WEST VIRGINIA CODE CHAPTER 61 ARTICLE 3D

WV Legislature

§61-3D-1. Definitions.

As used in this article:

(1) “Cable system” means any facility within this state consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable television service which includes video programming and which is provided to multiple subscribers within a community, and does not include: (A) A facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless that facility or facilities uses any public right-of-way; or (C) a facility of a public utility subject, in whole or in part, to the provisions of chapter twenty-four of this code, except to the extent that those facilities provide video programming directly to subscribers.

(2) “Cable operator” means any person or group of persons: (A) Who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in the cable system; or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

(3) “Cable service” means: (A) The one-way transmission to subscribers of video programming or other programming service; and (B) subscriber interaction, if any, which is required for the selection of video programming or other programming service.

(4) “Subscriber” means any person who receives cable television services.

(5) “Unauthorized” means that payment of full compensation for cable television services has been avoided, or has been sought to be avoided, without the consent of the supplier of the service.

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§61-3D-2. Acquisition of cable television services.

(a) A person who acquires cable television services for himself or another, whether through his own efforts or with the assistance of another, or both, by:

(1) Making or maintaining any unauthorized connection, whether physically, electrically or inductively, to a distribution or transmission line;

(2) Attaching or maintaining the attachment of any unauthorized device to any cable, wire or other component of a cable system or to a television receiving set connected to a cable system;

(3) Making or maintaining any unauthorized modification or alteration to any device installed by a cable system operator; or

(4) Knowingly permits another person to enter upon his or her property for the purpose of securing cable service in an unauthorized manner as described in subdivision (1), (2) or (3) of this subsection shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with subsection (c) of this section.

(b) A person who subscribes to and receives cable television services through an authorized connection of a television receiving set at his dwelling and, within his dwelling, makes an authorized or an unauthorized connection of an additional television receiving set or sets or audio system which receives cable television service through such authorized connection, shall not be guilty of a misdemeanor under subsection (a) of this section.

(c) Any person convicted of a misdemeanor under subsection (a) of this section shall be subject to the following penalties:

(1) Upon a first conviction under this section, the defendant shall be fined not less than $100, nor more than $250.

(2) Upon a second conviction under this section, the defendant shall be fined not less than $250, nor more than $500, or imprisoned in the county jail not more than thirty days, or both fined and imprisoned.

(3) Upon any subsequent conviction in excess of a second conviction under this section, the defendant shall be fined not less than $500, nor more than $1,000, or imprisoned in the county jail not less than thirty days nor more than sixty days, or both fined and imprisoned.

Notwithstanding the provisions of section four, article eleven-a of this chapter or section two-a, article three, chapter fifty of this code, the magistrate or court may order restitution not to exceed the value of unauthorized cable services received.

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§61-3D-3. Sale or transfer of the device or plan intended for acquisition or diversion.

(a) A person who sells, gives or otherwise transfers to another or offers, advertises or exposes for sale to another any device, mechanism, tool or printed circuit, or any kit, plan or instructional procedure for the making of such device, mechanism, tool or printed circuit, with the knowledge that another will acquire cable television services in violation of this article, shall be guilty of a misdemeanor and, shall be punishable in accordance with subsection (b) of this section.

(b) A person convicted of a misdemeanor under this section shall be punished as follows:

(1) Upon a first conviction under this section, the defendant shall be fined not less than $250, nor more than $500.

(2) Upon a second conviction under this section, the defendant shall be fined not less than $500, nor more than $1,000, or imprisoned in the county jail not more than thirty days, or both fined and imprisoned.

(3) Upon a third conviction under this section, the defendant shall be fined not less than $500, nor more than $1,000, or imprisoned in the county jail not less than sixty days, nor more than one year.

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§61-3D-4. Evidence.

Evidence that (1) the defendant had possession of or access to the location of distribution or transmission lines or other facilities of a cable system which have been tapped, altered or tampered with or to which any unauthorized connection has been made or to which any unauthorized device has been attached or (2) the defendant had possession of or access to any device installed by a cable system operator to which an unauthorized modification or alteration has been made, may be used, but shall not be required, to establish that a person violated this article.

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