

A Bill for an Act Relating to Fraudulently Obtained Telecommunications or Cable Television Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 708-800, Hawaii Revised Statutes, is amended by adding new definitions to be appropriately inserted and to read as follows:

“Telecommunication service device” means any mechanical or electronic instrument, apparatus, equipment or device which can be used to obtain telecommunication services without payment of applicable charges therefor. A “telecommunication service device” does not include any telephone or telegraph instrument, equipment, device, facility, or any component thereof furnished by a provider of telecommunication services in the ordinary course of its business.

“Cable television service device” means any mechanical or electronic instrument, apparatus, equipment or device which can be used to obtain cable television services without payment of applicable charges therefor. A “cable television service device” does not include any instrument, apparatus, equipment, device, facility or any component thereof furnished by a cable operator in the ordinary course of its business.

“Telecommunication service” means any service involving (a) the transmission of messages or signals by telephone or telegraph, with the aid of wire, cable, microwave transmissions, fiber optics or other like connections; or (b) the transmission of intelligence by electricity by land, water, or air within the State.

“Cable television service” means one-way transmission of programming provided by, or generally considered comparable to programming provided by, a television broadcast station or other information made available by a cable operator to all subscribers generally.

“Cable operator” means any person who provides cable television service by means of a set of closed transmission paths and associated signal generation, reception, and control equipment designed to deliver such programming to multiple subscribers.

“Distributes” means to sell, transfer, give or deliver to another, or to leave, barter, or exchange with another, or to offer or agree to do the same.”

SECTION 2. Chapter 708, Hawaii Revised Statutes, is amended by adding five new sections to part IV to be appropriately designated and to read as follows:

**“§708- Cable television service fraud in the first degree. (1) A person commits cable television service fraud in the first degree if the person knowingly:**

- (a) Distributes written instructions or plans to make or assemble a cable television service device and knows or has reason to believe that the written plans or instructions are intended to be used to make or assemble a device to obtain cable television service without payment of applicable charges; or
  - (b) Distributes a cable television service device and knows or has reason to believe that the device is intended to be used to obtain cable television service without payment of applicable charges.
- (2) Cable television service fraud in the first degree is a class C felony.

**§708- Cable television service fraud in the second degree.** (1) A person commits the offense of cable television service fraud in the second degree if the person knowingly:

- (a) Possesses a cable television service device with the intent to obtain cable television service without payment of applicable charges; or
  - (b) Possesses written instructions or plans to make or assemble a cable television service device with the intent to use the written plans or instructions to make or assemble a device to obtain cable television service without payment of applicable charges.
- (2) Cable television service fraud in the second degree is a misdemeanor.

**§708- Telecommunication service fraud in the first degree.** (1) A person commits the offense of telecommunication service fraud in the first degree if the person knowingly:

- (a) Distributes written instructions or plans to make or assemble a telecommunication service device and knows or has reason to believe that the written plans or instructions are intended to be used to make or assemble a device to obtain telecommunication service without payment of applicable charges; or
  - (b) Distributes a telecommunication service device and knows or has reason to believe that the device is intended to be used to obtain telecommunication service without payment of applicable charges.
- (2) Telecommunication service fraud in the first degree is a class C felony.

**§708- Telecommunication service fraud in the second degree.** (1) A person commits the offense of telecommunication service fraud in the second degree if the person knowingly:

- (a) Possesses a telecommunication service device with the intent to obtain telecommunication service without payment of applicable charges; or
  - (b) Possesses written instructions or plans to make or assemble a telecommunication service device with the intent to use the written plans or instructions to make or assemble a device to obtain telecommunication service without payment of applicable charges.
- (2) Telecommunication service fraud in the second degree is a misdemeanor.

**§708- Forfeiture of telecommunication service device and cable television service device.** Any telecommunication service device, cable television service device, or instructions or plans therefor, possessed or used in violation of sections 708- to 708- may be ordered forfeited to the State for destruction or other disposition, subject to the requirements of section 701-119."

SECTION 3. Section 275-9, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved June 24, 1987.)

**Note**

1. Edited pursuant to HRS §23G-16.5.