

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
106TH LEGISLATURE

HOUSE AMENDMENT "A" to S. P. 377, L. D. 1108, Bill, "AN ACT  
Regulating the Interception of Wire and Oral Communications."

Amend said Bill by striking out everything after the enacting  
clause and before the Statement of Fact and inserting in place  
thereof the following:

'R. S., T. 15, c. 102, additional. Title 15 of the Revised  
Statutes is amended by adding a new chapter 102 to read as  
follows:

CHAPTER 102

INTERCEPTION OF WIRE AND ORAL COMMUNICATIONS

§ 709. Definitions

The following words and phrases as used in this chapter, unless  
the context otherwise indicates, shall have the following meanings.

1. Communication common carrier. "Communication common  
carrier" means any telephone or telegraph company.
2. Contents. "Contents," when used with respect to any wire  
or oral communication, means any information concerning the identity  
of the parties to such communication or the existence, contents,  
substance, purpose or meaning of that communication.
3. 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

*(Filing No. H-531)*

by a communication 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 communication 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

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

4. 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.

5. 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.

6. 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.

*(Filing No. H-531)*

7. 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.

§ 710. Offenses

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. Editing of tape recordings in judicial proceedings prohibited. Any person who willfully edits, alters or tampers with any tape, transcription or other sound recording, or knows of such editing, altering or tampering, and presents such recording in any judicial proceeding or proceeding under oath, without fully indicating the nature of the changes made and the original state of the recording, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than 5 years, or by both.

3. Disclosure, or use of wire or oral communications prohibited. Any person who:

A. Willfully discloses or attempts to disclose to any person the contents of any wire or oral communication, knowing that the information was obtained through interception; or

B. Willfully uses or attempts to use the contents of any wire or oral communication, knowing that the information was obtained

*(Filing No. H-531)*

through interception, shall be punished by imprisonment for not more than 2 years or by a fine of not more than \$5,000, or by both.

4. 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.

5. 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 defined 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.

#### § 711. 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:

1. Damages. Actual damages, but not less than liquidated damages, computed at the rate of \$100 per day for each day of violation.

2. Attorney's fee. A reasonable attorney's fee and other litigation disbursements reasonably incurred. (Filing No. H-534)

§712. Exceptions

It shall not be a violation of this chapter 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.

It shall not be a violation of this chapter for a person acting under cover of law to intercept a wire or oral communication, where such person is a party to the communication or one of the parties to the communication has given prior consent to such interception.'

Statement of Fact

The purpose of this amendment is to make this bill conform to 18 U.S.C. §2511(2)(c).

Filed by Mr. Simpson of Standish.

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

6/7/73

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