

HOUSE BILL No. 5347

December 3, 2003, Introduced by Reps. Nofs, Stakoe, Meyer, Hager, Stewart, Shaffer, Mortimer, Acciavatti, LaJoy, Brandenburg, Newell, Pastor, Pappageorge, Stahl, Garfield, Wenke, Howell, Rocca, Gaffney, Hoogendyk, Ward, Casperson, Palsrok, DeRoche, Farhat, Moolenaar, Hune, Phillips, Kooiman, Farrah, Condino, Vagnozzi, Sak, O'Neil, Dennis, Hunter, Accavitti, Jamnick, Tobocman, Minore, Clack and Zelenko and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled

"The Michigan penal code,"

(MCL 750.1 to 750.568) by adding section 465a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 465a. (1) A person who knowingly operates an
2 audiovisual recording function of a device in a facility where a
3 motion picture is being exhibited without the consent of the
4 owner or lessee of that facility and of the licensor of the
5 motion picture being exhibited is guilty of a felony punishable
6 by imprisonment for not more than 5 years or a fine of not more
7 than \$250,000.00, or both. As used in this section, "audiovisual
8 recording function" means the capability of a device to record or
9 transmit a motion picture or any part of a motion picture by
10 technological means.

11 (2) The owner or lessee of a facility where a motion picture

1 is being exhibited, or the authorized agent or employee of the
2 owner or lessee of that facility, or the licensor of the motion
3 picture being exhibited or the licensor's agent or employee, who
4 alerts a law enforcement agency of an alleged violation of this
5 section is not liable in any civil action arising out of measures
6 taken by an individual described in this subsection in the course
7 of detaining a person whom that individual in good faith believed
8 to have violated this section while awaiting the arrival of law
9 enforcement authorities, unless the plaintiff shows by clear and
10 convincing evidence that 1 or both of the following conditions
11 applied:

12 (a) The measures were manifestly unreasonable.

13 (b) The period of detention was unreasonably long.

14 (3) This section does not prevent any lawfully authorized
15 investigative, law enforcement, protective, or intelligence
16 gathering employee or agent, of this state or the United States,
17 from operating the audiovisual recording function of a device in
18 a facility where a motion picture is being exhibited as part of
19 an investigative, protective, law enforcement, or
20 intelligence-gathering activity.

21 (4) This section does not prohibit a person from being
22 charged with, convicted of, or punished for any other violation
23 of law that proscribes conduct described in this section and that
24 provides a greater penalty.

25 Enacting section 1. This amendatory act takes effect 90
26 days after it is enacted into law.