



HOUSE OF REPRESENTATIVES

H. No. 5699

BY REPRESENTATIVES TIENG, VELARDE, COSCOLLUELA, ABANTE, LAPUS,
FERNANDEZ, GONZALES, (N.), DE GUZMAN, AGBAYANI AND ROMULO,
PER COMMITTEE REPORT NO. 1598

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 as the “Anti-
2 Camcording Act of 2008”.

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

4 (a) “Audiovisual work” means a work that consists of a series of
5 related images which are intrinsically intended to be shown by the use of
6 machines or devices such as projectors, viewers or electronic equipment,
7 together with accompanying sounds, if any, regardless of the nature of the
8 material objects, such as films or tapes, in which the works are embodied.

9 (b) “Audiovisual recording device” means a digital or analog
10 photographic or video camera, or any other technology or device capable of
11 enabling the recording or transmission of a cinematographic film or other

1 audiovisual work, or any part thereof, regardless of whether audiovisual
2 recording is the sole or primary purpose of the device.

3 (c) "Authorized person" means the police and/or any other person
4 duly authorized by the relevant authority to exercise powers conferred upon by
5 this Act.

6 (d) "Cinematographic film" means any audiovisual work consisting of
7 a series of related images which, when shown in succession, impart an
8 impression of motion, together with accompanying sounds, if any.

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

13 (f) "Copyright owner" means any one who has the exclusive rights
14 comprised in a copyright as provided under Republic Act No. 8293, otherwise
15 known as the Intellectual Property Code of the Philippines, and related
16 *international treaties, conventions or agreement to which the Republic of the*
17 *Philippines is a party.*

18 (g) "Exclusive licensee" means a licensee who is authorized in writing
19 and who, on behalf of the owner or prospective owner of copyright, to the
20 exclusion of all other persons, is authorized to do an act within the Philippines
21 that, by virtue of this Act, the owner of the copyright would, but for the license,
22 have the exclusive right to do or to perform.

23 (h) "Exhibition facility" means any cinema, film theater, screening
24 room or other venue that is used for the public exhibition of a cinematographic
25 film or audiovisual work, whether or not a fee is chargeable.

26 (i) "Operator of an exhibition facility" means any person or entity
27 who holds or is required to hold a license by the Securities and Exchange
28 Commission ("SEC", for companies and partnerships), the Department of

1 Trade and Industry (“DTI”, for sole proprietorships), the Movie and Television
2 Review and Classification Board (MTRCB) or any and all other relevant
3 government offices that have, or will have, jurisdiction over exhibition
4 facilities to operate the exhibition facility.

5 (j) “Relevant authority” means the officers, members, responsible
6 personnel of law enforcement agencies such as the Philippine National Police
7 (PNP) and their adjuncts, the National Bureau of Investigation (NBI), agents of
8 the Optical Media Board (OMB) and the OMB-deputized agents.

9 (k) “Transmit” means to convey by any means, whether over a path or
10 a combination of paths, provided by a material substance or by wireless means
11 or otherwise, and whether or not in response to a request made.

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

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

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

26 SEC. 4. *Acts Constituting the Unauthorized Use, Possession and/or*
27 *Control of Audiovisual Recording Devices for the Purpose of Sale, Rental or*
28 *Other Commercial Distribution of a Copy of a Cinematographic or*

1 *Audiovisual Work or its Soundtrack, or Any Part Thereof.* – It shall be
2 unlawful for any person who, at the time when copyright subsists in a
3 cinematographic film or other audiovisual work or its soundtrack, without the
4 authorization of the copyright owner or exclusive licensee thereof, for the
5 purpose of sale, rental or other commercial distribution of a copy of the
6 cinematographic or audiovisual work or its soundtrack, or any part thereof:

7 (a) uses or attempts to use an audiovisual recording device to transmit
8 or make a copy of any performance, in full or in part, in an exhibition facility
9 of such cinematographic film or other audiovisual work or its soundtrack, or
10 any part thereof;

11 (b) has in his/her possession or control, an audiovisual recording
12 device in an exhibition facility, with the intent of using or attempting to use the
13 audiovisual recording device to transmit or make a copy of any performance in
14 the exhibition facility of such cinematographic film or other audiovisual work
15 or its soundtrack, or any part thereof; or

16 (c) aids, abets or connives in the commission of the acts prohibited
17 under this section.

18 **SEC. 5. Penalties.** – A person who will be guilty of violating the
19 provisions of Sections 3 and 4 shall be subject to a fine of Fifty thousand pesos
20 (P50,000.00) but not to exceed Five hundred thousand pesos (P500,000.00)
21 and imprisonment of six (6) months and one (1) day to six (6) years and one
22 (1) day.

23 If the offender is an alien, said person shall immediately be deported
24 after payment of the fine and after serving his/her sentence. He/She shall
25 thereafter be refused entry into the Philippines.

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

1 SEC. 6. *Presumptions as to the Subsistence of Copyright and/or*
2 *Ownership of Copyright.* – For purposes of Section 3, copyright shall be
3 presumed to subsist in the subject cinematographic film or other audiovisual
4 work or its soundtrack if the accused does not put in issue the question as to
5 whether copyright subsists therein. However:

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

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

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

26 SEC. 7. *No Defense on Account of Use for Private or Domestic*
27 *Purposes.* – It shall not be a defense that the transmission or making of the
28 copy of the cinematographic film or other audiovisual work or its soundtrack,

1 or any part thereof, was for private or domestic purposes or in connection with
2 a fair use deal.

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

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

17 SEC. 9. *Powers of Authorized Persons to Enter an Exhibition Facility*
18 *and Search the Same.* – An authorized person, without a warrant and without
19 payment of any admission fee or other charge, may enter and search any
20 exhibition facility if the authorized person has reasonable ground to believe
21 that any violation of this Act has been or is being committed and, due to the
22 delay necessary to obtain a warrant could result in the loss or destruction of
23 evidence, or for any other reason it would not be reasonably practicable to
24 obtain a warrant.

25 SEC. 10. *Other Powers of Authorized Persons.* – An authorized person
26 who has reasonable ground to believe that a violation under this Act has been
27 or is being committed may:

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

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

7 (c) use reasonable force to remove any person or object obstructing
8 the authorized person in the exercise of any power conferred upon him/her by
9 this Act;

10 (d) detain any person found in any place which the authorized person
11 is empowered to enter and search if, after inquiry made, said authorized person
12 has reasonable ground to believe that the person subject of the search is
13 connected with the subject matter of the search, and it is considered necessary
14 to detain the person subject of the search to be able to adequately perform the
15 search; and

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

21 SEC. 11. *Forfeiture and Disposal of Unauthorized Copy of*
22 *Cinematographic Film or Other Audiovisual Work/Audiovisual Recording*
23 *Devices Used in the Commission of the Acts Penalized under this Act.* – The
24 court before which a person charged with an offense in violation/contravention
25 of this Act, whether or not said person charged is convicted of the offense, may
26 order that any copy of a cinematographic film or other audiovisual work in
27 which copyright subsists, or parts thereof which appears to the court to be an
28 unauthorized copy, and any audiovisual recording device or other equipment in

1 the possession of the alleged offender or the court, be destroyed or delivered to
2 the owner or the exclusive licensee of the copyright owner concerned, or
3 otherwise dealt with in such a manner as the court deems fit.

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

10 SEC. 12. *Enforcement.* – The OMB, in coordination with the PNP,
11 operators of the cinemas, theaters or exhibition facilities, and owners of the
12 cinematographic films or audiovisual works and other soundtracks, shall
13 enforce the provisions of this Act. The OMB may deputize, for a defined
14 period, the heads or personnel of such agencies and instrumentalities of
15 government or private sector representatives or stakeholders of rights over
16 cinematographic films/audiovisual works and their soundtracks, to perform the
17 enforcement functions required under this Act.

18 SEC. 13. *Separability Clause.* – If any provision of this Act is
19 declared invalid, the other parts or provisions hereof not affected thereby shall
20 remain and continue to be in full force and effect.

21 SEC. 14. *Repealing Clause.* – All laws, decrees, ordinances or rules
22 and regulations which are inconsistent with or contrary to the provisions of this
23 Act are hereby amended or repealed.

24 SEC. 15. *Effectivity.* – This Act shall take effect fifteen (15) days after
25 its complete publication in at least two (2) newspapers of national circulation.

Approved,