

**§ 14-433. Recording of live performances or recorded sounds and distribution, etc., of such recordings unlawful in certain circumstances.**

- (a) It shall be unlawful for any person to:
  - (1) Knowingly transfer or cause to be transferred, directly or indirectly by any means, any sounds recorded on a phonograph record, disc, wire, tape, film or other article on which sounds are recorded, with the intent to sell or cause to be sold, or to use or cause to be used for profit through public performance, such article on which sounds are so transferred, without consent of the owner.
  - (2) Manufacture, distribute, wholesale or transport any article for profit, or possess for these purposes with the knowledge that the sounds recorded on the article were transferred in violation of subdivision (a)(1) of this section.
  - (3) Recodified as G.S. 14-433(a1)(1) by Session Laws 2003-159, s. 2.
  - (4) Recodified as G.S. 14-433(a1)(2) by Session Laws 2003-159, s. 2.
- (a1) It shall be unlawful for any person to:
  - (1) Knowingly transfer or cause to be transferred, directly or indirectly by any means, any sounds at a live performance, with the intent to sell or cause to be sold, or to use or cause to be used for profit through public performance, the article on which sounds are so transferred, without consent of the owner.
  - (2) Manufacture, distribute, transport or wholesale any article for profit, or possess for those purposes with the knowledge that the sounds recorded on the article were transferred in violation of subdivision (a1)(1) of this section.

(b) Subdivisions (a)(1) and (a)(2) of this section shall apply only to sound recordings that were initially fixed prior to February 15, 1972. Federal copyright law, 17 U.S.C. § 101 et seq., preempts State prosecution of the acts described in subdivisions (a)(1) and (a)(2) with respect to sound recordings initially fixed on or after February 15, 1972.

(c) This section shall not apply to any person engaged in webcasting or radio or television broadcasting who transfers, or causes to be transferred, any such sounds other than from the sound track of a motion picture intended for, or in connection with webcast, broadcast or telecast transmission or related uses, or for archival purposes. An Internet service provider who is solely providing a conduit for access to the Internet, shall not be deemed to be using, or causing to be used, recordings that may be transferred over the Internet by third parties in violation of this Article. (1973, c. 1279, s. 1; 1989, c. 589, s. 1; 2003-159, s. 2.)