

2307.62 Civil action for damages by cable television owner or operator.

(A) As used in this section:

(1) "Cable service" and "cable system" have the same meanings as in section 2913.04 of the Revised Code.

(2) "Trier of fact" means the jury or, in a nonjury trial, the court.

(3) "Profits" derived from a violation of division (B) of section 2913.04 or division (A) or (B) of section 2913.041 of the Revised Code are equal to whichever of the following applies:

(a) The gross revenue derived from the violation by the persons who violated division (B) of section 2913.04 or division (A) or (B) of section 2913.041 of the Revised Code, as established by a preponderance of the evidence by the owner or operator of the cable service, cable system, cable television system, or other similar closed circuit coaxial cable communications system who is aggrieved by the violation;

(b) The gross revenue derived from the violation by the persons who violated division (B) of section 2913.04 or division (A) or (B) of section 2913.041 of the Revised Code, as established by a preponderance of the evidence by the owner or operator of the cable service, cable system, cable television system, or other similar closed circuit coaxial cable communications system who is aggrieved by the violation, minus deductible expenses and other elements of profit that are not attributable to the violation of division (B) of section 2913.04 or division (A) or (B) of section 2913.041 of the Revised Code, as established by a preponderance of the evidence by the persons who violated either or both of those divisions.

(B)(1) An owner or operator of a cable service, cable system, cable television system, or other similar closed circuit coaxial cable communications system who is aggrieved by conduct that is prohibited by division (B) of section 2913.04 or division (A) or (B) of section 2913.041 of the Revised Code may elect to commence a civil action for damages in accordance with division (A) of section 2307.60 or section 2307.61 of the Revised Code or to commence a civil action under this section in the appropriate municipal court, county court, or court of common pleas to recover damages and other specified moneys described in division (B)(1)(a), (b), or (c) of this section and, if applicable, damages described in division (B)(2) of this section from the persons who violated division (B) of section 2913.04 or division (A) or (B) of section 2913.041 of the Revised Code. If the owner or operator elects to commence a civil action for damages and other specified moneys under this section, the owner or operator shall specify in its complaint which of the following categories of damages and other specified moneys the owner or operator seeks to recover from the persons who violated division (B) of section 2913.04 or division (A) or (B) of section 2913.041 of the Revised Code:

(a) Full compensatory damages, punitive or exemplary damages if authorized by section 2315.21 of the Revised Code, and the reasonable attorney's fees, court costs, and other reasonable expenses incurred in maintaining the civil action under this section.

(b) Damages equal to the actual loss suffered by the owner or operator as a proximate result of the conduct that violated division (B) of section 2913.04 or division (A) or (B) of

section 2913.041 of the Revised Code and, in addition, damages equal to the profits derived by the persons who violated one or more of those divisions as a proximate result of the prohibited conduct.

(c) Regarding a violation of division (A) or (B) of section 2913.041 of the Revised Code, liquidated damages in an amount of not less than two hundred fifty dollars and not more than ten thousand dollars, as determined by the trier of fact, for each separate violation of division (A) or (B) of section 2913.041 of the Revised Code as described in division (D) of that section. Division (B)(1)(c) of this section does not apply regarding a violation of division (B) of section 2913.04 of the Revised Code.

(2) The trier of fact shall determine the amount of any compensatory damages to be awarded pursuant to division (B)(1)(a) of this section, and the court shall determine the amount of any punitive or exemplary damages authorized by section 2315.21 of the Revised Code and the amount of reasonable attorney's fees, court costs, and other reasonable expenses to be awarded pursuant to division (B)(1)(a) of this section. The trier of fact shall determine the amount of damages to be awarded to the owner or operator under division (B)(1)(b) of this section.

(3) In a civil action under this section, if an owner or operator of a cable service, cable system, cable television system, or other similar closed circuit coaxial cable communications system establishes by a preponderance of the evidence that the persons who violated division (B) of section 2913.04 or division (A) or (B) of section 2913.041 of the Revised Code engaged in the prohibited conduct for the purpose of direct or indirect commercial advantage or private financial gain, the trier of fact may award to the owner or operator damages in an amount not to exceed fifty thousand dollars in addition to any amount recovered pursuant to division (B)(1)(a), (b), or (c) of this section, whichever of those divisions applies to the owner or operator.

(C) A person may join a civil action under this section with a civil action under Chapter 2737. of the Revised Code to recover any property of the owner or operator of a cable service, cable system, cable television system, or other similar closed circuit coaxial cable communications system that was the subject of the violation of division (B) of section 2913.04 or division (A) or (B) of section 2913.041 of the Revised Code. A person may commence a civil action under this section regardless of whether any person who allegedly violated one or more of those divisions has pleaded guilty to or has been convicted of a violation of one or more of those divisions or has been adjudicated a delinquent child for the commission of any act that constitutes a violation of one or more of those divisions.

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