

House Amendment 5739

Amendment Text

PAG LIN

1 1 Amend the amendment, [H-5705](#), to [Senate File 2147](#),
1 2 as passed by the Senate, as follows:
1 3 #1. Page 3, by inserting after line 39 the
1 4 following:
1 5 "Sec. ____ NEW SECTION. 8D.20 CIVIL PENALTIES
1 6 ESTABLISHED BY COMMISSION FOR UNAUTHORIZED USE.
1 7 1. The commission shall establish, by rule, a
1 8 schedule or range of civil penalties which may be
1 9 administratively assessed for the unauthorized use of
1 10 the network. The schedule shall provide procedures
1 11 and criteria for the administrative assessment of
1 12 penalties of not more than ten thousand dollars for a
1 13 violation of chapter 8D or rules adopted under chapter
1 14 8D related to the unauthorized use of the network.
1 15 The penalties shall be applicable to both authorized
1 16 and unauthorized users. In adopting a schedule or
1 17 range of penalties and in proposing or assessing a
1 18 penalty, the commission shall consider among other
1 19 relevant factors the gravity of the violation and the
1 20 degree of culpability of the violator.
1 21 Penalties may be administratively assessed only
1 22 after an opportunity for a contested case hearing
1 23 which may be combined with a hearing on the merits of
1 24 the alleged violation. Violations not fitting within
1 25 the schedule, or violations which the commission
1 26 determines should be referred to the attorney general
1 27 for legal action shall not be governed by the schedule
1 28 established under this subsection.
1 29 2. A penalty shall be paid within thirty days of
1 30 the date the order assessing the penalty becomes
1 31 final. When a person against whom a civil penalty is
1 32 assessed under this section seeks timely judicial
1 33 review of an order imposing the penalty as provided
1 34 under chapter 17A, the order is not final for the
1 35 purposes of this section until all judicial review
1 36 processes are completed. Additional judicial review
1 37 shall not be sought after the order becomes final. A
1 38 person who fails to timely pay a civil penalty
1 39 assessed by a final order of the commission shall pay,
1 40 in addition, interest at the rate of one and one-half
1 41 percent of the unpaid balance of the assessed penalty
1 42 for each month or part of a month that the penalty
1 43 remains unpaid. The attorney general shall institute,
1 44 at the request of the commission, summary proceedings
1 45 to recover the penalty and any accrued interest.
1 46 3. All civil penalties assessed by the commission
1 47 and interest on the penalties shall be deposited in
1 48 the general fund of the state.
1 49 4. This section does not require the commission to
1 50 pursue an administrative remedy before seeking a
2 1 remedy in the courts of this state.
2 2 5. The civil penalties established in this section
2 3 are in addition to any criminal penalty which may
2 4 apply."
2 5 #2. Page 4, line 37, by striking the word "and".
2 6 #3. Page 4, line 39, by inserting after the word
2 7 "commission" the following: ", and providing for

2 8 civil penalties".
2 9 #4. By renumbering as necessary.
2 10
2 11
2 12 _____
2 13 [KREIMAN](#) of Davis
2 14 [SF 2147.203](#) 76
2 15 mj/jj