

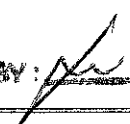
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OFFICE OF THE SECRETARY

FIFTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )

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SENATE  
S.B. No. 2438

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INTRODUCED BY SEN. MANNY VILLAR

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**EXPLANATORY NOTE**

The movie industry provides employment to people and a major source of revenue for the government. It likewise brings enjoyment, entertainment and information to millions of Filipinos. However, with the advent of modern technology, piracy has plagued the industry. Film piracy, in fact, has taken new forms such as flicker piracy and film napping. In flicker piracy, simple and sophisticated gadgets are used as tools in the illegal recording of films and other audiovisual works inside movie houses. Film napping, on the other hand refers to the stealing of legitimate film prints while they are transported in the provinces.

These result to the immediate unauthorized copying and transmitting of films and audiovisual shows. Thus, proliferation of piracy is causing enormous loss of revenues to film makers, investors, the government as well as employment opportunities for the people.

Despite concerted efforts to eradicate flicker piracy and film napping by concerned government agencies such as the Motion Picture Anti-Piracy Council (MPAPC) and the Optical Media Board (OMB), the creation, distribution, sale of illegally recorded movies and stealing legitimate film prints still persist.

To further secure the intellectual property rights of the owner by addressing the problem of flicker piracy a legislative measure must be enacted which unequivocally prohibits and penalizes such acts and film napping,

The proposed measure imposes penalties and fines for first, second, and third or subsequent offenses. Likewise, accomplices shall suffer the same penalty and fine. Upon conviction, the court shall cause the forfeiture and destruction of the gadgets used in the commission of the offense. To guarantee strict implementation of this Act in all localities, local government units are enjoined to actively participate in the campaign against such copyright violations and monitor the enforcement of this Act.

In view of the foregoing, early passage of this bill is earnestly requested.

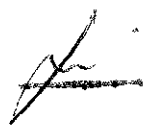
  
MANNY VILLAR

FIFTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )

OFFICE OF THE CLERK

10 AG 23 P5:37

SENATE  
S.B. No. 2438

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**AN ACT TO STRENGTHEN THE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS DEFINING FOR THE PURPOSE FILM PIRACY AND FILM NAPPING, PROVIDING PENALTIES THEREFOR AND FOR OTHER PURPOSES**

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

**SECTION 1. Short Title.** - This Act shall be known as the "Anti-Flicker Piracy Act".

**SECTION 2. Declaration of Policy.** - It is hereby declared the policy of the State to secure and protect the exclusive rights of individuals to their intellectual property and creations. Toward this end, there is a need to enact a legislative measure that shall define prohibited acts which are inimical to the protection of these rights such as flicker piracy and film napping.

**SECTION 3. Definition of Terms.** - As used in this Act, the following terms shall mean: ,

- a) Audiovisual Recording Device - a digital or analog photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted motion picture or other audiovisual work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device;
- b) Copyright Owner - one who has the exclusive rights comprised in copyright as provided under R.A. 8293 otherwise known as Intellectual Property Code and pertinent treaties and international agreements; and
- c) Motion Picture Exhibition Facility - a movie theater, screening room, or other venue that is being used primarily for the exhibition of a copyrighted motion picture, if such exhibition is open to the public or is made to an assembled group of viewers outside of a normal circle of a family and its social acquaintances,

**SECTION 4. Flicker Piracy.** - The following acts shall constitute flicker piracy and are hereby declared unlawful:

- a) Using without the authorization of the copyright owner, an audiovisual recording device to make or transmit a copy of a motion picture or other audiovisual work, protected under the Intellectual Property Code, or any part thereof, from a performance of such work in a movie house or any motion picture exhibition facility;
- b) Attempting to use, without the authorization of the copyright owner, an audiovisual recording device to make or transmit a copy of a motion picture or other audiovisual work, protected under the Intellectual Property Code, or any part thereof, from a performance of such work in a movie house or any motion picture exhibition facility.

**SECTION 5. Film Napping.** - It shall be unlawful for any person to take, without the authorization of the copyright owner under R.A. 8293, any legitimate film print with the intent to make a copy or reproduce the same while they are transported to and from a motion picture exhibition facility.

**SECTION 6. Penalties.** - Any person committing any of the unlawful acts provided under Section 4 and 5 hereof shall suffer the following penalties:

- a) Imprisonment of one (1) year to three (3) years plus a fine ranging from Fifty thousand pesos (P50,000) to One hundred fifty thousand pesos (P150,000) for the first offense;
- b) Imprisonment of three (3) years and one (1) day to six (6) years plus a fine ranging from One hundred fifty thousand pesos (P150,000) to Five hundred thousand pesos (P500,000) for the second offense;
- c) Imprisonment of six (6) years and one (1) day to nine (9) years plus a fine ranging from Five hundred thousand pesos (P500,000) to One million five hundred thousand pesos (P1,500,000) for the third and subsequent offenses.
- d) In all cases, subsidiary imprisonment in cases of insolvency

Any person who willfully or knowingly aid, permit, or cause to be done any of the above-mentioned acts as defined in this Act, shall likewise suffer the same penalties.

In addition to any of the above-mentioned penalties, the court shall, upon conviction, order the forfeiture and destruction or other means of disposing of all unauthorized copies of motion pictures or other audiovisual works protected under the Intellectual Property Code or parts thereof, and any audiovisual recording devices or other equipment used in connection with the offense.

Possession by a person of an audiovisual recording device in a motion picture exhibition facility may be considered as evidence in any proceeding to determine whether that person committed an offense penalized under this Act, but shall not, by itself, be sufficient to support a conviction of that person for such offense.

**SECTION 7. Involvement of Local Government Units (LGUs) in the Campaign Against Flicker Piracy.** - All Local Government Units (LGUs) in the country shall actively participate in the campaign against flicker piracy and film napping, and monitor its strict implementation.

**SECTION 8. Implementing Rules and Regulations.** The Department of Justice (DOJ), in coordination with the Department of Interior and Local Government (DILG), the Optical Media Board (OMB), the Movie Picture Anti-Piracy Council (MPAPC) and the National Cinema Association of the Philippines, shall formulate and issue such rules and regulations necessary for the effective implementation of the provisions of this Act.

**SECTION 9. Separability Clause.** - If any part or provision of this Act is held unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

**SECTION 10. Repealing Clause.** - All laws, orders, rules or regulations which are inconsistent with or contrary to the provisions of this Act are hereby amended or repealed accordingly.

**SECTION 11. Effectivity-**This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,