

2C: 20-8

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:20-8; 48:5A-3 (CATV - certain thefts of service - penalty)

LAWS OF: 1983

CHAPTER: 15

Bill No.: S1105

Sponsor(s): Rand and Costello

Date Introduced: March 1, 1982

Committee: Assembly: Transportation and Communications

Senate: Transportation and Communications

Amended during passage: Yes // Amendments during passage denoted by asterisks

Date of Passage: Assembly: Dec. 6, 1982

Senate: June 17, 1982

Date of Approval: Jan. 20, 1983

Following statements are attached if available:

Sponsor statement: Yes //

Committee statement: Assembly Yes //

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: Yes //

Following were printed:

Reports: /// No

Hearings: /// No

See newspaper clipping file in New Jersey Reference—"N.J. - Television - 1983"

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SENATE. No. 1105

STATE OF NEW JERSEY

INTRODUCED MARCH 1, 1982

By Senators RAND and COSTELLO

Referred to Committee on Transportation and Communications

AN ACT concerning certain cable television service theft, amending N. J. S. 2C:20-8 and the "Cable Television Act," approved December 15, 1972 (P. L. 1972, c. 186; C. 48:5A-1 et seq.) and repealing section 52 thereof.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2C:20-8 is amended to read as follows:

2 2C:20-8. Theft of Services. a. A person is guilty of theft if he
3 purposely obtains services which he knows are available only for
4 compensation, by deception or threat, or by false token, slug, or
5 other means, including but not limited to mechanical or electronic
6 devices or through fraudulent statements, to avoid payment for
7 the service. "Services" include labor, professional service, trans-
8 portation, telephone, or other public service, accommodation in
9 hotels, restaurants or elsewhere, entertainment, admission to
10 exhibitions, use of vehicles or other movable property. Where
11 compensation for service is ordinarily paid immediately upon the
12 rendering of such service, as in the case of hotels and restaurants,
13 absconding without payment or offer to pay gives rise to a presump-
14 tion that the service was obtained by deception as to intention to
15 pay.

16 b. A person commits theft if, having control over the disposition
17 of services of another, to which he is not entitled, he knowingly
18 diverts such services to his own benefit or to the benefit of another
19 not entitled thereto.

20 c. Any person who, without permission and for the purpose of

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Senate committee amendments adopted June 10, 1982.**

21 obtaining electric current, gas or water with intent to defraud
22 any vendor of electricity, gas or water:

23 (1) Connects or causes to be connected by wire or any other
24 device with the wires, cables or conductors of any such vendor; or

25 (2) Connects or disconnects the meters, pipes or conduits of such
26 vendor or in any other manner tampers or interferes with such
27 meters, pipes or conduits, or connects with such meters, pipes or
28 conduits by pipes, conduits or other instruments—is guilty of a
29 disorderly persons offense.

30 The existence of any of the conditions with reference to meters,
31 pipes, conduits or attachments, described in this section, is pre-
32 sumptive evidence that the person to whom gas, electricity or water
33 is at the time being furnished by or through such meters, pipes,
34 conduits or attachments has, with intent to defraud, created or
35 caused to be created with reference to such meters, pipes, conduits
36 or attachments, the condition so existing; provided, however, that
37 the presumption shall not apply to any person so furnished with
38 gas, electricity or water for less than 31 days or until there has
39 been at least one meter reading.

40 d. Any person who, without permission or authority, connects or
41 causes to be connected by wires or other devices, any meter erected
42 or set up for the purpose of registering or recording the amount
43 of electric current supplied to any customer by any vendor of
44 electricity within this State, or changes or shunts the wiring lead-
45 ing to or from any such meter, or by any device, appliance or means
46 whatsoever tampers with any such meter so that the meter will not
47 measure or record the full amount of electric current supplied to
48 such customer, is guilty of a disorderly persons offense.

49 The existence of any of the conditions with reference to meters
50 or attachments described in this subsection or in subsection c. is
51 presumptive evidence that the person to whom electricity is at the
52 time being furnished by or through such meters or attachments
53 has, with intent to defraud, created or caused to be created with
54 reference to such meters or attachments, the condition so existing;
55 provided, however, that the presumption shall not apply to any
56 person so furnished with electricity for less than 31 days or until
57 there has been at least one meter reading.

58 *[(e)]* *e.* *Any person who, with intent to obtain *cable tele-*
59 *vision service* without payment, in whole or in part, of the lawful*
60 *charges *[(therefore)]* *therefor*, or with intent to deprive another*
61 *of the lawful receipt of such service*, *damages, cuts, tampers with,*
62 *installs, taps or makes any connection with, or who displaces, re-*
63 *moves, injures or destroys any wire, *cable,* conduit, apparatus or*

64 *equipment of a cable television company operating a CATV system;*
 65 *or who*, without authority of a cable television company, intention-*
 66 *ally* prevents, obstructs or delays, by any means or contrivance,*
 67 *the sending, transmission, conveyance, distribution or receipt of*
 68 *programming material carried by equipment of ***[a]*** *the* cable*
 68A *television company operating a CATV system, is a disorderly*
 68B *person.*

69 *The existence of any of the conditions with reference to wires,*
 70 *cables, conduits, apparatus or equipment described in this subsec-*
 71 *tion is presumptive evidence that the person to whom cable tele-*
 72 *vision service is at the time being furnished has, with intent to*
 73 *obtain cable television service without authorization or compensa-*
 74 *tion or to otherwise defraud, created or caused to be created the*
 75 *condition so existing.*

76 ****[(f)]*** *f.* Any person who purposely or knowingly manufac-*
 77 *tures, constructs, sells, offers for sale, distributes***[,]*** *or* in-*
 78 *stalls***[,]**, maintains or possesses***]*** any equipment, device or instru-*
 79 *ment designed***[,]*** *or* intended ***[or actually used]*** to facilitate*
 80 *the interception, decoding or receipt of any cable television service*
 81 *with intent to obtain such service and avoid the lawful payment of*
 82 *the charges ***[therefore]*** *therefor* to the provider, in whole or*
 83 *in part, is a disorderly person.*

84 *Any communications paraphernalia prohibited under this ***[sec-***
 85 *tion may be seized as contraband, no property right of the posses-*
 86 *sor shall exist in such property, and the possessor's interest shall*
 87 *be subject for forfeiture***]*** *subsection shall be subject to forfeiture*
 88 *and may be seized by the State or any law enforcement officer* in*
 89 *accordance with the provisions of N. J. S. 2C:64-1 et seq.*

90 **g. Any person who purposely or knowingly maintains or pos-*
 91 *sesses any equipment, device or instrument of the type described*
 92 *in subsection f. of this section or maintains or possesses any equip-*
 93 *ment, device or instrument actually used to facilitate the intercep-*
 94 *tion, decoding or receipt of any cable television service with intent*
 95 *to obtain such service and avoid the lawful payment, in whole or*
 96 *in part, of the charges therefor to the provider, is a disorderly*
 97 *person.*

98 *Any communications paraphernalia prohibited under this subsec-*
 99 *tion shall be subject to forfeiture and may be seized by the State*
 100 *or any law enforcement officer in accordance with the provisions*
 101 *of N. J. S. 2C:64-1 et seq.**

1 2. Section 3 of P. L. 1972, c. 186 (C. 48:5A-3) is amended to
 2 read as follows:

3 3. As used in this act, except as the context may otherwise
 4 clearly require or indicate:

5 a. "Board" means the Board of Public Utility Commissioners
6 of the Department of Public Utilities of this State.

7 b. "Office" means the office of Cable Television established by
8 this act.

9 c. "Director" means the Director of the Office of Cable Television.

10 d. "Cable television system" or "CATV system" means any
11 facility within this State which is operated or intended to be
12 operated to perform the service of receiving and amplifying the
13 signals broadcast by one or more television stations and redis-
14 tributing such signals by wire, cable or other device or means
15 for accomplishing such redistribution, to members of the public
16 who subscribe to such service, or distributing through its facility
17 any television signals whether broadcast or not; or any part of
18 such facility. The term "facility" as used in this subsection in-
19 cludes all real property, antennae, poles, wires, cables, conduits,
20 amplifiers, instruments, appliances, fixtures and other personal
21 property used by a CATV company in providing service to its sub-
22 scribers and customers.

23 e. "Cable television reception service" means the simultaneous
24 delivery through a CATV system of the signals of television broad-
25 cast stations to members of the public subscribing to such service;
26 which service may include additional nonbroadcast signals de-
27 livered as a part of the service with no additional charge.

28 f. "Cable communications system", or "*cable communications*
29 *service*" means any communications service other than cable tele-
30 vision reception service delivered through the facilities of a CATV
31 system and for which charges in addition to or other than those
32 made for cable television reception service are made or proposed
33 to be made.

34 g. "Cable television company" or "CATV company" means any
35 person owning, controlling, operating or managing a cable tele-
36 vision system, and the term "person" as used herein shall be con-
37 strued, without limiting the generality thereof, to include specifi-
38 cally any agency or instrumentality of this State or of any of its
39 political subdivisions; but this definition shall not include a tele-
40 phone, telegraph or electric utility company regulated by the Board
41 of Public Utility Commissioners in a case where it merely leases
42 or rents or otherwise provides to a CATV company wires, conduits,
43 cables or pole space used in the redistribution of television signals
44 to or toward subscribers or customers of such CATV company.

45 h. "Highway" includes every street, road, alley, thoroughfare,
46 way or place of any kind used by the public or open to the use of
47 the public.

48 i. "Certificate" means a certificate of approval issued, or which
49 may be issued, by the board pursuant to this act.

50 j. *"Cable television service" includes the definitions of cable tele-*
51 *vision reception service and cable communications service herein*
52 *as well as the provision of any other impulse or signal by a cable*
53 *television company or other service lawfully provided utilizing the*
54 *facilities of the system.*

1 3. P. L. 1972, c. 186, section 52 (C. 48:5A-52) is repealed.

1 4. This act shall take effect immediately.

20 amplifiers, instruments, appliances, fixtures and other personal
21 property used by a CATV company in providing service to its sub-
22 scribers and customers.

23 e. "Cable television reception service" means the simultaneous
24 delivery through a CATV system of the signals of television broad-
25 cast stations to members of the public subscribing to such service;
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39 political subdivisions; but this definition shall not include a tele-
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41 of Public Utility Commissioners in a case where it merely leases
42 or rents or otherwise provides to a CATV company wires, conduits,
43 cables or pole space used in the redistribution of television signals
44 to or toward subscribers or customers of such CATV company.

45 h. "Highway" includes every street, road, alley, thoroughfare,
46 way or place of any kind used by the public or open to the use of
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48 i. "Certificate" means a certificate of approval issued, or which
49 may be issued, by the board pursuant to this act.

50 j. "*Cable television service*" includes the definitions of cable tele-
51 vision reception service and cable communications service herein
52 as well as the provision of any other impulse or signal by a cable
53 television company or other service lawfully provided utilizing the
54 facilities of the system.

1 3. P. L. 1972, c. 186, section 52 (C. 48:5A-52) is repealed.

1 4. This act shall take effect immediately.

STATEMENT

This bill is designed to specifically prohibit conduct relating to the receipt of cable television programming by persons without authorization or compensation to the provider. The sections of the bill pertaining to theft of service are modeled on section 52 of P. L.

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1972, c. 186 (C. 48:5A-52), the violations section of the Cable Television Act, which will be repealed with the enactment of this legislation. The purpose of moving this prohibition statute to the "New Jersey Code of Criminal Justice" (Title 2C) is to create a comprehensive statutory scheme in which all prohibitions governing such thefts from public utilities and public services are consolidated in N. J. S. 2C:20-8, which now governs gas, electric and water service thefts. The necessity for and efficacy of such cable television service theft legislation is amply demonstrated by the fact that similar provisions have already been approved by the New Jersey Legislature in the presently existing Cable Television Act.

The section relating to manufacture, possession, etc., of cable television service receipt devices is a new provision modeled on a New Hampshire statute, R. S. A. 638:5-a (Chapter 458 of the laws of 1981, effective August 22, 1981). Its purpose is to prohibit construction and possession of devices capable of intercepting cable television service without compensation to the provider.

This bill would also retain certain legal presumptions regarding the tampering with or presence of tampering devices upon cable television equipment now contained in section 52 of P. L. 1972, c. 186 (C. 48:5A-52), and which are applicable in cases of interference or tampering with other public services. See N. J. S. 2C:20-8(c) and 2C:20-8(d), second paragraph, for similar statutory presumptions regarding theft of gas, electricity or water service.

The alterations and additions to section 3 of P. L. 1972, c. 186 (C. 48:5A-3) "the Cable Television Act" are designed to improve the scope and clarity of these definitions, and to incorporate the definition of cable television service from section 52 of P. L. 1972, c. 186 (C. 48:5A-52), which will be repealed by this legislation.

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS
COMMITTEE

STATEMENT TO

SENATE, No. 1105

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: OCTOBER 25, 1982

This bill amends the "New Jersey Code of Criminal Justice" (Title 2C) by adding provisions dealing with theft of service from cable television systems to the general law dealing with theft of service from hotels, restaurants, etc., and more particularly from electric, gas, and water suppliers. These provisions are modeled in part on section 52 of P. L. 1972, c. 186 (C. 48:5A-52), the violations section of the "Cable Television Act," which section will be repealed with the enactment of this legislation. The bill also prohibits preventing or obstructing the sending of cable TV service, and manufacturing or possessing certain types of equipment.

The bill provides that a person who damages, tampers with, taps, displaces, destroys or takes similar action with respect to cable television company equipment, apparatus, wires, etc., with intent to obtain cable television service without payment, is a disorderly person. The existence of these physical conditions with respect to the cable television equipment, apparatus, wires, etc., creates a presumption of intent.

The bill also stipulates that whoever, without authority of a cable television company, intentionally prevents or obstructs the sending, transmission, or receipt of programming material carried by equipment of a cable television company is a disorderly person.

The bill further provides that a person who knowingly manufactures, offers for sale, distributes, or installs any equipment or device designed or intended to intercept, decode or receive such service, is a disorderly person. In addition, any person who purposely maintains or possesses such equipment with fraudulent intent or maintains or possesses equipment actually used to intercept, decode or receive any cable television service fraudulently is a disorderly person.

SENATE TRANSPORTATION AND COMMUNICATIONS
COMMITTEE

STATEMENT TO
SENATE, No. 1105
with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 10, 1982

This amended bill amends the "New Jersey Code of Criminal Justice" (Title 2C) by adding provisions dealing with theft of service from cable television systems to the general law dealing with theft of service from hotels, restaurants, etc., and more particularly from electric, gas, and water suppliers. These provisions are modeled in part on section 52 of P. L. 1972, c. 186 (C. 48:5A-52), the violations section of the "Cable Television Act," which section will be repealed with the enactment of this legislation. The bill also prohibits preventing or obstructing the sending of cable TV service, and manufacturing or possessing certain types of equipment.

The amended bill provides that a person who damages, tampers with, taps, displaces, destroys or takes similar action with respect to cable television company equipment, apparatus, wires, etc., with intent to obtain cable television service without payment, is a disorderly person. The existence of these physical conditions with respect to the cable television equipment, apparatus, wires, etc., creates a presumption of intent.

The amended bill also stipulates that whoever, without authority of a cable television company, intentionally prevents or obstructs the sending, transmission, or receipt of programming material carried by equipment of a cable television company is a disorderly person.

The amended bill further provides that a person who knowingly manufactures, offers for sale, distributes, or installs any equipment or device designed or intended to intercept, decode or receive any cable television service in order to fraudulently receive such service, is a disorderly person. In addition, any person who purposely maintains or possesses such equipment with fraudulent intent or maintains or possesses equipment actually used to intercept, decode or receive any cable television service fraudulently is a disorderly person.

The committee amendments clarified certain provisions of the bill and made certain technical corrections.

OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

CONTACT: CARL GOLDEN

THURSDAY, JANUARY 20, 1983

Governor Thomas H. Kean today signed a bill to prevent the theft of cable television services.

S-1105, sponsored by Senator Walter Rand (D-Camden), places the theft of cable television service under an existing statute against theft of services. The statute includes deliberately preventing or obstructing the transmission of service, and makes any violation a disorderly person offense. The bill also makes it an offense to manufacture, sell or install devices to interrupt cable television transmission.

The New Jersey cable television industry estimates that it loses up to \$12.5 million every year to people who receive cable television without paying for it.

As cable television increases in scope and popularity, the problem of theft has expanded enormously over the last few years and it has been estimated that eight percent of the people receiving cable television in New Jersey do so illegally.

By adding cable television to the services whose theft or obstruction is already outlawed, Governor Kean hopes to put a halt to the growth of this relatively new problem.

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