

No. 184

AN ACT

SB 1017

Amending the act of June 24, 1939 (P.L.872), entitled "An act to consolidate, amend and revise the penal laws of the Commonwealth," prohibiting the unauthorized copying of certain recorded devices for sale.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of June 24, 1939 (P.L.872), known as "The Penal Code," is amended by adding a section to read:

Section 878.1. Copying; Recording Devices.—(a) *As used in this section, "owner" means the person who owns the master phonograph record, master disc, master tape, master film or other device used for reproducing recorded sounds on phonograph records, discs, tapes, films or other articles on which sound is recorded and from which the transferred sounds are directly or indirectly derived.*

(b) *It shall be unlawful for any person to:*

(1) *Knowingly transfer or cause to be transferred, directly or indirectly by any means, any sounds recorded on a phonograph record, disc, wire, tape, film or other article on which sounds are recorded, with the intent to sell or cause to be sold, or to be used for profit through public performance, such article on which sounds are so transferred, without consent of the owner; or*

(2) *Manufacture, distribute or wholesale any article with the knowledge that the sounds are so transferred, without consent of the owner.*

(c) *Subsection (b) shall not apply to any person engaged in radio or television broadcasting who transfers, or causes to be transferred, any such sounds other than from the sound track of a motion picture intended for, or in connection with broadcast or telecast transmission or related uses, or for archival purposes.*

(d) *It shall be unlawful for any person to knowingly retail or possess for the purpose of retailing any recorded device that has been produced, manufactured, distributed, or acquired at wholesale in violation of any provision of this section.*

(e) *Ninety (90) days after the effective date of this act, every recorded device sold or transferred or possessed for the purpose of sale by any manufacturer, distributor, or wholesale or retail merchant shall contain on its packaging the true name of the manufacturer. The term "manufacturer" shall not include the manufacturer of the cartridge or casing itself.*

(f) *Ninety (90) days after the effective date of this act, it shall be the duty of all law enforcement officers, upon discovery, to confiscate all*

recorded devices that do not conform to the provisions of subsection (e). The non-conforming recorded devices shall be delivered to the district attorney of the county in which the confiscation was made. The district attorney by court order may give the same to a charitable or educational organization. The provisions of this section shall apply to any non-conforming recorded device, regardless of the requirement in subsection (d) of knowledge or intent of a retail seller.

(g) Every individual manufacture, distribution, or sale or transfer at wholesale of such recorded devices in contravention of the provisions of this act constitutes a separate offense punishable by imprisonment for not more than three (3) years, or by fine of not more than five thousand dollars (\$5,000) for the first offense; and by imprisonment for not more than ten (10) years, or by fine of not more than twenty thousand dollars (\$20,000), or both for any subsequent offense.

(h) (1) Any owner of a recorded device whose work is allegedly the subject of a violation of the provisions of subsection (b) of this act shall have a cause of action for all damages resultant therefrom, including actual and punitive damages.

(2) Any lawful producer of a recorded device whose product is allegedly the subject of a violation of the provisions of subsection (b) shall have a cause of action for all damages resultant therefrom, including actual and punitive damages.

Section 2. This act shall take effect January 1, 1972.

APPROVED—The 10th day of January, A. D. 1972.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 184.



Secretary of the Commonwealth.