

576-100AXB

Bill No. HB 1317

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

Representative(s) Argenziano offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

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

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

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

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

(c) Any person who intentionally possesses equipment, knowing or having reason to know that the design of such equipment renders it primarily useful for the purpose of the unauthorized reception of any communications service offered

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1 over a cable system, shall be guilty of a misdemeanor of the
2 first degree, punishable as provided in s. 775.082 or s.
3 775.083.

4 (d) It is unlawful for any person to place in any
5 newspaper, magazine, handbill, or other publication any
6 advertisement that, in whole or in part, promotes the sale of
7 equipment, if the person placing the advertisement knows or
8 has reason to know that the equipment is designed to be
9 primarily useful for the unauthorized reception of any
10 communications service offered over a cable system. Any
11 person who violates this subsection shall be guilty of a
12 misdemeanor of the first degree, punishable as provided in s.
13 775.082 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 (2) HIRING OR LEASING WITH THE INTENT TO

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

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

26 (4) EVIDENCE OF FRAUDULENT INTENT.--

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

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1 remove the property or equipment from the county, without the
2 express written consent of the lessor is prima facie evidence
3 of fraudulent intent.

4 (b) In a prosecution under subsection (3), failure to
5 redeliver the property or equipment within 5 days after
6 receipt of, or within 5 days after return receipt from, the
7 certified mailing of the demand for return, whichever is
8 shorter, is prima facie evidence of fraudulent intent. Notice
9 mailed by certified mail, evidenced by return receipt, to the
10 address given by the renter at the time of rental shall be
11 deemed sufficient and equivalent to notice having been
12 received by the maker or drawer, whether such notice shall be
13 returned undelivered or not ~~Fraudulent intent may be inferred~~
14 ~~from proof of the failure to make payment or redeliver upon~~
15 ~~demand made either in person or by certified mail. This~~
16 ~~inference may be made only when there is no dispute as to the~~
17 ~~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 it must be
 6 initialed by the person hiring or leasing the rental property
 7 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.

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.

25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:
 27 remove from the title of the bill: the entire title
 28
 29 and insert in lieu thereof:

30 A bill to be entitled
 31 An act relating to obtaining personal property

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

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