

Committee Substitute for Senate Bill No. 1606

An act relating to unauthorized reception of cable television services; amending s. 812.15, F.S.; providing increased penalties for repeat offenders; providing increased penalties for the possession of certain devices in quantities; prohibiting the advertisement of certain devices in the electronic media; authorizing certain persons to recover damages for each violation; providing an effective date.

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

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

812.15 Unauthorized reception of cable television services; penalties.—

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

(a) “Cable operator” means “cable operator” as defined in 47 U.S.C. s. 522(4) (1988).

(b) “Cable system” means “cable system” as defined in 47 U.S.C. s. 522(6) (1988).

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

(b) For the purpose of this section, the term “assist in intercepting or receiving” shall include the manufacture of or distribution of equipment intended by the manufacturer or distributor, as the case may be, for unauthorized reception of any communications service offered over a cable system in violation of this section.

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

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

(b) Any person who willfully and for purposes of direct or indirect commercial advantage violates paragraph (2)(a), paragraph (4)(a), or subsection (5) 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.

(4)(a)(e) Any person who intentionally possesses equipment, knowing or having reason to know that the design of such equipment renders it primar-

ily useful for the purpose of the unauthorized reception of any communications service offered over a cable system, 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 intentionally possesses five or more devices or pieces of equipment and knows or has reason to know that the design of such devices or pieces of equipment renders them primarily useful for the unauthorized reception of any communications services offered over a cable system is 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 fifty or more devices or pieces of equipment and knows or has reason to know that the design of such devices or equipment renders it primarily useful for the unauthorized reception of any communications services offered over a cable system is guilty of a felony in the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

(b) The court may:

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

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

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

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

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

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

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

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

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

Approved by the Governor June 8, 1999.

Filed in Office Secretary of State June 8, 1999.