

## CHAPTER 50

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**CRIMINAL LAW AND PROCEDURE**


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**HOUSE BILL 05-1160**

BY REPRESENTATIVE(S) Brophy, Marshall, Clapp, Cloer, Crane, Frangas, Harvey, Liston, Massey, Stengel, Sullivan, Todd, White, Berens, Carroll T., and Stafford;  
also SENATOR(S) Veiga, Entz, Fitz-Gerald, Groff, Grossman, Jones, Kester, Mitchell, Takis, Tochtrop, Williams, Evans, and Tupa.

**AN ACT****CONCERNING UNLAWFUL RECORDINGS.**

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

**SECTION 1.** 18-4-604, Colorado Revised Statutes, is amended to read:

**18-4-604. Dealing in unlawfully packaged recorded articles.** (1) A person who advertises or offers for sale or resale, sells or resells, or possesses for any of the purposes provided in this subsection (1) any ~~copyrighted~~ phonograph record, disc, wire, tape, film, or other article on which sounds are recorded, the ~~outside~~ cover, box, ~~or~~ jacket, OR LABEL of which does not clearly and conspicuously disclose the actual name and address of the manufacturer and the name of the actual performer or group, commits dealing in unlawfully packaged recorded articles.

(2) Dealing in unlawfully packaged recorded articles is a ~~class 3~~ CLASS 1 misdemeanor.

**SECTION 2.** Part 6 of article 4 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

**18-4-604.3. Unlawful recording of a live performance.** (1) A PERSON WHO, WITHOUT THE CONSENT OF THE OWNER OF THE RIGHT TO RECORD A LIVE PERFORMANCE, RECORDS OR CAUSES TO BE RECORDED THE LIVE PERFORMANCE ON A PHONOGRAPH RECORD, COMPACT DISC, VIDEO DISC, WIRE, TAPE, FILM, OR OTHER ARTICLE ON WHICH A LIVE PERFORMANCE IS RECORDED WITH THE INTENT TO SELL THE ARTICLE ON WHICH THE LIVE PERFORMANCE IS RECORDED OR TO CAUSE THE SAME TO BE SOLD FOR PROFIT OR TO BE USED TO PROMOTE THE SALE OF ANY PRODUCT

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

## COMMITTS UNLAWFUL RECORDING OF A LIVE PERFORMANCE.

(2) IN THE ABSENCE OF A WRITTEN AGREEMENT OR LAW TO THE CONTRARY, THE PERFORMER OR PERFORMERS OF A LIVE PERFORMANCE ARE PRESUMED TO OWN THE RIGHTS TO RECORD THE LIVE PERFORMANCE.

(3) FOR PURPOSES OF THIS SECTION, A PERSON WHO IS AUTHORIZED TO MAINTAIN CUSTODY AND CONTROL OF BUSINESS RECORDS THAT REFLECT WHETHER THE OWNER OF THE LIVE PERFORMANCE CONSENTED TO HAVING THE LIVE PERFORMANCE RECORDED IS A COMPETENT WITNESS IN A PROCEEDING REGARDING THE ISSUE OF CONSENT.

(4) UNLAWFUL RECORDING OF A LIVE PERFORMANCE IS A CLASS 1 MISDEMEANOR.

(5) AS USED IN THIS SECTION, "LIVE PERFORMANCE" MEANS A RECITATION, RENDERING, OR PLAYING OF A SERIES OF IMAGES, MUSICAL, SPOKEN, OR OTHER SOUNDS, OR A COMBINATION OF IMAGES AND SOUNDS, IN AN AUDIBLE SEQUENCE.

**18-4-604.7. Trafficking in unlawfully recorded live performance.** (1) A PERSON WHO KNOWS OR REASONABLY SHOULD KNOW THAT AN ARTICLE HAS BEEN RECORDED IN VIOLATION OF SECTION 18-4-604.3 AND ADVERTISES, OFFERS FOR SALE OR RESALE, SELLS OR RESELLS, OR DISTRIBUTES THE ARTICLE, OR POSSESSES THE ARTICLE FOR ANY OF THE SAID PURPOSES, COMMITTS TRAFFICKING IN AN UNLAWFULLY RECORDED LIVE PERFORMANCE.

(2) EACH ACT OF TRAFFICKING IN UNLAWFULLY RECORDED LIVE PERFORMANCE IS A CLASS 1 MISDEMEANOR.

**SECTION 3. Effective date - applicability.** This act shall take effect July 1, 2005, and shall apply to offenses committed on or after said date.

**SECTION 4. 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: April 7, 2005