

CHAPTER 64
HOUSE BILL No. 2835°

AN ACT concerning the use of a recording device; criminal violation; civil liability.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Unlawful use of a recording device is knowingly operating, in a motion picture theater, while a motion picture is being exhibited, an audiovisual recording function of a device without the consent of the owner or lessee of such theater.

(b) Unlawful use of a recording device is a class A nonperson misdemeanor on conviction of the first offense. Unlawful use of a recording device is a severity level 9, nonperson felony on conviction of a second or subsequent conviction.

(c) This section shall not apply to a person operating an audiovisual recording device as part of such person's lawfully authorized investigative, law enforcement, protective or intelligence gathering duties as a lawfully authorized investigative, law enforcement, protective or intelligence gathering employee or agent of the state or federal government.

(d) As used in this section:

(1) "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 later developed.

(2) "Motion picture theater" means a movie theater, screening room or other venue when used primarily for the exhibition of a motion picture.

Sec. 2. (a) The owner or lessee of a motion picture theater where a motion picture is being exhibited, or the authorized agent or employee thereof, who alerts law enforcement authorities of an alleged violation of section 1, and amendments thereto, shall not be liable in any civil action arising out of measures taken by such owner, lessee, agent or employee in the course of subsequently detaining a person that the owner, lessee, agent or employee in good faith believed to have violated section 1, and amendments thereto, while awaiting the arrival of law enforcement authorities, unless the plaintiff can show by clear and convincing evidence that such measures were manifestly unreasonable or the period of detention was unreasonably long.

(b) "Motion picture theater" has the meaning ascribed thereto in section 1, and amendments thereto.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 12, 2004.
