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SENATE

S. B. No. 3529

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(In Substitution of Senate Bill Nos. 2023 and 3300, taking into consideration House Bill No. 5699)

Prepared by the Committees on Public Information and Mass Media and on Trade and Commerce with Senators Santiago, Estrada, Roxas, and Cayetano (A.) as authors thereof

**"AN ACT
TO PROHIBIT AND PENALIZE THE UNAUTHORIZED USE, POSSESSION
AND/OR CONTROL OF AUDIOVISUAL RECORDING DEVICES FOR THE
UNAUTHORIZED RECORDING OF CINEMATOGRAPHIC FILMS AND
OTHER AUDIOVISUAL WORKS AND/OR THEIR SOUNDTRACKS IN AN
EXHIBITION FACILITY, PROVIDING PENALTIES THEREFOR AND FOR
OTHER PURPOSES"**

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

1 **SECTION 1. Short Title.** - This Act shall be known the "Anti-Camcording Act
2 of 2009".

3
4 **SEC. 2. Definition of Terms.** -For purposes of this Act:

5 (a) "Audiovisual work" means a work that consists of a series of related
6 images which are intrinsically intended to be shown by the use of machines or
7 devices such as projectors, viewers or electronic equipment, together with

1 accompanying sounds, if any, regardless of the nature of the material objects, such
2 as films or tapes, in which the works are embodied.

3
4 (b) "Audiovisual recording device" means a digital or analog photographic or
5 video camera, or any other technology or device capable of enabling the recording or
6 transmission of a cinematographic film or other audiovisual work, or any part thereof,
7 regardless of whether audiovisual recording is the sole or primarily purpose of the
8 device.

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10 (c) "Authorized person" means the members of the Philippine National Police
11 (PNP) and the National Bureau of Investigation (NBI) and/or any other person duly
12 authorized by the same to exercise powers conferred upon by this Act.

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14 (d) "Camcording" means any of the unlawful acts enumerated under Section 3
15 of this Act.

16
17 (e) "Cinematographic film" means any audiovisual work consisting of a series
18 of related images which, when shown in succession, impart an impression of motion,
19 together with accompanying sounds, if any.

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21 (f) "Copy" means any article or thing in which the visual images or sounds
22 comprised in any cinematographic film or audiovisual work are embodied, and
23 includes the making of a copy which is in electronic format, or transient or incidental
24 to some other use thereof.

25

1 (g) "Copyright owner" means any one who has the exclusive rights comprised
2 in a copyright as provided under Republic Act No. 8293, otherwise known as the
3 Intellectual Property Code of the Philippines, and related international treaties,
4 conventions or agreement to which the Republic of the Philippines is a party.

5
6 (h) "Exclusive licensee" means a licensee who is authorized in writing and
7 who, on behalf of the owner or prospective owner of copyright, to the exclusion of all
8 other persons, is authorized to do an act within the Philippines that, by virtue of this
9 Act, the owner of the copyright would, but for the license, have the exclusive right to
10 do or to perform.

11
12 (i) "Exhibition facility" means any cinema, film theater, screening room,
13 projection room or other venue that is used for the public exhibition of a
14 cinematographic film or audiovisual work, whether or not a fee is chargeable.

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16 (j) "Operator of an exhibition facility" means any person or entity who holds or
17 is required to hold a license by the Securities and Exchange Commission ('SEC', for
18 companies and partnerships), the Department of Trade and Industry ("DTI", for sole
19 proprietorships), the Movie and Television Review and Classification Board
20 (MTRCB) or any and all other relevant government offices that have, or will have,
21 jurisdiction over exhibition facilities to operate the exhibition facility.

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23 (k) "Relevant authority" means the officers, members, and responsible
24 personnel of law enforcement agencies such as the PNP and their adjuncts and the
25 NBI.

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(l) "Transmit" means to convey by any means, whether over a path or a combination of paths, provided by a material substance or by wireless means or otherwise, and whether or not in response to a request made.

SEC. 3. Acts Constituting Unauthorized Possession, Use and/or Control of Audiovisual Recording Devices. - It shall be unlawful for any person, at a time when copyright subsists in a cinematographic film or other audiovisual work or its soundtrack and without the authorization of the copyright owner or exclusive licensee thereof, to:

(a) use or attempt to use an audiovisual recording device to transmit or make a copy of any performance in an exhibition facility of such cinematographic film or other audiovisual work or its soundtrack, or any part thereof; or

(b) have in his/her possession, an audiovisual recording device in an exhibition facility, with the intent of using or attempts to use the audiovisual recording device to transmit or make a copy of any performance in the exhibition facility of such cinematographic film or other audiovisual work or its soundtrack, or any part thereof.

(c) aid, abet or connive in the commission of the acts prohibited under this section.

1 **SEC. 4. Penalties.** - A person who will be found guilty of violating the
2 provisions of Section 3 shall be subject to a fine of Fifty Thousand pesos
3 (P50,000.00) but not exceeding Seven Hundred Fifty Thousand pesos
4 (P750,000.00) and imprisonment of six (6) months and one (1) day to six (6) years
5 and one (1) day.

6
7 If the purpose of the commission of the abovementioned acts is the sale,
8 rental or other commercial distribution of a copy of the cinematographic or
9 audiovisual work or its soundtrack, or any part thereof, the penalty shall be imposed
10 in the maximum.

11
12 If the offender is an alien, said person shall immediately be deported after
13 payment of the fine and after serving his/her sentence. He/she shall thereafter be
14 refused entry into the Philippines.

15
16 If the offender is a government official or employee, the penalty shall include
17 perpetual disqualification from public office and forfeiture of his right to vote and
18 participate in any public election for a period of five (5) years.

19
20 **SEC. 5. Presumptions as to the Subsistence of Copyright and/or**
21 **Ownership of Copyright.** - For purposes of Section 3, copyright shall be presumed
22 to subsist in the subject cinematographic film or other audiovisual work or its
23 soundtrack if the accused does not put in issue the question as to whether copyright
24 subsists therein. However:

25

1 (a) where the accused puts such question in issue but does not satisfy the
2 court that he/she does so in good faith, the presumption as to the subsistence of
3 copyright herein shall apply, notwithstanding that the accused puts that question in
4 issue;

5
6 (b) where the name of a person appears on copies of the subject
7 cinematographic film or other audiovisual work or its soundtrack as made available
8 to the public in such a way as to imply that the person was the maker thereof and, in
9 the case of a person other than a body corporate, that name was his/her true name
10 or a name by which he/she was commonly known; that person shall be presumed to
11 be the maker thereof and the copyright owner thereof, unless the contrary is
12 established; and/or

13
14 (c) where the accused puts in issue the question of whether copyright subsists
15 in the subject cinematographic film or other audiovisual work or its soundtrack, or the
16 ownership of the copyright therein, an affidavit made in behalf of the copyright owner
17 in which he/she makes assertions of facts relevant to showing that: (1) copyright
18 subsists in the work or other subject matter; and/or, as the case may be, (2) he is the
19 owner of the copyright, shall be admitted in evidence and shall be *prima facie* proof
20 of the matters stated therein until the contrary is proved, unless the court requires
21 that oral/testimonial evidence be adduced to prove those matters.

22
23 **SEC. 6. No Defense on Account of Use for Private or Domestic**
24 **Purposes.** - It shall not be a defense that the transmission or making of the copy of

1 the cinematographic film or other audiovisual work or its soundtrack, or any part
2 thereof, was for private or domestic purposes or in connection with a fair use deal.

3
4 **SEC. 7. Requirement for Posting of Notices in an Exhibition Facility on**
5 **the Prohibition Against the Bringing Into Said Exhibition Facility of**
6 **Audiovisual Recording Devices and the Like.** - All exhibition facilities, cinemas or
7 theaters shall be required to conspicuously post in at least two (2) areas in the
8 exhibition facility including, but not limited to, the areas where tickets are sold and
9 the entrances of the exhibition facilities, notices or signages warning against the
10 bringing of audiovisual recording devices into the cinematographic film/audiovisual
11 screening/exhibition area, with a reservation that the management/operator of the
12 exhibition facility will take into preventive and temporary custody such audiovisual
13 recording device/s until the film/movie theater patron leaves the screening/exhibition
14 area/facility.

15
16 Failure of the management/operator of the exhibition facility to comply with the
17 foregoing requirement will subject said management/operator liable to pay a fine of
18 Fifty thousand pesos (P50,000.00).

19
20 Nothing in this Act shall prevent the management from performing such other
21 precautionary measures so as to prevent the commission of the acts punishable
22 herein.

23
24 **SEC. 8. Powers of Authorized Persons to Enter an Exhibition Facility and**
25 **Search the Same.** - An authorized person, without a warrant and without payment of

1 any admission fee or other charge, may enter and search any exhibition facility if the
2 authorized person has reasonable ground to believe that any violation of this Act has
3 been or is being committed and, due to the delay necessary to obtain a warrant
4 could result in the loss or destruction of evidence, or for any other reason it would
5 not be reasonably practicable to obtain a warrant.

6
7 **SEC. 9. Other Powers of Authorized Persons.** - An authorized person who
8 has reasonable ground to believe that a violation under this Act has been or is being
9 committed may:

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11 (a) search any person if the person subject of the search has in his/her actual
12 possession, any audiovisual recording device, in respect of which an offense under
13 this Act has been or is being committed;

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15 (b) seize, remove or detain any audiovisual recording device or other object
16 which appears to contain, or likely to contain, evidence of an offense committed
17 under this Act;

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19 (c) use reasonable force to remove any person or object obstructing the
20 authorized person in the exercise of any power conferred upon him/her by this Act:

21
22 (d) detain any person within a reasonable time not exceeding eighteen (18)
23 hours, found in any place which the authorized person is empowered to enter and
24 search if, after inquiry made, said authorized person has reasonable ground to
25 believe that the person subject of the search is connected with the subject matter of

1 the search, and it is considered necessary to detain the person subject of the search
2 to be able to adequately perform the search; and

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4 (e) require the operator of an exhibition facility or any other person who
5 appears to be at the time responsible for the control or management of the exhibition
6 facility, to give information or render assistance that may be necessary to enable the
7 authorized person to carry out the functions under this Act.

8

9 **SEC. 10. Forfeiture and Disposal of Unauthorized Copy of**
10 **Cinematographic Film or Other Audiovisual Work/Audiovisual Recording**
11 **Devices Used in the Commission of the Acts Penalized under this Act.** – The
12 court before which a person charged with an offense in violation/contravention of this
13 Act, whether or not said person charged is convicted of the offense, may order that
14 any copy of a cinematographic film or other audiovisual work in which copyright
15 subsists, or parts thereof which appears to the court to be an unauthorized copy, and
16 any audiovisual recording device or other equipment in the possession of the
17 alleged offender or the court, be destroyed or delivered to the owner or the exclusive
18 licensee of the copyright owner concerned, or otherwise dealt with in such a manner
19 as the court deems fit.

20

21 In the event that the court retains representative samples of the unauthorized
22 copy of a cinematographic film or other audiovisual work, or audiovisual recording
23 devices or other equipment for evidentiary purposes in the prosecution of the offense
24 for which an accused is charged, the retained samples shall remain in *custodia legis*
25 until the final resolution of the court proceedings thereon.

1 **SEC. 11. *Enforcement.*** - The PNP in coordination with the NBI, the Optical
2 Media Board (OMB), operators of the cinemas, theaters or exhibition facilities, and
3 owners of the cinematographic films or audiovisual works and other soundtracks.
4 shall enforce the provisions of this Act. The PNP may deputize, for a defined period,
5 the heads or personnel of such agencies and instrumentalities of government or
6 private sector representatives or stakeholders of rights over cinematographic
7 films/audiovisual works and their soundtracks, to perform the enforcement functions
8 required under this Act.

9

10 **SEC. 12. *Separability Clause.*** - If any provision of this Act is declared invalid,
11 the other parts or provisions hereof not affected thereby shall remain and continue to
12 be in full force and effect.

13

14 **SEC. 13. *Repealing Clause.*** - All laws, decrees, ordinances or rules and
15 regulations which are inconsistent with or contrary to the provisions of this Act are
16 hereby amended or repealed.

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18 **SEC. 14. *Effectivity.*** - This Act shall take effect fifteen (15) days after its
19 complete publication in at least two (2) newspapers of national circulation.

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21 Approved,

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