

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:

17  
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  
9 has reason to know that the equipment is designed to be  
10 primarily useful for the unauthorized reception of any  
11 communications service offered over a cable system. Any  
12 person who violates this paragraph shall be guilty of a  
13 misdemeanor of the first degree, punishable as provided in s.  
14 775.082 or s. 775.083.

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

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

21 (1) OBTAINING BY TRICK, FALSE REPRESENTATION,  
22 ETC.--Whoever, with the intent to defraud the owner or any  
23 person lawfully possessing any personal property or equipment,  
24 obtains the custody of such personal property or equipment by  
25 trick, deceit, or fraudulent or willful false representation  
26 shall be guilty of a misdemeanor of the second degree,  
27 punishable as provided in s. 775.082 or s. 775.083, unless the  
28 value of the personal property or equipment is of a value of  
29 \$300 or more; in that event the violation constitutes a felony  
30 of the third degree, punishable as provided in s. 775.082, s.  
31 775.083, or s. 775.084.

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 of, or within 5 days after return receipt from, the  
8 certified mailing of the demand for return is prima facie  
9 evidence of fraudulent intent. Notice mailed by certified  
10 mail, return receipt requested, to the address given by the  
11 renter at the time of rental shall be deemed sufficient and  
12 equivalent to notice having been received by the renter,  
13 should the notice be returned undelivered. ~~Fraudulent intent~~  
14 ~~may be inferred from proof of the failure to make payment or~~  
15 ~~redeliver upon demand made either in person or by certified~~  
16 ~~mail. This inference may be made only when there is no~~  
17 ~~dispute as to the amount owed.~~

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

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

1           (6) NOTICE REQUIRED.--As a prerequisite to prosecution  
2 under this section, the following statement must be contained  
3 in the agreement under which the owner or person lawfully  
4 possessing the property or equipment has relinquished its  
5 custody, or in an addendum to that agreement, and the  
6 statement must be initialed by the person hiring or leasing  
7 the rental property or equipment:

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

15  
16           ~~(7)(5)~~ EXCLUSION OF RENTAL-PURCHASE AGREEMENTS.--This  
17 section does not apply to personal property or equipment that  
18 is the subject of a rental-purchase agreement that permits the  
19 lessee to acquire ownership of the personal property or  
20 equipment.

21           Section 3. This act shall take effect October 1 of the  
22 year in which enacted.