

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Criminal Code of 1961 is amended by changing Sections 16-7 and 16-8 as follows:

(720 ILCS 5/16-7) (from Ch. 38, par. 16-7)

Sec. 16-7. Unlawful use of recorded sounds or images.

(a) A person commits unlawful use of recorded sounds or images when he:

(1) Intentionally, knowingly or recklessly transfers or causes to be transferred without the consent of the owner, any sounds or images recorded on any sound or audio visual recording with the purpose of selling or causing to be sold, or using or causing to be used for profit the article to which such sounds or recordings of sound are transferred.

(2) Intentionally, knowingly or recklessly sells, offers for sale, advertises for sale, uses or causes to be used for profit any such article described in subsection 16-7(a) (1) without consent of the owner.

(3) Intentionally, knowingly or recklessly offers or makes available for a fee, rental or any other form of compensation, directly or indirectly, any equipment or

machinery for the purpose of use by another to reproduce or transfer, without the consent of the owner, any sounds or images recorded on any sound or audio visual recording to another sound or audio visual recording or for the purpose of use by another to manufacture any sound or audio visual recording in violation of Section 16-8.

(4) Intentionally, knowingly or recklessly transfers or causes to be transferred without the consent of the owner, any live performance with the purpose of selling or causing to be sold, or using or causing to be used for profit the sound or audio visual recording to which the performance is transferred.

(b) As used in this Section and Section 16-8:

(1) "Person" means any individual, partnership, corporation, association or other entity.

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

(3) "Sound or audio visual recording" means any sound or audio visual phonograph record, disc, pre-recorded tape, film, wire, magnetic tape or other object, device or medium, now known or hereafter invented, by which sounds or images may be reproduced with or without the use of any additional machine, equipment or device.

(4) "Master sound recording" means the original physical object on which a given set of sounds were first recorded and which the original object from which all subsequent sound recordings embodying the same set of sounds are directly or indirectly derived.

(5) "Unidentified sound or audio visual recording" means a sound or audio visual recording without the actual name and full and correct street address of the manufacturer, and the name of the actual performers or groups prominently and legibly printed on the outside cover or jacket and on the label of such sound or audio visual recording.

(6) "Manufacturer" means the person who actually makes or causes to be made a sound or audio visual recording. The term manufacturer does not include a person who manufactures the medium upon which sounds or visual images can be recorded or stored, or who manufactures the cartridge or casing itself.

(c) Unlawful use of recorded sounds or images is a Class 4 felony; however:

(1) If the offense involves more than 100 but not exceeding 1000 unidentified sound recordings or more than 7 but not exceeding 65 unidentified audio visual recordings during any 180 day period the authorized fine is up to \$100,000; and

(2) If the offense involves more than 1,000

unidentified sound recordings or more than 65 unidentified audio visual recordings during any 180 day period the authorized fine is up to \$250,000.

(d) This Section shall neither enlarge nor diminish the rights of parties in private litigation.

(e) This Section does not apply to any person engaged in the business of radio or television broadcasting who transfers, or causes to be transferred, any sounds (other than from the sound track of a motion picture) solely for the purpose of broadcast transmission.

(f) If any provision or item of this Section or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Section which can be given effect without the invalid provisions, items or applications and to this end the provisions of this Section are hereby declared severable.

(g) Each and every individual manufacture, distribution or sale or transfer for a consideration of such recorded devices in contravention of this Section constitutes a separate violation of this Section.

(h) Any sound or audio visual recordings containing transferred sounds or a performance whose transfer was not authorized by the owner of the master sound recording or performance, in violation of this Section, or in the attempt to commit such violation as defined in Section 8-2, or in a solicitation to commit such offense as defined in Section 8-1,

may be confiscated and destroyed upon conclusion of the case or cases to which they are relevant, except that the Court may enter an order preserving them as evidence for use in other cases or pending the final determination of an appeal.

(i) It is an affirmative defense to any charge of unlawful use of recorded sounds or images that the recorded sounds or images so used are public domain material. For purposes of this Section, recorded sounds are deemed to be in the public domain if the recorded sounds were copyrighted pursuant to the copyright laws of the United States, as the same may be amended from time to time, and the term of the copyright and any extensions or renewals thereof has expired.

(Source: P.A. 86-1210.)

(720 ILCS 5/16-8) (from Ch. 38, par. 16-8)

Sec. 16-8. Unlawful use of unidentified sound or audio visual recordings.

(a) A person commits unlawful use of unidentified sound or audio visual recordings when he intentionally, knowingly, recklessly or negligently for profit manufactures, advertises or offers for sale, sells, distributes, transports, vends, circulates, performs, leases, or possesses for such purposes, ~~or otherwise deals in and with~~ unidentified sound or audio visual recordings or causes the manufacture, advertisement or offer for sale, sale, distribution, transportation, vending, circulation, performance, lease, or possession for such

purposes, ~~or other dealing in and with~~ unidentified sound or audio visual recordings.

(b) Unlawful use of unidentified sound or audio visual recordings is a Class 4 felony; however:

(1) If the offense involves more than 100 but not exceeding 1000 unidentified sound recordings or more than 7 but not exceeding 65 unidentified audio visual recordings during any 180 day period the authorized fine is up to \$100,000; and

(2) If the offense involves more than 1,000 unidentified sound recordings or more than 65 unidentified audio visual recordings during any 180 day period the authorized fine is up to \$250,000.

(c) Each and every individual manufacture, advertisement or offer for sale, sale, distribution, transportation, vending, circulation, performance, lease, or possession for such purposes, ~~or other dealing in and with~~ an unidentified sound or audio visual recording constitutes a separate violation of this Section.

(c-5) Upon conviction of any violation of this Section, the offender shall be sentenced to make restitution to any owner or lawful producer of a master sound or audio visual recording, or to the trade association representing such owner or lawful producer, that has suffered injury resulting from the crime. The order of restitution shall be based on the aggregate wholesale value of lawfully manufactured and authorized sound

or audio visual recordings corresponding to the non-conforming recorded devices involved in the offense, and shall include investigative costs relating to the offense.

(d) If any provision or item of this Section or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Section which can be given effect without the invalid provisions, items or applications and to this end the provisions of this Section are hereby declared severable.

(e) Any unidentified sound or audio visual recording used in violation of this Section, or in the attempt to commit such violation as defined in Section 8-4, or in a conspiracy to commit such violation as defined in Section 8-2, or in a solicitation to commit such offense as defined in Section 8-1, may be confiscated and destroyed upon conclusion of the case or cases to which they are relevant, except that the Court may enter an order preserving them as evidence for use in other cases or pending the final determination of an appeal.

(Source: P.A. 86-1210.)