

LEGISLATIVE BILL 464

Approved by the Governor March 28, 1986

Introduced by Beutler, 28; R. Johnson, 34

AN ACT relating to crimes and punishments; to amend section 28-515, Revised Statutes Supplement, 1984; to define terms; to change provisions relating to unauthorized use of telecommunications services; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 28-515, Revised Statutes Supplement, 1984, be amended to read as follows:

28-515. (1) A person commits theft if he or she obtains services, which he or she knows are available only for compensation, by deception or threat, or by false token or other means to avoid payment for the service. Services include labor, professional service, telephone service, electric service, cable television service, or other public service, accommodation in hotels, restaurants, or elsewhere, admission to exhibitions, and use of vehicles or other movable property. When Where compensation for service is ordinarily paid immediately upon the rendering of such service, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay gives rise to a presumption that the service was obtained by deception as to intention to pay.

(2) A person commits theft if, having control over the disposition of services of others, to which he or she is not entitled, he or she diverts such services to his or her own benefit or to the benefit of another not entitled thereto.

(3) For purposes of this subsection, telecommunications service shall include, but not be limited to, telephone service and cable television service, and device shall include, but not be limited to, instrument, apparatus, equipment, and plans or instructions for making or assembling the same.

It shall be a Class II misdemeanor for any person to:

(a) Knowingly make or possess any device designed to or commonly used to obtain telecommunications service fraudulently from a licensed

cable television franchisee with the intent to use such device in the commission of an offense described in subsection (1) of this section:

(b) Knowingly tamper with, interfere with, or connect to any cables, wires, converters, or other devices used for the distribution of telecommunications services by any mechanical, electrical, acoustical, or other means without authority from the operator of the service with the intent of obtaining telecommunications service fraudulently; or

(c) Sell, give, transfer, or offer or advertise for sale a device which such person knows or should know is intended to be used for the purpose of obtaining telecommunications service fraudulently. Any person who makes or possesses any device, instrument, apparatus, or equipment designed or which can be used to obtain telecommunications service fraudulently or to conceal from any supplier or telecommunications service or from any lawful authority the existence or place of origin or of destination of any telecommunication; or who sells, gives or otherwise transfers to another, or offers or advertises for sale, any such device, instrument, apparatus, or equipment, or plans or instructions for making or assembling the same, under circumstances evincing an intent to use or employ such device, instrument, apparatus, or equipment, or to allow the same to be used or employed, for a purpose described in this subsection; or knowing or having reason to believe that the same is intended to be used; or that the plans or instructions are intended to be used, for making or assembling such device, instrument, apparatus, or equipment is guilty of a Class II misdemeanor.

Sec. 2. That original section 28-515, Revised Statutes Supplement, 1984, is repealed.