

1 H BILL NO. 497  
 2 INTRODUCED BY Ramsey Pate Mark Thorne  
 3 Felipe Kelly

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE THE OFFENSE  
 5 OF AIDING THE AVOIDANCE OF TELECOMMUNICATIONS CHARGES;  
 6 AMENDING SECTION 94-6-304.1, R.C.M. 1947."

7  
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 94-6-304.1, R.C.M. 1947, is amended  
 10 to read as follows:

11 "94-6-304.1. Obtaining communication services with  
 12 intent to defraud. In a prosecution under section 94-6-304  
 13 for theft of telephone, telegraph, or cable television  
 14 services, the element of deception is established by proof  
 15 that the defendant obtained such services by any of the  
 16 following means:

17 1. ~~1~~ by use of a code, prearranged scheme, or other  
 18 similar stratagem or device whereby said person, in effect,  
 19 sends or receives information; ~~i~~ or

20 2. ~~2~~ by installing, rearranging, or tampering with  
 21 any facilities or equipment, whether physically,  
 22 inductively, acoustically, electronically; ~~i~~ or

23 3. ~~3~~ by any other trick, stratagem, impersonation,  
 24 false pretense, false representation, false statement,  
 25 contrivance, device, or means; ~~i~~ or

1 ~~4. (4)~~ by making, assembling, or possessing any  
 2 instrument, apparatus, equipment or device, or the plans or  
 3 instructions for the making or assembling of any instrument,  
 4 apparatus, equipment or device which is designed, adapted or  
 5 otherwise intended to be used to avoid the lawful charge, in  
 6 whole or in part, for any telecommunications service by  
 7 concealing the existence or place of origin or destination  
 8 of any telecommunications; ~~or~~

9 ~~5. by publishing the number or code of an existing~~  
 10 ~~canceled, revoked, expired or nonexistent credit card or the~~  
 11 ~~numbering or coding which is employed in the issuance of~~  
 12 ~~credit cards, with the intent that it will be used to avoid~~  
 13 ~~the payment of lawful telecommunications charges; or by~~  
 14 ~~publishing, advertising, selling, giving, or otherwise~~  
 15 ~~transferring to another, plans or instructions for the~~  
 16 ~~making or assembling of any apparatus, instrument,~~  
 17 ~~equipment, or device such as described in subparagraph 4~~  
 18 ~~with the intent that such will be used or with the knowledge~~  
 19 ~~or reason to believe that such will be used to avoid the~~  
 20 ~~payment of lawful telecommunication charges. For the purpose~~  
 21 ~~of this subparagraph, the term "publication" means the~~  
 22 ~~communication of information to any one or more persons,~~  
 23 ~~either orally, in person, or by telephone, radio, or~~  
 24 ~~television, or in a writing of any kind, including, but not~~  
 25 ~~limited to, a letter or memorandum, circular, or handbill.~~

1 ~~newspaper or magazine article or book~~"

2 Section 2. There is a new R.C.M. section that reads as  
3 follows:

4 Aiding the avoidance of telecommunications charges. (1)  
5 A person commits the offense of aiding the avoidance of  
6 telecommunications charges when he:

7 (a) publishes the number or code of an existing,  
8 canceled, revoked, expired, or nonexistent credit card or  
9 the numbering or coding which is employed in the issuance of  
10 credit cards with the purpose that it will be used to avoid  
11 the payment of lawful telecommunications charges; or

12 (b) publishes, advertises, sells, gives, or otherwise  
13 transfers to another plans or instructions for the making or  
14 assembling of any apparatus, instrument, equipment, or  
15 device described in 94-6-304.1(4) with the purpose that such  
16 will be used or with the knowledge or reason to believe that  
17 such will be used to avoid the payment of lawful  
18 telecommunication charges.

19 (2) A person convicted of the offense of aiding the  
20 avoidance of telecommunications charges shall be fined not  
21 to exceed \$500 or be imprisoned in the county jail for a  
22 term not to exceed 6 months, or both.

23 (3) For the purposes of this section, the term  
24 "publish" means to communicate information to any one or  
25 more persons, either orally; in person; by telephone,

1 radio, or television; or in a writing of any kind, including  
2 but not limited to a letter, memorandum, circular, handbill,  
3 newspaper or magazine article, or book.

-End-

Approved by Committee  
on Judiciary

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2 INTRODUCED BY Ramirez Patel Mark Thorne  
3 Falvey Jelly

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 3 George Sully

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-End-

## HOUSE BILL NO. 497

INTRODUCED BY RAMIREZ, PORTER, MARKS, MOORE,

FABREGA, SCULLY

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4. ~~4~~ by making, assembling, or possessing any instrument, apparatus, equipment or device, or the plans or instructions for the making or assembling of any instrument, apparatus, equipment or device which is designed, adapted or otherwise intended to be used to avoid the lawful charge, in whole or in part, for any telecommunications service by concealing the existence or place of origin or destination of any telecommunications; or

5. ~~5~~ by publishing the number or code of an existing, canceled, revoked, expired or nonexistent credit card or the numbering or coding which is employed in the issuance of credit cards, with the intent that it will be used to avoid the payment of lawful telecommunications charges; or by publishing, advertising, selling, giving, or otherwise transferring to another, plans or instructions for the making or assembling of any apparatus, instrument, equipment, or device such as described in subparagraph 4 with the intent that such will be used or with the knowledge or reason to believe that such will be used to avoid the payment of lawful telecommunication charges. For the purpose of this subparagraph, the term "publication" means the communication of information to any one or more persons, either orally, in person, or by telephone, radio, or television, or in a writing of any kind, including, but not

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