

**SUBJECT:** Revisions to theft-of-cable statutes

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 6 ayes — Hinojosa, Dunnam, Garcia, Keel, Talton, Wise  
1 nay — Nixon  
2 absent — Green, Smith

**WITNESSES:** For — W.D. Arnold, Texas Cable and Telecommunications Association; Ron McMillan, Time Warner Cable  
Against — None

**BACKGROUND:** Penal Code, sec. 31.12 establishes several offenses dealing with the unauthorized use of television decoding and interception devices and of cable descrambling, decoding, or interception devices. The offenses are Class B misdemeanors, punishable by up to 180 days in jail and/or a maximum fine of \$2,000, or, if done for remuneration, Class A misdemeanors, punishable by up to one year in jail and/or a maximum fine of \$4,000.

It is a criminal offense intentionally or knowingly to attach or incorporate a device that intercepts and decodes a television transmission into a television set, videotape recorder, or other equipment that receives a television transmission, if done with intent to intercept or decode a transmission by a cable television service without the service's authorization.

It also is an offense to commit several actions intentionally or knowingly with the intent to intercept, descramble, or decode cable television service without authorization. These actions include making or maintaining an unauthorized cable connection or otherwise intercepting cable television service; maintaining in a television, videotape recorder, or other equipment an unauthorized cable connection; purchasing or possessing or attaching a device that intercepts, descrambles, or decodes a service; and tampering with, changing, or modifying the equipment of a cable television system.

Penal Code, sec. 31.13 makes it a Class C misdemeanor to manufacture, assemble, modify, import or export into or out of the state, distribute, or sell devices that intercept, descramble, or decode cable television service if done for remuneration and with intent to aid one of the offenses listed above.

**DIGEST:** HB 1876 would revise the Penal Code provisions dealing with unauthorized use of television decoding and interception devices and cable descrambling, decoding, or interception devices.

The bill would make it a criminal offense to make or maintain, without authorization of the provider, a connection to a cable, wire, or other hardware attachment to a multichannel video or information-services system or to a television set, videotape recorder, or other receiver attached to such a system. It also would be an offense:

- ! to attach, cause to be attached, or maintain an attachment to a cable, wire, or other hardware attachment to a multichannel video or information-services system or to a television set, videotape recorder, or other receiver attached to such a system;
- ! to tamper with, modify, or maintain a modification to a device installed by a multichannel video or information service provider; or
- ! to tamper with, modify, or maintain a modification to an access device or to use that access device or any unauthorized access device to obtain services from a multichannel video or information service provider.

Each connection, attachment, modification, or act of tampering would be a separate offense.

These offenses would be Class C misdemeanors, punishable by a maximum fine of \$500. Second offenses would be Class B misdemeanors, and third and subsequent offenses would be Class A misdemeanors. Offenses committed for remuneration would remain Class A misdemeanors, except that repeat offenses would be Class A misdemeanors punishable by a fine of at least \$2,000 and a jail term of at least 180 days.

HB 1876 would add advertising to the statute covering the manufacture, sale, or distribution of devices. It would be an offense to advertise or offer for sale

a kit or part of a device designed to make intelligible an encrypted, encoded, scrambled, or other nonstandard signal carried by a multichannel video or information services provider.

The current offense of selling certain devices would be moved to a new section that would make it an offense to sell or lease a multichannel video or information-services device if the person failed to notify the comptroller. It would be an offense to sell or lease a device or kit for a system of components designed to make intelligible an encrypted, encoded, scrambled, or other nonstandard signal carried by a multichannel video or information-services provider and to fail to send the name and address of the buyer to the comptroller within 10 days after the date of the sale or lease. These offenses would be Class A misdemeanors.

The comptroller would have to maintain a central repository of the information about the sale of such devices, and the information would be subject to the open records law.

HB 1876 would add these offenses to the list of types of theft covered under civil theft statutes.

HB 1876 would take effect September 1, 1999, and would apply to offenses committed on or after that date.

**SUPPORTERS  
SAY:**

HB 1876 would revise current definitions of cable theft to include the new technology now available for receiving video and information services. It also would broaden the statute to include direct-broadcast satellite and multichannel multipoint (microwave) distribution services in addition to cable services. The bill also would help address the growing problem of the use of “black boxes” and other devices used to intercept signals.

HB 1876 would help combat the serious crime of cable theft. The industry estimates theft of cable services at about \$5 billion per year nationwide and at least \$200 million per year in Texas. Cities and the state also lose when cable services are stolen because sales taxes and gross receipt fees are not paid. Consumers also suffer when cable services are stolen because they pay higher prices for their services to make up for the losses.

HB 1876 also would help combat the growing theft of cable services by using illegal descramblers, decoders, or other devices, sometimes called “black boxes.” These boxes have no legal purpose and traffic in them is growing. One Massachusetts man allegedly sold 29,000 devices in one year. HB 1876 would make advertisements or sale offers of such devices illegal so that advertisers of these boxes would be treated like those who import or export the boxes with intent to aid in an offense. Outlawing advertising of the black boxes would help dry up the supply by making it more difficult for consumers to know how to get one.

HB 1876 also would make it an offense to sell one of these devices if the seller did not send the buyer’s name and address to the comptroller, who would have to maintain a repository of this information. If a company sold a box in Texas and did not register the sale with the comptroller, law enforcement authorities could go after the seller. The comptroller is the logical entity to collect sales information on black boxes since the comptroller collects sales taxes.

HB 1876 would not require that converters sold by mainstream retailers like Radio Shack be registered with the comptroller. These converters do not descramble, decode, or decrypt signals as illegal black boxes do.

HB 1876 would reduce first offenses under the act to Class C misdemeanors and increase punishments for repeat offenses. Lowering penalties for first-time offenders would allow these offenses to be handled by justice and municipal courts, where they would not be competing for attention with more serious crimes.

**OPPONENTS  
SAY:**

Some provisions of HB 1876 could go too far to protect a private industry that was protected adequately by the general theft-of-service statutes enacted with the 1993 Penal Code revisions and would unwisely expand this industry’s special protections that were enacted in 1995. For example, requiring sellers of black boxes to send buyers’ names and addresses to the comptroller would be an inappropriate use of the comptroller to aid in law enforcement efforts designed to help one type of private business and also could violate the right to privacy of the buyers.

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NOTES: The companion bill, SB 671 by Whitmire, has been referred to the Senate Criminal Justice Committee.