

**RECORDING MOVIES AT THE
CINEMA: PROHIBIT**

House Bill 5336
Sponsor: Rep. John Stakoe

House Bill 5347
Sponsor: Rep. Mike Nofs

Committee: Criminal Justice

Complete to 12-9-03

A SUMMARY OF HOUSE BILLS 5336 AND 5347 AS INTRODUCED 12-3-03

The bills would prohibit the practice of using a camcorder or other recording device inside a cinema or other venue to record the movie and/or trailers being shown. Specifically, the bills would do the following:

House Bill 5347 would add a new section to the Michigan Penal Code (MCL 750.465a) to make it a felony offense to knowingly operate an audiovisual recording function of a device in a facility where a motion picture was being exhibited without the consent of the owner or lessee of the facility and of the licensor of the motion picture. The offense would be punishable by imprisonment for not more than five years, a fine of not more than \$250,000, or both. "Audiovisual recording function" would mean the capability of a device to record or transmit a motion picture or any part of a motion picture by technological means.

The owner or lessee of the facility where the movie was being shown, the authorized agent or employee of the owner or lessee, or the licensor of the movie being shown who alerted a law enforcement agency of an alleged violation of the bill would not be liable in any civil action arising out of measures taken in the course of detaining a person believed in good faith to be recording the movie while awaiting the arrival of the law enforcement authorities. However, an action could be brought if the plaintiff showed by clear and convincing evidence that the measures used in the detention were manifestly unreasonable and/or the period of detention was unreasonably long.

The bill would specify that it would not prevent any lawfully authorized state or federal investigative, law enforcement, protective, or intelligence gathering employee or agent from operating the audiovisual recording function of a device in a facility where a motion picture was being shown as part of an investigative, protective, law enforcement, or intelligence-gathering activity. Further, a person could be charged with, convicted of, or punished for any other violation of law that proscribed conduct described in the bill and that carried a greater penalty.

The bill would take effect 90 days after it was enacted into law.

House Bill 5336 would place the corresponding sentencing guidelines within the Code of Criminal Procedure (MCL 777.16w). Under the bill, operating an audio visual recording device

in a motion picture facility would be a Class E felony against the public order with a maximum term of imprisonment of five years.

The bill is tie-barred to House Bill 5347.

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.