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# PAUL FARROW

STATE SENATOR

Date: June 27, 2013

To: Members of the Assembly Committee on Criminal Justice

From: Senator Paul Farrow; 33<sup>rd</sup> Senate District

Subject: Testimony on Assembly Bill 191; Relating to: theft of communication and video services, civil damages resulting from the theft of certain services, and providing penalties.

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Good morning Chairman Kleefisch and members of the Assembly Committee on Criminal Justice.

I want to thank the Chairman and members of the committee for holding a hearing today on Assembly Bill 191. As many of you may be aware, last session former Senator Rich Zipperer and I authored the 'theft of retail services' bill (2011 Senate Bill 85). I was pleased when that important legislation was signed into law by Governor Walker creating 2011 Wisconsin Act 110.

The bill before you today, authored by Representative Kleefisch and I, is a very similar piece of legislation that addresses issues affiliated with the theft of cable, for both communication and video services.

Unfortunately, across Wisconsin, cable and telecommunication theft is occurring and existing laws do not adequately deter the criminal theft of these sought after services. This legislation as drafted would simply increase the penalties for cable theft from a Class C forfeiture to a Class C misdemeanor. Also, in the event of a civil suit, the bill would allow the injured party (communication and video providers) to collect attorney fees from the defendant in a civil suit.

As you can clearly see, this proposal is simple and straight forward. By creating a new crime and outlining the penalties associated with the theft of these services, once enacted this legislation will go a long way in preventing individuals from attempting to steal cable services.

As always, if you should have any concerns or questions regarding this legislation, I am willing to discuss the specifics of this bill at any time. Again, I thank the committee for their attention and consideration of Assembly Bill 191 and look forward to seeing the bill move through the legislative process toward final passage.

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SERVING WISCONSIN'S 33RD SENATE DISTRICT

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To: Assembly Criminal Justice Committee

From: Wayne Louis, Senior Manager, Investigations – Time Warner Cable

Re: Testimony in Support of AB 191

Relating to: theft of communication and video services, civil damages resulting from the theft of certain services, and providing penalties.

Date: June 27, 2013

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Good morning Chairman and members of the Assembly Criminal Justice Committee. My name is Wayne Louis and I am the Senior Manager, Investigations for Time Warner Cable. I am here today to testify in support of AB 191.

Time Warner Cable's Wisconsin Operations provides video, high speed data and digital telephone services. Time Warner Cable currently services over 629,000 customers primarily in the eastern half of the state of Wisconsin. We pay franchise fees to Wisconsin municipalities based on a percentage of our gross video revenue.

Unfortunately, it is possible for dishonest individuals to bypass Time Warner Cable's security and gain access to certain Time Warner Cable's services without payment or authorization. When this occurs, Time Warner Cable is deprived of revenue and Wisconsin communities are deprived of franchise fees. In addition, damage caused by cable theft can result in signal leakage, which can affect aviation radio equipment, emergency service radio communications, and authorized customers' service levels, all of which creates a potential public safety risk and increases the amount of resources Time Warner Cable has to expend in order to maintain appropriate service levels. Finally, paying customers are adversely affected since theft of service drives up the costs of our services. As a result, Time Warner Cable devotes substantial resources to secure its services technologically and otherwise, and to combat theft. As discussed more fully below, despite our best efforts, a small but significant number of individuals and businesses continue to steal our services.

Using metrics from a sampling of our operations in Milwaukee County as an example, in 2012 we discovered 3,426 total unauthorized connections to our system. Because we do not audit every address in our footprint every year, this number represents a fraction of the actual number of residences and businesses that maintain unauthorized connections to our services in any given year. Each instance represents a theft of our services. Pursuant to our procedures, we disconnect each unauthorized connection we find, document the finding and return to the address



approximately 30 days after our initial discovery in order to determine whether the address has been re-connected to our system. In 2012, 385 of the 3,426 addresses we found with unauthorized connections had been re-connected a second time. Based on a rough calculation of franchise fees, this suggests that municipalities lost approximately \$40,000 in 2012 in franchise fees as a result of theft of Time Warner Cable's services.

Currently, the penalty for a first offense under WIS State Statute section 943.45 is limited to a civil forfeiture. We believe that this penalty is inadequate to deter would-be cable thieves, resulting in increased theft rates, lower revenues and lower franchise fees paid to local municipalities. The proposed amended statute contains penalties that would more adequately deter would-be thieves, and which are consistent with cable theft penalties found in statutes in other states. In addition to increasing the penalty for cable theft to a Class C Misdemeanor, the forfeiture schedule established by WIS statute section 943.45 could be expected to remain at \$500 and any fines that are paid as a result of a successfully prosecuted case would go directly to that municipalities' general fund. And under our existing theft of service program, we perform much of the legwork to support such prosecutions. We engage in thorough investigations of instances of cable theft, including identifying unauthorized connections, photographing such connections before and after we disconnect them, creating case files, including investigator notes, sending written notices to individuals suspected of maintaining such connections warning them not to re-connect without authorization and offering to provide them with services legitimately, returning to each address to determine whether it has been re-connected, and if so, photographing and otherwise documenting it again.

In summary, Time Warner Cable pays franchise fees in Wisconsin and those payments go directly into our local communities that they can use for parks, schools or additional police or firemen. When people steal cable services not only is Time Warner Cable affected, but municipalities within Wisconsin are deprived of franchise fees and paying customers are adversely affected as well. We therefore respectfully request your support of AB 191.