

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION OR IN SUBSECTION (F) OF THIS SECTION, A PERSON WHO VIOLATES SUBSECTION (D) OF THIS SECTION IS SUBJECT TO A FINE OF NOT MORE THAN \$10,000 OR IMPRISONMENT FOR NOT MORE THAN 5 YEARS, OR BOTH.

(2) IF AN OFFENSE IS A FIRST OFFENSE UNDER PARAGRAPH (1) OF THIS SUBSECTION AND IS NOT FOR A TORTIOUS OR ILLEGAL PURPOSE OR FOR PURPOSES OF DIRECT OR INDIRECT COMMERCIAL ADVANTAGE OR PRIVATE COMMERCIAL GAIN, AND THE WIRE OR ELECTRONIC COMMUNICATION WITH RESPECT TO WHICH THE OFFENSE OCCURRED IS A RADIO COMMUNICATION THAT IS NOT SCRAMBLED OR ENCRYPTED, AND:

(I) THE COMMUNICATION IS NOT THE RADIO PORTION OF A CELLULAR TELEPHONE COMMUNICATION, A PUBLIC LAND MOBILE RADIO SERVICE COMMUNICATION, OR A PAGING SERVICE COMMUNICATION, THE OFFENDER IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH; OR

(II) THE COMMUNICATION IS THE RADIO PORTION OF A CELLULAR TELEPHONE COMMUNICATION, A PUBLIC LAND MOBILE RADIO SERVICE COMMUNICATION, OR A PAGING SERVICE COMMUNICATION, THE OFFENDER IS SUBJECT TO A FINE OF NOT MORE THAN \$500.

(3) UNLESS THE CONDUCT IS FOR THE PURPOSE OF DIRECT OR INDIRECT COMMERCIAL ADVANTAGE OR PRIVATE FINANCIAL GAIN, CONDUCT WHICH WOULD OTHERWISE BE AN OFFENSE UNDER THIS SUBSECTION IS NOT AN OFFENSE UNDER THIS SUBSECTION, IF THE CONDUCT CONSISTS OF OR RELATES TO THE INTERCEPTION OF A SATELLITE TRANSMISSION THAT IS NOT ENCRYPTED OR SCRAMBLED AND THAT IS TRANSMITTED:

(I) TO A BROADCASTING STATION FOR PURPOSES OF RETRANSMISSION TO THE GENERAL PUBLIC; OR

(II) AS AN AUDIO SUBCARRIER INTENDED FOR REDISTRIBUTION TO FACILITIES OPEN TO THE PUBLIC, BUT NOT INCLUDING DATA TRANSMISSIONS OR TELEPHONE CALLS.

(F) (1) A PERSON WHO ENGAGES IN CONDUCT IN VIOLATION OF THIS SUBTITLE IS SUBJECT TO SUIT BY THE FEDERAL GOVERNMENT OR BY THE STATE IN A COURT OF COMPETENT JURISDICTION, IF THE COMMUNICATION IS:

(I) A PRIVATE SATELLITE VIDEO COMMUNICATION THAT IS NOT SCRAMBLED OR ENCRYPTED AND THE CONDUCT IN VIOLATION OF THIS SUBTITLE IS THE PRIVATE VIEWING OF THAT COMMUNICATION, AND IS NOT FOR A TORTIOUS OR ILLEGAL PURPOSE, OR FOR PURPOSES OF DIRECT OR INDIRECT COMMERCIAL ADVANTAGE, OR PRIVATE COMMERCIAL GAIN; OR

(II) A RADIO COMMUNICATION THAT IS TRANSMITTED ON FREQUENCIES ALLOCATED UNDER SUBPART D OF PART 74 OF THE RULES OF THE FEDERAL COMMUNICATIONS COMMISSION THAT IS NOT SCRAMBLED OR