

A BILL TO BE ENTITLED

AN ACT

relating to creating an offense for the unauthorized operation of a recording device in a motion picture theater.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter H, Chapter 35, Business & Commerce Code, is amended by adding Section 35.935 to read as follows:

Sec. 35.935. UNAUTHORIZED OPERATION OF RECORDING DEVICE IN MOTION PICTURE THEATER. (a) In this section:

(1) "Audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part of a motion picture by means of any technology now known or later developed.

(2) "Motion picture theater" means a movie theater, screening room, or other place primarily used to exhibit a motion picture.

(b) A person commits an offense if the person knowingly operates the audiovisual recording function of any device in a motion picture theater, while a motion picture is being exhibited, without the consent of the owner of the theater.

(c) An offense under this section is a Class A misdemeanor, except that the offense is:

(1) a state jail felony if the person has been previously convicted one time of an offense under this section; or

(2) a felony of the third degree if the person has been

1 previously convicted two or more times of an offense under this  
2 section.

3 (d) It is a defense to prosecution under this section that  
4 the audiovisual recording function of the device was operated  
5 solely for official law enforcement purposes.

6 (e) If conduct constituting an offense under this section  
7 also constitutes an offense under another law, the actor may be  
8 prosecuted under this section, the other law, or both.

9 (f) A person who reasonably believes that another has  
10 knowingly operated the audiovisual recording function of any device  
11 in a motion picture theater in violation of this section is  
12 privileged to detain that person in a reasonable manner and for a  
13 reasonable time to allow for the arrival of law enforcement  
14 authorities.

15 SECTION 2. This Act takes effect September 1, 2005.