

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
SENATE  
105TH LEGISLATURE

COMMITTEE AMENDMENT " " to S. P. 390, L. D. 1145, Bill,  
"AN ACT to Provide for the Interception of **Wire** and Oral  
Communications."

Amend said Bill in that part designated "§ 709." 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 "§ 709." by  
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

*(Filing No. §-167)*

justifying such expectation.'

Further amend said Bill in that part designated "§ 710." 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.'

Further amend said Bill in that part designated "§ 711." 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,

(Filing No. S-147)

provided that said communication common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks.'

Further amend said Bill in that part designated "§ 712." by striking out all of subsection 7.

Further amend said Bill in that part designated "§ 712." by renumbering subsections 8, 9 and 10 to be subsections 7, 8 and 9.

Further amend said Bill in that part designated "§ 713." by striking out all of the last underlined paragraph and inserting in place thereof the following:

'A good faith reliance on a warrant issued under this chapter shall constitute a complete defense to a civil or criminal action brought under this section.'

Statement of Fact

The purpose of this amendment is to cause sections to be more consistent with the federal law as well as delete the provisions regarding exceptions to court-authorized wiretaps.

Reported by the Committee on JUDICIARY.

Reproduced and distributed pursuant to Senate Rule No. 11A.

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