

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB191)

Received: 9/10/2013 Received By: chanaman
Wanted: As time permits Same as LRB:
For: Evan Goyke (608) 266-0645 By/Representing: Ryan Knocke
May Contact: Drafter: chanaman
Subject: Criminal Law - miscellaneous Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Goyke@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Apply penalty only if disconnected and notified first

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 9/10/2013	scalvin 9/10/2013	jmurphy 9/10/2013	_____			
/1				_____	lparisi 9/10/2013	lparisi 9/10/2013	

FE Sent For:

<END>

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/?	chanaman	/1 sac 09/10/2013	<i>gan</i> 9/10	<i>self</i>			

FE Sent For:

<END>

Hanaman, Cathlene

From: Knocke, Ryan
Sent: Tuesday, September 10, 2013 2:01 PM
To: Hanaman, Cathlene
Subject: **AB 191 Amendment - Rep. Goyke Rush**

Importance: High

Cathlene-

I hope this message finds you well. AB 191 is up for an Exec Hearing in Criminal Justice on Thursday. Rep. Goyke wanted to draft the amendment below for the hearing. I apologize for the closer notice, but could this be drafted so we can get it in to comply with the 24 hour rule? Thank you so very much!!!

- Ryan

Amendment Request for AB 191

This amendment seeks to codify the industry standard currently used by communication and video services companies prior to referral for civil charges. The practice is to, upon discovery of unauthorized connection, to disconnect and notify the individual that he or she was receiving video services without authorization. The company would then seek prosecution to those that reconnected after being warned of the unauthorized use.

The Amendment would require, before the criminal charges could be referred to the District Attorney, that the video service company, upon detecting service without payment, disconnect the video service and notify the individual that the service received was without payment. Only after the individual subsequently connects and receives unpaid video service may the company refer the case to the District Attorney.

The penalties would remain the same and no changes to the attorney fees

Ryan Knocke
Legislative Aide
Office of State Representative Evan Goyke
Telephone: (608) 266-0645



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT,
TO ASSEMBLY BILL 191

*Today
please*

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 2, line 1: delete "**SECTION 1**" and substitute "**SECTION 1L**".
- 3 **2.** Page 2, line 1: before that line insert:
- 4 "**SECTION 1i.** 943.45 (1) (intro.) of the statutes is amended to read:
- 5 943.45 (1) (intro.) No person may intentionally obtain ~~or attempt to obtain~~
- 6 telecommunications service, as defined in s. 182.017 (1g) (cq), after the provider of
- 7 the telecommunications services has previously detected service to the person
- 8 without payment and disconnected the person's telecommunications service due to
- 9 the lack of payment and has notified the person obtaining the service that the service
- 10 was being obtained without payment, by any of the following means:".

History: 1977 c. 173; 1991 a. 39; 1993 a. 496; 2001 a. 109; 2011 a. 22.

- 11 **3.** Page 2, line 3: after that line insert:

1 “SECTION 1p. 943.46 (2) (a), (b), (c), (d), (e) and (f) of the statutes are amended
2 to read:

3 943.46 (2) (a) Obtain ~~or attempt to obtain~~ video service from a provider by trick,
4 artifice, deception, use of an illegal device or illegal decoder or other fraudulent
5 means with the intent to deprive that provider of any or all lawful compensation for
6 rendering each type of service obtained after the provider has previously detected
7 such service to the person without payment, has previously disconnected the
8 person's service due to the lack of payment, and has notified the person the service
9 was being obtained without payment. The intent required for a violation of this
10 paragraph may be inferred from the presence on the property and in the actual
11 possession of the defendant of a device not authorized by the video service provider,
12 the major purpose of which is to permit reception of video services without payment.
13 This inference is rebutted if the defendant demonstrates that he or she purchased
14 that device for a legitimate use.

15 (b) Give technical assistance or instruction to any person in obtaining ~~or~~
16 ~~attempting to obtain~~ any video service without payment of all lawful compensation
17 to the provider providing that service if the actor knows that the provider has
18 previously detected such service to the person without payment, has previously
19 disconnected the person's service due to the lack of payment, and has notified the
20 person obtaining such service that the service was being obtained without payment.

21 This paragraph does not apply if the defendant demonstrates that the technical
22 assistance or instruction was given or the installation of the connection, descrambler
23 or receiving device was for a legitimate use.

24 (c) Make or maintain a connection, whether physical, electrical, mechanical,
25 acoustical or by other means, with any cables, wires, components or other devices

1 used for the distribution of video services for the purpose of distributing video service
2 to any other dwelling unit without authority from a video service provider after the
3 provider has previously detected such connection without payment, has previously
4 disconnected such connection due to the lack of payment, and has notified the person
5 that service was being obtained through the connection without payment.

6 (d) Make or maintain a connection, whether physical, electrical, mechanical,
7 acoustical or by other means, with any cables, wires, components or other devices
8 used for the distribution of video services for the purpose of obtaining video service
9 without payment of all lawful compensation to the provider providing that service
10 after the provider has previously detected such connection without payment, has
11 previously disconnected such connection due to the lack of payment, and has notified
12 the person that service was being obtained through the connection without payment.

13 The intent required for a violation of this paragraph may be inferred from proof that
14 the video service to the defendant's residence or business was connected under a
15 service agreement with the defendant and has been disconnected by the video service
16 provider and that thereafter there exists in fact a connection to the video service
17 network at the defendant's residence or business.

18 (e) Make or maintain any modification or alteration to any device installed with
19 the authorization of a video service provider for the purpose of intercepting or
20 receiving any program or other service carried by that provider which that person
21 is not authorized by that provider to receive after the provider has previously
22 detected such interception or receipt, has previously disabled the modified or altered
23 device due to the lack of payment, and has notified the person making or maintaining
24 the modification or alteration that the program or service was being intercepted or
25 received without payment. The intent required for a violation of this paragraph may

1 be inferred from proof that, as a matter of standard procedure, the video service
2 provider places written warning labels on its converters or decoders explaining that
3 tampering with the device is a violation of law and the converter or decoder is found
4 to have been tampered with, altered or modified so as to allow the reception or
5 interception of programming carried by the video service provider without authority
6 to do so. The trier of fact may also infer that a converter or decoder has been altered
7 or modified from proof that the video service provider, as a matter of standard
8 procedure, seals the converters or decoders with a label or mechanical device, that
9 the seal was shown to the customer upon delivery of the decoder and that the seal
10 has been removed or broken. The inferences under this paragraph are rebutted if
11 the video service provider cannot demonstrate that the intact seal was shown to the
12 customer.

13 (f) Possess without authority any device or printed circuit board designed to
14 receive from a video service network any video programming or services offered for
15 sale over that video service network, whether or not the programming or services are
16 encoded, filtered, scrambled or otherwise made unintelligible, or perform or
17 facilitate the performance of any of the acts under pars. (a) to (e) with the intent that
18 that device or printed circuit be used to receive that video service provider's services
19 without payment after the provider has previously detected such receipt without
20 payment, has previously disconnected the device or board, and has notified the
21 person possessing the device or board that the programming or services were being
22 received without payment. Intent to violate this paragraph for direct or indirect
23 commercial advantage or private financial gain may be inferred from proof of the
24 existence on the property and in the actual possession of the defendant of a device

1 if the totality of circumstances, including quantities or volumes, indicates possession
2 for resale.”.

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

(END)