

# ENROLLMENT(S)

(5)





**ENROLLED ORIGINAL**

**Codification**

**District of Columbia Code  
1996  
Supplement)**

AN ACT

D.C. ACT 11-74

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 19, 1995

To amend the District of Columbia Theft and White Collar Crimes Act of 1982 to clarify that the provisions are not intended to preempt federal copyright law, to require that sound recordings and audiovisual works contain the true name and address of the manufacturer, and to prohibit the unauthorized operation of a recording device in a movie theater.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Commercial Piracy Protection and Deceptive Labeling Amendment Act of 1995".

Sec. 2. The District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Code § 22-3801 *et seq.*), is amended as follows:

(a) Section 114 (D.C. Code § 22-3814) is amended by adding a new subsection (e) to read as follows:

Section  
22-3814

"(e) This section does not apply to any sound recording initially fixed on or after February 15, 1972."

(b) Two new sections, 114a and 114b, are added to read as follows:

New Section  
22-3814.1

"Sec. 114a. Deceptive labeling.

"(a) For the purposes of this section, the term:

"(1) "Audiovisual works" means material objects upon which are fixed a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, now known or later developed, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.

"(2) "Manufacturer" means the person who authorizes or causes the copying, fixation, or transfer of sounds or images to sound recordings or audiovisual works subject to this section.

"(3) "Sound recordings" means material objects in which sounds, other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.

"(b) A person commits the offense of deceptive labeling if, for commercial advantage or private financial gain, that person knowingly advertises, offers for sale, resale, or rental, or sells,

resells, rents, distributes, or transports, or possesses for such purposes, a sound recording or audiovisual work, the label, cover, or jacket of which does not clearly and conspicuously disclose the true name and address of the manufacturer thereof.

"(c) Nothing in this section shall be construed to prohibit:

"(1) Any broadcaster who, in connection with, or as part of, a radio or television broadcast transmission, or for the purposes of archival preservation, transfers any sounds or images recorded on a sound recording or audiovisual work; or

"(2) Any person who, in his own home, for his own personal use, and without deriving any commercial advantage or private financial gain, transfers any sounds or images recorded on a sound recording or audiovisual work.

"(d)(1) Any person convicted of deceptive labeling involving less than 1,000 sound recordings or less than 100 audiovisual works during any 180-day period shall be fined not more than \$10,000 or imprisoned for not more than 1 year, or both.

"(2) Any person convicted of deceptive labeling involving 1,000 or more sound recordings or 100 or more audiovisual works during a 180-day period shall be fined not more than \$50,000 or imprisoned for not more than 5 years, or both.

"(e) Upon conviction under this section, the court shall, in addition to the penalties provided by this section, order the forfeiture and destruction or other disposition of all sound recordings, audiovisual works, and equipment used, or attempted to be used, in violation of this section.

"Sec. 114b. Unlawful operation of a recording device in a motion picture theater.

New Section  
22-3814.2

"(a) For the purposes of this section, the term:

"(1) "Motion picture theater" means a theater or other auditorium in which a motion picture is exhibited.

"(2) "Recording device" means a photographic or video camera, audio or video recorder, or any other device not existing, or later developed, which may be used for recording sounds or images.

"(b) A person commits the offense of unlawfully operating a recording device in a motion picture theater if, without authority or permission from the owner of a motion picture theater, or his or her agent, that person operates a recording device within the premises of a motion picture theater.

"(c) Any person convicted of unlawfully operating a recording device in a motion picture theater shall be fined not more than \$300 or imprisoned for not more than 90 days, or both.

"(d) A theater owner, or an employee or agent of a theater owner, who detains or causes the arrest of a person in, or immediately adjacent to, a motion picture theater shall not be held liable for detention, false imprisonment, malicious prosecution, defamation, or false arrest in any proceeding arising out of such detention or arrest, if:

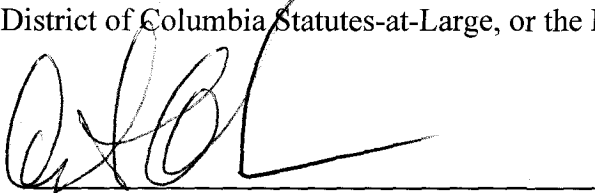
"(1) The person detaining or causing the arrest had, at the time thereof, probable cause to believe that the person detained or arrested had committed, or attempted to commit, in that person's presence, an offense described in this section;

"(2) The manner of the detention or arrest was reasonable;

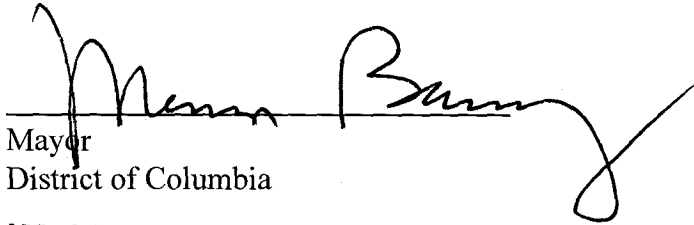
"(3) Law enforcement authorities were notified within a reasonable time; and

"(4) The person detained or arrested was released within a reasonable time of the detention or arrest, or was surrendered to law enforcement authorities within a reasonable time."

Sec. 3. This act shall take effect after a 60-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(2) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(2)), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia

APPROVED: June 19, 1995



COUNCIL OF THE DISTRICT OF COLUMBIA  
 COUNCIL PERIOD ELEVEN  
 RECORD OF OFFICIAL COUNCIL VOTE

Docket No. B11-125

ITEM ON CONSENT CALENDAR  
 ACTION & DATE Adopted First Reading, 05-02-95  
 VOICE VOTE Approved  
 RECORDED VOTE ON REQUEST  
 ABSENT Chavous  
 ROLL CALL VOTE - Result \_\_\_\_\_

| Councilmember | Aye | Nay | NV | AB | Councilmember | Aye | Nay | NV | AB | Councilmember | Aye | Nay | NV | AB |
|---------------|-----|-----|----|----|---------------|-----|-----|----|----|---------------|-----|-----|----|----|
| Chmn. Clarke  |     |     |    |    | Jarvis        |     |     |    |    | Smith, Jr.    |     |     |    |    |
| Brazil        |     |     |    |    | Lightfoot     |     |     |    |    | Thomas, Sr.   |     |     |    |    |
| Chavous       |     |     |    |    | Mason         |     |     |    |    |               |     |     |    |    |
| Cropp         |     |     |    |    | Patterson     |     |     |    |    |               |     |     |    |    |
| Evans         |     |     |    |    | Ray           |     |     |    |    |               |     |     |    |    |

X - Indicates Vote AB - Absent NV - Present not Voting

*[Signature]* Secretary to the Council  
 CERTIFICATION RECORD  
*June 9, 1995* Date

ITEM ON CONSENT CALENDAR  
 ACTION & DATE Adopted Final Reading, 06-06-95  
 VOICE VOTE Approved  
 RECORDED VOTE ON REQUEST  
 ABSENT Brazil and Thomas  
 ROLL CALL VOTE - Result \_\_\_\_\_

| Councilmember | Aye | Nay | NV | AB | Councilmember | Aye | Nay | NV | AB | Councilmember | Aye | Nay | NV | AB |
|---------------|-----|-----|----|----|---------------|-----|-----|----|----|---------------|-----|-----|----|----|
| Chmn. Clarke  |     |     |    |    | Jarvis        |     |     |    |    | Smith, Jr.    |     |     |    |    |
| Brazil        |     |     |    |    | Lightfoot     |     |     |    |    | Thomas, Sr.   |     |     |    |    |
| Chavous       |     |     |    |    | Mason         |     |     |    |    | Whittington   |     |     |    |    |
| Cropp         |     |     |    |    | Patterson     |     |     |    |    |               |     |     |    |    |
| Evans         |     |     |    |    | Ray           |     |     |    |    |               |     |     |    |    |

X-indicates no AB-Absent NV-Present not voting

*[Signature]* Secretary to the Council  
 CERTIFICATION RECORD  
*June 9, 1995* Date

ITEM ON CONSENT CALENDAR  
 ACTION & DATE \_\_\_\_\_  
 VOICE VOTE \_\_\_\_\_  
 RECORDED VOTE ON REQUEST  
 ABSENT \_\_\_\_\_  
 ROLL CALL VOTE - Result \_\_\_\_\_

| Councilmember | Aye | Nay | NV | AB | Councilmember | Aye | Nay | NV | AB | Councilmember | Aye | Nay | NV | AB |
|---------------|-----|-----|----|----|---------------|-----|-----|----|----|---------------|-----|-----|----|----|
| Chmn. Clarke  |     |     |    |    | Jarvis        |     |     |    |    | Smith, Jr.    |     |     |    |    |
| Brazil        |     |     |    |    | Lightfoot     |     |     |    |    | Thomas, Sr.   |     |     |    |    |
| Chavous       |     |     |    |    | Mason         |     |     |    |    | Whittington   |     |     |    |    |
| Cropp         |     |     |    |    | Patterson     |     |     |    |    |               |     |     |    |    |
| Evans         |     |     |    |    | Ray           |     |     |    |    |               |     |     |    |    |

X - Indicates Vote AB - Absent NV - Present not Voting

CERTIFICATION RECORD  
 \_\_\_\_\_ Secretary to the Council  
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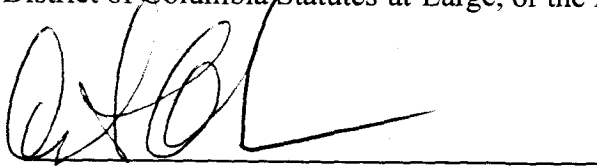
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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

RECORD OF OFFICIAL COUNCIL VOTE

Docket No. \_\_\_\_\_

B11-125

ITEM ON CONSENT CALENDAR

ACTION & DATE

Adopted First Reading, 05-02-95

VOICE VOTE

Approved

RECORDED VOTE ON REQUEST

ABSENT

Chavous

ROLL CALL VOTE - Result

| Councilmember | Aye | Nay | NV | AB | Councilmember | Aye | Nay | NV | AB | Councilmember | Aye | Nay | NV | AB |
|---------------|-----|-----|----|----|---------------|-----|-----|----|----|---------------|-----|-----|----|----|
| Chmn. Clarke  |     |     |    |    | Jarvis        |     |     |    |    | Smith, Jr.    |     |     |    |    |
| Brazil        |     |     |    |    | Lightfoot     |     |     |    |    | Thomas, Sr.   |     |     |    |    |
| Chavous       |     |     |    |    | Mason         |     |     |    |    |               |     |     |    |    |
| Cropp         |     |     |    |    | Patterson     |     |     |    |    |               |     |     |    |    |
| Evans         |     |     |    |    | Ray           |     |     |    |    |               |     |     |    |    |

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

*[Signature]*  
Secretary to the Council

*June 9, 1995*  
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

Adopted Final Reading, 06-06-95

VOICE VOTE

Approved

RECORDED VOTE ON REQUEST

ABSENT

Brazil and Thomas

ROLL CALL VOTE - Result

| Councilmember | Aye | Nay | NV | AB | Councilmember | Aye | Nay | NV | AB | Councilmember | Aye | Nay | NV | AB |
|---------------|-----|-----|----|----|---------------|-----|-----|----|----|---------------|-----|-----|----|----|
| Chmn. Clarke  |     |     |    |    | Jarvis        |     |     |    |    | Smith, Jr.    |     |     |    |    |
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| Chavous       |     |     |    |    | Mason         |     |     |    |    | Whittington   |     |     |    |    |
| Cropp         |     |     |    |    | Patterson     |     |     |    |    |               |     |     |    |    |
| Evans         |     |     |    |    | Ray           |     |     |    |    |               |     |     |    |    |

X indicates no

AB - Absent

NV - Present not voting

CERTIFICATION RECORD

*[Signature]*  
Secretary to the Council

*June 9, 1995*  
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

VOICE VOTE

RECORDED VOTE ON REQUEST

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ROLL CALL VOTE - Result

| Councilmember | Aye | Nay | NV | AB | Councilmember | Aye | Nay | NV | AB | Councilmember | Aye | Nay | NV | AB |
|---------------|-----|-----|----|----|---------------|-----|-----|----|----|---------------|-----|-----|----|----|
| Chmn. Clarke  |     |     |    |    | Jarvis        |     |     |    |    | Smith, Jr.    |     |     |    |    |
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| Cropp         |     |     |    |    | Patterson     |     |     |    |    |               |     |     |    |    |
| Evans         |     |     |    |    | Ray           |     |     |    |    |               |     |     |    |    |

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date