

514.065 Possession, use, or transfer of device for theft of telecommunications services.

- (1) As used in this section, "telecommunications service" means any communication service ordinarily provided for a charge or compensation to facilitate the origination, transmission, emission, or reception of signs, signals, writings, images, sounds, or intelligence of any nature by telephone, including but not limited to cellular and personal communications service, as terms may be defined in 47 C.F.R. parts 22 and 24, respectively, telephones, wire, radio, electromagnetic, photoelectronic, or photooptical systems, but excluding cable television services, even if provided by a telephone utility.
- (2) A person is guilty of possession, use, or transfer for use of a device for theft of telecommunications services when the person:
 - (a) Makes, assembles, or possesses any instrument, apparatus, equipment, or device designed, modified, altered, programmed, reprogrammed, or otherwise adapted for or used for commission of a theft of telecommunications services in violation of KRS 514.060; or
 - (b) Sells, gives, transports, or otherwise transfers to another, or offers or advertises to sell, give, or otherwise transfer any instrument, apparatus, equipment, or device described in paragraph (a) of this subsection, or plans or instructions for making or assembling the same under circumstances evincing an intent to use or employ the instrument, apparatus, equipment, or device, or to allow the same to be used or employed, for a purpose described in paragraph (a) of this subsection, or knowing or having reason to believe that the same is intended to be so used, or that the aforesaid plans or instructions are intended to be used for making or assembling the instrument, apparatus, equipment, or device.
- (3) An instrument, apparatus, equipment or device described in paragraph (a) of subsection (2) of this section shall not include any instrument, apparatus, equipment, or device authorized or approved or otherwise permitted by an agency of the federal government or the Commonwealth of Kentucky.
- (4) Possession, use, or transfer for use of a device for theft of telecommunications services is a Class A misdemeanor unless the defendant has previously been convicted of violating this section, in which case it is a Class D felony.
- (5) Notwithstanding any other provision of this chapter, any instrument, apparatus, equipment, or device designed, modified, altered, programmed, reprogrammed, or otherwise adapted for or used for commission of a theft of telecommunications service in violation of KRS 514.060, may be seized under warrant or incident to a lawful arrest for the violation of KRS 514.060, and, upon the conviction of any person for a violation, the court shall order any instrument, apparatus, equipment, device, or plans or instructions for making or assembling them forfeited to the state or destroyed in accordance with KRS 500.090(1)(a), or if requested by the person providing the telecommunications service in the territory in which they were seized, turned over to the telecommunications service provider.

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