

# House Bill 3442

Sponsored by Representative GOMBERG (at the request of Carl Crowell)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates crime of unlawful dissemination of a commercial recording or audiovisual work. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both.

## A BILL FOR AN ACT

1  
2 Relating to unlawful dissemination of commercial material.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) For purposes of this section:**

5 (a) **"Audiovisual work" means the electronic or physical embodiment of motion pictures,**  
6 **television programs, video or computer games or other audiovisual presentations that con-**  
7 **sist of related images that are intrinsically intended to be shown by the use of a projector,**  
8 **viewer or other similar electronic equipment, or a computer program, software or system,**  
9 **together with any accompanying sounds.**

10 (b) **"Commercial" means available, or intended to be available, for sale, rent or perform-**  
11 **ance exhibition to the public, regardless of financial gain from the sale, rental or perform-**  
12 **ance exhibition.**

13 (c) **"Dissemination" means transmitting, making available or otherwise offering for dis-**  
14 **tribution on the Internet or other digital network.**

15 (d) **"Recording" means the electronic or physical embodiment of recorded images or**  
16 **sounds, or images and sounds.**

17 (2) **A person commits unlawful dissemination of a commercial recording or audiovisual**  
18 **work if the person:**

19 (a) **Knows that a recording or audiovisual work is commercial;**

20 (b) **Knowingly electronically disseminates all or substantially all of the recording or au-**  
21 **diovisual work to 10 or more recipients; and**

22 (c) **Does not disclose the person's electronic mail address and the title of the commercial**  
23 **recording or audiovisual work to the recipients upon electronic dissemination.**

24 (3) **Unlawful dissemination of a commercial recording or audiovisual work is Class A**  
25 **misdemeanor.**

26 (4) **This section does not apply to:**

27 (a) **A person who disseminates a commercial recording or audiovisual work to the**  
28 **person's immediate family;**

29 (b) **Dissemination with explicit permission from the copyright owner, or authorized rep-**  
30 **resentative of the copyright owner, of a commercial recording or audiovisual work;**

31 (c) **A person licensed by the copyright owner, or authorized representative of the copy-**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **right owner, to disseminate the commercial recording or audiovisual work;**

2 **(d) The licensed dissemination of a commercial recording or audiovisual work by a cable**  
3 **television service or a cable system or direct-to-home satellite service, as defined in 47 U.S.C.**  
4 **303;**

5 **(e) An Internet service provider, to the extent that the Internet service provider enables**  
6 **a user of its services to disseminate a commercial recording or audiovisual work, and the**  
7 **Internet service provider maintains a valid electronic mail address or other means of elec-**  
8 **tronic notification on a website operated by or on behalf of the Internet service provider in**  
9 **a location that is publicly accessible; or**

10 **(f) A person who disseminates the person's own commercial recording or audiovisual**  
11 **work.**

12 **(5) Upon conviction under this section, a court shall order the permanent deletion or**  
13 **destruction of any electronic file that contains the commercial recording or audiovisual**  
14 **work, the unlawful dissemination of which is the basis for the conviction. This subsection**  
15 **does not require the permanent destruction or deletion of an electronic file of the commer-**  
16 **cial recording or audiovisual work owned by the copyright owner or authorized agent of the**  
17 **copyright owner.**

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