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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 1716** Session of  
2007

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HORNAMAN AND HELM, JULY 13, 2007

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JULY 13, 2007

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing for theft of  
3 services.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Section 3926 of Title 18 of the Pennsylvania  
7 Consolidated Statutes is amended to read:

8 § 3926. Theft of services.

9 (a) Acquisition of services.--

10 (1) A person is guilty of theft if he intentionally  
11 obtains services for himself or for another which he knows  
12 are available only for compensation, by deception or threat,  
13 by altering or tampering with the public utility meter or  
14 measuring device by which such services are delivered or by  
15 causing or permitting such altering or tampering, by making

1 or maintaining any unauthorized connection, whether  
2 physically, electrically [or], inductively or otherwise, to a  
3 distribution or transmission line, by attaching or  
4 maintaining the attachment of any unauthorized object or  
5 device to any cable, wire or other component of an electric,  
6 natural gas, propane, telephone or cable television system or  
7 to a television receiving set connected to a cable television  
8 system, by making or maintaining any unauthorized  
9 modification or alteration to any device installed by a cable  
10 television system, or by false token or other trick or  
11 artifice to avoid payment for the service.

12 (1.1) A person is guilty of theft if he intentionally  
13 obtains or attempts to obtain telecommunication service by  
14 the use of an unlawful telecommunication device or without  
15 the consent of the telecommunication service provider.

16 (1.2) A person is guilty of theft if he intentionally  
17 obtains or attempts to obtain natural gas or electric service  
18 by the use of a means to divert electricity or natural gas  
19 away from measurement by a natural gas or electric meter or  
20 without the consent of the natural gas, propane or electric  
21 service provider.

22 (3) A person is not guilty of theft of cable television  
23 service under this section who subscribes to and receives  
24 service through an authorized connection of a television  
25 receiving set at his dwelling and, within his dwelling, makes  
26 an unauthorized connection of an additional television  
27 receiving set or sets or audio system which receives only  
28 basic cable television service obtained through such  
29 authorized connection.

30 (4) Where compensation for service is ordinarily paid

1 immediately upon the rendering of such service, as in the  
2 case of hotels and restaurants, refusal to pay or absconding  
3 without payment or offer to pay gives rise to a presumption  
4 that the service was obtained by deception as to intention to  
5 pay.

6 (b) Diversion of services.--A person is guilty of theft if,  
7 having control over the disposition of services of others to  
8 which he is not entitled, he knowingly diverts such services to  
9 his own benefit or to the benefit of another not entitled  
10 thereto.

11 (c) Grading.--

12 (1) An offense under this section constitutes a summary  
13 offense when the value of the services obtained or diverted  
14 is less than \$50.

15 (2) When the value of the services obtained or diverted  
16 is \$50 or more, the grading of the offense shall be [as  
17 established in section 3903 (relating to grading of theft  
18 offenses)] a misdemeanor of the first degree.

19 (3) Amounts involved in theft of services committed  
20 pursuant to one scheme or course of conduct, whether from the  
21 same person or several persons, may be aggregated in  
22 determining the grade of the offense.

23 (d) Inferences.--

24 (1) Any person having possession of or access to the  
25 location of a public utility meter or service measuring  
26 device which has been avoided or tampered with so as to  
27 inhibit or prevent the accurate measurement of utility  
28 service and who enjoys the use of or receives the benefit  
29 from the public utility service intended to be metered or  
30 measured by the public utility meter or measuring device so

1 avoided or tampered with may be reasonably inferred to have  
2 acted to avoid or tamper with the public utility meter or  
3 measuring device with the intent to obtain the public utility  
4 service without making full compensation therefor.

5 (2) Any person having possession of or access to the  
6 location of the distribution or transmission lines or other  
7 facilities of a cable television system which have been  
8 tapped, altered or tampered with or to which any unauthorized  
9 connection has been made or to which any unauthorized object  
10 or device has been attached or any person having possession  
11 of or access to any device installed by a cable television  
12 system to which an unauthorized modification or alteration  
13 has been made, the result of which tapping, altering,  
14 tampering, connection, attachment or modification is to avoid  
15 payment for all or any part of the cable television service  
16 for which payment is normally required, and who enjoys the  
17 use of or receives the benefit from the cable television  
18 service, may be reasonably inferred to have acted to have  
19 tapped, altered, tampered with, connected or attached to or  
20 modified cable television facilities with the intent to  
21 obtain cable television service without making full  
22 compensation therefor. This inference shall not apply to the  
23 act of a subscriber to cable television service, who receives  
24 service through an authorized connection of a television  
25 receiving set at his dwelling, in making, within his  
26 dwelling, an unauthorized connection of an additional  
27 television receiving set or sets or audio system which  
28 receives only basic cable television service obtained through  
29 such authorized connection.

30 (e) Sale or transfer of device or plan intended for

1 acquisition or diversion.--A person is guilty of a misdemeanor  
2 of the [third] first degree if he sells, gives or otherwise  
3 transfers to others or offers, advertises or exposes for sale to  
4 others, any device, kit, plan or other instructional procedure  
5 for the making of such device or a printed circuit, under  
6 circumstances indicating his having knowledge or reason to  
7 believe that such device, kit, plan or instructional procedure  
8 is intended for use by such others for the acquisition or  
9 diversion of services as set forth in subsections (a) and (b). A  
10 person is presumed to have the intent to defraud the energy or  
11 telecommunication provider if the person creates, transfers  
12 and/or sells the device, kit, plan or instructional procedure  
13 for the making of such device or printed circuit as well as  
14 purchasing or installing such device.

15 (f) Restitution.--The court may, in addition to any other  
16 sentence authorized by law, sentence a person convicted of  
17 violating this section to make restitution under section 1106  
18 (relating to restitution for injuries to person or property) or  
19 42 Pa.C.S. § 9721(c) (relating to sentencing generally). In  
20 addition to any restitution, the court shall impose a fine on  
21 the person convicted of violating this section in the amount of  
22 not less than \$1,000. When emergency personnel are called to the  
23 scene of theft of service, the responding volunteer fire  
24 department is entitled to receive as restitution the full cost  
25 of their response from the person convicted of violating this  
26 section.

27 (g) Civil action.--A telecommunication service provider, an  
28 electric service provider, a natural gas service provider or  
29 propane service provider aggrieved by a violation of this  
30 section may in a civil action in any court of competent

1 jurisdiction obtain appropriate relief, including preliminary  
2 and other equitable or declaratory relief, compensatory and  
3 punitive damages, reasonable investigation expenses, costs of  
4 suit and attorney fees.

5 (g.1) Statement of purpose.--The General Assembly believes  
6 that it is important to protect the innocent citizens of this  
7 Commonwealth from the personal and public dangers caused by  
8 energy theft. Energy diversion is a public safety issue that  
9 cuts across classes, individuals and businesses. Safety hazards  
10 include public exposure to serious injury or death and  
11 destruction of public or personal property, affecting  
12 individuals, neighborhoods, homes, apartments and other  
13 facilities. The General Assembly seeks to provide additional  
14 tools that support legal and punitive measures to combat the  
15 dangerous aspects of this crime. Furthermore, the General  
16 Assembly recognizes another aspect of energy theft: the adverse  
17 impact on energy rates and the increased cost unfairly placed on  
18 paying customers.

19 (h) Definitions.--As used in this section, the following  
20 words and phrases shall have the meanings given to them in this  
21 subsection:

22 "Electric service provider." A person or entity providing,  
23 for compensation, electric distribution, transmission or  
24 generation service.

25 "Natural gas service provider." A person or entity  
26 providing, for compensation, natural gas distribution or supply  
27 service.

28 "Propane service provider." A person or entity providing,  
29 for compensation, propane or propane distribution service.

30 "Service." Includes, but is not limited to, labor,

1 professional service, transportation service, the supplying of  
2 hotel accommodations, restaurant services, entertainment, cable  
3 television service, the supplying of equipment for use and the  
4 supplying of commodities of a public utility nature such as gas,  
5 electricity, steam and water, and telephone or telecommunication  
6 service. The term "unauthorized" means that payment of full  
7 compensation for service has been avoided, or has been sought to  
8 be avoided, without the consent of the supplier of the service.

9 "Telecommunication service provider." A person or entity  
10 providing telecommunication service, including, but not limited  
11 to, a cellular, paging or other wireless communications company  
12 or other person or entity which, for a fee, supplies the  
13 facility, cell site, mobile telephone switching office or other  
14 equipment or telecommunication service.

15 "Telephone service" or "telecommunication service."  
16 Includes, but is not limited to, any service provided for a  
17 charge or compensation to facilitate the origination,  
18 transmission, emission or reception of signs, signals, data,  
19 writings, images and sounds or intelligence of any nature by  
20 telephone, including cellular telephones, wire, radio,  
21 electromagnetic, photoelectronic or photo-optical system.

22 "Unlawful telecommunication device." Any electronic serial  
23 number, mobile identification number, personal identification  
24 number or any telecommunication device that is capable or has  
25 been altered, modified, programmed or reprogrammed alone or in  
26 conjunction with another access device or other equipment so as  
27 to be capable of acquiring or facilitating the acquisition of a  
28 telecommunication service without the consent of the  
29 telecommunication service provider. The term includes, but is  
30 not limited to, phones altered to obtain service without the

1 consent of the telecommunication service provider, tumbler  
2 phones, counterfeit or clone phones, tumbler microchips,  
3 counterfeit or clone microchips, scanning receivers of wireless  
4 telecommunication service of a telecommunication service  
5 provider and other instruments capable of disguising their  
6 identity or location or of gaining access to a communications  
7 system operated by a telecommunication service provider.

8 Section 2. This act shall take effect in 60 days.