

CHAPTER 430

[Engrossed Substitute House Bill No. 550]
CABLE TELEVISION SERVICE THEFT

AN ACT Relating to the theft of cable television services; adding new sections to chapter 9A.56 RCW; repealing RCW 9.45.250; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

***NEW SECTION.** Sec. 1. A new section is added to chapter 9A.56 RCW to read as follows:

(1) A person is guilty of theft of cable television services if:

(a) With intent to avoid payment of the lawful charge for any communication service of a cable system, he or she:

(i) Tampered with the equipment of the cable system, whether by mechanical, electrical, acoustical, or other means; or

(ii) Knowingly misrepresents a material fact; or

(iii) Uses any other artifice, trick, deception, code, or other device; and

(b) He or she wrongfully obtains cable communication services for himself or herself or another.

(2) Sections 1 through 4 of this act do not apply to the interception or receipt by any individual or the assisting (including the manufacture or sale), of such interception or receipt of any satellite-transmitted programming for private use.

(3) *Proof that a person tampered with equipment of the cable system without the consent of the system creates a presumption that the person acted with intent to avoid payment of the lawful charge for any communication service of a cable system.*

(4) Theft of cable television services is a gross misdemeanor.

***Sec. 1 was partially vetoed, see message at end of chapter.**

NEW SECTION. Sec. 2. A new section is added to chapter 9A.56 RCW to read as follows:

(1) A person is guilty of unlawful sale of cable television services if, with intent to avoid payment of the lawful charge for any communications service of a cable system, he or she offers for sale or otherwise makes available any telecommunications decoder or descrambler that defeats a mechanism of electronic signal encryption, or that restricts delivery of individually addressed switching imposed by the cable system.

(2) Unlawful sale of cable television services is a gross misdemeanor.

NEW SECTION. Sec. 3. A new section is added to chapter 9A.56 RCW to read as follows:

Upon conviction of theft or unlawful sale of cable television services and upon motion and hearing, the court shall order the forfeiture of any decoder, descrambler, or other device used in committing the violation of

section 1 or 2 of this act as contraband and dispose of it at the court's discretion.

***NEW SECTION.** Sec. 4. A new section is added to chapter 9A.56 RCW to read as follows:

(1) In addition to the criminal penalties provided in sections 1 and 2 of this act, there is created a civil cause of action for theft of cable television services and for unlawful sale of cable television services.

(2) The prevailing party may recover actual damages, reasonable attorneys' fees, and costs.

(3) The superior court may grant temporary and final injunctions on such terms as it deems reasonable to prevent or restrain violations of sections 1 and 2 of this act.

(4) Presumption of intent to avoid payment of the lawful charge for any communication service of a cable system under section 1 of this act applies in civil actions brought under this section.

***Sec. 4 was partially vetoed, see message at end of chapter.**

NEW SECTION. Sec. 5. A new section is added to chapter 9A.56 RCW to read as follows:

No person may be charged with theft under section 1 of this act or subject to a civil cause of action under section 4 of this act for connecting a nondecoding or nondescrambling channel frequency converter, which includes cable-ready television sets, video recorders, or similar equipment, to a cable system.

NEW SECTION. Sec. 6. Section 1, chapter 94, Laws of 1973 1st ex. sess. and RCW 9.45.250 are each repealed.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 22, 1985.

Passed the Senate April 17, 1985.

Approved by the Governor May 21, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 21, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to two sections, Engrossed Substitute House Bill No. 550 entitled:

"AN ACT Relating to the theft of cable television services."

Section 1(3) and Section 4(4) are not approved because they include presumptions of intent. Such statutory presumptions run counter to general law and should be reserved for use only in situations where significant public harm is involved.

With the exception of Section 1(3) and Section 4(4), Engrossed Substitute House Bill No. 550 is approved."