



H.B. 798

123rd General Assembly
(As Introduced)

Reps. Salerno, O'Brien

BILL SUMMARY

- Creates the new offense of "unauthorized recording of a movie."
- Authorizes a theater owner or an agent of the theater owner to request a person possessing a recording device while entering or in the theater to surrender possession of, or to cease operation of, the recording device and, if the person fails to do so, authorizes the theater owner or agent to refuse that person further admission to the theater or request that the person leave the theater.
- Authorizes a peace officer, theater owner, or agent of a theater owner who has reasonable cause to believe that a person is committing or has committed "unauthorized recording of a movie" to detain for specified purposes the person in a reasonable manner for a reasonable time within the theater or its immediate vicinity.
- Creates an immunity from criminal and civil liability for a person detaining or causing an arrest as described in the preceding dot point if specified circumstances apply.
- Includes "unauthorized recording of a movie" in the definition of "theft offense."

CONTENT AND OPERATION

Unauthorized recording of a movie

The bill prohibits a person from operating a "recording device" in a "theater" without the written permission of the theater owner (see "**Definitions**," below, for definitions of terms in quotes). A person who violates this prohibition is guilty of unauthorized recording of a movie, a misdemeanor of the first degree on a first offense and a felony of the third degree on each subsequent offense.

Under the bill, if a person who is admitted to a theater in which a motion picture is exhibited possesses a recording device that the person has brought or attempts to bring into the theater or operates a recording device that the person has brought into the theater, the "theater owner" or an "agent of the theater owner" may request the person to surrender possession of, or to cease operation of, the recording device. If the person refuses or fails to surrender possession of, or to cease operation of, the recording device upon request, the theater owner or an agent of the theater owner may refuse that person further admission to the theater or request that the person leave the theater. (R.C. 2913.07.)

The bill authorizes a "peace officer," theater owner, or agent of a theater owner who has reasonable cause to believe that a person is committing or has committed "unauthorized recording of a movie" to detain the person in a reasonable manner for a reasonable time within the theater or its immediate vicinity for any of the following purposes (R.C. 2935.042(A)): (1) to require the person to provide identification, (2) to verify the person's identification, (3) to determine whether the person has any recording of a movie that was obtained or made in violation of the prohibition, (4) if the person has any recording of a movie that was obtained or made in violation of the prohibition, to recover the recording, (5) to cause an arrest to be made by a peace officer, and (6) to institute criminal proceedings against the person.

A theater owner or agent of a theater owner who detains or causes the arrest of a person in or immediately adjacent to a theater is not liable in damages in a civil action or criminally liable in any proceeding arising out of the detention or arrest if all of the following apply (R.C. 2935.042(B)):

(1) The owner or agent who detained the person or caused the arrest of the person, at the time of the detention or arrest, reasonably believed that the person detained or arrested had committed or attempted to commit "unauthorized recording of a movie" in the theater owner's or agent's presence.

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

(3) The owner or agent notified a peace officer or law enforcement agency of the detention or arrest within a reasonable time after the detention or arrest.

(4) The owner or agent who detained or arrested the person surrendered the person to a peace officer or law enforcement agency within a reasonable time after the detention or arrest.

Expansion of theft offense

The bill adds the new offense of unauthorized recording of a movie to the definition of "theft offense" (R.C. 2913.01(K)). The term "theft offense" is used in over 40 sections in the Revised Code. Expanding the definition of "theft offense" to include the new offense of "unauthorized recording of a movie" has multiple effects, including the following:

(1) If the person subsequently is convicted of certain offenses, the penalty for that subsequent offense is enhanced (R.C. 1716.99(B)(2)(a), 2911.32, and 2915.05).

(2) If the person commits certain offenses during the course of committing a theft offense, the penalty is enhanced (R.C. 2911.01, 2911.02, 2911.13, 2913.51, 2921.41, 4505.19, and 4505.21).

(3) A person may sue the offender for recovery of damages in relation to the violation, and the offender may be required to pay restitution to the victim of the offense (R.C. 2307.61, 2929.21, and 2951.02).

(4) Certain programs, such as pre-trial diversion programs, may not be available to the offender (R.C. 2935.36).

(5) The person may not be eligible for certain types of employment (R.C. 3301.88, 3319.20, 3319.21, 3319.31, and 4719.01 to 4719.03).

Definitions

As used in the bill:

"Recording device" means any photographic or video camera, audio or video recorder, or any other device now existing or later developed that may be used for recording or transferring sounds or images (R.C. 2913.01(II)).

"Theater" means any establishment in which motion pictures are exhibited regularly to the public for a charge (R.C. 2913.01(JJ) by reference to R.C. 1333.05, not in the bill).

"Theater owner" means an owner or operator of a theater (R.C. 2913.01(KK)).

"Agent of a theater owner" means an agent, employee, consignee, lessee, or officer of a theater owner (R.C. 2913.01(LL)).

"Peace officer" generally includes a sheriff; deputy sheriff; marshal; deputy marshal; member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio under a contract; member of a police force employed by a metropolitan housing authority; member of a police force employed by a regional transit authority; state university law enforcement officer; designated enforcement agent of the Department of Public Safety; employee of the Department of Natural Resources who is designated a natural resources law enforcement staff officer, a designated forest officer, a designated preserve officer, a designated wildlife officer, a designated park officer, or a designated state watercraft officer; a designated park district employee; a designated conservancy district employee; Ohio veterans' home police officer; special police officer employed by a port authority; police constable of any township; and police officer of a township or joint township police district; and, for specified purpose the Superintendent and troopers of the State Highway Patrol (R.C. 2935.01(B), not in the bill).

"Theft offense" means any of the following (R.C. 2913.01(K)):

(1) Aggravated robbery (R.C. 2911.01), robbery (R.C. 2911.02), aggravated burglary (R.C. 2911.11), burglary (R.C. 2911.12), breaking and entering (R.C. 2911.13), safecracking (R.C. 2911.31), tampering with coin machines (R.C. 2911.32), petty theft, theft, grand theft, grand theft of a motor vehicle, aggravated theft, and theft of drugs (R.C. 2913.02), unauthorized use of a vehicle (R.C. 2913.03), unauthorized use of property and unauthorized use of computer property (R.C. 2913.04), possession of an unauthorized device and sale of an unauthorized device (R.C. 2913.041), telecommunications fraud (R.C. 2913.05), unlawful use of a telecommunications device (R.C. 2913.06), passing bad checks (R.C. 2913.11), misuse of credit cards (R.C. 2913.21), forgery and forging identification cards or selling or distributing forged identification cards (R.C. 2913.31), criminal simulation (R.C. 2913.32), making or using slugs (R.C. 2913.33), trademark counterfeiting (R.C. 2913.34), Medicaid fraud (R.C. 2913.40), tampering with records (R.C. 2913.42), securing writings by deception (R.C. 2913.43), personating an officer (R.C. 2913.44), defrauding creditors (R.C. 2913.45), insurance fraud (R.C. 2913.47), receiving stolen property (R.C. 2913.51), cheating (R.C. 2915.05), corrupting sports (R.C. 2915.05), theft in office (R.C. 2921.41), the former offense of insurance fraud (former R.C. 2913.47), or the former offense of workers' compensation fraud (former R.C. 2913.48);

(2) A violation of an existing or former municipal ordinance or law of Ohio, any other state, or the United States, substantially equivalent to any section listed in clause (a) or defrauding a livery or hostelry (former R.C. 2913.41),

denying access to a computer (R.C. 2913.81), or corrupting sports (R.C. 2915.06) as those offenses existed prior to July 1, 1996;

(3) An offense under an existing or former municipal ordinance or law of Ohio, any other state, or the United States, involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud;

(4) A conspiracy to commit, attempt to commit, or complicity in committing any offense identified in (1), (2), or (3).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	11-09-00	p. 2328

H0798-i.123/kl