

HB

315



Received

JAN 11 1994

January 6, 1994

The Honorable Brian Porter
Alaska State Legislature
State Capitol Bldg.
Juneau, AK 99801-1182

Dear Representative Porter:

On behalf of the entire membership of the Alaska Cable Television Association ("ACTA"), I would like to thank you for your efforts in helping us prepare stronger "Theft of Service" legislation.

Theft of Service within the cable television industry has become annually, a \$4.7 billion dollar monster! As you know, Alaska is not immune from this problem. Cable television operators from throughout the state desperately seek stronger criminal and civil penalties for this high-tech thievery. We can no longer allow honest, paying subscribers to continue to subsidize these illegal activities.

It's important to note that there are many examples of unauthorized access to cable television services. The most common, of course, is the distribution of illegal converter boxes to descramble secured signals. Gary Haynes of Prime Cable has described these activities in great detail. But there are other security devices, such as decoding filters, which are also distributed illegally.

These devices, normally connected to the customer's service drop at the telephone pole or utility pedestal, either "decode" a scrambled signal, or prevent the reception of a channel or block of channels (a "negative" trap). Once tampered with, the outcome is the same with stolen services and lost revenue. Cable operators spend a considerable amount of time monitoring the theft of these filters. Generally, if the device is defeated, the integrity of the physical connection is weakened causing interference to other customer service drops, and contributes to signal leakage putting the cable system at serious risk with potential interference among the aeronautical frequencies. Stolen and/or illegal "decoding" devices are usually installed inside the home, making it virtually impossible to detect.

The ACTA stands by ready to provide you, your staff and the appropriate legislative committees with other examples of illegal equipment used to gain access to secured cable television signals. The ACTA strongly supports this legislation as we estimate that annual theft of cable television service in Alaska exceeds \$1,000,000 based on a conservative rate of 2.5% of service revenues. A more accurate definition of this type of service theft along with stiffer criminal penalties will create a deterrent to those considering the purchase of illegal equipment. Hopefully this would keep the rate of theft from growing and would also

Representative Brian Porter
- Page 2 -

follow through on the intent of the statute as originally created allowing for the aggressive pursuit of the distributors of such illegal burglary devices.

Please do not hesitate to call on us if we may provide you or staff with any additional information. The ACTA looks forward to working with you on the passage of this important piece of legislation.

Sincerely,

ALASKA CABLE TELEVISION ASSOCIATION



Michael W. Roberge
President

cc: Eric Musser
Daniella Loper
Mary Hughes, Hughes, Thorsness, Gantz, Powell & Brunden
Gary Haynes, Prime Cable
Kent Dawson, Dawson & Associates

ALASKAN CABLE NETWORK INC

Representative Brian Porter
State Capital
Juneau, AK 99801-1182

January 20, 1994

Dear Representative Porter;

As the District Manager of the second largest Cable operator in Alaska, please let it be known that I, on behalf of Alaskan Cable Network, fully support your House Bill No 315, concerning the sections that provide for criminal action being taken against a person or persons stealing subscription cable service.

If I can be of further assistance, please let me know.

Sincerely,



Jerry Parker
District Manager

0014000000- JUN 20 1994 3:46PM #211 P.82

ROGERS

Rogers Cablesystems of
Alaska, Inc.
P.O. Box 873107
Wasilla, Alaska
99687-3107

Tel: (907) 373-2288
Fax: (907) 376-8888

January 20, 1994

Representative Brian Porter
House of Representatives
State Capitol
Room 122
Juneau, Ak. 99801-1182

Dear Mr. Porter:

I am taking this opportunity to extend Rogers Cablesystems support of House Bill 315.

I commend you and Mr. Larson on your effort to clarify and amend the law in regards to Theft Of Subscription Cable Service. Theft of cable service has become a much too common problem. In our industry's effort to combat this problem, it has become a large expense in the operation of a cable company through the development and installation of security procedures such as scrambling devices and placement of set top converters. Cable theft has not only made it more expensive for our customers, it has greatly detracted from our ability to make cable service more compatible with our customer's home video equipment.

It is through the passage of legislation such as House Bill 315 and the efforts of officials such as yourself, that will send a clear message to the public that theft of cable service is a crime and that it will not be tolerated. It will also provide us, along with the cooperation of local law enforcement, the ability to successfully prosecute those individuals who would persist in engaging in this criminal behavior.

I thank you for your efforts and extend an open invitation to call on me to assist in any way I can. Please feel free to contact me at 373-5026.

Sincerely,


Kevin Sheridan
General Manager

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

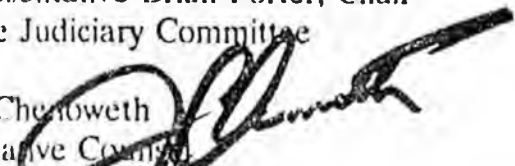
MEMORANDUM

February 4, 1994

SUBJECT: CSHB 315 (JUD) -- Sectional analysis (Work Order No. 8-LS1200(O))

TO: Representative Brian Porter, Chair
House Judiciary Committee

FROM: Jack Chewoweth
Legislative Council



CSHB 315 (JUD) amends four sections of the chapter of the state criminal code defining offenses against property--theft offenses--to address theft of subscription cable services.

Essential to an understanding of the bill is an appreciation drawn in its section 3, defining "theft of services." To the definition of "theft of services" is added one additional offense--the taking of services provided by a subscription cable system without authorization of the system. The offense may involve any one of several acts. In bill section 3, proposed AS 11.46.200(a)(4)(A) generally speaks to action taken knowingly in order to obtain unauthorized interception, connection, receipt, or use of a program or other service provided by the subscription cable system, while proposed AS 11.46.200(a)(4)(B) generally prohibits the knowing unauthorized manufacture, distribution, sale, and like acts designed to decode, descramble, or intercept a nonstandard signal carried by the subscription cable system. The distinction essentially is drawn between illicit activity to obtain and use a service without authorization--(a)(4)(A)--and activity intended to capture a financial profit from the sale or distribution of the illicit obtaining or use of the service--(a)(4)(B).

Bill section 1: The bill section amends the definition of the crime of theft in the second degree--a class C felony--to add theft of subscription cable services under AS 11.46.200(a)(4)(B), the activity intended to capture a financial profit from the sale or distribution of the illicit obtaining or use of the service.

Bill section 2: The bill section amends the definition of the crime of theft in the third degree--a class A misdemeanor--to add theft of subscription cable services under

Representative Briar rter
February 4, 1994
Page 2

AS 11.46.200(a)(4)(A), the illicit activity to obtain and use a service without authorization of the subscription cable service.

Bill section 4, proposing a new subsection to AS 11.46.200, sets out definitions of terms used in the earlier sections.

JBC:pl
94-103.plm

PRIME CABLE

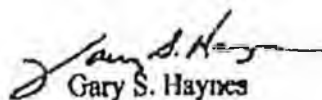
February 4, 1994

The Honorable Brian Porter
Alaska State Legislature
State Capital Building
Juneau, Alaska 99801-1182

Dear Representative Porter:

Prime Cable of Alaska would like to inform you that we are in full support of HB 315 relating to the unauthorized use of or unauthorized interference with transmission and delivery of subscription cable services; and amending the definition of the offense of theft of services and the penalties for its violation. Prime believes that the Bill in its current form will do much to control the dissemination and trafficking of these electronic theft devices and combat the scofflaws who are unfairly reaping financial gain at the expense of everyone from the producer to the local distributor of this copyrighted programming. The work that you and your staff have done on this legislation is greatly appreciated by not only the employees here but also by the many honest subscribers who have called us to complain about the unfairness of their subsidy of this type of criminal behavior. Thanks again for your help.

Sincerely,


Gary S. Haynes
Vice President of Operations



CableVision

February 28, 1994

Mr. Eric Musser
Representative Brian Porter's Office
Alaska State Legislature
Juneau, AK 99801-1182

VIA FACSIMILE (907) 465-3834

Dear Eric:

As a follow up to our telephone conversation last week, I am enclosing some information from the NCTA's Office of Cable Signal Theft.

Specifically, the information relates to a comprehensive industry survey taken in 1992, the results of which have been summarized. As you will see, the methodology is applied against cable television systems according to size. If one were apply the survey factors to Alaska, estimated theft would surely exceed \$1,000,000.00. I am contacting our member systems to obtain data on homes passed, basic subscribers and average rates.

I have also received a copy of Larry Buzzell's letter. We have had the opportunity to butt heads with Larry in the past. While I'm surprised that he has taken an interest in this bill, I suspect it may be part of his overall strategy to whip up interest in cable television again, so that he can champion his cause for rate regulation as SB 213, extending the APUC sunset, proceeds through the legislature.

Eric, call me if there's anything you need.

Sincerely,

ALASKA CABLEVISION, INC.



Michael W. Roberge

Enclosures

1992 Theft of Service Survey Results

The National Cable Television Association's Office of Cable Signal Theft has reported the results from the 1992 survey of revenue lost to cable television operators due to cable signal theft. The survey was distributed in January 1992 to 2,685 systems. A total of 771 systems reported statistical data (29% response rate) based on 1991 year-end data.

The systems responding represent 27 million homes passed and 16 million subscribers. For analytical purposes, systems were categorized into four groups: under 10,000 subscribers; 10,000-19,999; 20,000-49,999; and 50,000 or more subscribers.¹

Based on the data provided, the percentage of theft of basic service ranged from 5.81%-14.61% illegal basic service and the percentage of theft of premium service ranged from 6.33%-14.76%. Projecting the larger percentages into the cable universe as a whole in each system-size category produces estimates of over 9.4 million illegal basic and 6.4 million illegal premium users.

Using conservative monthly average rates (\$17.95 basic and \$10.28 premium), the piracy loss translates into over \$4.7 billion in unrealized revenue annually, or almost 24% of gross industry revenue in 1991.

Overall, average percentages of theft are 11.21% of basic service and 11.52% of premium service. This is the first time that estimated premium theft percentages have been greater than basic theft percentages.

¹ It should be noted that responses to the theft of service survey from large systems (50,000 or more subscribers) represented a larger portion of total responses than large systems represent in the total industry. However, the potential overrepresentation by large systems in the survey results was mitigated by grouping the results into four categories according to system size. The number of households where theft could potentially occur is a conservative figure; in the Nielsen database not all headends report the number of homes passed.

Cable Piracy Fact Sheet

- ❑ Based on NCTA's cable piracy survey conducted in 1992, the industry loses an estimated \$4,700,000,000 in unrealized revenue annually.
- ❑ FCC and FBI field offices have requested the development of joint industry/government efforts to identify purchasers of pirate devices for turn-in and conversion purposes. The coordination between law enforcement and victimized cable systems across the country has heightened the awareness of the crime.
- ❑ It is illegal to own or be in possession of a descrambler in 31 states.
- ❑ The FCC has stated publicly that "... It's important that the FCC work closely with agencies like Department of Justice to catch people who are selling the electronics which allows this pirating...and that some effort needs to be made by the cable industry to beat piracy..." *San Diego Union*, April 8, 1990
- ❑ OCST works closely with the Department of Justice, the F.B.I., U.S. Customs, U.S. Attorneys, state and local prosecutors and law enforcement agencies to investigate and assist in prosecuting criminal violations.
- ❑ Piracy affects the picture quality of the system by weakening the signal. In some systems poor picture quality is the reason for service calls and other system maintenance which increases system costs and puts pressure on cable rates.
- ❑ Most of the equipment used by cable pirates is not built to system specifications, thus radio signals used to transmit cable television can leak into frequencies reserved for aeronautical and emergency communications, producing potential safety problems.
- ❑ It is estimated that each illegal decoder sold to a consumer costs the cable industry in lost revenue over its useful life expectancy approximately \$3,108.
- ❑ Over the last three years, OCST has been involved in cases resulting in the seizure of over 400,000 devices and cessation of sales totaling in excess of one million units. When incorporated into OCST's Economic Impact Formula, these figures total over \$4.1 billion or just over 19% of the cable industry's 1992 gross revenue.
- ❑ The aforementioned statistics do not incorporate unauthorized reception of pay-per-view programming. Engineering analysis of pirate product seized by law enforcement agencies in 1992 (over 250,000 devices) substantiates that 75% of the units were capable of circumventing addressable technology and allow the illegal reception of pay-per-view services.
- ❑ Sentences in federal and state theft of service cases have ranged from probation to 16 years in prison. Fines and restitution have ranged from several hundred dollars to \$1.3 million. Civil judgments have run as high as \$3.2 million. Actual awards collected have only been a small percentage of these amounts.
- ❑ OCST is currently supporting several criminal theft of service cases across the country, in addition to numerous state, local, and civil cases, potentially representing sales and distribution of hundreds of thousand of descramblers/decoders.
- ❑ In 1992 over 1300 theft of service cases were prosecuted nationwide on federal, state, and local levels.

For more information contact the Office of Cable Signal Theft at (202)775-3684.

Cable Industry Lost Revenue Due to Cable Signal Theft

1992

System Size	Basic	Premium	Total
50,000 or More			
Potential for Theft (households) ²	30,531,809	19,085,843	—
Theft Percentage ³	14.07%	13.21%	—
Estimated Thefts (households)	4,295,826	2,518,598	6,814,424
20,000-49,999			
Potential for Theft (households)	20,221,763	13,665,868	—
Theft Percentage	14.61%	14.33%	—
Estimated Thefts (households)	2,954,400	1,958,319	4,912,719
10,000-19,999			
Potential for Theft (households)	10,957,836	7,858,176	—
Theft Percentage	10.37%	14.76%	—
Estimated Thefts (households)	1,136,328	1,159,867	2,296,195
9,999 or Less			
Potential for Theft (households)	18,044,331	12,848,893	—
Theft Percentage	5.81%	6.33%	—
Estimated Thefts (households)	1,048,376	613,335	1,861,711
Total Estimated Thefts	9,434,930	6,450,119	15,885,049
Rates⁴	\$17.95	\$10.28	—
Average Number of Pay Services⁵	—	3.4	—
Lost Revenue Per Month	\$169,356,994	\$225,444,559	\$394,801,553
Lost Revenue Per Year	\$2,032,283,928	\$2,705,334,708	\$4,737,618,636

2 A.C. Nielsen Co., (Cable On-Line Data Exchange) Database. Data as of October 31, 1992

3 Derived from NCTA Office of Cable Signal Theft 1992 Theft of Service Survey.

4 Paul Kagan Associates, Inc., *Cable TV Financial Databook*, June 1992. Data as of December 31, 1991.

5 Derived from Paul Kagan Associates, Inc., *Census of Cable and Pay TV*. Data as of December 31, 1990.

Average Lost Revenue For Each Illegal Decoder

To demonstrate potential revenue loss to the cable industry every time a single illegal decoder is sold in the consumer marketplace, OCST developed the following formula on the request of federal authorities to assist the courts in calculating the actual damages of victimized cable television companies:

$$\begin{aligned} & \text{[(Average pay rate/month}^1 \times \text{average number of pay services in each cable system}^2)] \\ & \quad \times (12 \text{ months}) \times (7 \text{ years}^3) \\ & = \text{average lost revenue for each decoder.} \end{aligned}$$

Thus, based upon OCST's evaluation, each illegal decoder sold to a consumer costs the cable industry approximately \$3,108 over the decoder's seven year useful life expectancy.

¹The average pay rate per month is \$10.28. Source: Paul Kagan Cable TV Financial Databook, June 1992.

²The average number of pay services per cable system is 3.6. This figure is derived from Paul Kagan Associates, Inc., *Census of Cable and Pay TV*. Data as of December 31, 1991.

³This figure represents the average useful life of a decoder. This figure was established by NCTA's Office of Science and Technology. Estimate is a conservative one since the Office of Science and Technology indicates that advances in decoder technology are resulting in more durable devices.

Alaska State Legislature

Representative Brian S. Porter



CHAIRMAN
HOUSE JUDICIARY COMMITTEE

MEMBER
HOUSE LABOR & COMMERCE COMMITTEE
SELECT COMMITTEE ON LEGISLATIVE ETHICS

MEMBER
FINANCE SUBCOMMITTEES
DEPARTMENT OF LAW
DEPARTMENT OF PUBLIC SAFETY
COURTS

SESSION:
STATE CAPITOL, ROOM 118
JUNEAU, ALASKA 99801-1182
PHONE: (907) 465-4030
FAX: (907) 465-3834

INTERIM:
716 W. 4TH AVE., SUITE 040
ANCHORAGE, AK 99501-2133
PHONE: (907) 258-8197
FAX: (907) 258-5510

DISTRICT 20

MEMORANDUM

DATE: March 1, 1994

TO: Senator Loren Lemman Chairman
Senate State Affairs Committee

FROM: Representative Brian Porter *BP*

RE: HB 315 - Theft of Subscription Cable Services

=====

If at all possible, I am asking you to waive the Senate State Affairs Committee referral on this proposed legislation as it has no apparent application to the interests of your committee. The bill did not receive a State Affairs referral in the House.

The intent of the legislation is to define in statute theft of subscription cable service as theft in the second degree for manufacturers and distributors of illegal descrambler devices, and theft in the third degree for the unauthorized use of such a device.

I introduced this bill at the request of Prime Cable of Anchorage and the Alaska Cable Television Association. The bill is supported by each cable operator in the state.

In the event you are unable to waive the State Affairs Committee referral, would you please schedule this bill for a hearing as soon as possible. I believe all of the appropriate documentation is attached.

This Bill passed the House on 2/24/94 by a vote of 31 for and 3 against.

Thank you for your consideration of this request.

BP:elm

Attachments

PRIME CABLE

March 8, 1993

The Honorable Representative Brian Porter
State Capitol, Room 122
Juneau, Alaska 99801-1182

RE: Alaska Theft of Service Statutes

Dear Representative Porter:

Prime Cable of Alaska would like to bring to your attention a problem that is plaguing cable operators in this state as well as nationally "Theft of Cable Service". Especially hard hit are those systems like Anchorage that employ addressable technology for signal security. This problem promises to escalate in that new federal rules may require most cable systems to provide addressable technology to all subscribers in the near future to allow universal access to all programming tiers and pay-per-view services.

The problem presents itself in Alaska as imported or locally modified decoder boxes. Unfortunately in Alaska, state statute does not have the same "possession and sales/distribution" prohibition found in the federal statute. State law only prohibits the use of such devices to circumvent the cable companies securities measures. Please consider the following scenario:

An ex-employee who is familiar with our system, customer base and security practices imports descramblers from out of state at a cost of approximately \$150.00 each and re-sales these to our current subscribers at \$395.00 each. He persuades the subscriber to down grade service to the lowest possible package of broadcast basic but the subscriber actually gets not only all available expanded basic and premium channels but also an average of 22 titles per week of pay-per-view movies. The ex-employee sells 30 converter boxes for a tax free net profit to himself of \$7,350.00 and the cable company loses approximately \$872.00 a month in lost revenue without regard to the loss from the 22 titles of pay-per-view movies. Frustrated legal subscribers hear of this activity and contact the local cable company upset because they honestly pay for the service and have heard of others getting it virtually for free. Naturally the cable company contacts federal authorities to see what they can do about the situation.

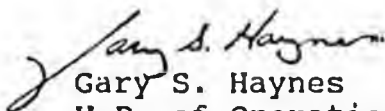
Representative Porter
March 8, 1993
Page -2-

Federal law prohibits this type of activity but, as you can see from the enclosed correspondence we received from the local FBI office, we would have to wait for this person to sell over 100 boxes before we could get any federal assistance. The next step is the local Municipal police and District Attorney who are very cooperative but inform us that even if we are able to get a search warrant and find many of these boxes in the residence of the ex-employee ready for delivery, we cannot prosecute for possession or confiscate the equipment but could only prosecute him if we physically saw him using one of the boxes. You can now see what the problem is. The state statute must match federal "possession and re-sale" language before it can be used to stop local distribution of these types of illegal descramblers or decoders.

Unfortunately, not only is the above scenario true in Anchorage, but there are several rings comprised of ex-employees, after hours establishments, drug dealers and even some unscrupulous small businessmen. This situation has been corrected in many other states such as Virginia and California by ensuring that the local laws closely match the possession language and penalties of the federal law.

Our attorney has reviewed the state statute and offers the attached additions to A.S. 11.46 that are specific to theft of cable service and will not only give the cable companies protection from this type of illegal activity but also will give local authorities the means to stop it. The Alaska Peace Officers Association suggested that we contact you to ask if you would be willing to introduce this before the Alaska House of Representatives. If this were to occur, they would consider it for endorsement. Please feel free to contact me at your convenience if you are interested and wish to discuss this further. I may be contacted in Anchorage at 786-9326. Prime Cable wishes to thank you in advance for your consideration.

Sincerely,


Gary S. Haynes
V.P. of Operations

GSH:jb

cc: Kent Dawson

Attachments: 1. Proposed Addition to A.S. 46
2. U.S. Department of Justice Letter to Prime
3. Fact Sheet from National Cable Television Assoc.

COALITION OPPOSING SIGNAL THEFT

C.O.S.T.

Advisory Committee to NCTA's Office of Cable Signal Theft

HB315

March 9, 1994

William J. Brennan
Bresnan Communications
Chairman

Robert J. Astarita
Cablevision Systems Corp.
Vice-Chairman

James S. Allen
Executive Director

Richard Aller
Cable TV Association of
New York

Richard F. Annibaldi
Pioneer New Media
Technologies Inc.

W. D. "Bill" Arnold
Texas Cable TV
Association

Mike L. Bales
Continental Cablevision

Robert Brillante
Florida Cable TV
Association

Larry D. Coe
Viacom Cable

James Coltingham
Time-Warner Cable

Ed Desser
National Basketball
Association

Stan H. Durey
Jerold/General Instrument

James E. Ernst
Jerold/General Instrument

James H. Ewalt
Cable Telecommunications
Association

John S. Fouhy
Continental Cablevision

Douglas Garrett
Tele-Communications, Inc.

Paul Harr
Scientific-Atlanta, Inc.

Thomas M. Haywood
Adelphia Cable

C. J. Hirschfield
California Cable TV
Association

John Linebarger
Jones Intercable Inc.

Gary Maher
Illinois Cable TV
Association

Thomas Nathan
Comcast Corporation

Robert O'Leary
Cox Cable Communications

Steve Rabbitt
Crown Media, Inc.

John S. Redpath, Jr.
Home Box Office, Inc.

Stanley T. Singer
Pennsylvania Cable TV
Association

James "Grey" Smith III
Times Mirror Cable TV

Thomas K. Steel, Jr.
New England Cable TV
Association

James Streavy
Binghamton New Channels

Michael Ward
Showtime Networks Inc.

Roger Williams
The Travel Channel

The Honorable Loren Leman, Chairman
of the State Affairs Committee

Alaska State Senate
311' C Street #425
Anchorage, AK 99503

Via Facsimile and U.S. Mail

Dear Chairman Leman:

I am writing to ask for your endorsement of the legislation that was referred to the Alaska State Affairs Committee of the 18th Legislature that greatly affects the operations of the cable television industry. This legislation, House Bill 315, amends the definition of the offense and penalties for theft of cable television services.

Theft of cable television services is big business. In 1992, it was estimated that the industry lost over \$4.7 billion, approximately 24% of the cable industry's gross revenue. These figures do not reflect the losses also incurred by local communities that require cable operators to pay up to 5% of their gross receipts in local franchise fees. These losses deprive communities nationwide of upwards of \$235 million in revenue annually.

Presently there are 46 states that have theft statutes that are specific to cable television, 40 states that prohibit the sale, distribution or manufacturing of unauthorized descramblers, and 31 states that prohibit the possession of an unauthorized descrambler. The legislation before your committee would make Alaska's theft of service statute consistent with laws governing theft of cable television service around the country.

I appreciate your attention to the cable industry's need to protect its product. Your committee's endorsement of H.B. 315 will send a clear message to the residents of Alaska that the illegal activity of stealing cable television is will not be tolerated.

Respectfully yours,



James S. Allen
Executive Director

Black Angus Inn

1430 Gambell, Anchorage, Alaska 99501
(907) 272-7505 Reservation: 279-7717

March 10, 1994

To whom it may concern:

I am writing letter to show my support
as a small business in anchorage for the
senate bill number SB - 315.
(HB)

The Black Angus Inn has recently had
a break in (Date. March 2, 1994)
in several of its rooms in which one T.V
eight cable boxes, four lamps, and three
telephones were stolen. In the rooms we
found four gang signs printed on the
walls and sheets. (Municipality of Anchorage.
police case # 94-33711 police officer: Lantham)

This was not only time we got stolen.
last year, we lost five cable boxes and 7
acts like this has a definite impact
on our business and causes us out of pocket
expenses to replace the stolen items.

We believe that the rewording of the present
bill that combats crime and theft may be a deterrent
in stopping further acts of malicious destruction
and the stealing of personal property.

Black Angus Inn Manager, Inyong S

PRIME CABLE OF ALASKA, L.P.

♥	Anchorage	5151 Fairbanks Street	99503
♥	Bethel	P.O. Box 247	99559
♥	Konai	139 A Warehouse Ave. Soldotna	99669

TO: Berlin Kralovich

FROM: Kenny Hayes, ncs

DATE: 3-14 94 TIME: 440 PM

PAGES (INCLUDING COVER SHEET): 5

MESSAGE:

PROBLEMS? Call

 Judy

at (907) 786- 9331

FAX: (907) 561-1428

COALITION OPPOSING SIGNAL THEFT

C.O.S.T.

Advisory Committee to NCTA's Office of Cable Signal Theft

March 9, 1994

William J. Brosnan
Brosnan Communications
Chairman

Robert J. Aschaff
Cablevision Systems Corp.
Vice-Chairman

James S. Allen
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Cable TV Association of
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W. D. "Bill" Arnold
Texas Cable TV
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Mike L. Bates
Continental Cablevision

Robert Brillante
Florida Cable TV
Association

Larry D. Cool
Valcom Cable

James Collingham
Time-Warner Cable

Ed Desser
National Basketball
Association

Stan H. Duray
Jenold General Instrument

James Earnest
Jenold General Instrument

James H. Ewell
Cable Telecommunications
Association

John S. Founy
Continental Cablevision

Douglas Garrison
Tele-Communications, Inc.

Paul Han
Scientific-Atlanta, Inc.

Thomas M. Haywood
Adelphia Cable

C. J. Hirschfeld
California Cable TV
Association

John Linetanger
Jones Intercable Inc.

Gary Maher
Illinois Cable TV
Association

Thomas Nathan
Comcast Corporation

Robert O'Leary
Cox Cable Communications

Steve Habbard
Crown Media, Inc.

John S. Radpath, Jr.
Home Box Office, Inc.

Stanley T. Singer
Pennsylvania Cable TV
Association

James "Troy" Smith III
Tennessee Cable TV

Thomas A. Steel, Jr.
New England Cable TV
Association

James Strenvy
Brighton Now Channels

Michael Ward
Showtime Networks Inc.

Roger Williams
The Travel Channel

The Honorable Loren Leman, Chairman
of the State Affairs Committee

Alaska State Senate
3111 C Street #425
Anchorage, AK 99503

Via Facsimile and U.S. Mail

Dear Chairman Leman,

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Presently there are 46 states that have theft statutes that are specific to cable television, 40 states that prohibit the sale, distribution or manufacturing of unauthorized descramblers, and 31 states that prohibit the possession of an unauthorized descrambler. The legislation before your committee would make Alaska's theft of service statute consistent with laws governing theft of cable television service around the country.

I appreciate your attention to the cable industry's need to protect its product. Your committee's endorsement of H.B. 315 will send a clear message to the residents of Alaska that the illegal activity of stealing cable television is will not be tolerated.

Respectfully yours,



James S. Allen
Executive Director

Marston

Properties

4105 Turnagain Blvd.
Anchorage, Alaska 99517
(007) 248-1717
Fax (907) 248-3541

March 11, 1994

Senators
State Capitol Building
Juneau, AK 99801-1182

RE: Senate Bill No. 315 (HB315)

Dear Senators,

I am writing to you concerning Senate Bill No. 315 which is now pending.

As an Association Manager for twenty-one different Condominium Associations, I am strongly in favor of this Bill and would appreciate any help from you in getting it passed through the Senate.

Many of the Associations that I manage carry bulk cable service and have become the target of theft by gangs. I feel this bill, if passed, would help to alleviate some of these problems in that when caught an additional penalty could be imposed for theft of cable converters.

I do urge you to cast your vote in favor of this bill. If you have any questions please feel free to call me at 248-1717.

Sincerely,

MARSTON PROPERTIES


Mark Nilson, AMS
Association Manager

MN/mko

PRIME CABLE

March 14, 1994

The Honorable Senator Loren Lemman
State Capitol, Room 113
Juneau, Alaska 99801-1182

Dear Senator Lemman:

Prime Cable of Alaska is concerned about the expeditious consideration of HB315 by the Senate and would ask that you review the following recent developments to demonstrate the seriousness of the situation to our operations here in Anchorage.

- Prime Cable has recently received a client list from an FBI sting operation of people in Anchorage who have purchased "descrambler" boxes from a company called Global Cable Network. There have been a large number of people who have ordered these unauthorized electronic burglary tools to avoid paying for premium services, pay per view and special events such as UAA Hockey. Some of the clients have purchased large numbers of boxes for resale in the Anchorage area as well as to other systems in Alaska.
- We have recently run across a student and a faculty member from two local electronic programs offered in local educational institutions who have either purchased whole units or electronic kits that require breaking into our descramblers to defeat the security system. One of these institutions is designed to help problem students learn new skills to become a contributing member of society. Teaching them to defeat the security system of a copyrighted service and perhaps reap great profits from it should not be a part of the curriculum, but the weakness in the present statutes encourages this type of low risk behavior.
- There has been an assault by the criminal element in Anchorage on our commercial accounts to steal cable boxes belonging to Prime Cable for modification and resale at great profit. These include businesses, apartment complexes and recently hotel/motels. I have attached letters from two of the affected parties here that illustrates the ripple affect of the weakness in the current statutes. Please note that although they refer to SB315; they intend to reference HB315.

Senator Loren Leman

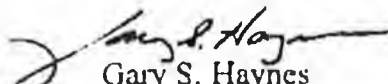
March 14, 1994

Page -2-

- Recent charge of "receipt of stolen goods" on a local electronics company. This shop contained stolen Prime Cable descramblers purchased for \$25 to \$50 and modified for resale at nearly ten times that amount. There were also unauthorized descramblers present for resale not originating from Prime Cable that would allow people to steal our signal, but the present statutes did not allow the police to confiscate them. We could not even charge the accused with theft of cable service due to the weakness in current law but had to rely on a "receipt" charge.
- Report from a very frustrated subscriber that she was aware of at least three drivers for a local cab company that were arranging for black box sales to fares. This same complaint has been reported before, but again the seller would be immune to prosecution since he would not actually be using the device.

For the reasons listed above, as well as to discourage associated criminal activity funded by profits from the sale of these kits and devices, it is important that HB315 be considered at the earliest possible date. Thanks in advance for your consideration and please feel free to contact me with any questions at 786-9326.

Sincerely,


Gary S. Haynes
V.P. of Operations

jb

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 315 (JUD)

Revision Date: February 3, 1994
Title: "...unauthorized use...unauthorized interference with transmission...cable services..."
Sponsor: Representative Porter
Requestor: Representative Porter

Department Affected: Department of Law
BRU: Prosecution
Component: All
COMPONENT SERIAL NO. 0085 through 0030

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
Please see the attached analysis.

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division

Phone: 465-3672

Date: February 3, 1994

Approved by Commissioner: Bruce M. Botelho, Attorney General
Agency: Department of Law

Date: February 3, 1994

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 315 (JUD)

ANALYSIS CONTINUATION:

The committee substitute makes some changes in technical terms to clarify the means by which cable theft occurs and that would be prohibited by the bill. Otherwise the bill and its impact remains as described in our earlier analysis, which is repeated below.

Some of this bill is already addressed by existing law, but this bill would also make it a theft offense to buy or possess a "black box" that receives or descrambles coded cable services, or to sell, or to manufacture such devices. It is hard to predict a fiscal impact, but there is likely to be little or none because the current level of cable theft cases is relatively small.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 315 (Jud)

Revision Date: _____ Dept. Affected: Administration
 Title: *An Act relating to the unauthorized use of or BRJ Office of Public Advocacy
unauthorized interference with transmission and deliver... Component: Office of Public Advocacy
 Sponsor: Rep. Porter
 Requestor: (H) Fin COMPONENT SERIAL NO. 43

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: none

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Brant McGee, Public Advocate Phone: 274-1684
 Division: Office of Public Advocacy Date: _____
 Approved by Commissioner: Nancy Bear Usala Date: 2/4/94
 Agency: Administration

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FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CSHB 315 (Jud)

Revision Date: _____	Dept. Affected: <u>Administration</u>
Title: <u>*An Act referring to unauthorized use</u>	BRU: <u>Public Defender Agency</u>
<u>of cable service . . . *</u>	Component: <u>Public Defender Agency</u>
Sponsor: <u>Rep. Porter</u>	
Requestor: <u>(H) Fin</u>	COMPONENT SERIAL NO. <u>1631</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY94) cost: none

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: <u>John Salemi, Director</u>	Phone: <u>264-4400</u>
Division: <u>Public Defender Agency</u>	Date: _____

Approved by Commissioner: <u>Nancy Bear Usora</u>	Date: <u>2/4/94</u>
Agency: <u>Administration</u>	

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Alaska State Legislature

Representative Brian S. Porter

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SELECT COMMITTEE ON LEGISLATIVE ETHICS

MEMBER
FINANCE SUBCOMMITTEES
DEPARTMENT OF LAW
DEPARTMENT OF PUBLIC SAFETY
COURTS



DISTRICT 20

SESSION:
STATE CAPITOL, ROOM 118
JUNEAU, ALASKA 99801-1182
PHONE: (907) 465-4830
FAX: (907) 465-3834

INTERIM:
718 W. 4TH AVE., SUITE 040
ANCHORAGE, AK 99501-2133
PHONE: (907) 259-8197
FAX: (907) 259-5510

SPONSOR STATEMENT HB 315 - Theft of Cable Service

If you are paying for Cable Service, your money is not only used by the local cable company to fund its operation but is also passed on to the people who run the satellites, the programming distributors and the people who produce that programming. If someone is using equipment designed to circumvent paying for these services then they are not only stealing from each and every one of the companies involved in bringing cable programming to your home, they are stealing from you.

The Alaska Cable Television Association estimates that annual theft of cable television service in Alaska exceeds \$1,000,000 based on a conservative rate of 2.5% of service revenues. HB 315 provides a more accurate definition of cable service theft along with criminal penalties which should act as a better deterrent to anyone considering the purchase and use of illegal devices.

Recently published demographic information lists our State as third in population in front of only Vermont and Wyoming. We are, though, the most difficult state in which to provide cable service as we have our small population spread over such a big expanse and have no adjacent population centers. Without a reasonable level of volume, cable service just won't pencil out in a given area and consequently will not be offered. This is one of the reasons why this legislation, to assure, as much as possible, that everyone who receives this service pays for the service, is so important in Alaska. Additionally, there is indication that our illegal interception problem may already be twice as bad as the national average.

This legislation fills a gap in law that now makes enforcement virtually impossible.

I would appreciate your favorable consideration of this important legislation.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
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POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

NB 313