**JIM DOYLE**
**GOVERNOR**
**STATE OF WISCONSIN**

December 21, 2007

TO THE HONORABLE MEMBERS OF THE ASSEMBLY:

I have approved Assembly Bill 207 as 2007 Wisconsin Act 42 and have deposited it in the Office of the Secretary of State. I have exercised the partial veto to ensure that consumer protection and customer service standards are protected and to provide for the fair treatment of municipalities and their taxpayers while supporting the right of Wisconsin citizens to cable competition. In particular, I have thoroughly reviewed the measure as it relates to customer service standards and consumer rights to ensure that Wisconsin continues as a leader in protecting the consumer.

Assembly Bill 207 establishes a state process, in lieu of the current process at the municipal level, for granting franchises for the provision of video services to the public. The bill establishes certain requirements related to the following: the relationship between the state franchise agreement and federal telecommunications law; the interaction of franchisees with municipalities on issues such as compensation for video services access and use of rights of way and support for public, educational and government access channels; and the provision of customer service standards and consumer rights.

I am partially vetoing section 8 as it relates to the expiration of a franchise. The intent of my veto is to allow the Department of Financial Institutions (DFI) to promulgate an administrative rule setting the renewal term for the franchise. By allowing franchises to expire and establishing a renewal process and criteria, the public is served by providing more accountability of the service provider and the state.

I am partially vetoing section 8 as it relates to the 15-day requirement for processing the franchise application. First, I am partially vetoing the requirement that DFI has 15 days to review the application. Second, I am partially vetoing the provision that if no determination is made within 15 days, the application is automatically approved. I object to the timeline for approval being written into the law. Placing a time limit on the process pre-judges that all applications will be similar and that investigation of facts may not, in some cases, take additional time. This veto will allow the department to serve both the public and the providers by allowing for both a complete and timely review of applications.

I am partially vetoing section 8 as it relates to the automatic approval of a franchise for large video service providers. I believe that all applicants for a franchise should work through a common application process. As such, all providers would be required to prove that they are legally, financially and technically able to provide service in the

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designated service area. Much of the discussion surrounding this legislation centered on allowing greater competition in the video service market. This partial veto ensures that all entrants into the market go through the same process, thus leveling the playing field, which furthers the goal of increased competition.

I am partially vetoing section 8 as it relates to the revocation of a franchise. The veto is designed to allow DFI to more completely define the requirements for franchise revocation through the administrative rule process. A more thorough definition of the revocation requirement will better serve both consumers and providers by adding clarity to these standards.

I am partially vetoing section 8 as it relates to the prohibition on municipalities from charging a fee for the use of or occupation on public rights-of-way. I object to this prohibition directed toward municipalities which provides special treatment to one industry and does not recognize and thus compensate the public for the cost of establishing and maintaining public rights-of-way.

I am partially vetoing section 8 as it relates to the 3-year limit on the review of the financial records of the service provider to allow municipalities to review records as needed. If there is a dispute on the amount of funding being provided, it is in the best interest of all parties to have that dispute settled in a timely manner.

I am partially vetoing section 8 as it relates to the prohibition on DFI and the Department of Agriculture, Trade and Consumer Protection from promulgating rules. It is imperative that the state agencies responsible for implementing the state franchise and enforcing anti-discrimination provisions have the ability to interpret these statutes through administrative rule.

I am partially vetoing section 8 as it relates to a video service provider's defense against not meeting the prohibition for income discrimination by establishing statutory standards of service provisions to low-income households. The intent of the veto is to raise the standard to be achieved more quickly. This veto will allow service providers to use a defense against allegations of discrimination based on income by showing that 30 percent of subscribers are low-income households within 3 years, two years earlier than originally provided in the bill. The effect of the veto will be to accelerate the provision of service to low-income households.

I am partially vetoing section 8 as it relates to the definition of a low-income household. The effect is to allow DFI to define low-income household through administrative rule. As written, the bill provides a definition that does not take into account factors such as inflation or household size. Such a definition is inconsistent with the definition of low-income in other programs.

I am partially vetoing section 8 as it relates to the definition of public, educational and government channel usage. As written, the bill states that such channels are defined as noncommercial. By striking noncommercial, I am giving public, educational and governmental channels the ability to air revenue-generating commercial programming.

I am partially vetoing section 8 as it relates to the application and annual fees. The effect is to allow DFI to set the fees through rule which allows the fees to better fit the scope of the specific conditions of an application.

I am partially vetoing section 27p as it relates to credit for service outage. My intent is that the bill reflects the current law standard that if service is interrupted for more than 4 hours in any one day, the video service provider must give subscribers credit for that outage. As passed, the bill would have allowed interruptions of up to 24 hours without providing credit and would have eroded one of the primary statutory consumer protections.

I am partially vetoing section 35 as it relates to Public Service Commission review of municipal regulation of the occupation and use of public rights-of-way. The provision prohibits the Commission from finding unreasonable any municipal regulation on aesthetics of a network under certain conditions. The intent of this partial veto is to delete this prohibition and allow the Commission to review the regulation and make a determination based on the merits.

I also carefully reviewed Assembly Bill 207 as it relates to public, educational and governmental channels in light of the concerns raised by interested parties on this matter. The bill requires that these channels continue as long as minimum criteria are met. Financial support of these channels by video service providers ends after three years under the bill. The intent of the bill is that the payment to the municipalities by video service providers of up to five percent of their gross receipts provides sufficient compensation for this access right.

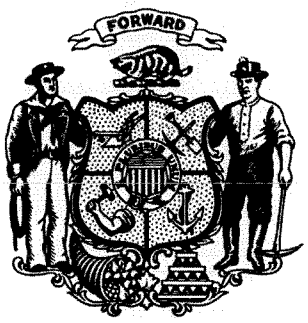
While I did not exercise my partial veto authority in this part of the bill, I remain concerned about maintaining balance between the interests served by public, educational and governmental channels and video service providers. I urge the Legislature to review this issue and consider follow-up legislation to address any remaining concerns.

I believe the partial vetoes I have made to AB 207 help to make it a stronger bill for consumers while promoting competition in Wisconsin.

Respectfully submitted,

JIM DOYLE
Governor

# State of Wisconsin




**2007 Assembly Bill 207**

Date of enactment:
Date of publication*:

# 2007 WISCONSIN ACT

AN ACT ***to repeal*** 60.23 (24), 66.0419 (title), (1), (2) and (3), 66.0419 (4) and (5), 66.0421 (1) (a), 66.0421 (1) (b), 66.0422 (1) (a), 100.209 (1) (a) and (b), 196.04 (4) (a) 1. and 196.204 (7); ***to renumber*** 196.04 (4) (a) 2. a. to e.; ***to renumber and amend*** 66.0419 (3m), 134.43 (1), 182.017 (1) and 943.46 (1) (a); ***to consolidate, renumber and amend*** 196.04 (4) (a) (intro.) and 2. (intro.); ***to amend*** 11.01 (17g), 20.395 (3) (jh), 25.40 (1) (a) 4m., 66.0421 (title), 66.0421 (2), 66.0421 (3), 66.0421 (4), 66.0422 (title), 66.0422 (2) (intro.), 66.0422 (3) (b), 66.0422 (3n), 70.111 (25), 76.80 (3), 77.52 (2) (a) 12., 100.195 (1) (c) 2., 100.209 (title), 100.209 (2), 100.209 (3), 134.43 (2) (a), 134.43 (2m) (a), 182.017 (3), 182.017 (5), 182.017 (6), 196.01 (1g), 196.01 (9m), 196.04 (4) (b), 196.195 (5), 196.203 (1m), 196.203 (3) (b) (intro.), 196.203 (3) (b) 2., 196.203 (3) (c), 196.203 (3) (d), 196.203 (3) (e) 1. (intro.), 196.50 (1) (b) 2. e., 196.50 (1) (c), 196.85 (1m) (b), 943.46 (title), 943.46 (2) (a), 943.46 (2) (b), 943.46 (2) (c), 943.46 (2) (d), 943.46 (2) (e), 943.46 (2) (f), 943.46 (2) (g) and 943.46 (5); ***to repeal and recreate*** 100.195 (1) (h) 1. and 196.01 (1p); and ***to create*** 66.0420, 66.0421 (1) (c), 66.0421 (1) (d), 66.0422 (1) (d), 100.209 (1) (c) and (d), 134.43 (1g), 134.43 (1m) (e), 182.017 (1g), 182.017 (8), 182.017 (9), 196.01 (12g), 196.01 (12r), 196.85 (1m) (d), 943.46 (1) (d) and 943.46 (1) (e) of the statutes; **relating to:** regulation of cable television and video service providers, granting rule–making authority, and making an appropriation.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 11.01 (17g) of the statutes is amended to read:

11.01 **(17g)** "Public access channel" means a PEG channel ~~that is required under a franchise granted under s. 66.0419 (3) (b) by a city, village, or town to a cable operator, as defined in s. 66.0419 (2) (b), and~~, as defined in s. 66.0420 (2) (s), that is used for public access purposes, but does not include a PEG channel that is used for governmental or educational purposes.

**SECTION 2.** 20.395 (3) (jh) of the statutes is amended to read:

20.395 **(3)** (jh) *Utility facilities within highway rights–of–way state funds.* From the general fund, all moneys received from telecommunications providers, as defined in s. 196.01 (8p), or cable television telecommunications service providers, as defined in s. 196.01 (1r), for activities related to locating, accommodating, operating, or maintaining utility facilities within highway rights–of–way, for such purposes.

**SECTION 3.** 25.40 (1) (a) 4m. of the statutes is amended to read:

25.40 **(1)** (a) 4m. Moneys received from telecommunications providers or cable television telecommunications service providers that are deposited in the general fund and credited to the appropriation account under s. 20.395 (3) (jh).

**SECTION 4.** 60.23 (24) of the statutes is repealed.

**SECTION 5.** 66.0419 (title), (1), (2) and (3) of the statutes are repealed.

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* Section 991.11, WISCONSIN STATUTES 2005–06 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

**SECTION 6.** 66.0419 (3m) of the statutes is renumbered 66.0420 (12), and 66.0420 (12) (title), (a) and (b) 2., as renumbered, are amended to read:

66.0420 **(12)** (title) MUNICIPAL CABLE ~~TELEVISION~~ SYSTEM COSTS. (a) Except for costs for any of the following, a municipality that owns and operates a cable ~~television~~ system, or an entity owned or operated, in whole or in part, by such a municipality, may not require nonsubscribers of the cable ~~television~~ system to pay any of the costs of the cable ~~television~~ system:

1. ~~Public, educational, and governmental access~~ PEG channels.

2. Debt service on bonds issued under s. 66.0619 to finance the construction, renovation, or expansion of a cable ~~television~~ system.

3. The provision of broadband service by the cable ~~television~~ system, if the requirements of s. 66.0422 (3d) (a), (b), or (c) are satisfied.

(b) 2. A majority of the governing board of the municipality votes to submit the question of supporting the operation of a cable ~~television~~ system by the municipality to the electors in an advisory referendum and a majority of the voters in the municipality voting at the advisory referendum vote to support the operation of a cable ~~television~~ system by the municipality.

**SECTION 7.** 66.0419 (4) and (5) of the statutes are repealed.

**SECTION 8.** 66.0420 of the statutes is created to read:

**66.0420 Video service. (1)** LEGISLATIVE FINDINGS. The legislature finds all of the following:

(a) Video service brings important daily benefits to state residents by providing news, education, and entertainment.

(b) Uniform regulation of all video service providers by this state is necessary to ensure that state residents receive adequate and efficient video service and to protect and promote the public health, safety, and welfare.

(c) Fair competition in the provision of video service will result in new and more video programming choices for consumers in this state, and a number of providers have stated their desire to provide that service.

(d) Timely entry into the market is critical for new entrants seeking to compete with existing providers.

(e) This state's economy would be enhanced by additional investment in communications and video programming infrastructure by existing and new providers of video service.

(f) Minimal regulation of all providers of video service within a uniform framework will promote the investment described in par. (e).

(g) Ensuring that existing providers of video service are subject to the same regulatory requirements and procedures as new entrants will ensure fair competition among all providers.

(h) This section is an enactment of statewide concern for the purpose of providing uniform regulation of video service that promotes investment in communications and video infrastructures and the continued development of this state's video service marketplace within a framework that is fair and equitable to all providers.

**(2)** DEFINITIONS. In this section:

(a) "Affiliate", when used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with such person.

(b) "Basic local exchange service area" means the area on file with the public service commission in which a telecommunications video service provider provides basic local exchange service, as defined in s. 196.01 (1g).

(c) "Cable franchise" means a franchise granted under s. 66.0419 (3) (b), 2005 stats.

(d) "Cable operator" has the meaning given in 47 USC 522 (5).

(e) "Cable service" has the meaning given in 47 USC 522 (6).

(f) "Cable system" has the meaning given in 47 USC 522 (7).

(g) Except as provided in sub. (8) (ag), "department" means the department of financial institutions.

(h) "FCC" means the federal communications commission.

(i) "Franchise fee" has the meaning given in 47 USC 542 (g), and includes any compensation required under s. 66.0425.

(j) 1. "Gross receipts" means all revenues received by and paid to a video service provider by subscribers residing within a municipality for video service, or received from advertisers, including all of the following:

a. Recurring charges for video service.

b. Event–based charges for video service, including pay–per–view and video–on–demand charges.

c. Rental of set top boxes and other video service equipment.

d. Service charges related to the provision of video service, including activation, installation, repair, and maintenance charges.

e. Administrative charges related to the provision of video service, including service order and service termination charges.

f. Revenues received from the provision of home shopping or similar programming.

g. All revenue, except for refunds, rebates, and discounts, derived by the video service provider for advertising over its video service network to subscribers within a municipality. If such revenue is derived under a regional or national compensation contract or arrangement between the video service provider and one or more advertisers or advertising representatives, the amount of revenue derived for a municipality shall be determined by multiplying the total revenue derived under the contract or arrangement by the percentage resulting from dividing the number of subscribers in the municipality by

the total number of regional or national subscribers that potentially receive the advertising under the contract or arrangement.

2. Notwithstanding subd. 1., "gross receipts" does not include any of the following:

a. Discounts, refunds, and other price adjustments that reduce the amount of compensation received by a video service provider.

b. Uncollectible fees, except that any uncollectible fees that are written off as bad debt but subsequently collected shall be included as gross receipts in the period collected, less the expenses of collection.

c. Late payment charges.

e. Amounts billed to video service subscribers to recover taxes, fees, surcharges or assessments of general applicability or otherwise collected by a video service provider from video service subscribers for pass through to any federal, state, or local government agency, including video service provider fees and regulatory fees paid to the FCC under 47 USC 159.

f. Revenue from the sale of capital assets or surplus equipment not used by the purchaser to receive video service from the seller of those assets or surplus equipment.

g. Charges, other than those described in subd. 1., that are aggregated or bundled with amounts described in subd. 1., including but not limited to any revenues received by a video service provider or its affiliates for telecommunications services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing, if a video service provider can reasonably identify such charges on books and records kept in the regular course of business or by other reasonable means.

h. Reimbursement by programmers of marketing costs actually incurred by a video service provider.

(k) "Household" means a house, apartment, mobile home, group of rooms, or single room that is intended for occupancy as separate living quarters. For purposes of this paragraph, "separate living quarters" are those in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside of the building or through a common hall.

(L) "Incumbent cable operator" means a person who, immediately before the effective date of this paragraph, was providing cable service under a cable franchise, expired cable franchise, or cable franchise extension, or under an ordinance or resolution adopted or enacted by a municipality.

(m) "Institutional network" means a network that connects governmental, educational, and community institutions.

(n) "Interim cable operator" means an incumbent cable operator that elects to continue to provide cable service under a cable franchise as specified in sub. (3) (b) 2. a.

(o) "Issued" means, with respect to a video service franchise, issued or considered to be issued by the department under sub. (3) (f) 2.

(p) "Large telecommunications video service provider" means a telecommunications video service provider that, on January 1, 2007, had more than 500,000 basic local exchange access lines in this state or an affiliate of such a telecommunication video service provider.

(q) "Low–income household" means any individual or group of individuals living together as one economic unit in a household whose aggregate annual income is not more than $35,000, as identified by the United States Census Bureau as of January 1, 2007.

(r) "Municipality" means a city, village, or town.

(s) "PEG channel" means a channel designated for noncommercial public, educational, or governmental use.

(sm) "Qualified cable operator" means any of the following:

1. A cable operator that has been providing cable service in this state for at least 3 years prior to applying for a video service franchise and that has never had a cable franchise revoked by a municipality.

2. An affiliate of a cable operator specified in subd. 1.

3. A cable operator that, on the date that it applies for a video service franchise, individually or together with its affiliates or parent company, is one of the 10 largest cable operators in the United States as determined by data collected and reported by the FCC or determined by information available to the public through a national trade association representing cable operators.

(t) "Service tier" means a category of video service for which a separate rate is charged.

(u) "State agency" means any board, commission, department, or office in the state government.

(um) "Telecommunications utility" has the meaning given in s. 196.01 (10).

(v) "Telecommunications video service provider" means a video service provider that uses facilities for providing telecommunications service, as defined in s. 196.01 (9m), also to provide video service.

(w) "Video franchise area" means the area or areas described in an application for a video service franchise under sub. (3) (d) 2.

(x) "Video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

(y) "Video service" means any video programming service, cable service, or service provided via an open video system that complies with 47 USC 573, that is provided through facilities located at least in part in public rights–of–way, without regard to delivery technology,

including Internet protocol technology or any other technology. "Video service" does not include any of the following:

1. Video programming provided by a commercial mobile radio service provider, as defined in s. 196.01 (2g).

2. Video programming provided solely as part of and via a service that enables users to access content, information, electronic mail, or any other service offered over the public Internet.

(z) "Video service franchise" means a franchise issued under sub. (3) (f) 2.

(zb) "Video service network" means wireline facilities, or any component thereof, located at least in part in the public right–of–way that deliver video service, without regard to delivery technology, including Internet protocol technology or any other technology. "Video service network" includes a cable system.

(zg) "Video service provider" means a person, including an incumbent cable operator, who is issued a video service franchise or a successor or assign of such a person.

(zm) "Video service provider fee" means the fee paid by a video service provider under sub. (7).

**(3)** AUTHORITY TO PROVIDE VIDEO SERVICE. (a) *In general.* Except for an interim cable operator, and except as provided in par. (c) and sub. (11), no person may provide video service in this state unless the department has issued a video service franchise to the person and the person has provided the notice required under par. (h).

(b) *Incumbent cable operators.* 1. A municipality may not renew or extend the cable franchise of an incumbent cable operator that expires after the effective date of this subdivision .... [revisor inserts date].

2. An incumbent cable operator may do one of the following:

a. Continue to provide cable service as an interim cable operator until the cable franchise expires.

b. Apply for a video service franchise. If an incumbent cable operator applies for a video service franchise, the cable franchise shall terminate and have no effect upon issuance of the video service franchise. Upon termination of the cable franchise, the municipality that granted the franchise shall, at the request of the incumbent cable operator, surrender, return, or take such other action as may be necessary to nullify any bond, letter of credit, or similar instrument intended to secure the performance of the incumbent cable operator under the cable franchise.

3. An incumbent cable operator whose cable franchise expires after the effective date of this subdivision .... [revisor inserts date], may not, after expiration of the cable franchise, provide video service in this state unless the incumbent cable operator applies for a video service franchise under subd. 2. b. and, upon issuance of the video service franchise, provides the notice required under par. (h). An incumbent cable operator whose cable franchise expired before the effective date of this subdivision .... [revisor inserts date], and who was providing cable service immediately before the effective date of this subdivision, may continue to provide cable service if, no later than the first day of the 2nd month beginning after the effective date of this subdivision .... [revisor inserts date], the incumbent cable operator applies for a video service franchise under subd. 2. b.

(c) *Other providers.* A person, other than an incumbent cable operator, who was providing video service immediately before the effective date of this paragraph .... [revisor inserts date], may provide video service without a video service franchise issued by the department. This paragraph ceases to apply to such a person if the person does not apply for a video service franchise no later than the first day of the 2nd month beginning after the effective date of this paragraph .... [revisor inserts date].

(d) *Application.* An applicant for a video service franchise shall submit an application to the department that consists of all of the following:

1. The location and telephone number of the applicant's principal place of business, the names of the principal executive officers of the applicant, and the names of any persons authorized to represent the applicant before the department.

2. A description of the area or areas of the state in which the applicant intends to provide video service.

3. The date on which the applicant intends to begin providing video service in the video franchise area.

4. An affidavit signed by an officer or general partner of the applicant that affirms all of the following:

a. That the applicant has filed or will timely file with the FCC all forms required by the FCC in advance of offering video service.

b. That the applicant agrees to comply with this section and all applicable federal statutes and regulations.

c. That the applicant is legally, financially, and technically qualified to provide video service.

5. A description of the services that the applicant proposes to provide.

6. An application fee of $2,000, or, if the applicant is applying for a modified video service franchise as required under par. (j), an application fee of $100.

(e) *Service upon municipalities.* 1. At the time that an applicant submits an application under par. (d), or a video service provider submits a notification regarding a modification to an application under par. (j), to the department, the applicant or video service provider shall serve a copy of the application or notification on each municipality in the video franchise area.

2. a. This subdivision applies only to a municipality that, under subd. 1., is served a copy of an application or that, under subd. 1., is served a copy of a notification relating to an expansion of the area or areas of the state in which a video service provider intends to provide

video service, if the municipality has not previously been served a copy of an application under subd. 1. by that video service provider.

b. If a municipality specified in subd. 2. a. has granted any cable franchise that is in effect immediately before the effective date of this subdivision .... [revisor inserts date], the municipality shall, no later than 10 business days after receipt of the copy, notify the applicant in writing of the number of PEG channels for which incumbent cable operators are required to provide channel capacity in the municipality, the amount and type of monetary support for access facilities for PEG channels required of incumbent cable operators as described in sub. (7) (em), and the percentage of revenues that incumbent cable operators are required to pay the municipality as franchise fees.

(f) *Department duties.* 1. No later than 15 business days after the filing of an application, the department shall notify the applicant in writing as to whether the application is complete and, if the department has determined that the application is not complete, the department shall state the reasons for the determination.

2. No later than 15 business days after the filing of an application that the department has determined is complete, the department shall determine whether an applicant is legally, financially, and technically qualified to provide video service. If the department determines that an applicant is legally, financially, and technically qualified to provide video service, the department shall issue a video service franchise to the applicant. If the department determines that an applicant is not legally, financially, and technically qualified to provide video service, the department shall reject the application and shall state the reasons for the determination. If the department fails to make the determination, the department shall be considered to have issued a video service franchise to the applicant, unless the applicant withdraws the application or agrees with the department to an extension of time.

3. Notwithstanding subd. 2., if an applicant is a large telecommunications video service provider or qualified cable operator, the department shall determine that the applicant is legally, financially, and technically qualified to provide video service.

4. The department shall promulgate rules for determining whether an applicant that is not a large telecommunications video service provider or qualified cable operator is legally, financially, and technically qualified to provide video service.

(g) *Effect of video service franchise.* A video service franchise issued by the department authorizes a video service provider to occupy the public rights–of–way and to construct, operate, maintain, and repair a video service network to provide video service in the video franchise area.

(h) *Notice before providing service.* No later than 10 business days before providing video service in a municipality in a video franchise area, a video service provider shall provide notice to the department and the municipality.

(i) *Expiration and revocation of video service franchise.* 1. Except as provided in subd. 2., a video service franchise issued to a video service provider does not expire, unless the video service provider gives 30 days' advance notice to the department that the video service provider intends to terminate the video service franchise. If a video service provider gives such notice, the video service franchise shall expire on the termination date stated in the notice.

2. The department may revoke a video service franchise issued to a video service provider if the department determines that the video service provider has repeatedly failed to substantially meet a material requirement imposed upon it by this section and the department has not otherwise acquiesced in such noncompliance through a waiver. Before commencing a revocation proceeding, the department shall provide the video service provider written notice of the department's intention to revoke the franchise and the department's reasons for the revocation and afford the video service provider a reasonable opportunity to cure any alleged violation. The department must, before revoking any video service franchise, afford a video service provider full due process that, at a minimum, must include a proceeding before a hearing officer during which the video service provider must be afforded the opportunity for full participation, including the right to be represented by counsel, to introduce evidence, to require the production of evidence, and to question or cross–examine witnesses under oath. A transcript shall be made of any such hearing. A video service provider may bring an action to appeal the decision of the department.

(j) *Modifications.* If there is any change in the information included in an application filed by a video service provider under this subsection, the video service provider shall notify the department and update the information within 10 business days after the change, except that if the video service provider determines to expand the area or areas of the state in which the video service provider intends to provide video service, the video service provider shall apply to the department for a modified video service franchise under par. (d). A video service provider that makes a notification regarding a change in the information specified in par. (d) 3., 4., or 5., shall include with the notification a fee of $100. No fee is required for a notification regarding a change in the information specified in par. (d) 1.

(k) *Annual fee.* 1. Except as provided in subd. 2., a video service provider shall pay an annual fee of $2,000

to the department. The annual fees are first due one year after issuance of a video service franchise.

2. If a video service provider has 10,000 or less subscribers, the first annual fee required under subd. 1. shall be $2,000 and each subsequent annual fee shall be $100.

**(4)** FRANCHISING AUTHORITY. For purposes of 47 USC 521 to 573, the state is the exclusive franchising authority for video service providers in this state. Notwithstanding s. 66.0425 and except as provided in s. 182.017, no municipality may require a video service provider to obtain a franchise to provide video service or impose on a video service provider any fee or requirement relating to the construction of a video service network or the provision of video service, including any requirement to deploy facilities or equipment or any requirement regarding rates for video service, except as specifically authorized under this section.

**(5)** PEG CHANNELS. (a) *Maximum number of PEG channels.* 1. If an incumbent cable operator is providing channel capacity for PEG channels to a municipality under a cable franchise in effect immediately before the effective date of this subdivision .... [revisor inserts date], the municipality shall require each interim cable operator or video service provider that provides video service in the municipality to provide channel capacity for the same number of PEG channels for which channel capacity is provided immediately before the effective date of this subdivision .... [revisor inserts date].

2. a. Except as provided in subd. 2. b. and c., if no incumbent cable operator is providing channel capacity for PEG channels to a municipality under a cable franchise that is in effect immediately before the effective date of this subd. 2. a. .... [revisor inserts date], then, if the municipality has a population of 50,000 or more, the municipality may require each interim cable operator and video service provider that provides video service in the municipality to provide channel capacity for up to 3 PEG channels, and, if the municipality has a population of less than 50,000, the municipality may require each interim cable operator and video service provider that provides video service in the municipality to provide channel capacity for no more than 2 PEG channels.

b. If an interim cable operator or video service provider distributes video programming to more than one municipality through a single headend or video hub office and the aggregate population of the municipalities is 50,000 or more, the municipalities may not require the interim cable operator or video service provider to provide, in the aggregate, channel capacity for more than 3 PEG channels under subd. 2. a.

c. If an interim cable operator or video service provider distributes video programming to more than one municipality through a single headend or video hub office and the aggregate population of the municipalities is less than 50,000, the municipalities may not require the interim cable operator or video service provider to provide, in the aggregate, channel capacity for more than 2 PEG channels under subd. 2. a.

3. An interim cable operator or video service provider shall provide any channel capacity for PEG channels required under this paragraph on any service tier that is viewed by more than 50 percent of the interim cable operator's or video service provider's customers.

4. If a municipality is not required to provide notice to a video service provider under sub. (3) (e) 2., the video service provider's duty to provide any additional channel capacity for PEG channels that is required by the municipality under this paragraph first applies on the date that the video service provider begins to provide service in the municipality, and, if the municipality is required to provide notice under sub. (3) (e) 2., the video service provider's duty to provide any such additional channel capacity first applies on the date that the video service provider begins to provide video service in the municipality or on the 90th day after the video service provider receives the municipality's notice, whichever is later.

(b) *Exceptions.* 1. a. Notwithstanding par. (a), an interim cable operator or video service provider may reprogram for any other purpose any channel capacity provided for a PEG channel required by a municipality under par. (a) if the PEG channel is not substantially utilized by the municipality. If the municipality certifies to the interim cable operator or video service provider that reprogrammed channel capacity for a PEG channel will be substantially utilized by the municipality, the interim cable operator or video service provider shall, no later than 120 days after receipt of the certification, restore the channel capacity for the PEG channel. Notwithstanding par. (a) 3., an interim cable operator or video service provider may provide restored channel capacity for a PEG channel on any service tier.

b. For purposes of this subdivision, a PEG channel is substantially utilized by a municipality if the municipality provides 40 hours or more of programming on the PEG channel each week and at least 60 percent of that programming is locally produced.

2. Notwithstanding par. (a), if a municipality fails to provide the notice specified in sub. (3) (e) 2. before the deadline specified in sub. (3) (e) 2., no interim cable operator or video service provider is required to provide channel capacity for any PEG channel, or monetary support for access facilities for PEG channels pursuant to sub. (7) (em), until the 90th day after the municipality provides such notice.

(c) *Powers and duties of municipalities.* 1. Except as otherwise required under pars. (a) and (d) and sub. (7) (em), a municipality may not require an interim cable operator or video service provider to provide any funds, services, programming, facilities, or equipment related to public, educational, or governmental use of channel capacity.

2. The operation of any PEG channel for which a municipality requires an interim cable operator or video service provider to provide channel capacity under par. (a), and the production of any programming appearing on such a PEG channel, shall be the sole responsibility of the municipality and, except as provided in par. (d) 1., the interim cable operator or video service provider shall bear only the responsibility to transmit programming appearing on the PEG channel.

3. A municipality that requires an interim cable operator or video service provider to provide channel capacity for a PEG channel under par. (a) shall do all of the following:

a. Ensure that all content and programming that the municipality provides or arranges to provide for transmission on the PEG channel is submitted to the interim cable operator or video service provider in a manner and form that is capable of being accepted and transmitted by the interim cable operator or video service provider over its video service network without changing the content or transmission signal and that is compatible with the technology or protocol, including Internet protocol television, utilized by the interim cable operator or video service provider to deliver video service.

b. Make the content and programming that the municipality provides or arranges to provide for transmission on a PEG channel available in a nondiscriminatory manner to all interim cable operators and video service providers that provide video service in the municipality.

(d) *Duties of interim cable providers and video service providers.* 1. If a municipality requires an interim cable operator or video service provider to provide capacity for PEG channels under par. (a), the interim cable operator or video service provider shall be required to provide transmission capacity sufficient to connect the interim cable operator's or video service provider's headend or video hub office to the municipality's PEG access channel origination points existing as of the effective date of this subdivision .... [revisor inserts date]. A municipality shall permit the interim cable operator or video service provider to determine the most economically and technologically efficient means of providing such transmission capacity. If a municipality requests that such a PEG access channel origination point be relocated, the interim cable operator or video service provider shall be required to provide only the first 200 feet of transmission line that is necessary to connect the interim cable operator or video service provider's headend or video hub office to such origination point. A municipality shall be liable for the costs of construction of such a transmission line beyond the first 200 feet and for any construction costs associated with additional origination points, but not for the costs associated with the transmission of PEG programming over such line. The interim cable operator or video service provider may recover its costs to provide transmission capacity under this subdivision by identifying and collecting a "PEG Transport Fee" as a separate line item on customer bills.

2. If the interconnection of the video service networks of interim cable operators or video service providers is technically necessary and feasible for the transmission of programming for any PEG channel for which channel capacity is required by a municipality under par. (a), the interim cable operators and video service providers shall negotiate in good faith for interconnection on mutually acceptable rates, terms, and conditions, except that an interim cable operator or video service provider who requests interconnection is responsible for interconnection costs, including the cost of transmitting programming from its origination point to the interconnection point. Interconnection may be accomplished by direct cable, microwave link, satellite, or any other reasonable method.

**(5m)** CONTRACTS WITH UNIVERSITY OF WISCONSIN CAMPUSES. If an incumbent cable operator has entered into an agreement with an institution or college campus within the University of Wisconsin System that is in effect on the effective date of this subsection .... [revisor inserts date], and that requires the incumbent cable operator to broadcast University of Wisconsin events on one of its channels, any video service provider that provides video service in the area in which the events are broadcast by the incumbent cable operator shall, upon the request of the institution or college campus, enter into an agreement with the institution or college campus that requires the video service provider to provide the same service on the same terms and conditions as the agreement between the institution or college campus and the incumbent cable operator.

**(6)** INSTITUTIONAL NETWORKS. Notwithstanding any franchise, ordinance, or resolution in effect on the effective date of this subsection .... [revisor inserts date], no state agency or municipality may require an interim cable operator or video service provider to provide any institutional network or equivalent capacity on its video service network.

**(7)** VIDEO SERVICE PROVIDER FEE. (a) *Duty to pay fee.* 1. Notwithstanding s. 66.0611 and except as provided in subds. 2. and 2m., a video service provider shall, on a quarterly calendar basis, calculate and pay to each municipality in which the video service provider provides video service a video service provider fee equal to the percentage of the video service provider's gross receipts that is specified in par. (b) and the monetary support for access facilities for PEG channels described in par. (em). A video service provider shall remit the fee to the municipality no later than 45 days after the end of each quarter. Except as provided in subd. 2. or par. (b) 1., if the municipality is not required to provide notice under sub. (3) (e) 2., the duty to remit the fee first applies to the quarter in which the video service provider begins to provide ser-

vice in the municipality, and, if the municipality is required to provide notice under sub. (3) (e) 2., the duty to remit the fee first applies to the quarter in which the video service provider begins to provide service in the municipality or to the quarter that includes the 45th day after the video service provider receives the municipality's notice, whichever quarter is later.

2. If a municipality fails to provide the notice specified in sub. (3) (e) 2. before the deadline specified in sub. (3) (e) 2., no video service provider is required to pay a video service provider fee, and no interim cable operator is required to pay a franchise fee, to the municipality until the 45th day after the end of the quarter in which the municipality provides the notice specified in sub. (3) (e) 2.

2m. If a municipality requires a video service provider to pay a cost–based permit fee under a regulation under s. 182.017 (1r), the video service provider may deduct the amount of the fee from any other compensation that is due to the municipality including the video service provider fee under subd. 1.

(b) *Amount of fee.* The percentage applied to a video service provider's gross receipts under par. (a) 1. for each municipality shall be 5 percent or one of the following percentages, whichever is less:

1. If no incumbent cable operator was required to pay a franchise fee equal to a percentage of gross revenues to the municipality immediately before the effective date of this subdivision .... [revisor inserts date], the municipality may specify a percentage of no more than 5 percent. The duty of a video service provider to pay the municipality a video service fee equal to such percentage shall first apply to the quarter that includes the 45th day after the municipality provides notice of the percentage to the video service provider.

2. If an incumbent cable operator was required to pay a franchise fee equal to a percentage of gross revenues to the municipality immediately before the effective date of this subdivision .... [revisor inserts date], that percentage.

3. If more than one incumbent cable operator was required to pay a franchise fee equal to a percentage of gross revenues to the municipality immediately before the effective date of this subdivision .... [revisor inserts date], the lowest such percentage.

(c) *Generally accepted accounting principles.* All determinations and computations made under this subsection shall be made pursuant to generally accepted accounting principles.

(d) *Record review.* A municipality may, upon reasonable written request but no more than once in any 3–year period, for the purpose of ensuring proper and accurate payment of a video service provider fee, review the business records of a video service provider that is required to pay the municipality a video service provider fee.

(e) *Actions to enforce payment.* 1. A municipality or a video service provider may not bring an action concerning the amount of a video service provider fee allegedly due to the municipality unless the parties have first participated in and completed good faith settlement discussions. For purposes of any future litigation, all negotiations pursuant to this paragraph shall be treated as compromise negotiations under s. 904.08.

2. An action regarding a dispute over the amount of a video service provider fee paid or allegedly due under this subsection shall be commenced within 4 years following the end of the calendar quarter to which the disputed amount relates or be barred, unless the parties agree in writing to an extension of time. Notwithstanding ss. 814.01, 814.02, 814.03, and 814.035, no costs may be allowed in the action to either party.

(em) *PEG channel monetary support.* 1. This subdivision applies to an incumbent cable operator whose cable franchise is terminated under sub. (3) (b) 2. b. The obligation that is actually imposed by a municipality prior to April 18, 2007, on such an incumbent cable operator to provide monetary support for access facilities for PEG channels and that is contained in a cable franchise existing on the effective date of this subdivision .... [revisor inserts date], shall continue until the first day of the 36th month beginning after the effective date of this subdivision .... [revisor inserts date].

2. The duty of an interim cable operator to provide monetary support for access facilities for PEG channels that is contained in a cable franchise existing on the effective date of this subdivision .... [revisor inserts date], shall continue until the first day of the 36th month beginning after the effective date of this subdivision .... [revisor inserts date].

3. Each video service provider providing video service in a municipality shall have the same obligation to provide monetary support for access facilities for PEG channels as the incumbent cable operator with the most subscribers in the municipality as of the effective date of this subdivision .... [revisor inserts date]. To the extent that such incumbent cable operator provides such support in the form of a percentage of gross revenues or a per subscriber fee, any other video service provider shall pay the same percentage of gross revenues or per subscriber fee to the municipality as the incumbent cable operator. To the extent that such incumbent cable operator provides such support in the form of a lump sum payment without an offset to its franchise fee or video service provider fee, any other video service provider that commences service in the municipality shall pay the municipality a sum equal to the pro rata amount of such lump sum payment based on its proportion of video service customers in such municipality. The obligation to provide monetary support required under this subdivision shall continue until the first day of the 36th month beginning after the effective date of this subdivision .... [revisor inserts date].

4. For purposes of this paragraph, the proportion of video service customers of a video service provider shall

be determined based on the relative number of subscribers as of the end of the prior calendar year as reported by all incumbent cable operators and holders of video service authorizations.

(f) *Itemization.* A video service provider may identify and collect the amount related to a video service provider fee and any fee imposed for monetary support for access facilities for PEG channels as described in par. (em) as a separate line item on customer bills.

(g) *Invalidity of other fees.* If a video service provider pays video service provider fees to a municipality as required under this subsection, the municipality may not require the video service provider to pay any compensation under s. 66.0425, or, except as provided in a regulation under s. 182.017 (1r), any permit fee, encroachment fee, degradation fee, or any other fee, for the occupation of or work within public rights–of–way.

**(8)** DISCRIMINATION; ACCESS TO SERVICES. (ag) *Definition.* In this subsection, "department" means the department of agriculture, trade and consumer protection.

(am) *Discrimination prohibited.* 1. No video service provider may deny access to video service to any group of potential residential customers in the video service provider's video franchise area because of the race or income of the residents in the local area in which the group resides.

2. It is a defense to an alleged violation of subd. 1. based on income if the video service provider has met either of the following conditions:

a. No later than 3 years after the date on which the video service provider began providing video service under this section, at least 25 percent of households with access to the video service provider's video service are low–income households.

b. No later than 5 years after the date on which the video service provider began providing video service under this section, at least 30 percent of the households with access to the video service provider's video service are low–income households.

(b) *Access.* 1. A large telecommunications video service provider shall provide access to its video service to the following percentages of households within the large telecommunications video service provider's basic local exchange service area:

a. Not less than 35 percent no later than 3 years after the date on which the large telecommunications video service provider began providing video service under this section.

b. Not less than 50 percent no later than 5 years after the date on which the large telecommunications video service provider began providing video service under this section, or no later than 2 years after at least 30 percent of households with access to the large telecommunications video service provider's video service subscribe to the service for 6 consecutive months, whichever occurs later.

2. A large telecommunications video service provider shall file an annual report with the department regarding the large telecommunications video service provider's progress in complying with subd. 1.

(c) *Extensions and waivers.* A video service provider may apply to the department for an extension of any time limit specified in par. (am) 2. or (b) or a waiver of a requirement to comply with par. (b). The department shall grant the extension or waiver if the video service provider demonstrates to the satisfaction of the department that the video service provider has made substantial and continuous efforts to comply with the requirements of this subsection and that the extension or waiver is necessary due to one or more of the following factors:

1. The video service provider's inability to obtain access to public and private rights–of–way under reasonable terms and conditions.

2. Developments and buildings that are not subject to competition because of exclusive service arrangements.

3. Developments and buildings that are not accessible using reasonable technical solutions under commercially reasonable terms and conditions.

4. Natural disasters.

5. Other factors beyond the control of the video service provider.

(d) *Alternative technologies.* A video service provider may satisfy the requirements of this subsection through the use of an alternative technology, other than satellite service, that does all of the following:

1. Offers service, functionality, and content demonstrably similar to the service, functionality, and content provided through the video service provider's video service network.

2. Provides access to PEG channels and messages broadcast over the emergency alert system.

(e) *Limitations.* Notwithstanding any other provision of this section, a telecommunications video service provider is not required to provide video service outside the provider's basic local exchange service area, and a video service provider that is an incumbent cable operator is not required to provide video service outside the area in which the incumbent cable operator provided cable service at the time the department of financial institutions issued a video service franchise to the incumbent cable operator.

**(9)** CUSTOMER SERVICE STANDARDS. (a) Except as provided in par. (b), upon 90 days' advance notice, a municipality may require a video service provider to comply with the customer service standards specified in 47 CFR 76.309 (c) in its provision of video service. Neither the department nor any municipality shall have the authority to impose additional or different customer ser-

vice standards that are specific to the provision of video service.

(b) Except as provided in s. 100.209, no video service provider that provides video service in a municipality may be subject to any customer service standards if there is at least one other person offering cable or video service in the municipality or if the video service provider is subject to effective competition, as determined under 47 CFR 76.905, in the municipality. This paragraph does not apply to any customer service standards promulgated by rule by the department of agriculture, trade and consumer protection.

**(9m)** LOCAL BROADCAST STATIONS. (a) In this subsection, a "noncable video service provider" means a video service provider that is not a cable operator.

(b) If a local broadcast station is authorized to exercise against a cable operator the right to require mandatory carriage under 47 USC 534, or the right to grant or withhold retransmission consent under 47 USC 325 (b), the local broadcast station may exercise the same right against a noncable video service provider to the same extent as the local broadcast station may exercise such right against a cable operator under federal law.

(c) A noncable video service provider shall transmit, without degradation, the signals that a local broadcast station delivers to the noncable video service provider, but is not required to utilize the same or similar reception technology as the local broadcast station or the programming providers of the local broadcast station.

(d) A noncable video service provider may not do any of the following:

1. Discriminate among or between local broadcast stations, or programming providers of local broadcast stations, with respect to the transmission of their signals.

2. Delete, change, or alter a copyright identification transmitted as part of a local broadcast station's signal.

**(10)** LIMITATION ON RATE REGULATION. The department or a municipality may not regulate the rates charged for any video service by an interim cable operator or video service provider that provides video service in a municipality if at least one other interim cable operator or video service provider is providing video service in the municipality and the other interim cable operator or video service provider is not an affiliate of the interim cable operator or video service provider. This subsection applies regardless of whether any affected interim cable operator or video service provider has sought a determination from the FCC regarding effective competition under 47 CFR 76.905.

**(11)** TRANSFER OF VIDEO SERVICE FRANCHISE. A person who is issued a video service franchise may transfer the video service franchise to any successor–in–interest, including a successor–in–interest that arises through merger, sale, assignment, restructuring, change of control, or any other transaction. No later than 15 days after the transfer is complete, the successor–in–interest shall apply for a video service franchise under sub. (3) (d) and comply with sub. (3) (e) 1. The successor–in–interest may provide video service in the video franchise area during the period that the department reviews the application.

**(13)** RULE–MAKING; ENFORCEMENT. (a) Notwithstanding s. 227.11 and except as provided in sub. (3) (f) 4., the department of financial institutions may not promulgate rules interpreting or establishing procedures for this section and the department of agriculture, trade and consumer protection may not promulgate rules interpreting or establishing procedures for sub. (8).

(b) Except as provided in sub. (7) (e), a municipality, interim cable operator, or video service provider that is affected by a failure to comply with this section may bring an action to enforce this section. If a court finds that a municipality, interim cable operator, or video service provider has not complied with this section, the court shall order the municipality, interim cable operator, or video service provider to comply with this section. Notwithstanding ss. 814.01, 814.02, 814.03, and 814.035, no costs may be allowed in an action under this paragraph to any party.

(c) The department shall enforce this section, except sub. (8). The department may bring an action to recover any fees that are due and owing under this section or to enjoin a violation of this section, except sub. (8), or any rule promulgated under sub. (3) (f) 4. An action shall be commenced under this paragraph within 3 years after the occurrence of the unlawful act or practice or be barred.

**SECTION 9.** 66.0421 (title) of the statutes is amended to read:

**66.0421** (title) **Access to ~~cable~~ video service.**

**SECTION 10.** 66.0421 (1) (a) of the statutes is repealed.

**SECTION 11.** 66.0421 (1) (b) of the statutes is repealed.

**SECTION 12.** 66.0421 (1) (c) of the statutes is created to read:

66.0421 **(1)** (c) "Video service" has the meaning given in s. 66.0420 (2) (y).

**SECTION 13.** 66.0421 (1) (d) of the statutes is created to read:

66.0421 **(1)** (d) "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).

**SECTION 14.** 66.0421 (2) of the statutes is amended to read:

66.0421 **(2)** INTERFERENCE PROHIBITED. The owner or manager of a multiunit dwelling under common ownership, control or management or of a mobile home park or the association or board of directors of a condominium may not prevent a ~~cable operator~~ video service provider from providing ~~cable~~ video service to a subscriber who is a resident of the multiunit dwelling, mobile home park or of the condominium or interfere with a ~~cable operator~~

video service provider providing ~~cable~~ video service to a subscriber who is a resident of the multiunit dwelling, mobile home park or of the condominium.

**SECTION 15.** 66.0421 (3) of the statutes is amended to read:

66.0421 **(3)** INSTALLATION IN MULTIUNIT BUILDING. Before installation, a ~~cable operator~~ video service provider shall consult with the owner or manager of a multiunit dwelling or with the association or board of directors of a condominium to establish the points of attachment to the building and the methods of wiring. A ~~cable operator~~ video service provider shall install facilities to provide ~~cable~~ video service in a safe and orderly manner and in a manner designed to minimize adverse effects to the aesthetics of the multiunit dwelling or condominium. Facilities installed to provide ~~cable~~ video service may not impair public safety, damage fire protection systems or impair fire–resistive construction or components of a multiunit dwelling or condominium.

**SECTION 16.** 66.0421 (4) of the statutes is amended to read:

66.0421 **(4)** REPAIR RESPONSIBILITY. A ~~cable operator~~ video service provider is responsible for any repairs to a building required because of the construction, installation, disconnection or servicing of facilities to provide ~~cable~~ video service.

**SECTION 17.** 66.0422 (title) of the statutes is amended to read:

**66.0422** (title) **~~Cable television~~ Video service, telecommunications, and broadband facilities.**

**SECTION 18.** 66.0422 (1) (a) of the statutes is repealed.

**SECTION 19.** 66.0422 (1) (d) of the statutes is created to read:

66.0422 **(1)** (d) "Video service" has the meaning given in s. 66.0420 (2) (y).

**SECTION 20.** 66.0422 (2) (intro.) of the statutes is amended to read:

66.0422 **(2)** (intro.) Except as provided in subs. (3), (3d), (3m), and (3n), no local government may enact an ordinance or adopt a resolution authorizing the local government to construct, own, or operate any facility for providing ~~cable~~ video service, telecommunications service, or broadband service, directly or indirectly, to the public, unless all of the following are satisfied:

**SECTION 21.** 66.0422 (3) (b) of the statutes is amended to read:

66.0422 **(3)** (b) A majority of the governing board of the local government votes to submit the question of supporting the operation of the facility for providing ~~cable~~ video service, telecommunications service, or Internet access service, directly or indirectly to the public, by the local government to the electors in an advisory referendum and a majority of the voters in the local government voting at the advisory referendum vote to support operation of such a facility by the local government.

**SECTION 22.** 66.0422 (3n) of the statutes is amended to read:

66.0422 **(3n)** Subsection (2) does not apply to a local government that, on March 1, 2004, was providing ~~cable~~ video service to the public.

**SECTION 23.** 70.111 (25) of the statutes is amended to read:

70.111 **(25)** DIGITAL BROADCASTING EQUIPMENT. Digital broadcasting equipment owned and used by a radio station, television station, or ~~cable television system~~ video service network, as defined in s. ~~66.0419 (2) (d)~~ 66.0420 (2) (zb).

**SECTION 24.** 76.80 (3) of the statutes is amended to read:

76.80 **(3)** "Telecommunications services" means the transmission of voice, video, facsimile or data messages, including telegraph messages, except that "telecommunications services" does not include ~~cable television~~ video service, as defined in s. 66.0420 (2) (y), radio, one–way radio paging or transmitting messages incidental to transient occupancy in hotels, as defined in s. 254.61 (3).

**SECTION 25.** 77.52 (2) (a) 12. of the statutes is amended to read:

77.52 **(2)** (a) 12. The sale of cable television system services, or video services, as defined in s. 66.0420 (2) (y), including installation charges.

**SECTION 26.** 100.195 (1) (c) 2. of the statutes, as created by 2005 Wisconsin Act 458, is amended to read:

100.195 **(1)** (c) 2. Telecommunications services or ~~cable~~ television services.

**SECTION 27.** 100.195 (1) (h) 1. of the statutes, as created by 2005 Wisconsin Act 458, is repealed and recreated to read:

100.195 **(1)** (h) 1. Video service, as defined in s. 66.0420 (2) (y).

**SECTION 27d.** 100.209 (title) of the statutes is amended to read:

**100.209** (title) **~~Cable television~~ Video programming service subscriber rights.**

**SECTION 27h.** 100.209 (1) (a) and (b) of the statutes are repealed.

**SECTION 27k.** 100.209 (1) (c) and (d) of the statutes are created to read:

100.209 **(1)** (c) "Multichannel video provider" means an interim cable operator, as defined in s. 66.0420 (2) (n), video service provider, as defined in s. 66.0420 (2) (zg), or multichannel video programming distributor, as defined in 47 USC 522 (13).

(d) "Video programming" has the meaning given in s. 66.0420 (2) (x).

**SECTION 27p.** 100.209 (2) of the statutes is amended to read:

100.209 **(2)** RIGHTS. (a) A ~~cable operator~~ multichannel video provider shall repair ~~cable~~ video programming service within 72 hours after a subscriber reports a ser-

vice interruption or requests the repair if the service interruption is not the result of a natural disaster.

(b) Upon notification by a subscriber of a service interruption, a ~~cable operator~~ multichannel video provider shall give the subscriber a credit for one day of ~~cable~~ video programming service if ~~cable~~ video programming service is interrupted for more than 4 hours in one day and the interruption is caused by the ~~cable operator~~ multichannel video provider.

(bm) Upon notification by a subscriber of a service interruption, a ~~cable operator~~ multichannel video provider shall give the subscriber a credit for each hour that ~~cable~~ video programming service is interrupted if ~~cable~~ video programming service is interrupted for more than ~~4~~ 24 hours ~~in one day~~ and the interruption is not caused by the ~~cable operator~~ multichannel video provider.

(c) A ~~cable operator~~ multichannel video provider shall give a subscriber at least 30 days' advance written notice before deleting a program service from its ~~cable~~ video programming service. ~~A cable operator~~ multichannel video provider is not required to give the notice under this paragraph if the ~~cable operator~~ multichannel video provider makes a channel change because of circumstances beyond the control of the ~~cable operator~~ multichannel video provider.

(d) A ~~cable operator~~ multichannel video provider shall give a subscriber at least 30 days' advance written notice before instituting a rate increase.

(e) 1. A ~~cable operator~~ multichannel video provider may not disconnect a subscriber's ~~cable~~ video programming service, or a portion of that service, for failure to pay a bill until the unpaid bill is at least 45 days past due.

2. If a ~~cable operator~~ multichannel video provider intends to disconnect a subscriber's ~~cable~~ video programming service, or a portion of that service, the ~~cable operator~~ multichannel video provider shall give the subscriber at least 10 days' advance written notice of the disconnection. A ~~cable operator~~ multichannel video provider is not required to give the notice under this subdivision if the disconnection is requested by the subscriber, is necessary to prevent theft of ~~cable~~ video programming service or is necessary to reduce or prevent signal leakage, as described in 47 CFR 76.611.

**SECTION 27t.** 100.209 (3) of the statutes is amended to read:

100.209 **(3)** RULES AND ~~LOCAL ORDINANCES~~ ORDERS ALLOWED. This section does not prohibit the department from promulgating a rule or from issuing an order consistent with its authority under this chapter that gives a subscriber greater rights than the rights under sub. (2) ~~or prohibit a city, village or town from enacting an ordinance that gives a subscriber greater rights than the rights under sub. (2)~~.

**SECTION 28c.** 134.43 (1) of the statutes is renumbered 134.43 (1m) and amended to read:

134.43 **(1m)** (a) Upon the request of ~~the~~ a subscriber, ~~each cable television connection capable of transmitting a message from the cable~~ the subscriber's equipment shall be fitted with a device under the control of the subscriber that enables the subscriber to prevent reception and transmission of messages identified in par. (b) by the subscriber's ~~cable~~ equipment.

(b) The device in par. (a) shall control all messages received and transmitted by the subscriber's ~~cable~~ equipment except messages recurring at constant intervals, including those related to security, fire, and utility service.

(c) ~~Each cable television~~ Each multichannel video provider shall notify each subscriber ~~shall be notified~~ in writing ~~by the person providing the cable television service~~ of the opportunity to request the device under par. (a).

(d) No ~~cable television~~ subscriber may be required to pay any extra fee for the installation and operation of a device requested under par. (a).

**SECTION 28g.** 134.43 (1g) of the statutes is created to read:

134.43 **(1g)** In this section:

(a) "Equipment" means equipment provided by a multichannel video provider that enables a subscriber to receive video programming.

(b) "Multichannel video provider" means an interim cable operator, as defined in s. 66.0420 (2) (n), video service provider, as defined in s. 66.0420 (2) (zg), or multichannel video programming distributor, as defined in 47 USC 522 (13).

(c) "Subscriber" means a person who subscribes to video programming provided by a multichannel video provider.

(d) "Video programming" has the meaning given in s. 66.0420 (2) (x).

**SECTION 28n.** 134.43 (1m) (e) of the statutes is created to read:

134.43 **(1m)** (e) This subsection does not apply to a multichannel video provider that provides video programming via Internet protocol technology.

**SECTION 28r.** 134.43 (2) (a) of the statutes is amended to read:

134.43 **(2)** (a) Monitor the subscriber's ~~cable~~ equipment or the use of it, except to verify the system's integrity or to collect information for billing of pay services.

**SECTION 28w.** 134.43 (2m) (a) of the statutes is amended to read:

134.43 **(2m)** (a) A person may supply the name, address, or other information identifying a ~~cable television~~ subscriber or member of the subscriber's household to another person if the person receiving the information uses it only for billing of pay services or to send listings of ~~cable television~~ video programming programs to the subscriber and if the subscriber is notified in writing of

that supplying of information, given the opportunity to object to that supplying and does not object to that supplying.

**SECTION 30.** 182.017 (1) of the statutes is renumbered 182.017 (1r) and amended to read:

182.017 **(1r)** RIGHT-OF-WAY FOR. Any ~~domestic corporation organized to furnish telegraph or telecommunications service or transmit heat, power or electric current to the public or for public purposes, an independent system operator, as defined in s. 196.485 (1) (d), an independent transmission owner, as defined in s. 196.485 (1) (dm), or a cooperative association organized under ch. 185 or 193 to furnish telegraph or telecommunications service or a cooperative organized under ch. 185 to transmit heat, power or electric current to its members,~~ company may, subject to ss. 30.44 (3m), 30.45, 86.16, and 196.491 (3) (d) 3m. and to reasonable regulations made by any ~~city, village or town~~ municipality through which its transmission lines or systems may pass, construct and maintain such lines or systems with all necessary appurtenances in, across or beneath any public highway or bridge or any stream or body of water, or upon any lands of any owner consenting thereto, and for such purpose may acquire lands or the necessary easements; and may connect and operate its lines or system with other lines or systems devoted to like business, within or without this state, and charge reasonable rates for the transmission and delivery of messages or the furnishing of heat, power, or electric light.

**SECTION 31.** 182.017 (1g) of the statutes is created to read:

182.017 **(1g)** DEFINITIONS. In this section:

(a) "Commission" means the public service commission.

(b) "Company" means any of the following:

1. A domestic corporation organized to furnish telegraph or telecommunications service or transmit heat, power, or electric current to the public or for public purposes.

2. An independent system operator, as defined in s. 196.485 (1) (d).

3. An independent transmission owner, as defined in s. 196.485 (1) (dm).

4. A cooperative association organized under ch. 185 or 193 to furnish telegraph or telecommunications service.

5. A cooperative association organized under ch. 185 to transmit heat, power, or electric current to its members.

6. An interim cable operator, as defined in s. 66.0420 (2) (n).

7. A video service provider, as defined in s. 66.0420 (2) (zg).

(c) "Municipality" means a city, village, or town.

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

**SECTION 32.** 182.017 (3) of the statutes is amended to read:

182.017 **(3)** ABANDONED LINES REMOVED. The ~~public service~~ commission after a public hearing as provided in s. 196.26, and subject to the right of review as provided in ch. 227, may declare any line to have been abandoned or discontinued, if the facts warrant such finding. Whenever such a finding shall have been made the ~~corporation~~ company shall remove such line, and on failure for 3 months after such finding of abandonment or discontinuance, any person owning land over, through or upon which such line shall pass, may remove the same, or the supervisors of any town within which said lines may be situated, may remove the said lines from the limits of its highways, and such person or supervisors shall be entitled to recover from the company owning the lines the expense for labor involved in removing the property.

**SECTION 33.** 182.017 (5) of the statutes is amended to read:

182.017 **(5)** TREE TRIMMING. Any ~~such corporation~~ company which shall in any manner destroy, trim or injure any shade or ornamental trees along any such lines or systems, or, in the course of tree trimming or removal, cause any damage to buildings, fences, crops, livestock or other property, except by the consent of the owner, or after the right so to do has been acquired, shall be liable to the person aggrieved in 3 times the actual damage sustained, besides costs.

**SECTION 34.** 182.017 (6) of the statutes is amended to read:

182.017 **(6)** MUNICIPAL FRANCHISE REQUIRED. No lighting or heating corporation or lighting or heating cooperative association shall have any right hereunder in any ~~city, village or town~~ municipality until it has obtained a franchise or written consent for the erection or installation of its lines from such ~~city, village or town~~ municipality.

**SECTION 35.** 182.017 (8) of the statutes is created to read:

182.017 **(8)** COMMISSION REVIEW. (a) Upon complaint by a company that a regulation by a municipality under sub. (1r) is unreasonable, the commission shall set a hearing and, if the commission finds that the regulation is unreasonable, the regulation shall be void. If the commission determines that a municipal regulation that was in effect on January 1, 2007, and immediately prior to the effective date of this subsection .... [revisor inserts date], or that a community standard, as demonstrated through consistent practice and custom in the municipality, that was in effect on January 1, 2007, and immediately prior to the effective date of this subsection .... [revisor inserts date], is substantially the same as the municipal regulation complained of, there is a rebuttable presumption that the latter regulation is reasonable.

(am) A municipal regulation is unreasonable if it has the effect of creating a moratorium on the placement of company lines or systems under sub. (1r) or on the entrance into the municipality of a video service provider, as defined in s. 66.0420 (2) (zg), or is inconsistent with the purposes of s. 66.0420.

(b) A municipal regulation is unreasonable if it requires a company to pay more than the actual cost of functions undertaken by the municipality to manage company access to and use of municipal rights–of–way. These management functions include all of the following:

1. Registering companies, including the gathering and recording of information necessary to conduct business with a company.

2. Except as provided in provided in par. (c), issuing, processing, and verifying excavation or other company permit applications, including supplemental applications.

3. Inspecting company job sites and restoration projects.

4. Maintaining, supporting, protecting, or moving company equipment during work in municipal rights–of–way.

5. Undertaking restoration work inadequately performed by a company after providing notice and the opportunity to correct the work.

6. Revoking company permits.

7. Maintenance of databases.

8. Scheduling and coordinating highway, street, and right–of–way work relevant to a company permit.

(c) A municipal regulation is unreasonable if it requires a company to be responsible for fees under s. 182.0175 (1m) (bm) that may be assessed to a municipality as a member of the one–call system under s. 182.0175.

(d) It is reasonable for a municipal regulation to provide for the recovery of costs incurred under par. (b) 1., 2., 3, and 7. through a preexcavation permit fee.

(e) It is reasonable for a municipal regulation to provide for the recovery of costs incurred under par. (b) 4., 5., and 6. only from the company that is responsible for causing the municipality to incur the costs.

(f) Notwithstanding pars. (am) to (c), the commission may not find a regulation of the aesthetics of any component of a video service network unreasonable if the regulation has a reasonable and clearly defined aesthetic objective or is necessary to maintain the value of adjoining or nearby private property.

**SECTION 36.** 182.017 (9) of the statutes is created to read:

182.017 **(9)** TIME LIMIT FOR PERMITS. If a municipality establishes a permit process under sub. (1r), the municipality shall approve or deny a permit application no later than 60 days after receipt of the application, and, if the municipality fails to do so, the municipality shall be considered to have approved the application and granted the permit. If a municipality denies a permit application, the municipality shall provide the applicant a written explanation of the reasons for the denial at the time that the municipality denies the application.

**SECTION 37.** 196.01 (1g) of the statutes is amended to read:

196.01 **(1g)** "Basic local exchange service" means the provision to residential customers of an access facility, whether by wire, cable, fiber optics or radio, and essential usage within a local calling area for the transmission of high–quality 2–way interactive switched voice or data communication. "Basic local exchange service" includes extended community calling and extended area service. "Basic local exchange service" does not include additional access facilities or any discretionary or optional services that may be provided to a residential customer. "Basic local exchange service" does not include cable ~~television~~ service or services provided by a commercial mobile radio service provider.

**SECTION 38.** 196.01 (1p) of the statutes is repealed and recreated to read:

196.01 **(1p)** "Cable service" has the meaning given in 47 USC 522 (6).

**SECTION 39.** 196.01 (9m) of the statutes is amended to read:

196.01 **(9m)** "Telecommunications service" means the offering for sale of the conveyance of voice, data or other information at any frequency over any part of the electromagnetic spectrum, including the sale of service for collection, storage, forwarding, switching and delivery incidental to such communication and including the regulated sale of customer premises equipment. "Telecommunications service" does not include cable ~~television~~ service or broadcast service.

**SECTION 40.** 196.01 (12g) of the statutes is created to read:

196.01 **(12g)** "Video service" has the meaning given in s. 66.0420 (2) (y).

**SECTION 41.** 196.01 (12r) of the statutes is created to read:

196.01 **(12r)** "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).

**SECTION 42.** 196.04 (4) (a) (intro.) and 2. (intro.) of the statutes are consolidated, renumbered 196.04 (4) (a) (intro.) and amended to read:

196.04 **(4)** (a) (intro.) In this subsection~~: 2. "Sewerage,~~ "sewerage system operator" means any of the following:

**SECTION 43.** 196.04 (4) (a) 1. of the statutes is repealed.

**SECTION 44.** 196.04 (4) (a) 2. a. to e. of the statutes are renumbered 196.04 (4) (a) 1. to 5.

**SECTION 45.** 196.04 (4) (b) of the statutes is amended to read:

196.04 **(4)** (b) If the parties cannot agree and the commission finds that public convenience and necessity or the rendition of reasonably adequate service to the public requires that a public utility, telecommunications provider, sewerage system operator, or ~~cable operator~~ video service provider be permitted to extend its lines on, over or under the right–of–way of any railroad, or requires that the tracks of any railroad be extended on, over or under the right–of–way of any public utility, telecommunications provider, sewerage system operator, or ~~cable operator~~ video service provider, the commission may order the extension by the public utility, telecommunications provider, sewerage system operator, ~~cable operator~~ video service provider, or railroad on, over or under the right–of–way of the other if it will not materially impair the ability of the railroad, telecommunications provider, sewerage system operator, ~~cable operator~~ video service provider, or public utility, on, over or under whose right–of–way the extension would be made, to serve the public. The commission shall prescribe lawful conditions and compensation which the commission deems equitable and reasonable in light of all the circumstances.

**SECTION 46.** 196.195 (5) of the statutes is amended to read:

196.195 **(5)** COMMISSION ACTION. If after the proceedings under subs. (2), (3) and (4) the commission has determined that effective competition exists in the market for the telecommunications service which justifies a lesser degree of regulation and that lesser regulation in that market will serve the public interest, the commission may, by order, suspend any of the following provisions of law, except as provided under subs. (7) and (8): ch. 201 and s. 196.02 (2); s. 196.05; s. 196.06; s. 196.07; s. 196.09; s. 196.10; s. 196.12; s. 196.13 (2); s. 196.19; tariffing requirements under s. 196.194; s. 196.196 (1) or (5); s. 196.20; ~~s. 196.204 (7);~~ s. 196.21; s. 196.22; s. 196.26; s. 196.28; s. 196.37; s. 196.49; s. 196.52; s. 196.58; s. 196.60; s. 196.604; s. 196.77; s. 196.78; s. 196.79; and s. 196.805.

**SECTION 47.** 196.203 (1m) of the statutes is amended to read:

196.203 **(1m)** Any person claiming to be a cable television telecommunications service provider under this section shall annually file with the commission any information required by the commission to determine the gross income of the person which is derived from the operation of a cable television system.

**SECTION 48.** 196.203 (3) (b) (intro.) of the statutes is amended to read:

196.203 **(3)** (b) (intro.) The commission may not deny a petition filed under par. (a) by a provider of cable ~~television~~ service for alternative telecommunications utility status in a particular geographical area as not being in the public interest if basic local exchange service is provided in the same geographical area by any of the following:

**SECTION 49.** 196.203 (3) (b) 2. of the statutes is amended to read:

196.203 **(3)** (b) 2. Subject to par. (c), a telecommunications utility with 50,000 or less access lines in use in this state which also provides cable ~~television~~ service in that geographical area, if provision of cable ~~television~~ service began after September 1, 1994.

**SECTION 50.** 196.203 (3) (c) of the statutes is amended to read:

196.203 **(3)** (c) Paragraph (b) 2. shall not apply if the telecommunications utility's provision of cable ~~television~~ service is limited to the provision of satellite cable programming, as defined in s. 943.47 (1) (b).

**SECTION 51.** 196.203 (3) (d) of the statutes is amended to read:

196.203 **(3)** (d) Section 196.50 (1) (b) applies to an alternative telecommunications utility except for a provider of cable ~~television~~ service.

**SECTION 52.** 196.203 (3) (e) 1. (intro.) of the statutes is amended to read:

196.203 **(3)** (e) 1. (intro.) If a provider of cable ~~television~~ service files a petition under par. (a) for alternative telecommunications status to offer local exchange service, as defined in s. 196.50 (1) (b) 1., in a geographical area served by a telecommunications utility with less than 50,000 access lines in use in this state on September 1, 1994, or at any time thereafter, the commission may not deny the petition as not being in the public interest and shall do any of the following:

**SECTION 53.** 196.204 (7) of the statutes is repealed.

**SECTION 54.** 196.50 (1) (b) 2. e. of the statutes is amended to read:

196.50 **(1)** (b) 2. e. The holder of the permit and the applicant are both providers of ~~cable television~~ video service, if the holder's provision of ~~cable television~~ video service began after September 1, 1994. ~~This subd. 2. e. does not apply if the holder's provision of cable television service is limited to the provision of satellite cable programming, as defined in s. 943.47 (1) (b).~~

**SECTION 55.** 196.50 (1) (c) of the statutes is amended to read:

196.50 **(1)** (c) Any provision in an agreement or municipal franchise that prohibits entry into the telecommunications or ~~cable television~~ video services market after September 1, 1994, is void. ~~Paragraph (b) and this paragraph do not invalidate an ordinance enacted under s. 66.0419 which requires a provider of cable television services to obtain a franchise before offering those services.~~

**SECTION 56.** 196.85 (1m) (b) of the statutes is amended to read:

196.85 **(1m)** (b) For the purpose of direct assessment under sub. (1) of expenses incurred by the commission in connection with its activities under s. 196.04 (4), the term "public utility" includes a ~~cable operator, as defined in s. 66.0419 (2) (b)~~ video service provider.

**SECTION 57.** 196.85 (1m) (d) of the statutes is created to read:

196.85 **(1m)** (d) For the purpose of direct assessment under sub. (1) of expenses incurred by the commission in connection with its activities under s. 182.017, the term "public utility" includes a company, as defined in s. 182.017 (1g) (b).

**SECTION 58.** 943.46 (title) of the statutes is amended to read:

**943.46** (title) **Theft of ~~cable television~~ video service.**

**SECTION 59.** 943.46 (1) (a) of the statutes is renumbered 943.46 (1) (c) and amended to read:

943.46 **(1)** (c) "~~Cable television~~ Video service" has the meaning given in s. ~~196.01 (1p). "Cable television~~ 66.0420 (2) (y), except that "video service" does not include signals received by privately owned antennas that are not connected to a ~~cable television system~~ video service network whether or not the same signals are provided by a ~~cable television company~~ video service provider.

**SECTION 60.** 943.46 (1) (d) of the statutes is created to read:

943.46 **(1)** (d) "Video service network" has the meaning given in s. 66.0420 (2) (zb).

**SECTION 61.** 943.46 (1) (e) of the statutes is created to read:

943.46 **(1)** (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).

**SECTION 62.** 943.46 (2) (a) of the statutes is amended to read:

943.46 **(2)** (a) Obtain or attempt to obtain ~~cable television~~ video service from a ~~company~~ provider by trick, artifice, deception, use of an illegal device or illegal decoder or other fraudulent means with the intent to deprive that ~~company~~ 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 ~~cable television company~~ video service provider, the major purpose of which is to permit reception of ~~cable television~~ video services without payment. This inference is rebutted if the defendant demonstrates that he or she purchased that device for a legitimate use.

**SECTION 63.** 943.46 (2) (b) of the statutes is amended to read:

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

**SECTION 64.** 943.46 (2) (c) of the statutes is amended to read:

943.46 **(2)** (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 ~~cable television~~ video services for the purpose of distributing ~~cable television~~ video service to any other dwelling unit without authority from a ~~cable television company~~ video service provider.

**SECTION 65.** 943.46 (2) (d) of the statutes is amended to read:

943.46 **(2)** (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 ~~cable television~~ video services for the purpose of obtaining ~~cable television~~ video service without payment of all lawful compensation to the ~~company~~ provider providing that service. The intent required for a violation of this paragraph may be inferred from proof that the ~~cable~~ video 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~~ video service provider and that thereafter there exists in fact a connection to the ~~cable system~~ video service network at the defendant's residence or business.

**SECTION 66.** 943.46 (2) (e) of the statutes is amended to read:

943.46 **(2)** (e) Make or maintain any modification or alteration to any device installed with the authorization of a ~~cable television company~~ video service provider for the purpose of intercepting or receiving any program or other service carried by that ~~company~~ provider which that person is not authorized by that ~~company~~ 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 ~~cable television company~~ 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 ~~cable television company~~ 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 ~~cable television company~~ 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 ~~cable television company~~ video service provider cannot demonstrate that the intact seal was shown to the customer.

**SECTION 67.** 943.46 (2) (f) of the statutes is amended to read:

943.46 **(2)** (f) Possess without authority any device or printed circuit board designed to receive from a ~~cable television system~~ video service network any ~~cable television~~ video programming or services offered for sale over that ~~cable television system~~ 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 ~~cable television company's~~ 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.

**SECTION 68.** 943.46 (2) (g) of the statutes is amended to read:

943.46 **(2)** (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 ~~cable television~~ video programming or services offered for sale over a ~~cable television system~~ video service network from a ~~cable television system~~ 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 ~~company's~~ 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 ~~cable television~~ video service without charge.

**SECTION 69.** 943.46 (5) of the statutes is amended to read:

943.46 **(5)** EXCEPTION. This section does not affect the use by a person of ~~cable television~~ 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 ~~cable television~~ video services and does not prohibit a ~~cable television company~~ video service provider, in any written contract with a subscriber, from requiring the ~~company's~~ provider's approval for any increase in the number of those outlets used.

**SECTION 69m. Fiscal changes.**

(1) In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of financial institutions under section 20.144 (1) (g) of the statutes, as affected by the acts of 2007, the dollar amount is increased by $100,000 for fiscal year 2007–08 and the dollar amount is increased by $100,000 for fiscal year 2008–09 to increase funding for the purposes for which the appropriation is made.