

CHAPTER 47-21.1 SOUND RECORDINGS

47-21.1-01. Definition.

As used in this chapter, the term "owner" means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film, or other device used for reproducing sounds on phonograph records, discs, tapes, films, or other articles on which sound is recorded, and from which the transferred recorded sounds are directly derived.

47-21.1-02. Unauthorized transfer of recorded sound or the recording of any performance prohibited.

It is hereby declared unlawful for any person to knowingly:

1. Transfer or cause to be transferred any sounds recorded on a phonograph record, disc, tape, wire, film, or other article on which sounds are recorded, with the intent to sell or cause to be sold for profit, or used to promote the sale of any product, any article on which sounds are so transferred without the express consent of the owner.
2. And without the consent of the performer, transfer to or cause to be transferred to any phonograph record, disc, wire, tape, film, or other article, any performance, whether live before an audience or transmitted by wire or through the air by radio or television, with the intent to sell or cause to be sold for profit or used to promote the sale of any product, such article onto which such performance is so transferred.
3. Or with reasonable grounds to know, advertise, or offer for sale or resale, or sell or resell, distribute or possess for such purposes, any recorded article that has been produced without the consent of the owner. Possession of five or more duplicate copies, or twenty or more individual copies of such recorded articles, produced without the consent of the owner, shall create a rebuttable presumption that such devices are intended for sale or distribution in violation of this section.
4. Or with reasonable grounds to know, sell or resell, distribute or possess for such purposes, any phonograph record, disc, wire, tape, film, or other article embodying any performance, whether live before an audience, or transmitted by wire or through the air by radio or television, recorded without the consent of the performer.

47-21.1-03. Disclosure of name and address of manufacturer.

No person shall advertise or offer for sale or resale, or sell or resell, or possess for such purposes, any phonograph record, disc, wire, tape, film, or other article on which sounds are recorded, unless the outside cover, box, or jacket clearly and conspicuously discloses the actual name and address of the manufacturer thereof, and the name of the actual performer or group of performers.

47-21.1-04. Forfeiture and destruction of illegal recordings.

Any recording produced in violation of this chapter, and any equipment used in the production thereof, shall be subject to forfeiture and destruction upon seizure by any state or local law enforcement agency or officer thereof.

47-21.1-05. Exemptions.

The provisions of this chapter shall not apply to:

1. Any broadcaster who, in connection with or as part of a radio, television, or cable broadcast transmission, or for the purpose of archival preservation, transfers any sounds recorded on a sound recording.
2. Any person who transfers sounds in the home, for personal use, and without compensation for such transfer.
3. Any person who transfers or causes to be transferred any recorded sounds or transcript thereof in any judicial or administrative proceedings conducted pursuant to law.

47-21.1-06. Penalty.

Any person violating subsection 1 or 2 of section 47-21.1-02 shall, upon conviction thereof, be guilty of a class C felony. Each individual, felonious manufacture or production of a recorded article shall constitute a separate offense and be punishable as such. Any person violating the provisions of subsection 3 or 4 of section 47-21.1-02, or the provisions of section 47-21.1-03 shall, upon conviction thereof, be guilty of a class B misdemeanor.