

CS for SB 1234

1 THE STATE SENATE
2 Monday, February 23, 2004

3 Committee Substitute for
4 Senate Bill No. 1234

5 COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1234 - By: COFFEE of the
6 Senate and CAREY of the House.

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

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

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

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

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

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

26 2. "Facility" does not include a personal residence.

27 C. Any person, where a motion picture is being exhibited, who
28 knowingly operates an audiovisual recording function of a device

1 without the consent of the owner or lessee of the facility and of
2 the licensor of the motion picture being exhibited shall be guilty
3 of unlawful use of a recording device and shall be punished by
4 imprisonment in the county jail for a term not to exceed one (1)
5 year, by a fine not more than Ten Thousand Dollars (\$10,000.00), or
6 by both such fine and imprisonment.

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

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

1 investigative, protective, law enforcement, or intelligence
2 gathering activities.

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

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

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

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

14 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-17-04 - DO
15 PASS, As Amended and Coauthored.