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First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0002.01 Michael Dohr **SENATE BILL 11-501**

SENATE SPONSORSHIP

Ulrich,

HOUSE SPONSORSHIP

Fanning,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING CRIMES RELATED TO COPYING MUSIC RECORDINGS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://www.leg.state.co.us/billsummaries.)

Under current law, a person may not copy a sound recording without the consent of the copyright owner if the person intends to sell the copy. The bill prohibits a person from copying a music recording without the consent of the copyright owner if the person intends to provide the copy to another person regardless of whether the person making the copy receives compensation for the copy. The offense is a class 1 misdemeanor unless the person making the copy received

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compensation for the copy, in which case the offense is a class 5 felony.

Under current law, a person who traffics in unlawfully transferred articles commits a class 3 misdemeanor. The bill raises this penalty to a class 4 felony. Under current law, a person who deals in unlawfully transferred articles commits a class 1 misdemeanor. The bill raises this penalty to a class 3 felony.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 18-4-602, Colorado Revised Statutes, is amended to read:

18-4-602. Unlawful transfer. (1) A person who knowingly and without the consent of the owner transfers any copyrighted ~~sounds~~ MUSIC recorded on a phonograph record, video disc, wire, tape, film, ELECTRONIC FILE, or other article on which sounds are recorded with the intent to ~~sell such article on which such sounds are so transferred or to cause the same to be sold for profit or to be used to promote the sale of any product~~ PROVIDE THE TRANSFERRED RECORDING TO ANOTHER, REGARDLESS OF WHETHER THE PERSON RECEIVES COMPENSATION FOR THE TRANSFERRED RECORDING, commits unlawful transfer. ~~for sale.~~

(2) Unlawful transfer ~~for sale~~ is a ~~class 6 felony~~ CLASS 1 MISDEMEANOR; EXCEPT THAT UNLAWFUL TRANSFER IS A CLASS 5 FELONY IF THE PERSON RECEIVES MONETARY COMPENSATION FOR THE TRANSFERRED RECORDING.

SECTION 2. 18-4-603, Colorado Revised Statutes, is amended to read:

18-4-603. Unlawful trafficking in unlawfully transferred articles. (1) A person who knowingly, or who reasonably should have such knowledge, advertises, offers for sale or resale, sells or resells, distributes, or possesses for any of the purposes provided in this

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subsection (1) any article that has been transferred without consent of the owner as provided in section 18-4-602 commits unlawful trafficking in unlawfully transferred articles.

(2) Each act of unlawful trafficking in unlawfully transferred articles is a ~~class 3 misdemeanor~~ CLASS 4 FELONY.

SECTION 3. 18-4-604 (2), Colorado Revised Statutes, is amended to read:

18-4-604. Dealing in unlawfully packaged recorded articles. (2) Dealing in unlawfully packaged recorded articles is a ~~class 1 misdemeanor. If the offense involves more than one hundred unlawfully packaged recorded articles or the offense is a second or subsequent offense, the court shall assess a fine of at least one thousand dollars~~ CLASS 3 FELONY.

SECTION 4. Article 18 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

17-18-108. Appropriation to comply with section 2-2-703 - SB 11-501 - repeal. (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT SENATE BILL 11-501, ENACTED IN 2011:

(a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF _____ DOLLARS ($).

(b) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2012, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY

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1 APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN
2 SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE
3 FUND CREATED IN SECTION 17-1-116, THE SUM OF _____ DOLLARS ($).
4 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2012, IN ADDITION
5 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
6 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
7 OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS ($).
8 (c) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2013, IN ADDITION
9 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
10 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
11 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
12 SECTION 17-1-116, THE SUM OF _____ DOLLARS ($).
13 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2013, IN ADDITION
14 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
15 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
16 OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS ($).
17 (d) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN
18 ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY
19 APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN
20 SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE
21 FUND CREATED IN SECTION 17-1-116, THE SUM OF _____ DOLLARS ($).
22 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN ADDITION
23 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
24 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
25 OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS ($).
26 (e) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2015, IN ADDITION
27 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM

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1 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
2 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
3 SECTION 17-1-116, THE SUM OF _____ DOLLARS ($).
4 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2015, IN ADDITION
5 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
6 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
7 OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS ($).
8 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2016.
9 **SECTION 5.** The introductory portion to 24-75-302 (2) and
10 24-75-302 (2) (x) and (2) (y), Colorado Revised Statutes, are amended,
11 and the said 24-75-302 (2) is further amended BY THE ADDITION OF
12 THE FOLLOWING NEW PARAGRAPHS, to read:
13 **24-75-302. Capital construction fund - capital assessment fees**
14 **- calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter
15 through July 1, ~~2012~~ 2015, a sum as specified in this subsection (2) shall
16 accrue to the capital construction fund. The state treasurer and the
17 controller shall transfer such sum out of the general fund and into the
18 capital construction fund as moneys become available in the general fund
19 during the fiscal year beginning on said July 1. Transfers between funds
20 pursuant to this subsection (2) shall not be deemed to be appropriations
21 subject to the limitations of section 24-75-201.1. The amount that shall
22 accrue pursuant to this subsection (2) shall be as follows:
23 (x) On July 1, 2011, seven hundred fifty thousand nine hundred
24 ninety dollars pursuant to S.B. 07-096, enacted at the first regular session
25 of the sixty-sixth general assembly; plus three hundred seventy-five
26 thousand four hundred ninety-five dollars pursuant to S.B. 08-239,
27 enacted at the second regular session of the sixty-sixth general assembly;

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1 PLUS _____ DOLLARS PURSUANT TO S.B. 11-501, ENACTED IN 2011;
2 (y) On July 1, 2012, one hundred twelve thousand six hundred
3 forty-nine dollars pursuant to H.B. 08-1115, enacted at the second regular
4 session of the sixty-sixth general assembly; plus three hundred
5 seventy-five thousand four hundred ninety-five dollars pursuant to S.B.
6 08-239, enacted at the second regular session of the sixty-sixth general
7 assembly; plus eighty-three thousand eight hundred sixty-one dollars
8 pursuant to S.B. 10-128, enacted at the second regular session of the
9 sixty-seventh general assembly; PLUS _____ DOLLARS PURSUANT TO S.B.
10 11-501, ENACTED IN 2011;
11 (z) ON JULY 1, 2013, _____ DOLLARS PURSUANT TO S.B. 11-501,
12 ENACTED IN 2011;
13 (aa) ON JULY 1, 2014, _____ DOLLARS PURSUANT TO S.B. 11-501,
14 ENACTED IN 2011;
15 (bb) ON JULY 1, 2015, _____ DOLLARS PURSUANT TO S.B.
16 11-501, ENACTED IN 2011;
17 **SECTION 6. Specified effective date - applicability.** This act
18 shall take effect July 1, 2011, and shall apply to offenses committed on
19 or after said date.
20 **SECTION 7. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, and safety.