

ASSEMBLY BILL

No. 1241

Introduced by Assembly Member Calderon

February 27, 2015

An act to amend Section 653w of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1241, as introduced, Calderon. Crimes: audiovisual work: recording.

Existing law makes it a crime for a person to, for commercial advantage or private financial gain, knowingly advertise or offer for sale or resale, or sell or resell, or cause the rental, sale, or resale of, or rent, or manufacturer, or possess for these purposes, any recording or audiovisual work, the outside cover, box, jacket, or label of which does not clearly and conspicuously disclose the actual true name and address of the manufacturer of the recording or audiovisual work and the name of the actual author, artist, performer, producer, programmer, or group.

This bill would make technical, nonsubstantive changes to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 653w of the Penal Code is amended to
- 2 read:
- 3 653w. (a) (1) A person is guilty of failure to disclose the origin
- 4 of a recording or audiovisual work if, for commercial advantage
- 5 or private financial gain, he or she knowingly advertises or offers

1 for sale or resale, or sells or resells, or causes the rental, sale, or
2 resale of, or rents, or manufactures, or possesses for these purposes,
3 any recording or audiovisual work, the outside cover, box, jacket,
4 or label of which does not clearly and conspicuously disclose the
5 actual true name and address of the manufacturer thereof and the
6 name of the actual author, artist, performer, producer, programmer,
7 or group thereon. This section does not require the original
8 manufacturer or authorized licensees of software producers to
9 disclose the contributing authors or programmers.

10 (2) As used in this section, “recording” means any tangible
11 medium upon which information or sounds are recorded or
12 otherwise stored, including, but not limited to, any phonograph
13 record, disc, tape, audio cassette, wire, film, memory card, flash
14 drive, hard drive, data storage device, or other medium on which
15 information or sounds are recorded or otherwise stored, but does
16 not include sounds accompanying a motion picture or other
17 audiovisual work.

18 (3) As used in this section, “audiovisual works” are the physical
19 embodiment of works that consist of related images that are
20 intrinsically intended to be shown using machines or devices, such
21 as projectors, viewers, or electronic equipment, together with
22 accompanying sounds, if any, regardless of the nature of the
23 material objects, such as films, tapes, discs, memory cards, flash
24 drives, hard drives, data storage devices, or other devices, on which
25 the works are embodied.

26 (b) A person who has been convicted of a violation of
27 subdivision (a) shall be punished as follows:

28 (1) If the offense involves the advertisement, offer for sale or
29 resale, sale, rental, manufacture, or possession for these purposes,
30 of at least 100 articles of audio recordings or 100 articles of
31 audiovisual works described in subdivision (a), or the commercial
32 equivalent thereof, the person shall be punished by imprisonment
33 in a county jail not to exceed one year, or by imprisonment
34 pursuant to subdivision (h) of Section 1170 for two, three, or five
35 years, or by a fine not to exceed five hundred thousand dollars
36 (\$500,000), or by both that fine and imprisonment.

37 (2) Any other violation of subdivision (a) not described in
38 paragraph ~~(1)~~; (1) shall, upon a first offense, be punished by
39 imprisonment in a county jail not to exceed one year, or by a fine

1 not to exceed fifty thousand dollars (\$50,000), or by both that fine
2 and imprisonment.

3 (3) A second or subsequent conviction under subdivision (a)
4 not described in paragraph—(4), (1) shall be punished by
5 imprisonment in a county jail not to exceed one year or pursuant
6 to subdivision (h) of Section 1170, or by a fine not to exceed two
7 hundred thousand dollars (\$200,000), or by both that fine and
8 imprisonment.

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