

By the Committee on Crime & Punishment and Representative
Kyle

1 A bill to be entitled
2 An act relating to unauthorized reception of
3 cable television services; amending s. 812.15,
4 F.S.; providing increased penalties for repeat
5 offenders; providing increased penalties for
6 the possession of certain devices in
7 quantities; prohibiting the advertisement of
8 certain devices in the electronic media;
9 authorizing certain persons to recover damages
10 for each violation; providing an effective
11 date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Section 812.15, Florida Statutes, 1998
16 Supplement, is amended to read:

17 812.15 Unauthorized reception of cable television
18 services; penalties.--

19 (1) As used in this section, the term:

20 (a) "Cable operator" means "cable operator" as defined
21 in 47 U.S.C. s. 522(4) (1988).

22 (b) "Cable system" means "cable system" as defined in
23 47 U.S.C. s. 522(6) (1988).

24 (2)(a) No person shall intercept or receive or assist
25 in intercepting or receiving any communications service
26 offered over a cable system, unless specifically authorized to
27 do so by a cable operator or as may otherwise be specifically
28 authorized by law.

29 ~~(b)~~ For the purpose of this section, the term "assist
30 in intercepting or receiving" shall include the manufacture of
31 or distribution of equipment intended by the manufacturer or

1 distributor, as the case may be, for unauthorized reception of
2 any communications service offered over a cable system in
3 violation of this section.

4 (b)(3)(a) Any person who willfully violates this
5 subsection ~~section~~ shall be guilty of a misdemeanor of the
6 first degree, punishable as provided in s. 775.082 or s.
7 775.083.

8 (3)(a) Any person who willfully violates paragraph
9 (2)(a), paragraph (4)(a), or subsection (5) and who has been
10 previously convicted of any such provision shall be guilty of
11 a felony of the third degree, punishable as provided in s.
12 775.082, s. 775.083, or s. 775.084.

13 (b) Any person who willfully and for purposes of
14 direct or indirect commercial advantage violates paragraph
15 (2)(a), paragraph (4)(a), or subsection (5)~~this section~~ shall
16 be guilty of a felony of the third degree, punishable as
17 provided in s. 775.082, s. 775.083, or s. 775.084.

18 (4)(a)(c) Any person who intentionally possesses
19 equipment, knowing or having reason to know that the design of
20 such equipment renders it primarily useful for the purpose of
21 the unauthorized reception of any communications service
22 offered over a cable system, shall be guilty of a misdemeanor
23 of the first degree, punishable as provided in s. 775.082 or
24 s. 775.083.

25 (b) Any person who intentionally possesses five or
26 more devices or pieces of equipment and knows or has reason to
27 know that the design of such devices or pieces of equipment
28 renders them primarily useful for the unauthorized reception
29 of any communications services offered over a cable system is
30 guilty of a felony of the third degree, punishable as provided
31 in s. 775.082, s. 775.083, or s. 775.084.

1 (c) Any person who intentionally possesses fifty or
2 more pieces of equipment and knows or has reason to know that
3 the design of such devices or equipment renders it primarily
4 useful for the unauthorized reception of any communications
5 services offered over a cable system is guilty of a felony in
6 the second degree, punishable as provided in s. 775.082, s.
7 775.083, or s. 775.084.

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

18 (6)~~(4)~~(a) Any person aggrieved by any violation of
19 this section may bring a civil action in a circuit court or in
20 any other court of competent jurisdiction.

21 (b) The court may:

22 1. Grant temporary and final injunctions on such terms
23 as it may deem reasonable to prevent or restrain violations of
24 this section in conformity with the principles that govern the
25 granting of injunctive relief from threatened loss or damage
26 in other civil cases, except that no showing of special or
27 irreparable damages to the person shall have to be made;

28 2. Award damages pursuant to paragraphs (c), (d), and
29 (e); and
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1 3. Direct the recovery of full costs, including
2 awarding reasonable attorney's fees, to an aggrieved party who
3 prevails.

4 (c) Damages awarded by any court under this section
5 shall be computed in accordance with either of the following:

6 1. The party aggrieved may recover the actual damages
7 suffered by him or her as a result of the violation and any
8 profits of the violator that are attributable to the violation
9 which are not taken into account in computing the actual
10 damages; in determining the violator's profits, the party
11 aggrieved shall be required to prove only the violator's gross
12 revenue, and the violator is required to prove his or her
13 deductible expenses and the elements of profit attributable to
14 factors other than the violation; or

15 2. The party aggrieved may recover an award of
16 statutory damages for each violation ~~all violations~~ involved
17 in the action, in a sum of not less than \$250 or more than
18 \$10,000, as the court considers just.

19 (d) In any case in which the court finds that the
20 violation was committed willfully and for purposes of
21 commercial advantage, the court in its discretion may increase
22 the award of damages, whether actual or statutory under this
23 section, by an amount of not more than \$50,000 for each
24 violation.

25 (e) In any case in which the court finds that the
26 violator was not aware and had no reason to believe that his
27 or her acts constituted a violation of this section, the court
28 in its discretion may reduce the award of damages to a sum of
29 not less than \$100.

30 Section 2. This act shall take effect July 1, 1999.

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