

(S. B. 410)

(No. 27-2014)

(Approved February 15, 2014)

AN ACT

To amend Article 186 of Act No. 146-2012, as amended, known as the “Penal Code of Puerto Rico,” to classify as an offense the sale, installation, interference, modification, or use of equipment to receive cable television, direct broadcast satellite, or internet protocol television, and to establish the applicable penalties; amend Section 13 of Chapter III of Act No. 213-1996, as amended, known as the “Puerto Rico Telecommunications Act,” to empower the Telecommunications Regulatory Board of Puerto Rico to adopt regulations geared to preventing fraud.

STATEMENT OF MOTIVES

Cable television, direct broadcast satellite services (DBS), and internet protocol television (IPTV) services are programming distribution services where subscribers pay a monthly fee or premium to receive said services. Cable television providers may also offer telephone and Internet access services, known as “information services.”

The sale, installation, and use of equipment to decode the encrypted signals of cable television and DBS service companies without their consent has proliferated in Puerto Rico. The unauthorized installation and use of these decoding devices lowers the quality of the signal and increases the cost of said services for the lawful subscribers. Moreover, engaging in this practice could entail a violation of the copyrights of programming creators.

Furthermore, the unlawful use of signal receivers and decoders has a direct impact on the public treasury. Firstly, the Puerto Rico Telecommunications Board collects a franchise fee from cable television companies on the basis of the income they earn. Secondly, users contribute to the public treasury by paying the sales and use tax (SUT) for services rendered to them by the cable television, DBS, and IPTV providers.

Section 633 of the Cable Communications Policy Act of 1984, as amended, (Cable Communications Policy Act of 1984, Pub. L. 98-549) (47 U.S.C. § 553) prohibits unauthorized cable television reception. Furthermore, several states, such as Florida and Ohio, have enacted legislation to prohibit this practice.

Article 168 of Act No. 146-2012, known as the “Penal Code of Puerto Rico,” classifies as an offense the use or interference with communication or information systems and equipment. In this regard, Article 186 included any interference with the telephone and information services (such as the Internet access) provided by pay television companies. However, the description of telecommunication or information services under the statutes approved as well as the regulations promulgated under the Communications Act of 1934 and the Puerto Rico Telecommunications Act of 1996, Act No. 213-1996, as amended, could be construed as to exclude broadcast services rendered through cable television and similar technologies.

In view of the negative impact that the proliferation of this type of equipment has on our economy, this Legislative Assembly deems it meritorious to prohibit the sale, installation, and use thereof. On the one hand, as a matter of public policy, undue interference should not impair the enjoyment of these services by citizens who acquire them lawfully. On the other hand, the impact that the use of this type of equipment has on the public treasury should not be overlooked.

Therefore, we deem it meritorious to amend Article 186 of the Penal Code of Puerto Rico to include thereunder that the interference with the pay television signal shall be prohibited and to set forth a fine as a penalty option for the offense of use and interference with communication equipment and services, which offense is similar to the offense of interference with pay television broadcast that we are classifying herein. We also deem meritorious to punish with a higher penalty those who profit from the sale, modification and/or installation of equipment used to engage in this fraudulent conduct. Lastly, and to reinforce the legislative intent of fraud prevention, we deem it meritorious to amend Act No. 213-1996, as amended, known as the “Puerto Rico Telecommunications Act,” in order to empower the Telecommunications Regulatory Board of Puerto Rico to impose civil administrative fines to any natural or juridical person who has engaged or caused another to engage in said fraudulent conduct.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Article 186 of Chapter I of Title II of the Penal Code of Puerto Rico, Act No. 146-2012, as amended, is hereby amended to read as follows:

“Section 186.- Use or Interference with Communications or Pay Television Equipment or System.

Any person who uses, alters, modifies, interferes, intervenes, or obstructs communications, information, cable television, direct broadcast satellite or internet protocol television equipment, devices, or systems for purposes of defrauding another shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine which shall not exceed five thousand dollars (\$5,000) or imprisonment for a fixed term of six (6) months, or both penalties, at the discretion of the Court.

If a person sells, installs, or engages in such conduct in order to obtain a financial or material benefit or gain or profit, shall be guilty of a felony and, upon conviction, shall be punished by a fine not to exceed ten thousand dollars (\$10,000) or by imprisonment for a fixed term of three (3) years, or both penalties, at the discretion of the Court.”

Section 2.- Section 13 of Chapter III of Act No. 213-1996, as amended, known as the “Telecommunications Act of Puerto Rico,” is hereby amended to read as follows:

“Section 13.- Fraud Prevention.

(a) Every telecommunications, cable, and DBS company shall adopt policies and procedures to reduce and prevent fraud in the purchase, sale, and rendering of cable, DBS, and telecommunications services within ninety (90) days following the approval of this Act, or the date on which the Board issues the appropriate certification or franchise.

(b) The Board shall promulgate and implement regulations geared to fighting and preventing fraud in telecommunications and video distribution through cable television, DBS, or internet protocol television services, including to adopt administrative procedures to impose penalties as provided in Section 7(b) of Chapter II of this Act to natural or juridical persons who engage in, promote, support, conceal, or instigate this type of fraud.”

Section 3.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 27-2014 (S. B. 410)** of the **3rd Regular Session** of the **17th Legislative Assembly of Puerto Rico**:

AN ACT to amend Article 186 of Act No. 146-2012, as amended, known as the “Penal Code of Puerto Rico,” to classify as an offense the sale, installation, interference, modification, or use of equipment to receive cable television, direct broadcast satellite, or internet protocol television, and to establish the applicable penalties; amend Section 13 of Chapter III of Act No. 213-1996, as amended, known as the “Puerto Rico Telecommunications Act,” to empower the Telecommunications Regulatory Board of Puerto Rico to adopt regulations geared to preventing fraud.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 11th day of June, 2019.

Orlando Pagán-Ramírez
Director