ENGROSSED SENATE
BILL NO. 1234

By: Coffee of the Senate

and

Carey of the House

An Act relating to crimes and punishments; creating the Unlawful Use of a Recording Device Act; providing short title; defining terms; prohibiting recording of motion pictures without consent on certain premises; stating penalty; granting immunity to certain persons for certain purposes; construing certain provisions; allowing for prosecution under other provisions of law; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1741 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known as and may be cited as the "Unlawful Use of a Recording Device Act".

B. As used in the Unlawful Use of a Recording Device Act:

1. “Audiovisual recording function” means the capability of a device to record or transmit a motion picture or any part thereof by means of any technology now known or later developed; and

2. “Facility” does not include a personal residence.

C. Any person, where a motion picture is being exhibited, who knowingly operates an audiovisual recording function of a device without the consent of the owner or lessee of the facility and of the licensor of the motion picture being exhibited shall be guilty of unlawful use of a recording device and shall be punished by imprisonment in the county jail for a term not to exceed one (1) year, by a fine not more than Ten Thousand Dollars ($10,000.00), or by both such fine and imprisonment.

D. The owner or lessee of a facility where a motion picture is being exhibited, or the authorized agent or employee of said owner or lessee, or the licensor of the motion picture being exhibited or the licensor's agent or employee, who alerts law enforcement authorities of an alleged violation of this section shall not be liable in any civil action arising out of measures taken in good faith by said owner, lessee, licensor, agent or employee to detain, identify, or collect evidence from a person believed to have violated this section while awaiting the arrival of law enforcement authorities, unless the plaintiff can show by clear and convincing evidence that the measures were manifestly unreasonable or the period of detention was unreasonably long.

E. This act shall not prevent any lawfully authorized investigative, law enforcement protective, or intelligence gathering employee or agent, of the state or federal government, from operating any audiovisual recording device in any facility where a motion picture is being exhibited, as part of lawfully authorized investigative, protective, law enforcement, or intelligence gathering activities.

F. This act shall not apply to a person who operates an audiovisual recording function of a device in a retail establishment solely to demonstrate the use of that device for sales purposes.

G. Nothing in this section shall be construed to prevent prosecution for any act of recording or transmitting under any other provision of law providing for greater penalty.

SECTION 2. This act shall become effective July 1, 2004.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 25th day of February, 2004.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2004.

_____
Presiding Officer of the House
of Representatives