

By the Committee on Commerce and Economic Opportunities and  
Senator Gutman

310-2109-98

1                                   A bill to be entitled  
2           An act relating to obtaining personal property  
3           or certain services illegally; amending s.  
4           812.15, F.S.; prohibiting the possession or  
5           advertisement for sale of certain equipment  
6           designed and primarily useful for unauthorized  
7           reception of cable system communications;  
8           providing penalties; amending s. 812.155, F.S.;  
9           prescribing acts that constitute prima facie  
10          evidence of intent to defraud; providing  
11          authorized means for demand for return;  
12          requiring notice on rental agreements;  
13          providing penalties; providing an effective  
14          date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

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18           Section 1. Subsection (3) of section 812.15, Florida  
19 Statutes, is amended to read:

20           812.15 Unauthorized reception of cable television  
21 services; penalties.--

22           (3)(a) Any person who willfully violates this section  
23 shall be guilty of a misdemeanor of the first degree,  
24 punishable as provided in s. 775.082 or s. 775.083.

25           (b) Any person who willfully and for purposes of  
26 direct or indirect commercial advantage violates this section  
27 shall be guilty of a felony of the third degree, punishable as  
28 provided in s. 775.082, s. 775.083, or s. 775.084.

29           (c) Any person who intentionally possesses equipment,  
30 knowing or having reason to know that the design of such  
31 equipment renders it primarily useful for the purpose of the

1 unauthorized reception of any communications service offered  
2 over a cable system, shall be guilty of a misdemeanor of the  
3 first degree, punishable as provided in s. 775.082 or s.  
4 775.083.

5 (d) It is unlawful for any person to place in any  
6 newspaper, magazine, handbill, or other publication any  
7 advertisement that, in whole or in part, promotes the sale of  
8 equipment if the person placing the advertisement knows or has  
9 reason to know that the equipment is designed to be primarily  
10 useful for the unauthorized reception of any communications  
11 service offered over a cable system. Any person who violates  
12 this subsection shall be guilty of a misdemeanor of the first  
13 degree, punishable as provided in s. 775.082 or s. 775.083.

14 Section 2. Section 812.155, Florida Statutes, is  
15 amended to read:

16 812.155 Hiring, leasing, or obtaining personal  
17 property or equipment with the intent to defraud; failing to  
18 return hired or leased personal property or equipment; rules  
19 of evidence.--

20 (1) OBTAINING BY TRICK, FALSE REPRESENTATION,  
21 ETC.--Whoever, with the intent to defraud the owner or any  
22 person lawfully possessing any personal property or equipment,  
23 obtains the custody of such personal property or equipment by  
24 trick, deceit, or fraudulent or willful false representation  
25 shall be guilty of a misdemeanor of the second degree,  
26 punishable as provided in s. 775.082 or s. 775.083, unless the  
27 value of the personal property or equipment is of a value of  
28 \$300 or more; in that event the violation constitutes a felony  
29 of the third degree, punishable as provided in s. 775.082, s.  
30 775.083, or s. 775.084.

31

1           (2) HIRING OR LEASING WITH THE INTENT TO  
2 DEFRAUD.--Whoever, with intent to defraud the owner or any  
3 person lawfully possessing any personal property or equipment  
4 of the rental thereof, hires or leases said personal property  
5 or equipment from such owner or such owner's agents or any  
6 person in lawful possession thereof shall, upon conviction, be  
7 guilty of a misdemeanor of the second degree, punishable as  
8 provided in s. 775.082 or s. 775.083, unless the value of the  
9 personal property or equipment is of a value of \$300 or more;  
10 in that event the violation constitutes a felony of the third  
11 degree, punishable as provided in s. 775.082, s. 775.083, or  
12 s. 775.084.

13           (3) FAILURE TO REDELIVER HIRED OR LEASED PERSONAL  
14 PROPERTY.--Whoever, after hiring or leasing any personal  
15 property or equipment under an agreement to redeliver the same  
16 to the person letting such personal property or equipment or  
17 his or her agent at the termination of the period for which it  
18 was let, shall, without the consent of such person or persons  
19 and with the intent to defraud, abandon or willfully refuse to  
20 redeliver such personal property or equipment as agreed,  
21 shall, upon conviction, be guilty of a misdemeanor of the  
22 second degree, punishable as provided in s. 775.082 or s.  
23 775.083, unless the value of the personal property or  
24 equipment is of a value of \$300 or more; in that event the  
25 violation constitutes a felony of the third degree, punishable  
26 as provided in s. 775.082, s. 775.083, or s. 775.084.

27           (4) EVIDENCE OF FRAUDULENT INTENT.--

28           (a) In prosecutions under this section, obtaining  
29 ~~fraudulent intent may be inferred from proof that the property~~  
30 ~~or equipment under was obtained by false pretenses; by~~  
31 ~~absconding without payment or offering to pay any outstanding~~

1 ~~balance; or by surreptitiously~~ removing or attempting to  
2 remove the property or equipment from the county, without the  
3 express written consent of the lessor is prima facie evidence  
4 of fraudulent intent.

5 (b) In a prosecution under subsection (3), failure to  
6 redeliver the property or equipment within 5 days after  
7 receipt or within 5 days after return receipt from the  
8 certified mailing of the demand for return, whichever is  
9 shorter, is prima facie evidence of fraudulent intent

10 ~~Fraudulent intent may be inferred from proof of the failure to~~  
11 ~~make payment or redeliver upon demand made either in person or~~  
12 ~~by certified mail. This inference may be made only when there~~  
13 ~~is no dispute as to the amount owed.~~

14 (c) In a prosecution under subsection (3), failure to  
15 pay any amount due that is incurred as a result of the failure  
16 to redeliver property after the rental period expires and  
17 after the demand for return is made, is prima facie evidence  
18 of fraudulent intent. Amounts due include unpaid rental for  
19 the time period during which the property or equipment was not  
20 returned and include the lesser of the cost of repairing or  
21 replacing the property or equipment if it has been damaged.

22 (5) DEMAND FOR RETURN.--Demand for return of overdue  
23 property or equipment and for payment of amounts due may be  
24 made in person, by hand delivery, or by certified mail, return  
25 receipt requested, addressed to the lessee's address shown in  
26 the rental contract.

27 (6) NOTICE REQUIRED.--As a prerequisite to prosecution  
28 under this section, the following statement must be contained  
29 in the agreement under which the owner or person lawfully  
30 possessing the property or equipment has relinquished its  
31 custody or in an addendum to that agreement and it must be

1 initialed by the person hiring or leasing the rental property  
2 or equipment:

3 Failure to return rental property or equipment  
4 upon expiration of the rental period and  
5 failure to pay all amounts due (including costs  
6 for damage to the property or equipment) are  
7 prima facie evidence of intent to defraud,  
8 punishable in accordance with section 812.155,  
9 Florida Statutes.

10 (7)(5) EXCLUSION OF RENTAL-PURCHASE AGREEMENTS.--This  
11 section does not apply to personal property or equipment that  
12 is the subject of a rental-purchase agreement that permits the  
13 lessee to acquire ownership of the personal property or  
14 equipment.

15 Section 3. This act shall take effect upon becoming a  
16 law.

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18 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
19 COMMITTEE SUBSTITUTE FOR  
20 Senate Bill 1028

21 The committee substitute differs from the bill in the  
22 following ways:

23 --Provides that anyone who intentionally possesses  
24 television cable equipment, that allows the person to  
25 receive unauthorized reception of any communications  
26 services or promotes the advertising of the sale of such  
27 equipment, is guilty of a first degree misdemeanor;

28 --Includes in the deletion of terms "offering to pay any  
29 outstanding balance" which makes the mere fact of removal  
30 or attempted removal of the property or equipment prima  
31 facie evidence of fraudulent intent; and

--Extends by two days, the time by which a person is to  
redeliver property or equipment after receipt of the  
demand for return while shortening, by five days, the  
time by which a person is to redeliver property or  
equipment after return of receipt of the mailing of the  
demand for return.