

SENATE BILL REPORT

SB 6378

As Passed Senate, February 10, 2004

Title: An act relating to prohibiting unauthorized operation of a recording device in a motion picture exhibition facility.

Brief Description: Prohibiting unauthorized recording of motion pictures.

Sponsors: Senators Esser, Haugen, McCaslin, Prentice, Hale, B. Sheldon and Keiser.

Brief History:

Committee Activity: Judiciary: 1/22/04 [DP].

Passed Senate: 2/10/04, 49-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Hargrove, Haugen, Johnson, Kline and Roach.

Staff: Jinnah Rose-McFadden (786-7421)

Background: While it is a crime in Washington State to reproduce sound or use the recording of a live performance without owner consent, there is no statute making it a crime to record motion pictures without consent.

Summary of Bill: It is a crime to knowingly record a motion picture being shown in an exhibition facility without the consent of both the owner/lessee of the facility and the licensor of the motion picture. First time offenders are guilty of a gross misdemeanor, punishable by up to one year in jail and/or a fine not to exceed \$5,000. A subsequent violation is a class C felony, punishable by up to one year in jail and/or a fine not to exceed \$10,000.

Owners, lessees, licensors, agents, and employees of motion picture exhibition facilities may not be held liable in any civil action for measures taken, in good faith, to detain a person reasonably believed to be recording a motion picture. However, the plaintiff, detainee, may rebut the owner with clear and convincing evidence that (1) the detention was manifestly unreasonable; or (2) the detention period was unreasonably long.

This crime does not apply to persons who operate recording functions of audiovisual devices in retail establishments, for the sole purpose of demonstrating equipment for sale. Nor does this crime apply to the use of recording devices in lawfully authorized investigative, protective, law enforcement, or intelligence gathering activities involving the recording of motion pictures in exhibition facilities.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: It is the intent of this bill to deter criminal activity in Washington. Currently, people caught either recording motion pictures in movie theaters or trafficking in such recordings, may be criminally liable under federal copyright laws. However, there is no local criminal sanction. Therefore, local law enforcement cannot restrain this activity. This is a good bill that brings Washington in line with many states that have already passed legislation outlawing the recording of movies in movie theaters.

Testimony Against: None.

Testified: PRO: TK Bentler, Motion Picture Association of America, Inc.; Gordon Walgren, Motion Picture Exhibitors of Washington.

House Amendment(s): The House amendments establish that a violation of the section is a gross misdemeanor and removes the provision making a second violation a class C felony. In addition, the exemption for retail establishments is expanded to allow operation of a recording device for any purpose in such an establishment.