WEST VIRGINIA CODE: §61-3-58

§61-3-58. Unlawful operation of a recording device.

(a)(1) Any person who knowingly operates the audiovisual recording function of any device in a motion picture theater in order to record the motion picture that is being exhibited, without the written consent of the motion picture theater owner, and with intent to distribute, or cause the distribution of, multiple copies of the motion picture, for pecuniary gain, is guilty of a felony and, upon conviction thereof, shall be fined not less than $500 nor more than $1,000 or imprisoned in a correctional facility for not more than one nor more than ten years, or both fined and imprisoned.

(2) Any person who knowingly operates the audiovisual recording function of any device in a motion picture theater in order to record the motion picture that is being exhibited, without the written consent of the motion picture theater owner, and with intent to distribute, or cause the distribution of, multiple copies of the motion picture, but not for pecuniary gain, is guilty of a felony and, upon conviction thereof, shall be fined not less than $100 nor more than $500 or imprisoned in a correctional facility for not less than one year nor more than three years, or both fined and imprisoned, or, in the discretion of the court, be confined in a regional jail not more than one year and fined not more than $1,000.

(3) Any person who knowingly operates the audiovisual recording function of any device in a motion picture theater in order to record the motion picture that is being exhibited, without the written consent of the motion picture theater owner, and without the intent to distribute, or cause the distribution of, multiple copies of the motion picture, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100.

(4) Any person who commits the acts described in subdivision (1) of this subsection is civilly liable for actual damages arising from his or her distribution of copies of the motion picture. A conviction for the offense described in subdivision (1) of this subsection is not a prerequisite to the maintenance of a civil action authorized by this subdivision.

(b) The term "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.

(c) The term "motion picture theater" means a movie theater, screening room, or other venue that is being utilized primarily for the exhibition of a motion picture at the time of the offense.

(d) The owner or lessee of a motion picture theater, or the authorized agent or employee of the owner or lessee, who alerts law-enforcement authorities of an alleged violation of this section shall not be liable in any civil action arising out of measures taken by the owner, lessee, agent or employee in the course of subsequently detaining a person that the owner,

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lessee, agent or employee in good faith believed to have violated this section 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.

(e) This section does not prevent any lawfully authorized investigative, law-enforcement protective, or intelligence gathering employee or agent, of the local, state or federal government, from operating any audiovisual recording device in a motion picture theater, as part of lawfully authorized investigative, protective, law enforcement, or intelligence gathering activities.

(f) Nothing in this section prevents prosecution, instead, under any other provision of law providing for greater penalty.

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