

CHAPTER 257

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 04-1269

BY REPRESENTATIVE(S) Brophy, Carroll, Cloer, Fairbank, Frangas, Hefley, Madden, McFadyen, Miller, Paccione, Plant, Rippy, Spence, Stafford, and Williams S.;
also SENATOR(S) Veiga, Andrews, Chlouber, Groff, Hillman, Isgar, Jones, Tapia, and Teck.

AN ACT**CONCERNING CREATION OF THE CRIME OF CRIMINAL OPERATION OF A DEVICE IN A MOTION PICTURE THEATER.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 5 of article 4 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

18-4-516. Criminal operation of a device in motion picture theater. (1) A PERSON WHO, WHILE WITHIN A MOTION PICTURE THEATER, KNOWINGLY OPERATES AN AUDIOVISUAL RECORDING FUNCTION OF A DEVICE FOR THE PURPOSE OF RECORDING A MOTION PICTURE, WHILE A MOTION PICTURE IS BEING EXHIBITED, WITHOUT THE CONSENT OF THE OWNER OR LESSEE OF THE MOTION PICTURE THEATER, COMMITS THE OFFENSE OF CRIMINAL OPERATION OF A DEVICE IN A MOTION PICTURE THEATER.

(2) CRIMINAL OPERATION OF A DEVICE IN A MOTION PICTURE THEATER IS A CLASS 1 MISDEMEANOR.

(3) IF A PERSON OPERATES OR APPEARS TO OPERATE AN AUDIOVISUAL RECORDING FUNCTION FOR THE PURPOSE OF RECORDING A MOTION PICTURE IN A MOTION PICTURE THEATER, THE OWNER OR LESSEE OF A FACILITY IN WHICH A MOTION PICTURE IS BEING EXHIBITED, OR THE AUTHORIZED AGENT OR EMPLOYEE OF THE OWNER OR LESSEE, OR ANY PEACE OR POLICE OFFICER, ACTING IN GOOD FAITH AND UPON PROBABLE CAUSE BASED UPON REASONABLE GROUNDS THEREFOR, MAY DETAIN AND QUESTION SUCH PERSON, IN A REASONABLE MANNER FOR THE PURPOSE OF ASCERTAINING WHETHER THE PERSON IS GUILTY OF CRIMINAL OPERATION OF A DEVICE IN MOTION PICTURE THEATER. SUCH QUESTIONING OF A PERSON BY THE OWNER OR LESSEE OF A MOTION PICTURE THEATER, OR THE AUTHORIZED AGENT OR EMPLOYEE OF THE OWNER OR

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

LESSEE, OR PEACE OR POLICE OFFICER DOES NOT RENDER THE OWNER OR LESSEE OF A MOTION PICTURE THEATER, OR THE AUTHORIZED AGENT OR EMPLOYEE OF THE OWNER OF LESSEE, OR PEACE OR POLICE OFFICER CIVILLY OR CRIMINALLY LIABLE FOR SLANDER, FALSE ARREST, FALSE IMPRISONMENT, MALICIOUS PROSECUTION, OR UNLAWFUL DETENTION.

(4) THIS SECTION DOES NOT PREVENT A LAWFULLY AUTHORIZED INVESTIGATIVE, LAW ENFORCEMENT, OR INTELLIGENCE-GATHERING EMPLOYEE OR AGENT OF THE STATE OR FEDERAL GOVERNMENT, WHILE OPERATING WITHIN THE SCOPE OF LAWFULLY AUTHORIZED INVESTIGATIVE, PROTECTIVE, LAW ENFORCEMENT, OR INTELLIGENCE-GATHERING ACTIVITIES, FROM OPERATING AN AUDIOVISUAL RECORDING FUNCTION OF A DEVICE IN A MOTION PICTURE THEATER.

(5) NOTHING IN THIS SECTION PREVENTS PROSECUTION UNDER ANY OTHER PROVISION OF LAW PROVIDING FOR GREATER PENALTY.

(6) AS USED IN THIS SECTION:

(a) "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 HEREAFTER DEVELOPED.

(b) "MOTION PICTURE THEATER" MEANS A MOVIE THEATER, SCREENING ROOM, OR OTHER VENUE WHEN USED PRIMARILY FOR THE EXHIBITION OF MOTION PICTURES.

SECTION 2. Effective date - applicability. This act shall take effect July 1, 2004, and shall apply to offenses committed on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 21, 2004