

576-100AXA-38

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

The Committee on Criminal Justice Appropriations 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, without authorization from a cable system, possesses equipment, knowing that such equipment may be primarily used or designed to receive communications

1 services offered by that cable system, commits a misdemeanor  
2 of the first degree, punishable as provided in s. 775.082 or  
3 s. 775.083.

4 (d) Any person who places an advertisement in a  
5 printed publication, knowing, or under circumstances where one  
6 reasonably should know, that the purpose of the advertisement  
7 is to promote the sale of equipment prohibited under paragraph  
8 (c), commits a misdemeanor of the first degree, punishable as  
9 provided in s. 775.082 or s. 775.083.

10 Section 2. Section 812.155, Florida Statutes, is  
11 amended to read:

12 812.155 Hiring, leasing, or obtaining personal  
13 property or equipment with the intent to defraud; failing to  
14 return hired or leased personal property or equipment; rules  
15 of evidence.--

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

27 (2) HIRING OR LEASING WITH THE INTENT TO  
28 DEFRAUD.--Whoever, with intent to defraud the owner or any  
29 person lawfully possessing any personal property or equipment  
30 of the rental thereof, hires or leases said personal property  
31 or equipment from such owner or such owner's agents or any

1 person in lawful possession thereof shall, upon conviction, be  
2 guilty of a misdemeanor of the second degree, punishable as  
3 provided in s. 775.082 or s. 775.083, unless the value of the  
4 personal property or equipment is of a value of \$300 or more;  
5 in that event the violation constitutes a felony of the third  
6 degree, punishable as provided in s. 775.082, s. 775.083, or  
7 s. 775.084.

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

22 (4) EVIDENCE OF FRAUDULENT INTENT.--

23 (a) In prosecutions under this section, obtaining  
24 ~~fraudulent intent may be inferred from proof that the property~~  
25 ~~or equipment under was obtained by false pretenses; by~~  
26 ~~absconding without payment or offering to pay any outstanding~~  
27 ~~balance; or by surreptitiously removing or attempting to~~  
28 ~~remove the property or equipment from the county, without the~~  
29 ~~express written consent of the lessor~~ is prima facie evidence  
30 of fraudulent intent.

31 (b) In a prosecution under subsection (3), failure to

1 redeliver the property or equipment upon demand is prima facie  
2 evidence of fraudulent intent may be inferred from proof of  
3 the failure to make payment or redeliver upon demand made  
4 either in person or by certified mail. This inference may be  
5 made only when there is no dispute as to the amount owed.

6 (c) In a prosecution under subsection (3), failure to  
7 pay any amount due under the agreement upon demand is prima  
8 facie evidence of fraudulent intent. Amounts due under a  
9 rental agreement include unpaid rental for the time period  
10 during which the property or equipment was not returned and  
11 include the cost of repairing or replacing the property or  
12 equipment if it has been damaged, whichever is less.

13 (5) DEMAND FOR RETURN.--Demand for return of overdue  
14 property or equipment and for payment of amounts due may be  
15 made in person, by hand delivery, or by certified mail, return  
16 receipt requested, addressed to the last known address of the  
17 lessee.

18 (6) NOTICE REQUIRED.--As a prerequisite to prosecution  
19 under this section, the following statement must be contained  
20 in the agreement under which the owner or person lawfully  
21 possessing the property or equipment has relinquished its  
22 custody or in an addendum to that agreement and it must be  
23 initialed by the person hiring or leasing the rental property  
24 or equipment:

25 Failure to return rental property or equipment  
26 upon expiration of the rental period and  
27 failure to pay all amounts due (including costs  
28 for damage to the property or equipment) are  
29 prima facie evidence of intent to defraud,  
30 punishable in accordance with section 812.155,  
31 Florida Statutes.

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

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

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

And the title is amended as follows:

remove from the title of the bill: the entire title

and insert in lieu thereof:

A bill to be entitled

An act relating to offenses involving personal property or equipment; amending s. 812.15, F.S.; prohibiting the possession or advertisement for sale of certain equipment designed or used to receive cable system communications under specified circumstances; providing penalties; amending s. 812.155, F.S.; prescribing acts that constitute prima facie evidence of intent to defraud; providing authorized means for demand for return; requiring notice on rental agreements; providing penalties; providing an effective date.