibited, the
11 authorized agent or employee of the owner or lessee, the licensor of
12 the motion picture or the live performance or the authorized agent or
13 employee of the licensor, who has probable cause for believing that a
14 person has operated an audiovisual recording function of a device in
15 violation of this section and that he can recover the recording by
16 taking the person into custody, may, for the purpose of attempting to
17 effect recovery thereof, take the person into custody and detain him in
18 a reasonable manner for not more than a reasonable time, and the
19 taking into custody by a law enforcement officer, owner, lessee,
20 licensor, authorized agent or employee shall not render such person
21 criminally or civilly liable in any manner or to any extent whatsoever.

22 Any law enforcement officer may arrest without warrant any person
23 he has probable cause for believing has operated an audiovisual
24 recording function of a device in violation of this section.

25 An owner or lessee of a facility, the authorized agent or employee
26 of the owner or lessee, the licensor of the motion picture or the live
27 performance or the authorized agent or employee of the licensor who
28 causes the arrest of a person for operating an audiovisual recording
29 function of a device in violation of this section, shall not be criminally
30 or civilly liable in any manner or to any extent whatsoever where the
31 owner, lessee, licensor, authorized agent or employee has probable
32 cause for believing that the person arrested committed the offense.

33 (cf: P.L.1991,c.125,s.1)

34

35 2. This act shall take effect immediately.

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STATEMENT

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40 This bill expands the scope of the "New Jersey Anti-Piracy Act"
41 (N.J.S.A.2C:21-21) by criminalizing camcorder piracy of motion
42 pictures. Camcorder piracy involves persons who illegally record
43 films, usually during pre-release screening events, then sell their master
44 recording for illegal duplication, packaging and distribution to
45 "bootleg" dealers across the country and overseas. Camcorder piracy
46 has resulted in hundreds of millions of dollars in lost revenue to the

1 United States film industry.

2 The bill makes it an offense under the "New Jersey Anti-Piracy Act"
3 to knowingly operate an audiovisual recording function of a device in
4 a facility while a motion picture is being exhibited, for the purpose of
5 recording the motion picture, without the consent of both the licensor
6 of the motion picture and the owner or lessee of the facility. The bill
7 defines "audiovisual recording function" as "the capability of a device
8 to record or transmit a motion picture or any part thereof by means of
9 any technology."

10 Under the bill, a law enforcement officer, an owner or lessee of a
11 facility where a motion picture or a live performance is being
12 exhibited, the authorized agent or employee of the owner or lessee; the
13 licensor of the motion picture or the live performance or the
14 authorized agent or employee of the licensor, who has probable cause
15 for believing that a person has unlawfully operated an audiovisual
16 recording function of a device and that he can recover the recording
17 by taking the person into custody, may, for the purpose of attempting
18 to recover the recording, take the person into custody and detain him
19 in a reasonable manner for not more than a reasonable time. The
20 taking into custody by a law enforcement officer, theater owner or
21 lessee, licensor, authorized agent or employee would not render such
22 person criminally or civilly liable in any manner or to any extent
23 whatsoever.

24 The bill provides that any law enforcement officer may arrest
25 without warrant any person he has probable cause for believing has
26 operated an audiovisual recording function of a device in violation of
27 this section.

28 The bill also provides that a theater owner or lessee, the authorized
29 agent or employee of the owner or lessee, the licensor of the motion
30 picture or the live performance or the authorized agent or employee
31 of the licensor who causes the arrest of a person for unlawfully
32 operating an audiovisual recording function of a device, shall not be
33 criminally or civilly liable in any manner or to any extent whatsoever
34 where the owner, lessee, licensor, authorized agent or employee has
35 probable cause for believing that the person arrested committed the
36 offense.

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40

41 Amends "New Jersey Anti-Piracy Act" to include camcorder piracy of
42 motion pictures.

ASSEMBLY, No. 2513

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MARCH 11, 2004

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman PATRICK DIEGNAN, JR.

District 18 (Middlesex)

Co-Sponsored by:

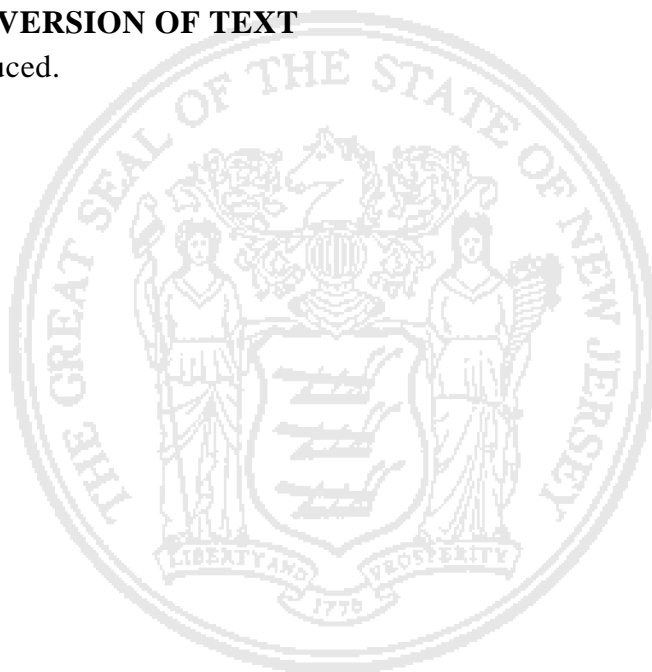
Assemblymen Conners, Chivukula, Senators Gill, Adler and Baer

SYNOPSIS

Amends "New Jersey Anti-Piracy Act" to include camcorder piracy of motion pictures.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/22/2004)

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2 c.125.

3

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15 aid of a machine.

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17 any master sound recording on which the original sounds were fixed
18 and from which transferred recorded sounds are directly or indirectly
19 derived; or (b) the person who owns the rights to record or authorize
20 the recording of a live performance.

21 (3) "Audiovisual work" means any work that consists of a series of
22 related images which are intrinsically intended to be shown by the use
23 of machines or devices such as projectors, viewers, or electronic
24 equipment, together with accompanying sounds, if any, regardless of
25 the nature of the material object, such as film or tape, in which the
26 work is embodied. "Audiovisual work" includes but is not limited to
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28 (4) "Audiovisual recording function" means the capability of a
29 device to record or transmit a motion picture or any part thereof by
30 means of any technology.

31 (5) "Facility" means any theater, screening room, indoor or
32 outdoor screening venue, auditorium, ballroom or other premises
33 where motion pictures are publicly exhibited but does not include a
34 library or retail establishment.

35 c. A person commits an offense who:

36 (1) Knowingly transfers, without the consent of the owner, any
37 sounds recorded on a sound recording with intent to sell the sound
38 recording onto which the sounds are transferred or to use the sound
39 recording to promote the sale of any product, provided, however, that
40 this paragraph shall only apply to sound recordings initially fixed prior
41 to February 15, 1972.

42 (2) Knowingly transports, advertises, sells, resells, rents, or offers
43 for rental, sale or resale, any sound recording or audiovisual work that
44 the person knows has been produced in violation of this act.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (3) Knowingly manufactures or transfers, directly or indirectly by
2 any means, or records or fixes a sound recording or audiovisual work,
3 with the intent to sell or distribute for commercial advantage or private
4 financial gain, a live performance with the knowledge that the live
5 performance has been recorded or fixed without the consent of the
6 owner of the live performance.

7 (4) For commercial advantage or private financial gain, knowingly
8 advertises or offers for sale, resale or rental, or sells, resells, rents or
9 transports, a sound recording or audiovisual work or possesses with
10 intent to advertise, sell, resell, rent or transport any sound recording
11 or audiovisual work, the label, cover, box or jacket of which does not
12 clearly and conspicuously disclose the true name and address of the
13 manufacturer, and, in the case of a sound recording, the name of the
14 actual performer or group.

15 (5) Knowingly operates an audiovisual recording function of a
16 device in a facility while a motion picture is being exhibited, for the
17 purpose of recording the motion picture, without the consent of both
18 the licensor of the motion picture and the owner or lessee of the
19 facility.

20 d. Notwithstanding the provisions of subsection b. of
21 N.J.S.2C:43-3:

22 (1) Any offense set forth in this act which involves at least 1,000
23 unlawful sound recordings or at least 65 audiovisual works within any
24 180-day period shall be punishable as a crime of the third degree and
25 a fine of up to \$250,000 may be imposed.

26 (2) Any offense which involves more than 100 but less than 1,000
27 unlawful sound recordings or more than 7 but less than 65 unlawful
28 audiovisual works within any 180-day period shall be punishable as a
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32 described in paragraphs (1) or (2) of this subsection shall be
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34 fine of up to \$25,000 may be imposed. For a second and subsequent
35 offense pursuant to this paragraph, a person shall be guilty of a crime
36 of the third degree. A fine of up to \$50,000 may be imposed for a
37 second offense pursuant to this paragraph and a fine of up to \$100,000
38 for a third and subsequent offense may be imposed.

39 e. All unlawful sound recordings and audiovisual works and any
40 equipment or components used in violation of the provisions of this act
41 shall be subject to forfeiture in accordance with the procedures set
42 forth in chapter 64 of Title 2C of the New Jersey Statutes.

43 f. The provisions of this act shall not apply to:

44 (1) Any broadcaster who, in connection with or as part of a radio
45 or television broadcast transmission, or for the purposes of archival
46 preservation, transfers any sounds or images recorded on a sound
47 recording or audiovisual work;

1 (2) Any person who, in his own home, for his own personal use,
2 and without deriving any profit, transfers any sounds or images
3 recorded on a sound recording or audiovisual work.

4 (3) Any law enforcement officer who, while engaged in the official
5 performance of his duties, transfers any sounds or images recorded on
6 a sound recording or audiovisual work.

7 g. A law enforcement officer, an owner or lessee of a facility where
8 a motion picture or a live performance is being exhibited, the
9 authorized agent or employee of the owner or lessee, the licensor of
10 the motion picture or the live performance or the authorized agent or
11 employee of the licensor, who has probable cause for believing that a
12 person has operated an audiovisual recording function of a device in
13 violation of this section and that he can recover the recording by
14 taking the person into custody, may, for the purpose of attempting to
15 effect recovery thereof, take the person into custody and detain him in
16 a reasonable manner for not more than a reasonable time, and the
17 taking into custody by a law enforcement officer, owner, lessee,
18 licensor, authorized agent or employee shall not render such person
19 criminally or civilly liable in any manner or to any extent whatsoever.

20 Any law enforcement officer may arrest without warrant any person
21 he has probable cause for believing has operated an audiovisual
22 recording function of a device in violation of this section.

23 An owner or lessee of a facility, the authorized agent or employee
24 of the owner or lessee, the licensor of the motion picture or the live
25 performance or the authorized agent or employee of the licensor who
26 causes the arrest of a person for operating an audiovisual recording
27 function of a device in violation of this section, shall not be criminally
28 or civilly liable in any manner or to any extent whatsoever where the
29 owner, lessee, licensor, authorized agent or employee has probable
30 cause for believing that the person arrested committed the offense.

31 (cf: P.L.1991,c.125,s.1)

32
33 2. This act shall take effect immediately.
34
35

36 STATEMENT
37

38 This bill expands the scope of the "New Jersey Anti-Piracy Act"
39 (N.J.S.A.2C:21-21) by criminalizing camcorder piracy of motion
40 pictures. Camcorder piracy involves persons who illegally record
41 films, usually during pre-release screening events, then sell their master
42 recording for illegal duplication, packaging and distribution to
43 "bootleg" dealers across the country and overseas. Camcorder piracy
44 has resulted in hundreds of millions of dollars in lost revenue to the
45 United States film industry.

1 The bill makes it an offense under the "New Jersey Anti-Piracy Act"
2 to knowingly operate an audiovisual recording function of a device in
3 a facility while a motion picture is being exhibited, for the purpose of
4 recording the motion picture, without the consent of both the licensor
5 of the motion picture and the owner or lessee of the facility. The bill
6 defines "audiovisual recording function" as "the capability of a device
7 to record or transmit a motion picture or any part thereof by means of
8 any technology."

9 Under the bill, a law enforcement officer, an owner or lessee of a
10 facility where a motion picture or a live performance is being
11 exhibited, the authorized agent or employee of the owner or lessee; the
12 licensor of the motion picture or the live performance or the
13 authorized agent or employee of the licensor, who has probable cause
14 for believing that a person has unlawfully operated an audiovisual
15 recording function of a device and that he can recover the recording
16 by taking the person into custody, may, for the purpose of attempting
17 to recover the recording, take the person into custody and detain him
18 in a reasonable manner for not more than a reasonable time. The
19 taking into custody by a law enforcement officer, theater owner or
20 lessee, licensor, authorized agent or employee would not render such
21 person criminally or civilly liable in any manner or to any extent
22 whatsoever.

23 The bill provides that any law enforcement officer may arrest
24 without warrant any person he has probable cause for believing has
25 operated an audiovisual recording function of a device in violation of
26 this section.

27 The bill also provides that a theater owner or lessee, the authorized
28 agent or employee of the owner or lessee, the licensor of the motion
29 picture or the live performance or the authorized agent or employee
30 of the licensor who causes the arrest of a person for unlawfully
31 operating an audiovisual recording function of a device, shall not be
32 criminally or civilly liable in any manner or to any extent whatsoever
33 where the owner, lessee, licensor, authorized agent or employee has
34 probable cause for believing that the person arrested committed the
35 offense.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2513

STATE OF NEW JERSEY

DATED: JUNE 3, 2004

The Assembly Judiciary Committee reports favorably Assembly Bill No. 2513.

This bill expands the scope of the "New Jersey Anti-Piracy Act" (N.J.S.A.2C:21-21) by criminalizing camcorder piracy of motion pictures. Camcorder piracy involves persons who illegally record films, usually during pre-release screening events, then sell their master recording for illegal duplication, packaging and distribution to "bootleg" dealers across the country and overseas.

The bill makes it an offense under the "New Jersey Anti-Piracy Act" to knowingly operate an audiovisual recording function of a device in a facility while a motion picture is being exhibited, for the purpose of recording the motion picture, without the consent of both the licensor of the motion picture and the owner or lessee of the facility. The bill defines "audiovisual recording function" as "the capability of a device to record or transmit a motion picture or any part thereof by means of any technology."

Under the bill, a law enforcement officer, an owner or lessee of a facility where a motion picture or a live performance is being exhibited, or his agent or employee, the licensor of the motion picture or the live performance or his agent or employee, who has probable cause to believe that a person has unlawfully operated an audiovisual recording function of a device and believes he can recover the recording by taking the person into custody, may, for the purpose of attempting to recover the recording, take the person into custody and detain him in a reasonable manner for not more than a reasonable time. The taking into custody by a law enforcement officer, theater owner or lessee, licensor or their agents or employees would not render such person criminally or civilly liable. In addition, the bill provides that an owner or lessee of a facility or the licensor of the motion picture or the live performance, or their agents or employees, who cause the arrest of a person for unlawfully operating an audiovisual recording function of a device, would not render such person criminally or civilly liable where the owner, lessee, licensor or agent or employee has probable cause for believing that the person arrested committed the offense. The bill also provides that any law enforcement officer may arrest without warrant any person he has probable cause for believing has operated an audiovisual recording function of a device in violation of this

section. The provisions of the bill concerning the detention and arrest of the suspect and the provisions which provide for immunity from criminal and civil liability for the owner, lessee, licensor, or their agents or employees are similar to the provisions contained in the shoplifting statute, N.J.S.A.2C:20-11.

SENATE, No. 1515

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED APRIL 29, 2004

Sponsored by:

Senator NIA H. GILL

District 34 (Essex and Passaic)

Senator JOHN H. ADLER

District 6 (Camden)

Co-Sponsored by:

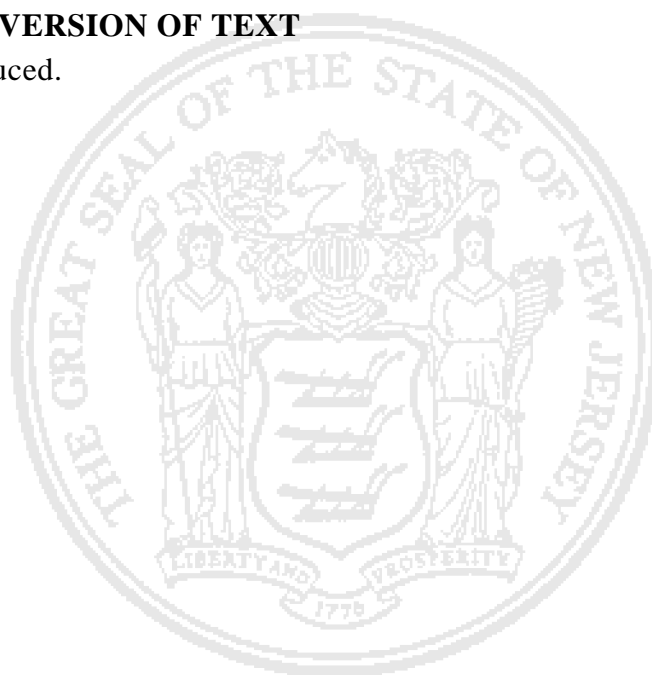
Senator Baer

SYNOPSIS

Amends "New Jersey Anti-Piracy Act" to include camcorder piracy of motion pictures.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/15/2004)

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14 object from which sounds can be reproduced either directly or with the
15 aid of a machine.

16 (2) "Owner" means (a) the person who owns the sounds fixed in
17 any master sound recording on which the original sounds were fixed
18 and from which transferred recorded sounds are directly or indirectly
19 derived; or (b) the person who owns the rights to record or authorize
20 the recording of a live performance.

21 (3) "Audiovisual work" means any work that consists of a series of
22 related images which are intrinsically intended to be shown by the use
23 of machines or devices such as projectors, viewers, or electronic
24 equipment, together with accompanying sounds, if any, regardless of
25 the nature of the material object, such as film or tape, in which the
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32 screening venue, auditorium, ballroom or other premises where motion
33 pictures are publicly exhibited but does not include a library or retail
34 establishment.

35 c. A person commits an offense who:

36 (1) Knowingly transfers, without the consent of the owner, any
37 sounds recorded on a sound recording with intent to sell the sound
38 recording onto which the sounds are transferred or to use the sound
39 recording to promote the sale of any product, provided, however, that
40 this paragraph shall only apply to sound recordings initially fixed prior
41 to February 15, 1972.

42 (2) Knowingly transports, advertises, sells, resells, rents, or offers
43 for rental, sale or resale, any sound recording or audiovisual work that

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Matter underlined thus is new matter.

1 the person knows has been produced in violation of this act.

2 (3) Knowingly manufactures or transfers, directly or indirectly by
3 any means, or records or fixes a sound recording or audiovisual work,
4 with the intent to sell or distribute for commercial advantage or private
5 financial gain, a live performance with the knowledge that the live
6 performance has been recorded or fixed without the consent of the
7 owner of the live performance.

8 (4) For commercial advantage or private financial gain, knowingly
9 advertises or offers for sale, resale or rental, or sells, resells, rents or
10 transports, a sound recording or audiovisual work or possesses with
11 intent to advertise, sell, resell, rent or transport any sound recording
12 or audiovisual work, the label, cover, box or jacket of which does not
13 clearly and conspicuously disclose the true name and address of the
14 manufacturer, and, in the case of a sound recording, the name of the
15 actual performer or group.

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19 the licensor of the motion picture and the owner or lessee of the
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21 d. Notwithstanding the provisions of subsection b. of
22 N.J.S.2C:43-3:

23 (1) Any offense set forth in this act which involves at least 1,000
24 unlawful sound recordings or at least 65 audiovisual works within any
25 180-day period shall be punishable as a crime of the third degree and
26 a fine of up to \$250,000 may be imposed.

27 (2) Any offense which involves more than 100 but less than 1,000
28 unlawful sound recordings or more than 7 but less than 65 unlawful
29 audiovisual works within any 180-day period shall be punishable as a
30 crime of the third degree and a fine of up to \$150,000 may be
31 imposed.

32 (3) Any offense punishable under the provisions of this act not
33 described in paragraphs (1) or (2) of this subsection shall be
34 punishable for the first offense as a crime of the fourth degree and a
35 fine of up to \$25,000 may be imposed. For a second and subsequent
36 offense pursuant to this paragraph, a person shall be guilty of a crime
37 of the third degree. A fine of up to \$50,000 may be imposed for a
38 second offense pursuant to this paragraph and a fine of up to \$100,000
39 for a third and subsequent offense may be imposed.

40 e. All unlawful sound recordings and audiovisual works and any
41 equipment or components used in violation of the provisions of this act
42 shall be subject to forfeiture in accordance with the procedures set
43 forth in chapter 64 of Title 2C of the New Jersey Statutes.

44 f. The provisions of this act shall not apply to:

45 (1) Any broadcaster who, in connection with or as part of a radio
46 or television broadcast transmission, or for the purposes of archival

1 preservation, transfers any sounds or images recorded on a sound
2 recording or audiovisual work;

3 (2) Any person who, in his own home, for his own personal use,
4 and without deriving any profit, transfers any sounds or images
5 recorded on a sound recording or audiovisual work.

6 (3) Any law enforcement officer who, while engaged in the official
7 performance of his duties, transfers any sounds or images recorded on
8 a sound recording or audiovisual work.

9 g. A law enforcement officer, an owner or lessee of a facility
10 where a motion picture or a live performance is being exhibited, the
11 authorized agent or employee of the owner or lessee, the licensor of
12 the motion picture or the live performance or the authorized agent or
13 employee of the licensor, who has probable cause for believing that a
14 person has operated an audiovisual recording function of a device in
15 violation of this section and that he can recover the recording by
16 taking the person into custody, may, for the purpose of attempting to
17 effect recovery thereof, take the person into custody and detain him in
18 a reasonable manner for not more than a reasonable time, and the
19 taking into custody by a law enforcement officer, owner, lessee,
20 licensor, authorized agent or employee shall not render such person
21 criminally or civilly liable in any manner or to any extent whatsoever.

22 Any law enforcement officer may arrest without warrant any person
23 he has probable cause for believing has operated an audiovisual
24 recording function of a device in violation of this section.

25 An owner or lessee of a facility, the authorized agent or employee
26 of the owner or lessee, the licensor of the motion picture or the live
27 performance or the authorized agent or employee of the licensor who
28 causes the arrest of a person for operating an audiovisual recording
29 function of a device in violation of this section, shall not be criminally
30 or civilly liable in any manner or to any extent whatsoever where the
31 owner, lessee, licensor, authorized agent or employee has probable
32 cause for believing that the person arrested committed the offense.

33 (cf: P.L.1991,c.125,s.1)

34

35 2. This act shall take effect immediately.

36

37

38

STATEMENT

39

40 This bill expands the scope of the "New Jersey Anti-Piracy Act"
41 (N.J.S.A.2C:21-21) by criminalizing camcorder piracy of motion
42 pictures. Camcorder piracy involves persons who illegally record
43 films, usually during pre-release screening events, then sell their master
44 recording for illegal duplication, packaging and distribution to
45 "bootleg" dealers across the country and overseas. Camcorder piracy
46 has resulted in hundreds of millions of dollars in lost revenue to the

1 United States film industry.

2 The bill makes it an offense under the "New Jersey Anti-Piracy Act"
3 to knowingly operate an audiovisual recording function of a device in
4 a facility while a motion picture is being exhibited, for the purpose of
5 recording the motion picture, without the consent of both the licensor
6 of the motion picture and the owner or lessee of the facility. The bill
7 defines "audiovisual recording function" as "the capability of a device
8 to record or transmit a motion picture or any part thereof by means of
9 any technology."

10 Under the bill, a law enforcement officer, an owner or lessee of a
11 facility where a motion picture or a live performance is being
12 exhibited, the authorized agent or employee of the owner or lessee;
13 the licensor of the motion picture or the live performance or the
14 authorized agent or employee of the licensor, who has probable cause
15 for believing that a person has unlawfully operated an audiovisual
16 recording function of a device and that he can recover the recording
17 by taking the person into custody, may, for the purpose of attempting
18 to recover the recording, take the person into custody and detain him
19 in a reasonable manner for not more than a reasonable time. The
20 taking into custody by a law enforcement officer, theater owner or
21 lessee, licensor, authorized agent or employee would not render such
22 person criminally or civilly liable in any manner or to any extent
23 whatsoever.

24 The bill provides that any law enforcement officer may arrest
25 without warrant any person he has probable cause for believing has
26 operated an audiovisual recording function of a device in violation of
27 this section.

28 The bill also provides that a theater owner or lessee, the authorized
29 agent or employee of the owner or lessee, the licensor of the motion
30 picture or the live performance or the authorized agent or employee
31 of the licensor who causes the arrest of a person for unlawfully
32 operating an audiovisual recording function of a device, shall not be
33 criminally or civilly liable in any manner or to any extent whatsoever
34 where the owner, lessee, licensor, authorized agent or employee has
35 probable cause for believing that the person arrested committed the
36 offense.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1515

STATE OF NEW JERSEY

DATED: JUNE 7, 2004

The Senate Judiciary Committee reports favorably Senate Bill No. 1515.

This bill expands the scope of the "New Jersey Anti-Piracy Act" (N.J.S.A.2C:21-21) by criminalizing camcorder piracy of motion pictures. Camcorder piracy involves persons who illegally record films and then sell their master recording for illegal duplication, packaging and distribution to "bootleg" dealers across the country and overseas.

The bill makes it an offense to knowingly operate an audiovisual recording function of a device in a facility while a motion picture is being exhibited, for the purpose of recording the motion picture, without the consent of both the licensor of the motion picture and the owner or lessee of the facility. The bill defines "audiovisual recording function" as "the capability of a device to record or transmit a motion picture or any part thereof by means of any technology."

Under the bill, a law enforcement officer, an owner or lessee of a facility where a motion picture or a live performance is being exhibited, the authorized agent or employee of the owner or lessee; the licensor of the motion picture or the live performance or the authorized agent or employee of the licensor, who has probable cause for believing that a person has unlawfully operated an audiovisual recording function of a device and that he can recover the recording by taking the person into custody, may, to recover the recording, take the person into custody and detain him in a reasonable manner for a reasonable time. The taking into custody by those enumerated persons would not render them criminally or civilly liable in any manner.

Any law enforcement officer may arrest without a warrant for a violation of this offense if he has probable cause.

An owner or lessee of a facility where a motion picture or a live performance is being exhibited, the authorized agent or employee of the owner or lessee; the licensor of the motion picture or the live performance or the authorized agent or employee of the licensor who causes the arrest of a person for unlawfully operating an audiovisual recording function of a device shall not be criminally or civilly liable if the person had probable cause for believing that the person arrested committed the offense.

This bill is identical to Assembly, No. 2513.