

## CHAPTER 225

### THEFT OF CABLE TELEVISION SERVICE PROHIBITED

[History: Ord 1992-11]

#### 225.01 DEFINITIONS.

(1) "Cable television service" means any audio, video or data service provided by a cable television company over its cable system facilities for payment. "Cable television service" does not include signals received by privately owned antennas that are not connected to a cable television system whether or not the same signals are provided by a cable television company.

(2) "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.

#### 225.02 PROHIBITIONS. No person may intentionally do any of the following:

(1) Obtain or attempt to obtain cable television service from a company by trick, artifice, deception, use of an illegal device or illegal decoder or other fraudulent means with the intent to deprive that company 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 cable television company, the major purpose of which is to permit reception of cable television services without payment. This inference is rebutted if the defendant demonstrates that he or she purchased that device for a legitimate use or if the cable television company cannot demonstrate that it notified the defendant, by mail using the procedure under par. 225.03 (2), that he or she was obtaining or attempting to obtain cable television service by means prohibited in this subsection and that at least 20 days thereafter the device was present on the property and in the actual possession of the defendant.

(2) Give technical assistance or instruction to any person in obtaining or attempting to obtain any cable television service without payment of all lawful compensation to the company 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.

(3) 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 cable television services for the purpose of distributing cable television service to any other dwelling unit without authority from a cable television company.

(4) 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 cable television services for the purpose of obtaining cable television service without payment of all lawful compensation to the company providing that service. The intent required for a violation of this paragraph

my be inferred from proof that the cable service to the defendant's residence or business was connected under a service agreement with the defendant and has been disconnected by the cable television company, that the cable television company notified the defendant, by mail using the procedure under par. 225.03 (2), of the disconnect and that at least 20 days thereafter there exists in fact a connection to the cable system at the defendant's residence or business.

(5) Make or maintain any modification or alteration to any device installed with the authorization of a cable television company for the purpose of intercepting or receiving any program or other service carried by that company to receive. The intent required for a violation of this paragraph may be inferred from proof that, as a matter of standard procedure, the cable television company 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 cable television company 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 cable television company, 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 cable television company cannot demonstrate that the intact seal was shown to the customer.

(6) Possess without authority any device or printed circuit board designed to receive from a cable television system any cable television programming or services offered for sale over that cable television system, 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 subs. (1) through (6) with the intent that that device or printed circuit be used to receive that cable television company's services without payment. The intent required for a violation of this paragraph may be inferred from proof that the cable television company has mailed to the defendant, using the procedure under par. 225.03 (2), a written demand requesting the return of a company-owned converter, decoder or other device that was in the possession of the defendant at the time of mailing and from proof that the defendant has failed to return or make reasonable arrangements to return the converter, decoder, or other device within 20 days after the notice has been mailed to the defendant. 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, indicated possession for resale.

(7) 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 cable television programming or services offered for sale over a cable television system from a cable television system, 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 company's services without payment. The intent required for 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 cable television service without charge.

### **225.03 CIVIL ACTIONS.**

(1) Any person who incurs injury because of conduct described in sec. 225.02 may bring a civil action under sec. 801.02 Wisconsin Statutes. At least 20 days prior to commencing an action, as specified in sec. 801.02, under this subsection, the plaintiff shall notify the defendant, by mail using the procedure under sub. (2), of his or her intent to bring the action. The notice shall include an explanation of the provisions of sub. (3) and a statement explaining that if the defendant pays the actual damages sought by the plaintiff prior to the commencement of the action, the defendant may not be sued for damages under this subsection.

(2) Notice shall be sent by regular mail supported by an affidavit of service of mailing or by certificate of mailing obtained from the U.S. post office from which the mailing was made. The plaintiff shall mail the notice to the defendant's last-known address.

(3) If the defendant is entitled to costs under s. 814.03(1), the defendant shall recover as costs the greater of the following:

- (a) Costs computed under s. 814.02.
- (b) All reasonable costs of litigation prior to any appeal.

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

(1) Except as provided in par. (3), any person who violates subsections 225.02 (1) through (6) shall forfeit to the City of Richland Center not less than \$100 nor more than \$500, together with costs and all applicable assessments.

(2) Except as provided in par. (3), any person who violates subsections 225.02 (1) through (6) as a 2nd or subsequent offense shall forfeit to the City of Richland Center not less than \$200 nor more than \$500, together with costs and all applicable assessments.

(3) Any person who violates subsections 225.02 (1) through (7) for direct or indirect commercial advantage or private financial gain shall forfeit to the City of Richland Center not less than \$1,000 nor more than \$2,000, together with costs and all applicable assessments.

(4) In the event that such forfeiture and costs and assessments are not paid, the defendant shall upon order of the Circuit Court be imprisoned in the Richland County Jail until paid, but not to exceed 90 days.

**225.05 EXCEPTION.** This section does not affect the use by a person of cable television services if the services have been paid for and the use is exclusive to the person's dwelling unit. This subsection does not prohibit the City Council from specifying the number and manner of installation of outlets used by any such person for cable television services and does not prohibit a cable television company, in any written contract with a subscriber, from requiring the company's approval for any increase in the number of those outlets used.

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