

Senate Bill 439

By: Senators Seabaugh of the 28th, Starr of the 44th, Adelman of the 42nd and Hamrick of the 30th

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 3 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated,
2 relating to criminal reproduction and sale of recorded material, so as to create a new offense
3 relating to film piracy; to amend Article 4 of Chapter 7 of Title 51 of the Official Code of
4 Georgia Annotated, relating to detention or arrest on suspicion of shoplifting, so as to provide
5 standards of liability for detention due to suspicion of film piracy; to provide for penalties;
6 to provide for related matters; to repeal conflicting laws; and for other purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 Article 3 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to
10 criminal reproduction and sale of recorded material, is amended by adding a new Code
11 section to the end of the article to read as follows:

12 "16-8-62.

13 (a) As used in this Code section, the term:

14 (1) 'Audiovisual recording device' means any device capable of recording or transmitting
15 a motion picture, or any part thereof, using any technology now known or later
16 developed.

17 (2) 'Facility' shall not include a personal residence.

18 (b) Any person who knowingly operates the recording function of an audiovisual recording
19 device while a motion picture is being exhibited, without the consent of the owner,
20 operator, or lessee of the exhibition facility and of the licensor of the motion picture being
21 exhibited, shall be guilty of film piracy.

22 (c) The provisions of this Code section shall not be construed to prevent any lawfully
23 authorized investigative, law enforcement, or intelligence personnel of the state or federal
24 government from operating any audiovisual recording device in a facility where a motion
25 picture is being exhibited as part of their official duties or activities.

1 (d) This Code section is not applicable to a person who operates an audiovisual recording
2 device in a retail establishment solely to demonstrate the use of the device for sales
3 purposes.

4 (e) A prosecution under this Code section shall not preclude obtaining any other civil or
5 criminal remedy under any other provision of law.

6 (f) Violation of this Code section is a misdemeanor of a high and aggravated nature and
7 punishable upon conviction as provided in Code Section 17-10-4. A second or subsequent
8 conviction for violation of this Code section shall be punishable as a felony."

9 **SECTION 2.**

10 Article 4 of Chapter 7 of Title 51 of the Official Code of Georgia Annotated, relating to
11 detention or arrest on suspicion of shoplifting, is amended by adding a new Code section to
12 the end of the article to read as follows:

13 "51-7-62

14 Whenever the owner, operator, or lessee of a motion picture exhibition facility or any agent
15 or employee of the owner, operator, or lessee detains, arrests, or causes to be detained or
16 arrested any person reasonably thought to be engaged in film piracy in violation of Code
17 Section 16-8-62 and, as a result of the detention or arrest, the person so detained or arrested
18 brings an action for false arrest or false imprisonment against the owner, operator, lessee,
19 agent, or employee, no recovery shall be had by the plaintiff in such action where it is
20 established by competent evidence:

21 (1) That the plaintiff had so conducted himself or herself or behaved in such manner as
22 to cause a person of reasonable prudence to believe that the plaintiff, at or immediately
23 prior to the time of the detention or arrest, was committing the offense of film piracy, as
24 defined by Code Section 16-8-62; or

25 (2) That the manner of the detention or arrest and the length of time during which such
26 plaintiff was detained was under all the circumstances reasonable."

27 **SECTION 3.**

28 All laws and parts of laws in conflict with this Act are repealed.