

UNAUTHORIZED RECORDINGS

Act 210 of 1994

AN ACT to prohibit the unauthorized duplication of certain recordings; to prohibit the sale, rental, distribution, transportation, and possession of these recordings; to require certain labeling; and to prescribe penalties and remedies.

History: 1994, Act 210, Eff. Jan. 1, 1995

The People of the State of Michigan enact:

752.1051 Definitions.

Sec. 1.

As used in this act:

(a) "Owner" means a person who owns the sounds fixed in a master recording on which sound is recorded and from which the transferred sounds are directly or indirectly derived, or the person who owns the rights to record or authorize the recording of a live performance.

(b) "Person" means an individual, partnership, corporation, association, limited liability company, or other legal entity.

(c) "Recording" means the tangible medium upon which sounds or images are recorded or otherwise stored. Recording includes any original phonograph record, disc, wire, tape, audio or video cassette, film, or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or any copy or reproduction that duplicates, in whole or in part, the original.

History: 1994, Act 210, Eff. Jan. 1, 1995

752.1052 Prohibited conduct; applicability of subsection (1)(a) and (b).

Sec. 2.

(1) A person shall not directly or indirectly do any of the following:

(a) Transfer a live performance onto a recording without the consent of the owner for commercial advantage or private financial gain.

(b) Transfer the sounds on a recording onto another recording without the consent of the owner for commercial advantage or private financial gain. This subdivision does not apply to either of the following:

(i) A sound recording initially fixed after February 15, 1972.

(ii) A person engaged in radio or television broadcasting or cablecasting who transfers or causes to be transferred sounds intended for, or in connection with, a broadcast or cable transmission or related use.

(c) Sell, rent, distribute, transport, or possess for the purpose of selling, renting, distributing, or transporting, or any combination thereof, a recording with knowledge that the recording was manufactured in violation of subdivision (a) or (b).

(d) Sell, rent, distribute, transport, or possess for the purpose of selling, renting, distributing, or transporting, or any combination thereof, a recording with knowledge that the recording is in violation of section 3.

(2) Subsection (1)(a) and (b) shall not apply to recordings that are transferred solely for the personal use of the person transferring the recording and the person does not derive any compensation from the transfer.

History: 1994, Act 210, Eff. Jan. 1, 1995

752.1053 Name and address of manufacturer; “manufacturer” defined.

Sec. 3.

Each recording sold, rented, or distributed, or possessed for the purpose of sale, rental, or distribution, shall contain in a prominent place on its cover, box, jacket, or label the true name and address of the manufacturer. As used in this section, "manufacturer" does not include the manufacturer of the cartridge or casing.

History: 1994, Act 210, Eff. Jan. 1, 1995

752.1054 Violation as misdemeanor or felony; penalties.

Sec. 4.

(1) A person who violates this act by committing an offense involving less than 7 audiovisual recordings or less than 100 sound recordings during a 180-day period is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than \$25,000.00, or both.

(2) A person who violates this act by committing a subsequent offense or an offense involving 7 or more audiovisual recordings or 100 or more sound recordings during a 180-day period is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than \$250,000.00, or both.

History: 1994, Act 210, Eff. Jan. 1, 1995

752.1055 Order to destroy recordings.

Sec. 5.

If a person is convicted of an offense under this act, the court shall order all recordings on which the conviction is based to be destroyed.

History: 1994, Act 210, Eff. Jan. 1, 1995

752.1056 Forfeiture.

Sec. 6.

All recordings and equipment used or attempted to be used in the manufacture of the recordings are subject to forfeiture in the same manner as provided in sections 4701 to 4709 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.4701 to 600.4709 of the Michigan Compiled Laws, except that the court shall order the following:

(a) That all recordings forfeited be destroyed.

(b) That any equipment forfeited be offered at no cost to a public elementary or secondary school, an institution of higher education, or a library.

History: 1994, Act 210, Eff. Jan. 1, 1995

752.1057 Effective date.

Sec. 7.

This act shall take effect January 1, 1995.

History: 1994, Act 210, Eff. Jan. 1, 1995