



SENATE BILL No. 981

April 24, 1996, Introduced by Senator SCHUETTE and referred to the Committee on Technology and Energy.

A bill to amend section 540c of Act No. 328 of the Public Acts of 1931, entitled as amended "The Michigan penal code," as amended by Act No. 375 of the Public Acts of 1984, being section 750.540c of the Michigan Compiled Laws; and to add section 540f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 540c of Act No. 328 of the Public Acts
2 of 1931, as amended by Act No. 375 of the Public Acts of 1984,
3 being section 750.540c of the Michigan Compiled Laws, is amended
4 and section 540f is added to read as follows:

5 Sec. 540c. (1) ~~Any~~ A person ~~who (a) makes, possesses,~~
6 ~~uses, or knowingly participates~~ SHALL NOT KNOWINGLY DO ANY OF
7 THE FOLLOWING:

1 (A) MAKE, POSSESS, USE, OR PARTICIPATE in the use by another
2 of ~~any~~ AN instrument, apparatus, equipment, or device designed
3 or adapted for use ~~(it)~~ to fraudulently avoid the lawful charge
4 OF ANOTHER for ~~any~~ A telecommunications service. ~~in violation~~
5 ~~of this section or (it) to conceal~~

6 (B) CONCEAL the existence, ~~or~~ place of origin, or destina-
7 tion of ~~any~~ A telecommunications service or to interconnect
8 ~~to~~ 2 telephone lines ~~so as~~ to permit a person calling to 1
9 telephone line from ~~or through~~ a third telephone line to commu-
10 nicate with a person calling to the other telephone line from ~~or~~
11 ~~through~~ a fourth telephone line ~~if~~ that ~~interconnection~~ is
12 not authorized by the supplier of the telephone service. ~~, or~~
13 ~~(b) sells, gives, or otherwise transfers to another, or offers or~~
14 ~~advertises~~

15 (C) SELL, GIVE, OR TRANSFER TO ANOTHER, OR OFFER OR
16 ADVERTISE to sell, give, or ~~otherwise~~ transfer ~~any~~ TO ANOTHER
17 AN instrument, apparatus, equipment, or device described in
18 ~~clause~~ SUBDIVISION (a). ~~, or~~

19 (D) SELL, GIVE, OR TRANSFER TO ANOTHER instructions or plans
20 for making or assembling ~~any~~ AN instrument, apparatus, equip-
21 ment, or device described in ~~clause~~ SUBDIVISION (a). ~~,~~

22 (E) ALTER OR ASSIST ANOTHER IN ALTERING TELECOMMUNICATIONS
23 SERVICE EQUIPMENT OF ANOTHER TO FRAUDULENTLY AVOID THE LAWFUL
24 CHARGE FOR A TELECOMMUNICATIONS SERVICE.

25 (2) A PERSON WHO VIOLATES THIS SECTION is guilty of a misde-
26 meanor, punishable by imprisonment for not more than 1 year ~~,~~
27 or a fine of not more than \$500.00, or both. ~~, if the person~~

1 ~~engages in that conduct under circumstances evidencing an intent~~
2 ~~to use or employ the instrument, apparatus, equipment, or device,~~
3 ~~or to allow the same to be used or employed for a purpose~~
4 ~~described in clause (a)(i) or (ii) or knowing or having reason to~~
5 ~~believe that the same is intended to be so used, or that the~~
6 ~~plans or instructions are intended to be used for making or~~
7 ~~assembling that instrument, apparatus, equipment, or device.~~

8 ~~(2) Any person who, with the intent to fraudulently avoid~~
9 ~~the lawful charge to any person, alters or participates in the~~
10 ~~alteration of telecommunications service equipment or knowingly~~
11 ~~uses or participates in the use by another of altered telecommun-~~
12 ~~ications service equipment which is owned, controlled, or oper-~~
13 ~~ated by any other person is guilty of a misdemeanor, punishable~~
14 ~~by imprisonment for not more than 1 year, or a fine of not more~~
15 ~~than \$500.00, or both.~~

16 (3) As used in this section and section 540d,
17 "telecommunications service" means ~~any~~ A service, transmission,
18 emission, or reception of signs, signals, writings, images, and
19 sound or intelligence of any nature by wire, ~~cable television~~
20 ~~system~~ LINE, OR closed circuit coaxial cable communications
21 system.

22 SEC. 540F. (1) AS USED IN THIS SECTION:

23 (A) "CABLE SYSTEM EQUIPMENT" MEANS ANY CABLES, CONVERTERS,
24 DECODERS, DESCRAMBLERS, DEVICES, INSTRUMENTS, OR OTHER EQUIPMENT
25 OWNED BY A CABLE TELEVISION OPERATOR AND USED IN A CABLE TELEVI-
26 SION SYSTEM, INCLUDING DEVICES LEASED FROM THE CABLE TELEVISION

1 OPERATOR BY A SUBSCRIBER FOR USE IN RECEIVING CABLE TELEVISION
2 SERVICE.

3 (B) "CABLE TELEVISION OPERATOR" MEANS A PERSON OR PERSONS
4 WHO PROVIDE CABLE TELEVISION SERVICE OVER A CABLE TELEVISION
5 SYSTEM.

6 (C) "CABLE TELEVISION SERVICE" MEANS THE TRANSMISSION OF
7 VIDEO PROGRAMMING OVER A CABLE TELEVISION SYSTEM.

8 (D) "CABLE TELEVISION SYSTEM" MEANS A FACILITY, CONSISTING
9 OF A SET OF CLOSED TRANSMISSION PATHS AND ASSOCIATED SIGNAL GEN-
10 ERATION, RECEPTION, AND CONTROL CABLE SYSTEM EQUIPMENT THAT IS
11 DESIGNED TO PROVIDE CABLE TELEVISION SERVICE.

12 (E) "UNAUTHORIZED CONNECTION" MEANS ANY PHYSICAL, ELECTRI-
13 CAL, MECHANICAL, ACOUSTICAL, OR OTHER CONNECTION TO A CABLE TELE-
14 VISION SYSTEM, WITHOUT THE SPECIFIC AUTHORITY OF THE CABLE TELE-
15 VISION OPERATOR.

16 (F) "UNAUTHORIZED DEVICE" MEANS ANY INSTRUMENT, APPARATUS,
17 CIRCUIT BOARD, EQUIPMENT, OR DEVICE DESIGNED OR ADAPTED FOR USE
18 TO FRAUDULENTLY AVOID THE LAWFUL CHARGE FOR ANY CABLE TELEVISION
19 SERVICE.

20 (G) "UNAUTHORIZED RECEIPT OF CABLE TELEVISION SERVICE" MEANS
21 THE INTERCEPTION OR RECEIPT BY ANY MEANS OF CABLE TELEVISION
22 SERVICE OVER A CABLE TELEVISION SYSTEM WITHOUT THE SPECIFIC
23 AUTHORIZATION OF THE CABLE TELEVISION OPERATOR.

24 (2) A PERSON SHALL NOT DO ANY OF THE FOLLOWING:

25 (A) OBTAIN OR ATTEMPT TO OBTAIN THE UNAUTHORIZED RECEIPT OF
26 CABLE TELEVISION SERVICE.

1 (B) MAKE, USE, OR POSSESS AN UNAUTHORIZED DEVICE.

2 (C) MAKE OR MAINTAIN AN UNAUTHORIZED CONNECTION.

3 (D) MAKE OR MAINTAIN ANY MODIFICATION OR ALTERATION TO ANY
4 CABLE SYSTEM EQUIPMENT TO PERMIT THE UNAUTHORIZED RECEIPT OF
5 CABLE TELEVISION SERVICE.

6 (E) PUBLISH OR ADVERTISE FOR SALE PLANS FOR AN UNAUTHORIZED
7 DEVICE, WITH THE INTENT THAT THE PLANS BE USED FOR THE CONSTRUC-
8 TION OF AN UNAUTHORIZED DEVICE.

9 (F) MANUFACTURE, IMPORT INTO THIS STATE, DISTRIBUTE, SELL,
10 LEASE, OR OFFER FOR SALE OR LEASE OR ADVERTISE FOR SALE OR LEASE
11 AN UNAUTHORIZED DEVICE OR KIT FOR AN UNAUTHORIZED DEVICE WITH THE
12 INTENT THAT THE UNAUTHORIZED DEVICE OR KIT BE USED FOR THE UNAU-
13 THORIZED RECEIPT OF CABLE TELEVISION SERVICE.

14 (3) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDE-
15 MEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 6 MONTHS OR A
16 FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

17 (4) A PERSON WHO VIOLATES THIS SECTION FOR A SECOND OR SUB-
18 SEQUENT TIME IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR
19 NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN \$2,000.00, OR
20 BOTH.

21 (5) A PERSON WHO VIOLATES THIS SECTION FOR DIRECT OR INDI-
22 RECT COMMERCIAL ADVANTAGE OR FINANCIAL GAIN IS GUILTY OF A FELONY
23 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A FINE OF
24 NOT MORE THAN \$25,000.00, OR BOTH.

25 (6) A PERSON WHO VIOLATES THIS SECTION FOR DIRECT OR INDI-
26 RECT COMMERCIAL ADVANTAGE OR PRIVATE FINANCIAL GAIN FOR A SECOND
27 OR SUBSEQUENT TIME IS GUILTY OF A FELONY PUNISHABLE BY

1 IMPRISONMENT FOR NOT MORE THAN 4 YEARS OF A FINE OF NOT MORE THAN
2 \$50,000.00, OR BOTH.

3 (7) EVIDENCE OF 1 OR MORE OF THE FOLLOWING FACTS SHALL GIVE
4 RISE TO A REBUTTABLE PRESUMPTION THAT THE CONDUCT THAT VIOLATED
5 THIS SECTION WAS ENGAGED IN KNOWINGLY BY THE DEFENDANT WITH THE
6 INTENT TO PERMIT OR OBTAIN THE UNAUTHORIZED RECEIPT OR CABLE
7 TELEVISION SERVICE:

8 (A) THE PRESENCE ON THE DEFENDANT'S PROPERTY OR IN THE
9 ACTUAL POSSESSION OF THE DEFENDANT OF 1 OR MORE UNAUTHORIZED
10 DEVICES.

11 (B) THE DEFENDANT INSTALLED AN UNAUTHORIZED CONNECTION OR
12 PROVIDED INSTRUCTIONS OR ADVICE ON SUCH INSTALLATION TO ANOTHER.

13 (C) THE CABLE TELEVISION OPERATOR PLACED WRITTEN WARNING
14 LABELS ON ITS CABLE SYSTEM EQUIPMENT EXPLAINING THAT TAMPERING
15 WITH CABLE SYSTEM EQUIPMENT IS A VIOLATION OF LAW AND THE CABLE
16 SYSTEM EQUIPMENT IN THE DEFENDANT'S POSSESSION HAS BEEN TAMPERED
17 WITH, ALTERED, OR MODIFIED TO PERMIT THE UNAUTHORIZED RECEIPT OF
18 CABLE TELEVISION SERVICE.

19 (D) THE DEFENDANT HAS PUBLISHED OR ADVERTISED FOR SALE A
20 PLAN FOR AN UNAUTHORIZED DEVICE AND THE PUBLICATION OR ADVERTISE-
21 MENT STATES OR IMPLIES THAT THE PLAN WILL ENABLE THE UNAUTHORIZED
22 RECEIPT OF CABLE TELEVISION SERVICE.

23 (E) THE DEFENDANT HAS ADVERTISED FOR THE SALE OF AN UNAUTHO-
24 RIZED DEVICE OR KIT FOR AN UNAUTHORIZED DEVICE AND THE ADVERTISE-
25 MENT STATES OR IMPLIES THAT THE UNAUTHORIZED DEVICE OR KIT WILL
26 PERMIT THE UNAUTHORIZED RECEIPT OF CABLE TELEVISION SERVICE.

1 (F) THE DEFENDANT HAS SOLD, LEASED, OR OFFERED FOR SALE OR
2 LEASE AN UNAUTHORIZED DEVICE, PLAN, OR KIT FOR AN UNAUTHORIZED
3 DEVICE AND DURING THE COURSE OF THE TRANSACTION FOR SALE OR
4 LEASE, THE DEFENDANT STATED OR IMPLIED TO THE BUYER THAT THE
5 UNAUTHORIZED DEVICE WILL PERMIT THE UNAUTHORIZED RECEIPT OF CABLE
6 TELEVISION SERVICE.

7 (8) A PENALTY UNDER THIS SECTION MAY BE IMPOSED IN ADDITION
8 TO ANY OTHER PENALTY OR REMEDY THAT MAY BE IMPOSED OR ALLOWED BY
9 LAW FOR THE SAME CONDUCT.

10 (9) AN UNAUTHORIZED DEVICE USED IN VIOLATION OF THIS SECTION
11 IS SUBJECT TO FORFEITURE IN THE SAME MANNER AS PROVIDED IN
12 SECTIONS 4701 TO 4709 OF THE REVISED JUDICATURE ACT OF 1961, ACT
13 NO. 236 OF THE PUBLIC ACTS OF 1961, BEING SECTIONS 600.4701 TO
14 600.4709 OF THE MICHIGAN COMPILED LAWS, AND THE COURT MAY ORDER
15 EITHER OF THE FOLLOWING:

16 (A) THE UNAUTHORIZED DEVICE BE DESTROYED.

17 (B) THE UNAUTHORIZED DEVICE BE RETURNED TO THE CABLE TELEVI-
18 SION OPERATOR IF THE DEVICE IS OWNED OR CONTROLLED BY THE
19 OPERATOR.