

By Senator Silver

38-1019-99

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

7 (b) Any person who willfully violates this section and
8 who has been previously convicted of a violation of this
9 section is guilty of a felony of the third degree, punishable
10 as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

29 (c) Any person who intentionally possesses fifty or
30 more devices or equipment and knows or has reason to know that
31 the design of such devices or equipment renders it primarily

1 useful for the unauthorized reception of any communications
2 services offered over a cable system is guilty of a felony in
3 the second degree, punishable as provided in s. 775.082, s.
4 775.083, or s. 775.084.

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

15 (6)(4)(a) Any person aggrieved by any violation of
16 this section may bring a civil action in a circuit court or in
17 any other court of competent jurisdiction.

18 (b) The court may:

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

25 2. Award damages pursuant to paragraphs (c), (d), and
26 (e); and

27 3. Direct the recovery of full costs, including
28 awarding reasonable attorney's fees, to an aggrieved party who
29 prevails.

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

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

10 2. The party aggrieved may recover an award of
11 statutory damages for each violation ~~all violations~~ involved
12 in the action, in a sum of not less than \$250 or more than
13 \$10,000, as the court considers just.

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

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

25 Section 2. This act shall take effect July 1, 1999.
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SENATE SUMMARY

Provides penalties relating to the unauthorized reception of cable television services. Provides increased penalties for repeat offenders. Provides increased penalties for the possession of certain devices in quantities. Prohibits the advertisement of cable theft devices in electronic media. Authorizes certain persons to recover damages for each violation.