

SENATE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

February 4, 2009  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB09-036 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 2, line 4, strike "A NEW SUBSECTION," and  
2 substitute "THE FOLLOWING NEW SUBSECTIONS,";

3 line 17, strike "NONCONFORMING RECORDED DEVICES" and substitute  
4 "NUMBER OF NONCONFORMING RECORDED ARTICLES";

5 after line 19, insert the following:

6 "(1.3) "ARTICLE" MEANS A TANGIBLE MEDIUM ON WHICH SOUNDS,  
7 IMAGES, OR BOTH ARE RECORDED OR OTHERWISE STORED, INCLUDING AN  
8 ORIGINAL PHONOGRAPH RECORD, DISC, TAPE, AUDIO OR VIDEO CASSETTE,  
9 WIRE, FILM, MEMORY CARD, FLASH DRIVE, HARD DRIVE, DATA STORAGE  
10 DEVICE, OR OTHER MEDIUM NOW EXISTING OR DEVELOPED LATER ON  
11 WHICH SOUNDS, IMAGES, OR BOTH ARE OR CAN BE RECORDED OR  
12 OTHERWISE STORED, OR A COPY OR REPRODUCTION THAT DUPLICATES, IN  
13 WHOLE OR IN PART, THE ORIGINAL."

14 Page 3, after line 6, insert the following:

15 "(1.7) "MANUFACTURER" MEANS THE PERSON WHO ACTUALLY  
16 MAKES A RECORDING OR CAUSES A RECORDING TO BE MADE.  
17 "MANUFACTURER" DOES NOT INCLUDE A PERSON WHO MANUFACTURES A  
18 MEDIUM UPON WHICH SOUNDS OR IMAGES CAN BE RECORDED OR STORED,  
19 OR WHO MANUFACTURES THE CARTRIDGE OR CASING ITSELF, UNLESS SUCH

1 PERSON ACTUALLY MAKES THE RECORDING OR CAUSES THE RECORDING TO  
2 BE MADE.";

3 line 7, strike "18-4-604 (2)," and substitute "18-4-604,";

4 strike lines 10 through 17 and substitute the following:

5 "(1) A person who KNOWINGLY AND FOR COMMERCIAL ADVANTAGE OR  
6 PRIVATE FINANCIAL GAIN advertises, ~~or offers for sale or resale, sells or~~  
7 ~~resells, TRANSPORTS, or possesses for any of the purposes provided in this~~  
8 ~~subsection (1) any phonograph record, disc, wire, tape, film, or other~~  
9 ~~article on which sounds are recorded, the cover, box, jacket, or label of~~  
10 ~~which does not clearly and conspicuously disclose the actual name and~~  
11 ~~address of the manufacturer and the name of the actual performer or~~  
12 ~~group,~~ commits dealing in unlawfully packaged recorded articles.

13 (2) Dealing in unlawfully packaged recorded articles is a class 1  
14 misdemeanor. IF THE OFFENSE INVOLVES ONE HUNDRED OR FEWER  
15 UNLAWFULLY PACKAGED RECORDED ARTICLES, THE COURT SHALL ASSESS  
16 A FINE OF AT LEAST FIVE HUNDRED DOLLARS. IF THE OFFENSE INVOLVES  
17 MORE THAN ONE HUNDRED UNLAWFULLY PACKAGED RECORDED ARTICLES,  
18 THE COURT SHALL ASSESS A FINE OF AT LEAST ONE THOUSAND DOLLARS.";

19 line 23, after "UNLAWFULLY", insert "LABELED," and, strike  
20 "TRANSFERRED" and substitute "TRANSFERRED,".

21 Page 4, line 26, strike "VALUE, AS ESTIMATED BY THE COURT," and  
22 substitute "VALUE".

23 Page 5, line 1, strike "UNLAWFULLY" and substitute "NUMBER OF  
24 NONCONFORMING".

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