



VIA FACSIMILE
360-786-7317

Representative Al O'Brien
Chairman, House Criminal Justice & Courts Committee
Washington State Legislature
331 John L. O'Brien Building
Olympia, WA 98504-0060

Re: S.B. 6378

Dear Chairman O'Brien:

I am writing on behalf of the American Library Association to express our serious concerns with S.B. 6378. S.B. 6378 is intended to prevent the infringement of motion pictures by prohibiting the unauthorized operation of recording devices in theatres. The library community obviously opposes infringement of the rights of producers of motion pictures. However, the language in this provision is so sweeping that it could impose liability on libraries.

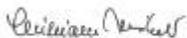
The bill prohibits the operation of the audiovisual recording function of a device in a motion picture exhibition facility. Unfortunately, the provision is worded so broadly that it could ensnare a library that is screening a movie in its auditorium while using a computer in its film archive. The term "motion picture exhibition facility" includes any "premises where motion pictures are publicly exhibited." A library could meet this definition; libraries often screen motion pictures in film series and film classes. Further, library personnel frequently operate the audiovisual recording function of devices. Librarians use computers and other video equipment to preserve old films, to record news broadcasts, and to make fair use copies of segments of movies. Libraries, therefore, could violate the bill as drafted.

We doubt that the bill is intended to reach this kind of legitimate activity, but its sweeping language achieves this result. Additionally, the provision in its present form likely is preempted by the federal Copyright Act.

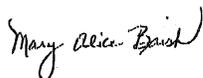
The Motion Picture Association of America (MPAA) has lobbied for enactment of similar legislation in several other states. The library community has joined with consumer electronics manufacturers and retailers to explain to the MPAA and the legislatures the problems caused by the legislation's over-breadth. In Michigan and Ohio, the legislation was narrowed so that it applied only to the operation of an audiovisual recording device inside a motion picture theatre auditorium. The MPAA agreed that it would seek only the narrower legislation in other states. Accordingly, we urge the Washington legislature to limit the definition of "motion picture exhibition facility" to motion picture theatre auditoriums.

Please let us know if you have any questions.

Sincerely,



Miriam Nisbet
Legislative Counsel
American Library Association
Washington Office
1301 Pennsylvania Ave. NW
Suite 403
Washington, D.C. 20004
voice: 202-628-8410/ 1-800-941-8478
fax: 202-628-8419
mnisbet@alawash.org



Mary Alice Baish
Associate Washington Affairs Representative
American Association of Law Libraries
111 G Street NW
Washington, D. C. 20001
voice: 202-662-9200
fax: 202-662-9202
baish@law.georgetown.edu



Prudence S. Adler
Associate Executive Director
Association of Research Libraries
21 Dupont Circle NW
Washington, D. C. 20004
voice: 202-296-2296
fax: 202-872-0884
prue@arl.org