

Second Regular Session



JUL 10 P2:15

SENATE

Senate Bill No. <u>2307</u>

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INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

AN ACT

TO STRENGTHEN THE PROMOTION OF INTELLECTUAL PROPERTY RIGHTS DEFINING FOR THE PURPOSE FILM PIRACY AND FILM NAPPING. PROVIDING PENALTIES THEREFOR AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The problem of film piracy continues to persist in the country despite the efforts of various government agencies and the private sector. This has resulted to enormous loss of revenues not only to the government but also to the film makers and investors as well as employment opportunities to the workers of the film industry.

Film piracy has taken new forms such as flicker piracy and film napping. Flicker piracy uses simple or sophisticated gadgets in the illegal recording of films and other audiovisual works inside a movie house or any motion picture exhibition facility. Film napping is the stealing of legitimate film prints while being transported to and from a motion picture exhibition facility.

This measure seeks to prevent the proliferation of flicker piracy and film napping by providing penalties and fines for the offenses. It 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.

This measure was previously filed by Sen. Manny Villar in the 15th Congress. The immediate passage of this bill is earnestly sought.

GGOY EJERCITO ESTRADA

Senator

SIXTEENTH CONGRESS OF THE REPUBLIC) OF THE PHILIPPINES

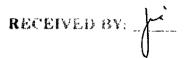
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TO STRENGTHEN THE PROMOTION OF INTELLECTUAL PROPERTY RIGHTS DEFINING FOR THE PURPOSE FILM PIRACY AND FILM NAPPING, PROVIDING PENALTIES THEREFOR AND FOR OTHER PURPOSES

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

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

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SEC. 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.

SEC. 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 Republic Act No. 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.

 SEC. 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.
- **SEC. 5.** Film Napping. It shall be unlawful for any person to take, without the authorization of the copyright owner under Republic Act No. 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
- **SEC. 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 (P50,000.00) to One Hundred Fifty Thousand pesos (P150,000.00) 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 (P150,000.00) to Five Hundred Thousand pesos (P500,000.00) 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 (P500,000.00) 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.

SEC. 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.

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SEC. 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.

SEC. 9. Separability Clause. – If any provision of this Act shall at any time be found to be unconstitutional or invalid, the remainder thereof not affected by such declaration shall remain in full force and effect.

SEC. 10. Repealing Clause. – All laws, decrees, rules or regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 11. Effectivity Clause. – This Act shall take effect after fifteen (15) days following its complete publication in two (2) newspapers of general circulation.

Approved,