

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
104th LEGISLATURE

SENATE AMENDMENT "A" to H.P. 769, L.D. 1002, Bill, "AN ACT to Provide for the Interception of Wire and Oral Communications."

Amend said Bill in that part designated "§708" by striking out all of subsection 5 and inserting in place thereof the following:

'5. Intercepting device. "Intercepting device" means any device or apparatus which can be used to intercept a wire or oral communication other than:

A. Any telephone or telegraph instrument, equipment or facility, or any component thereof, furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; or being used by a communications common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties, or

B. A hearing aid or similar device being used to correct subnormal hearing to not better than normal.'

Further amend said Bill in that part designated "§708" striking out all of subsection 9 and inserting in place thereof the following:

'9. Oral communications. "Oral communications" means any oral communications uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation.'

Further amend said Bill in that part designated "§709" by striking out all of subsection 5 and inserting in place thereof the following:

'5. Duty to report. Any communications common carrier shall promptly report to the Attorney General any facts coming to its attention in the conduct of its business which may indicate a possible violation of this section and such carrier shall adopt reasonable rules to assure compliance with this subsection, provided such carrier shall not be liable to any person who may claim an injury arising out of any such report, if made in good faith. Any violation of this subsection shall be punishable by a fine of not more than \$5,000.'

(Filing No. S-297)

Further amend said Bill in that part designated "§710" by striking out all of subsection 1 and inserting in place thereof the following:

'1. Permitted interception of wire or oral communications. It shall not be a violation of this chapter:

A. For an operator of a switchboard, or an officer, employee or agent of any communication common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the carrier of such communication, provided that said communication common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks; or

B. For persons to use an office intercommunication system for business purposes; or

C. For federal officers to act pursuant to a statute of the United States Government; or

D. For any person duly authorized to make specific interceptions by a warrant issued under section 711 to make such interceptions.'

Further amend said Bill in that part designated "§712" by striking out all of the last underlined paragraph and inserting in place thereof the following:

'A good faith reliance on a court order shall constitute a complete defense to any civil or criminal action brought under this chapter.'

Proposed by Senator LOGAN of York.

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