



**SENATE AMENDMENT 1,  
TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 1997 SENATE BILL 351**

March 19, 1998 – Offered by JOINT COMMITTEE ON INFORMATION POLICY.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 4, line 21: after “(e)” insert “, but does not include an interconnection  
3 agreement to which a commercial mobile radio service provider is a party”.

4 **2.** Page 11, line 24: delete the material beginning with that line and ending  
5 with page 12, line 20, and substitute:

6 “**SECTION 13m.** 196.202 (2) of the statutes, as affected by 1997 Wisconsin Act  
7 27, is amended to read:

8 196.202 (2) SCOPE OF REGULATION. A cellular commercial mobile radio  
9 ~~telecommunications utility service provider~~ is not subject to ch. 184 or this chapter,  
10 except a cellular commercial mobile radio ~~telecommunications utility service~~  
11 provider is subject to s. 196.218 (3) to the extent not preempted by federal law. If the  
12 application of s. 196.218 (3) to a cellular commercial mobile radio

1 ~~telecommunications utility~~ service provider is not preempted, a ~~cellular commercial~~  
2 mobile radio ~~telecommunications utility~~ service provider shall respond, subject to  
3 the protection of the ~~cellular commercial~~ mobile radio ~~telecommunications utility's~~  
4 service provider's competitive information, to all reasonable requests for information  
5 about its operations in this state from the commission necessary to administer the  
6 universal service fund.”.

7 **3.** Page 13, line 24: delete “~~except s. 196.202~~” and substitute “except s.  
8 196.202”.

9 **4.** Page 21, line 3: after that line insert:

10 “**SECTION 47g.** 943.455 (title) of the statutes is amended to read:

11 **943.455** (title) **Theft of ~~cellular telephone~~ commercial mobile service.**

12 **SECTION 47r.** 943.455 (1) (a) of the statutes is amended to read:

13 943.455 (1) (a) “~~Cellular telephone~~ Commercial mobile service” means any  
14 ~~telecommunications service~~ commercial mobile service, as defined in s. 196.01 (2i),  
15 that is provided by a company ~~over a cellular telephone system~~ for payment.”.

16 **5.** Page 21, line 6: after that line insert:

17 “**SECTION 48g.** 943.455 (2) (a), (b), (c) and (f) of the statutes are amended to read:

18 943.455 (2) (a) Obtain or attempt to obtain ~~cellular telephone~~ commercial  
19 mobile service from a company by trick, artifice, deception, use of an illegal device  
20 or other fraudulent means with the intent to deprive that company of any or all  
21 lawful compensation for rendering each type of service obtained. The intent required  
22 for a violation of this paragraph may be inferred from the presence on the property  
23 and in the actual possession of the defendant of a device not authorized by the  
24 company, the major purpose of which is to permit reception of ~~cellular telephone~~

1 commercial mobile services without payment. This inference is rebutted if the  
2 defendant demonstrates that he or she purchased that device for a legitimate use.

3 (b) Give technical assistance or instruction to any person in obtaining or  
4 attempting to obtain any ~~cellular telephone~~ commercial mobile service without  
5 payment of all lawful compensation to the company providing that service. This  
6 paragraph does not apply if the defendant demonstrates that the technical  
7 assistance or instruction was given for a legitimate purpose.

8 (c) Maintain an ability to connect, whether physical, electronic, by radio wave  
9 or by other means, with any facilities, components or other devices used for the  
10 transmission of ~~cellular telephone~~ commercial mobile services for the purpose of  
11 obtaining ~~cellular telephone~~ commercial mobile service without payment of all  
12 lawful compensation to the company providing that service. The intent required for  
13 a violation of this paragraph may be inferred from proof that the ~~cellular telephone~~  
14 commercial mobile service to the defendant was authorized under a service  
15 agreement with the defendant and has been terminated by the company and that  
16 thereafter there exists in fact an ability to connect to the company's ~~cellular~~  
17 telephone commercial mobile service system.

18 (f) Manufacture, import into this state, distribute, publish, advertise, sell, lease  
19 or offer for sale or lease any device or any plan or kit for a device designed to receive  
20 ~~cellular telephone~~ commercial mobile services offered for sale by a company, whether  
21 or not the services are encoded, filtered, scrambled or otherwise made unintelligible,  
22 with the intent that that device, plan or kit be used for obtaining a company's services  
23 without payment. The intent required for a violation of this paragraph may be  
24 inferred from proof that the defendant has sold, leased or offered for sale or lease any  
25 device, plan or kit for a device in violation of this paragraph and during the course

1 of the transaction for sale or lease the defendant expressly states or implies to the  
2 buyer that the product will enable the buyer to obtain ~~cellular telephone~~ commercial  
3 mobile service without charge.

4 **SECTION 48m.** 943.455 (5) of the statutes is amended to read:

5 943.455 (5) EXCEPTION. This section does not affect the use by a person of  
6 ~~cellular telephone~~ commercial mobile services if the services have been paid for.”.

7 **6.** Page 21, line 16: after that line insert:

8 “(2m) The public service commission shall study the feasibility and desirability  
9 of enforcing interconnection agreements, that are subject to the approval of the  
10 public service commission under 47 USC 252 (e), to which a commercial mobile radio  
11 service provider, as defined in section 196.01 (2g) of the statutes, as created by this  
12 act, is a party in the same manner as interconnection agreements to which such a  
13 provider is not a party. The commission shall submit a report on the results of the  
14 study and any recommended proposals for legislation to the legislature in the  
15 manner provided in section 13.172 (2) of the statutes no later than January 1, 2000.”.

16 **7.** Page 21, line17: before that line insert:

17 **“SECTION 50m. Initial applicability.**

18 (1m) The treatment of section 943.455 (1) (a), (2) (a), (b), (c) and (f) and (5) of  
19 the statutes first applies to offenses committed on the effective date of this  
20 subsection.

21 (2m) The treatment of section 968.27 (14) (d) of the statutes first applies to  
22 radio communications transmitted on the effective date of this subsection.”.

23 (END)