

943.46 Theft of video service. (1) DEFINITIONS. In this section:

(b) “Private financial gain” does not include the gain resulting to any individual from the private use in that individual’s dwelling unit of any programming for which the individual has not obtained authorization.

(c) “Video service” has the meaning given in s. 66.0420 (2) (y), except that “video service” does not include signals received by privately owned antennas that are not connected to a video service network whether or not the same signals are provided by a video service provider.

(d) “Video service network” has the meaning given in s.66.0420 (2) (zb).

(e) “Video service provider” has the meaning given in s.66.0420 (2) (zg), and also includes an interim cable operator, as defined in s. 66.0420 (2) (n).

(2) PROHIBITIONS. No person may intentionally do any of the following:

(a) Obtain or attempt to obtain video service from a provider by trick, artifice, deception, use of an illegal device or illegal decoder or other fraudulent means with the intent to deprive that provider of any or all lawful compensation for rendering each type of service obtained. The intent required for a violation of this paragraph may be inferred from the presence on the property and in the actual possession of the defendant of a device not authorized by the video service provider, the major purpose of which is to permit reception of video services without payment. This inference is rebutted if the defendant demonstrates that he or she purchased that device for a legitimate use.

(b) Give technical assistance or instruction to any person in obtaining or attempting to obtain any video service without payment of all lawful compensation to the provider providing that service. This paragraph does not apply if the defendant demonstrates that the technical assistance or instruction was given or the installation of the connection, descrambler or receiving device was for a legitimate use.

(c) Make or maintain a connection, whether physical, electrical, mechanical, acoustical or by other means, with any cables, wires, components or other devices used for the distribution of video services for the purpose of distributing video service to any other dwelling unit without authority from a video service provider.

(d) Make or maintain a connection, whether physical, electrical, mechanical, acoustical or by other means, with any cables, wires, components or other devices used for the distribution of video services for the purpose of obtaining video service without payment of all lawful compensation to the provider providing that service. The intent required for a violation of this paragraph may be inferred from proof that the video service to the defendant’s residence or business was connected under a service agreement with the defendant and has been disconnected by the video service provider and that thereafter there exists in fact a connection to the video service network at the defendant’s residence or business.

(e) Make or maintain any modification or alteration to any device installed with the authorization of a video service provider for the purpose of intercepting or receiving any program or other service carried by that provider which that person is not authorized by that provider to receive. The intent required for a violation of this paragraph may be inferred from proof that, as a matter of standard procedure, the video service provider places written warning labels on its converters or decoders explaining that tampering with the device is a violation of law and the converter or decoder is found to have been tampered with, altered or modified so as to allow the reception or interception of programming carried by the video service provider without authority to do so. The trier of fact may also infer that a converter or decoder has been

altered or modified from proof that the video service provider, as a matter of standard procedure, seals the converters or decoders with a label or mechanical device, that the seal was shown to the customer upon delivery of the decoder and that the seal has been removed or broken. The inferences under this paragraph are rebutted if the video service provider cannot demonstrate that the intact seal was shown to the customer.

(f) Possess without authority any device or printed circuit board designed to receive from a video service network any video programming or services offered for sale over that video service network, whether or not the programming or services are encoded, filtered, scrambled or otherwise made unintelligible, or perform or facilitate the performance of any of the acts under pars. (a) to (e) with the intent that that device or printed circuit be used to receive that video service provider's services without payment. Intent to violate this paragraph for direct or indirect commercial advantage or private financial gain may be inferred from proof of the existence on the property and in the actual possession of the defendant of a device if the totality of circumstances, including quantities or volumes, indicates possession for resale.

(g) Manufacture, import into this state, distribute, publish, advertise, sell, lease or offer for sale or lease any device, printed circuit board or any plan or kit for a device or for a printed circuit designed to receive the video programming or services offered for sale over a video service network from a video service network, whether or not the programming or services are encoded, filtered, scrambled or otherwise made unintelligible, with the intent that that device, printed circuit, plan or kit be used for the reception of that provider's services without payment. The intent required for a violation of this paragraph may be inferred from proof that the defendant has sold, leased or offered for sale or lease any device, printed circuit board, plan or kit for a device or for a printed circuit board in violation of this paragraph and during the course of the transaction for sale or lease the defendant expressly states or implies to the buyer that the product will enable the buyer to obtain video service without charge.

(4) PENALTIES. The following penalties apply for violations of this section:

(a) Except as provided in pars. (b) to (d), any person who violates sub. (2) (a) to (f) is subject to a Class C forfeiture.

(b) Except as provided in pars. (c) and (d), any person who violates sub. (2) (a) to (f) as a 2nd or subsequent offense is guilty of a Class B misdemeanor.

(c) Except as provided in par. (d), any person who violates sub. (2) (a) to (g) for direct or indirect commercial advantage or private financial gain is guilty of a Class A misdemeanor.

(d) Any person who violates sub. (2) (a) to (g) for direct or indirect commercial advantage or private financial gain as a 2nd or subsequent offense is guilty of a Class I felony.

(5) EXCEPTION. This section does not affect the use by a person of video services if the services have been paid for and the use is exclusive to the person's dwelling unit. This subsection does not prohibit a board or council of any city, village or town from specifying the number and manner of installation of outlets used by any such person for video services and does not prohibit a video service provider, in any written contract with a subscriber, from requiring the provider's approval for any increase in the number of those outlets used.

History: 1987 a. 345; 1993 a. 496; 2001 a. 109; 2007 a. 42.