

## **Chapter 10**

### **Unauthorized Recording Practices Act**

#### **13-10-1 Title of chapter.**

This chapter is known as the "Unauthorized Recording Practices Act."

Amended by Chapter 325, 1995 General Session

#### **13-10-2 Purpose of chapter.**

In enacting this chapter, it is the purpose of the Legislature to prevent the piracy of recorded materials by making it mandatory that certain copying of recorded materials be made only with the express consent of the owner.

Amended by Chapter 325, 1995 General Session

#### **13-10-3 Definitions.**

As used in this chapter:

- (1) "Fixed" means embodied in a recording or other tangible medium of expression, by or under the authority of the author, so that the matter embodied in the recording or other tangible medium of expression is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration.
- (2) "Owner" means the person, corporation, partnership, or business association who owns the sounds fixed in a master phonograph record, master disc, master wire, master tape, master film, or other device used for reproducing recorded sounds on phonograph records, discs, wires, tapes, films, or other articles or materials in which sound is recorded and from which the transferred recorded sounds are directly or indirectly derived.

Amended by Chapter 325, 1995 General Session

#### **13-10-4 Prohibited practices.**

It is unlawful for any individual, partnership, corporation, or association:

- (1) to knowingly transfer or cause to be transferred, directly or indirectly, for sale or profit within this state, without the express consent of the owner, by any means, any sounds recorded on a phonographic record, disc, wire, tape, film, or other article or material on which sounds are recorded onto any other phonograph record, disc, wire, tape, film, article, or material;
- (2) to sell, distribute, circulate, or offer for sale, distribution or circulation, or cause to be sold, distributed, circulated, or possess for the purpose of sale, distribution, or circulation, within the state, for a consideration, any phonograph record, disc, wire, tape, film, or other article or material onto which such sounds have been transferred, with the knowledge that the sounds thereon have been transferred without the express consent of the owner; or
- (3) to knowingly rent, make available, or permit the use of, or offer to rent, make available, or permit the use of, for a fee, rental, or any other form of compensation, any equipment or machinery for the purpose of enabling, aiding, or causing another to transfer without the consent of the owner any sounds recorded on a phonograph record, disc, wire, tape, film, or other article or material onto any other phonograph record, disc, wire, tape, film, article, or material.

Amended by Chapter 325, 1995 General Session

**13-10-5 Exemptions.**

- (1) This chapter does not apply to:
  - (a) any person engaged in radio or television broadcasting or cable television who transfers, or causes to be transferred, any of the sounds referred to in Sections 13-10-3 and 13-10-4 (other than from the sound track of a motion picture) intended for, or in connection with, broadcast transmission or for archival purposes; or
  - (b) any person transferring any such sounds without any compensation being derived by this person or any other person from the transfer.
- (2) This chapter shall neither enlarge nor diminish the rights of parties in civil litigation.

Amended by Chapter 325, 1995 General Session

**13-10-6 Violation a misdemeanor.**

Each violation of Section 13-10-4 is a class B misdemeanor.

Amended by Chapter 148, 2018 General Session

**13-10-7 Application of provisions.**

Sections 13-10-1 through 13-10-6 apply only to recorded sounds that were initially fixed before February 15, 1972.

Enacted by Chapter 325, 1995 General Session

**13-10-8 Failure to disclose the origin of a recording -- Penalty.**

- (1) For purposes of this section "recording" means:
  - (a) a tangible medium on which sounds or images are recorded or otherwise stored, including an original phonograph record, disc, tape, audio or video cassette, wire, film, or other similar medium; or
  - (b) a copy or reproduction that duplicates the original in whole or in part.
- (2) A person is guilty of failure to disclose the origin of a recording if:
  - (a) the person commits any of the following acts for commercial advantage or private financial gain:
    - (i) offers a recording for sale, resale, or rent;
    - (ii) sells, resells, rents, leases, or lends a recording; or
    - (iii) possesses a recording for any of the purposes described in Subsection (2)(a)(i) or (ii); and
  - (b) the person knows that the recording does not contain the true name and address of the manufacturer in a prominent place on its cover, jacket, or label.
- (3) A person who fails to disclose the origin of a recording under Subsection (2) is guilty of:
  - (a) a felony of the third degree if the offense involves 100 or more recordings, or the commercial equivalent of 100 or more recordings, during a 180-day period or if the person has previously been convicted of a violation of this section;
  - (b) a class A misdemeanor if the offense involves at least 10 recordings and fewer than 100 recordings, or the commercial equivalent of at least 10 recordings and fewer than 100 recordings, during a 180-day period; or
  - (c) a class B misdemeanor if the offense involves fewer than 10 recordings or fewer than the commercial equivalent of 10 recordings.

(4) In addition to the penalties provided in Subsection (3), a court may order a person who commits a violation of Subsection (2) to forfeit any recordings in the person's possession that served as the basis for the violation of Subsection (2).

Amended by Chapter 293, 2017 General Session