

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
105TH LEGISLATURE

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

Amend said Bill by striking out everything after the
amending clause and inserting in place thereof the following

CHAPTER 102

INTERCEPTION OF WIRE AND ORAL COMMUNICATIONS

§709. Definitions

The following words and phrases as used in this chapter shall
have the following meanings:

1. 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.

(Filing No. # - 320)

2. Interception. "Interception" means to hear, record or aid another to hear or record the contents of any wire or oral communication through the use of any intercepting device by any person other than;

A. The sender or receiver of such communication,

B. A person within the range of normal unaided hearing or subnormal hearing corrected to not better than normal, or

C. A person given prior authority by such sender.

3. 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;

4. Person. "Person" means any individual, partnership, association, joint stock company, trust or corporation, or any other legal entity, whether or not any of the foregoing is an officer, agent or employee of the United States, a state or a political subdivision of a state;

5. Wire communication. "Wire communication" means any communication made in whole or in part through the use of facilities for transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception.

(Filing no. H-320)

§710. Offense

1. Interception, oral communications prohibited. Any person who willfully intercepts, attempts to intercept, or procures any other person to intercept or attempt to intercept, any wire or oral communication shall be punished by a fine of not more than \$10,000, or by imprisonment for not more than 5 years, or by both.
2. 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.
3. Possession of interception devices prohibited. A person who has in his possession any device, contrivance, machine or apparatus designed or commonly used for intercepting wire or oral communications in this chapter, under circumstances evincing an intent to unlawfully use or employ or allow the same to be so used or employed for interception, or knowing the same is intended to be so used, shall be punished by imprisonment for not more than 2 years or by a fine of not more than \$5,000, or by both.

(Filing No. H-320)

§711. Exceptions

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, agent or employee 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 necessary incident to the operation of such facilities, provided that when any communication common carrier intercepts or monitors the contents of conversations between users it shall emit a "beep" tone or other identifying signal; and all monitoring must cease as soon as the connection is established between users; or

B. For persons to use intercepting devices for security or business purposes so long as adequate warning is given to the public that such devices are in use; or

C. For persons to use on office intercommunication system for business purposes; or

D. For federal officers to act pursuant to a statute of the United States Government.

§712. Civil remedy

Any party to a conversation intercepted, disclosed or used in violation of this chapter shall have a civil cause of action against any person who intercepts, discloses or uses such communications, and shall be entitled to recover from any such persons:

(Filing No. H-320)

1. Damages. Actual damages but not less than liquidated damages computed at the rate of \$50 per day, for each day of violation;

2. Attorney's fee. A reasonable attorney's fee and other litigation disbursements reasonably incurred.'

Statement of Fact

The purpose of this amendment is to make it a crime for the interception of wire and oral communications.

Filed by Mr. McCloskey of Bangor.

Reproduced and distributed under the direction of the Clerk of the House.

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