

7811--A

2011-2012 Regular Sessions

I N A S S E M B L Y

May 17, 2011

Introduced by M. of A. MORELLE -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to offenses relating to unauthorized recordings

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Subdivision 6 of section 275.00 of the penal law, as added
2 by chapter 460 of the laws of 1990, is amended and a new subdivision 7
3 is added to read as follows:
4 6. "Recording" means an original phonograph record, disc, tape, audio
5 or video cassette, wire, film, HARD DRIVE, FLASH DRIVE, MEMORY CARD OR
6 OTHER DATA STORAGE DEVICE or any other medium on WHICH such sounds,
7 images, or both sounds and images are or can be recorded or otherwise
8 stored, or a copy or reproduction that duplicates in whole or in part
9 the original.
10 7. "AGGREGATE WHOLESALE VALUE" MEANS THE AVERAGE WHOLESALE VALUE OF
11 LAWFULLY MANUFACTURED AND AUTHORIZED RECORDINGS CORRESPONDING TO THE
12 NUMBER OF NONCONFORMING RECORDINGS INVOLVED IN THE OFFENSE. PROOF OF THE
13 SPECIFIC WHOLESALE VALUE OF EACH NONCONFORMING RECORDING SHALL NOT BE
14 REQUIRED.
15 S 2. The penal law is amended by adding a new section 275.50 to read
16 as follows:
17 S 275.50 RESTITUTION.
18 IN ADDITION TO ANY OTHER PENALTY PERMITTED BY LAW, IF A PERSON IS
19 CONVICTED OF AN OFFENSE UNDER THIS ARTICLE THE COURT MAY ORDER THE
20 PERSON TO MAKE RESTITUTION TO ANY OWNER OR LAWFUL PRODUCER OF A MASTER
21 RECORDING THAT HAS SUFFERED INJURY AS A RESULT OF THE OFFENSE OR A TRADE
22 ASSOCIATION THAT REPRESENTS AN OWNER OR LAWFUL PRODUCER. AN ORDER OF
23 RESTITUTION MAY BE BASED ON THE AGGREGATE WHOLESALE VALUE OF LAWFULLY
24 MANUFACTURED AND AUTHORIZED RECORDINGS CORRESPONDING TO THE NUMBER OF

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 NONCONFORMING RECORDINGS INVOLVED IN THE OFFENSE UNLESS A GREATER VALUE
2 CAN BE PROVEN. AN ORDER OF RESTITUTION MAY ALSO INCLUDE INVESTIGATIVE
3 COSTS RELATING TO THE OFFENSE.
4 S 3. This act shall take effect on the first of November next
5 succeeding the date on which it shall have become a law.