

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
106TH LEGISLATURE

SENATE 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. Aggrieved person. "Aggrieved person" means an individual
who was a party to an intercepted wire or oral communication, or
who was named in the warrant authorizing the interception, or
whose property interests were invaded in the course of the interception.

2. Communication common carrier. "Communication common
carrier" means any telephone or telegraph company.

3. 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, purport or meaning of that communication.

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

(Filing No. S-161)

A. Any telephone or telegraph instrument, equipment or facility. or any component thereof, furnished to the subscriber or user 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

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

5. 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.

6. 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.

7. 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. S-161)

8. 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 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.

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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.'

Statement of Fact

The purpose of this amendment is to prohibit the interception

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of wire and oral communications and to create civil and criminal penalties therefor.

(Katz)
NAME:



COUNTY: Kennebec

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