

PRESUMPTIONS PENAL LAW 165.15(4)

NOTE: These presumptions apply only to Penal Law 165.15(4).

Select appropriate presumption(s):

Under our law, a person who tampers with a telecommunications device or equipment without the consent of the supplier of the service is presumed to do so with the intent to avoid (or to enable another to avoid) payment for the service involved.¹ This means that, if the People have proven beyond a reasonable doubt that the defendant tampered with a telecommunications device or equipment, you may, but you are not required to, infer from that fact that the defendant did so with the intent to avoid (or to enable another to avoid) payment.

Under our law, proof that telecommunications equipment including, without limitation, any cable television converter or descrambler or related equipment has been tampered with or otherwise intentionally prevented from performing its function of control of service delivery, without the consent of the supplier of the service, is presumptive evidence that the resident to whom the service is being furnished by or through such equipment has created (or caused the creation of) such disruption in the equipment's functioning with the intent to avoid payment by himself or herself (or another person) for a prospective (or an already rendered) service.² This means that, if the People have proven beyond a reasonable doubt that such equipment was tampered with or otherwise intentionally prevented from performing its function of control of service delivery, without the consent of the supplier of the service, and that the defendant was the resident to whom the service was furnished by or through

¹ See, Penal Law § 165.15(4).

² See, Penal Law § 165.15(4).

such equipment, you may, but you are not required to, infer from those facts that the defendant created (*or* caused the creation of) such disruption in the equipment's functioning with the intent to avoid payment by himself/herself (*or* another person) for a prospective (*or* an already rendered) service.

Under our law, proof that telecommunications equipment including, without limitation, any cable television converter or descrambler or receiver or related equipment has been connected to the equipment of the supplier of the service without such supplier's consent, is presumptive evidence that the resident to whom the service is being furnished by or through such equipment has created (*or* caused the creation of) such connection with the intent to avoid payment by himself or herself (*or* another person) for a prospective (*or* already rendered) service.³ This means that, if the People have proven beyond a reasonable doubt that such equipment was connected to the equipment of the supplier of the service without such supplier's consent, and that the defendant was the resident to whom the service was furnished by or through such equipment, you may, but you are not required to, infer from those facts that the defendant created (*or* caused the creation of) such connection with the intent to avoid payment by himself/herself (*or* another person) for a prospective (*or* already rendered) service.]

³See, Penal Law § 165.15(4).