



29 s. 522(9) and (10) (1992) "cable operator" as defined in 47
30 U.S.C. s. 522(4) (1988).

31 (b) "Cable system" means any communications service
32 network, system, or facility owned or operated by a cable
33 operator "cable system" as defined in 47 U.S.C. s. 522(6)
34 (1988).

35 (c) "Communications device" means any type of electronic
36 mechanism, transmission line or connections and appurtenances
37 thereto, instrument, device, machine, equipment, or software
38 that is capable of intercepting, transmitting, acquiring,
39 decrypting, or receiving any communications service, or any
40 part, accessory, or component thereof, including any computer
41 circuit, splitter, connector, switches, transmission hardware,
42 security module, smart card, software, computer chip, electronic
43 mechanism, or other component, accessory, or part of any
44 communications device which is capable of facilitating the
45 interception, transmission, retransmission, acquisition,
46 decryption, or reception of any communications service.

47 (d) "Communications service" means any service lawfully
48 provided for a charge or compensation by any cable system or by
49 any radio, fiber optic, photooptical, electromagnetic,
50 photoelectronic, satellite, microwave, data transmission,
51 Internet-based, or wireless distribution network, system, or
52 facility, including, but not limited to, any electronic, data,
53 video, audio, Internet access, microwave, and radio
54 communications, transmissions, signals, and services, and any
55 such communications, transmissions, signals, and services
56 lawfully provided for a charge or compensation, directly or



57 | indirectly by or through any of those networks, systems, or
 58 | facilities.

59 | (e) "Communications service provider" means:

60 | 1. Any person or entity owning or operating any cable
 61 | system or any fiber optic, photooptical, electromagnetic,
 62 | photoelectronic, satellite, wireless, microwave, radio, data
 63 | transmission, or Internet-based distribution network, system, or
 64 | facility.

65 | 2. Any person or entity providing any lawful
 66 | communications service, whether directly or indirectly, as a
 67 | reseller or licensee, by or through any such distribution
 68 | network, system, or facility.

69 | (f) "Manufacture, development, or assembly of a
 70 | communications device" means to make, produce, develop, or
 71 | assemble a communications device or any part, accessory, or
 72 | component thereof, or to modify, alter, program, or reprogram
 73 | any communications device so that it is capable of facilitating
 74 | the commission of a violation of this section.

75 | (g) "Multipurpose device" means any communications device
 76 | that is capable of more than one function and includes any
 77 | component thereof.

78 | (2)(a) A ~~No~~ person may not knowingly ~~shall~~ intercept, ~~or~~
 79 | receive, decrypt, disrupt, transmit, retransmit, or acquire
 80 | access to ~~or assist in intercepting or receiving~~ any
 81 | communications service without the express authorization of the
 82 | offerer over a cable system, unless specifically authorized to
 83 | do so by a cable operator or other communications service
 84 | provider, or as stated in a contract or ~~may~~ otherwise, with the



85 intent to defraud the cable operator or communications service
86 provider, or to knowingly assist others in doing those acts with
87 the intent to defraud the cable operator or other communications
88 provider ~~be specifically authorized by law.~~ For the purpose of
89 this section, the term "assist others" includes:

90 1. The sale, transfer, license, distribution, deployment,
91 lease, manufacture, development, or assembly of a communications
92 device for the purpose of facilitating the unauthorized receipt,
93 acquisition, interception, disruption, decryption, transmission,
94 retransmission, or access to any communications service offered
95 by a cable operator or any other communications service
96 provider; or

97 2. The sale, transfer, license, distribution, deployment,
98 lease, manufacture, development, or assembly of a communications
99 device for the purpose of defeating or circumventing any
100 effective technology, device, or software, or any component or
101 part thereof, used by a cable operator or other communications
102 service provider to protect any communications service from
103 unauthorized receipt, acquisition, interception, disruption,
104 access, decryption, transmission, or retransmission. ~~in~~
105 ~~intercepting or receiving" shall include the manufacture of or~~
106 ~~distribution of equipment intended by the manufacturer or~~
107 ~~distributor, as the case may be, for unauthorized reception of~~
108 ~~any communications service offered over a cable system in~~
109 ~~violation of this section.~~

110 (b) Any person who willfully violates this subsection
111 commits ~~shall be guilty of~~ a misdemeanor of the first degree,
112 punishable as provided in s. 775.082 or s. 775.083.



113 (3)(a) Any person who willfully violates paragraph (2)(a),
114 paragraph (4)(a), or subsection (5) and who has been previously
115 convicted of any such provision commits ~~shall be guilty of a~~
116 felony of the third degree, punishable as provided in s.
117 775.082, s. 775.083, or s. 775.084.

118 (b) Any person who willfully and for purposes of direct or
119 indirect commercial advantage or private financial gain violates
120 paragraph (2)(a), paragraph (4)(a), or subsection (5) commits
121 ~~shall be guilty of a~~ felony of the third degree, punishable as
122 provided in s. 775.082, s. 775.083, or s. 775.084.

123 (4)(a) Any person who intentionally possesses a
124 communications device ~~equipment~~, knowing or having reason to
125 know that the design of such device ~~equipment~~ renders it
126 primarily useful for the purpose of committing, or assisting
127 others in committing, a violation of paragraph (2)(a) commits
128 ~~the unauthorized reception of any communications service offered~~
129 ~~over a cable system, shall be guilty of a~~ misdemeanor of the
130 first degree, punishable as provided in s. 775.082 or s.
131 775.083.

132 (b) Any person who intentionally possesses five or more
133 communications devices ~~or pieces of equipment~~ and knows or has
134 reason to know that the design of such devices ~~or pieces of~~
135 ~~equipment~~ renders them primarily useful for committing, or
136 assisting others in committing, a violation of paragraph (2)(a)
137 commits ~~the unauthorized reception of any communications~~
138 ~~services offered over a cable system is guilty of a~~ felony of
139 the third degree, punishable as provided in s. 775.082, s.
140 775.083, or s. 775.084.



141 (c) Any person who intentionally possesses fifty or more
142 communications devices ~~or pieces of equipment~~ and knows or has
143 reason to know that the design of such devices ~~or equipment~~
144 renders them primarily useful for committing, or assisting
145 others in committing, a violation of paragraph (2)(a) commits
146 ~~the unauthorized reception of any communications services~~
147 ~~offered over a cable system is guilty of a felony of~~ in the
148 second degree, punishable as provided in s. 775.082, s. 775.083,
149 or s. 775.084.

150 (5) It is unlawful for any person to place in any
151 newspaper, magazine, handbill, or other publication, including
152 any electronic medium, any advertisement that, in whole or in
153 part, promotes the sale of a communications device ~~equipment~~, if
154 the person placing the advertisement knows or has reason to know
155 that the device ~~equipment~~ is designed to be primarily useful for
156 committing, or assisting others in committing, a violation of
157 paragraph (2)(a) the unauthorized reception of any
158 ~~communications service offered over a cable system~~. Any person
159 who violates this subsection shall be guilty of a misdemeanor of
160 the first degree, punishable as provided in s. 775.082 or s.
161 775.083.

162 (6) All fines shall be imposed as provided in s. 775.083
163 for each communications device involved in the prohibited
164 activity or for each day a defendant is in violation of this
165 section.

166 (7) The court shall, in addition to any other sentence
167 authorized by law, sentence a person convicted of violating this
168 section to make restitution as authorized by law.



169 (8) Upon conviction of a defendant for violating this
170 section, the court may, in addition to any other sentence
171 authorized by law, direct that the defendant forfeit any
172 communications device in the defendant's possession or control
173 which was involved in the violation for which the defendant was
174 convicted.

175 (9) A violation of paragraph (2)(a) may be deemed to have
176 been committed at any place where the defendant manufactures,
177 develops, or assembles any communications devices involved in
178 the violation, or assists others in these acts, or any place
179 where the communications device is sold or delivered to a
180 purchaser or recipient. It is not a defense to a violation of
181 paragraph (2)(a) that some of the acts constituting the
182 violation occurred outside the state.

183 (10)(6)(a) Any person aggrieved by any violation of this
184 section may bring a civil action in a circuit court or in any
185 other court of competent jurisdiction.

186 (b) The court may:

187 1. Grant temporary and final injunctions on ~~such~~ terms as
188 it finds ~~may deem~~ reasonable to prevent or restrain violations
189 of this section in conformity with the principles that govern
190 the granting of injunctive relief from threatened loss or damage
191 in other civil cases, except that a ne ~~ne~~ showing of special or
192 irreparable damages to the person need not ~~shall have to~~ be
193 made. ‡

194 2. At any time while the action is pending, order the
195 impounding, on reasonable terms, of any communications device
196 that is in the custody or control of the violator and that the



197 court has reasonable cause to believe was involved in the
198 alleged violation of this section, and may grant other equitable
199 relief, including the imposition of a constructive trust, as the
200 court considers reasonable and necessary.

201 3.2- Award damages pursuant to paragraphs (c), (d), and
202 (e). ~~and~~

203 4.3- Direct the recovery of full costs, including awarding
204 reasonable attorney's fees, to an aggrieved party who prevails.

205 5. As part of a final judgment or decree finding a
206 violation of this section, order the remedial modification or
207 destruction of any communications device, or any other device or
208 equipment, involved in the violation which is in the custody or
209 control of the violator or has been impounded under subparagraph
210 2.

211 (c) Damages awarded by any court under this section shall
212 be computed in accordance with subparagraph 1. or subparagraph
213 2. either of the following:

214 1. The party aggrieved may recover the actual damages
215 suffered by him or her as a result of the violation and any
216 profits of the violator that are attributable to the violation
217 which are not taken into account in computing the actual
218 damages. ~~and~~

219 a. Actual damages include the retail value of all
220 communications services to which the violator had unauthorized
221 access as a result of the violation and the retail value of any
222 communications service illegally available to each person to
223 whom the violator directly or indirectly provided or distributed
224 a communications device. In proving actual damages, the party



225 aggrieved must prove only that the violator manufactured,
226 distributed, or sold a communications device and is not required
227 to prove that any such device was actually used in violation of
228 this section.

229 b. In determining the violator's profits, the party
230 aggrieved must ~~shall be required to~~ prove only the violator's
231 gross revenue, and the violator must ~~is required to~~ prove his or
232 her deductible expenses and the elements of profit attributable
233 to factors other than the violation. ~~;~~ ~~or~~

234 2. Upon election of such damages at any time before final
235 judgment is entered, the party aggrieved may recover an award of
236 statutory damages for each communications device violation
237 involved in the action, in a sum of not less than \$250 or more
238 than \$10,000 for each such device, as the court considers just.

239 (d) In any case in which the court finds that the
240 violation was committed willfully and for purposes of commercial
241 advantage or financial gain, the court in its discretion may
242 increase the award of damages, whether actual or statutory under
243 this section, by an amount of not more than \$50,000 for each
244 communications device involved in the action and for each day
245 the defendant is in violation of this section ~~violation.~~

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

251 (11) This section shall not be construed to impose any
252 criminal or civil liability upon any state or local law



253 enforcement agency; any state or local government agency,
254 municipality, or authority; or any communications service
255 provider unless such entity is acting knowingly and with intent
256 to defraud a communications service provider as defined in this
257 section.

258 (12) A person that manufactures, produces, assembles,
259 designs, sells, distributes, licenses, or develops a
260 multipurpose device shall not be in violation of this section
261 unless that person acts knowingly and with an intent to defraud
262 a communications services provider and the multipurpose device:

263 (a) Is manufactured, developed, assembled, produced,
264 designed, distributed, sold, or licensed for the primary purpose
265 of committing a violation of this section;

266 (b) Has only a limited commercially significant purpose or
267 use other than for the commission of any violation of this
268 section; or

269 (c) Is marketed by that person or another acting in
270 concert with that person with that person's knowledge for the
271 purpose of committing any violation of this section.

272 (13) Nothing in this section shall require that the design
273 of, or design and selection of parts, software code, or
274 components for, a communications device provide for a response
275 to any particular technology, device, or software, or any
276 component or part thereof, used by the provider, owner, or
277 licensee of any communications service or of any data, audio or
278 video programs, or transmissions, to protect any such
279 communications, data, audio or video service, programs, or
280 transmissions from unauthorized receipt, acquisition,



281 | interception, access, decryption, disclosure, communication,
282 | transmission, or retransmission.

283 | Section 2. This act shall take effect October 1, 2003.