

MAINE STATE LEGISLATURE

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ACTS, RESOLVES AND CONSTITUTIONAL RESOLUTIONS

AS PASSED BY THE

One Hundred and Sixth Legislature

OF THE

STATE OF MAINE

Published by the Director of Legislative Research in accordance with the Revised Statutes of 1964, Title 3, Section 164, Subsection 6.

THE KNOWLTON AND McLEARY COMPANY
FARMINGTON, MAINE
1973

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Sixth Legislature

1973

(5) Variable ~~annuity~~ contract as defined in 1520, subsection 3;

Sec. 14. R. S., T. 24-A, § 2537, sub-§ 11, amended. Subsection 11 of section 2537 of Title 24-A of the Revised Statutes, as enacted by section 1 of chapter 132 of the public laws of 1969, is amended to read as follows:

11. ~~The~~ Notwithstanding any other provision of law, the commissioner shall have sole authority to regulate the issuance and sale of ~~the~~ variable contracts ~~or agreements authorized by subsection 1~~ and to promulgate such rules and regulations as may be necessary for the effectuation of this section.

Effective October 3, 1973

CHAPTER 561

AN ACT Regulating the Interception of Wire and Oral Communications.

Be it enacted by the People of the State of Maine, as follows:

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, purport 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 being used by a communication common carrier in the ordinary course of its business or extension telephones used by a subscriber to telephone service; or

B. 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.

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, other than an employee of a common carrier as defined in this chapter or a law enforcement officer carrying out practices otherwise permitted by this chapter, 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.

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, other than an employee of a common carrier as defined in this chapter or a law enforcement officer carrying out practices otherwise permitted by this chapter, 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, shall be punished by imprisonment for not more than 2 years or by a fine of not more than \$5,000, or by both.

6. Sale of interception devices prohibited. A person who sells, exchanges, delivers, barter, gives or furnishes or possesses with an intent to sell any device, contrivance, machine or apparatus designed or commonly used for the interception of wire or oral communications as defined in this chapter, shall be punished by imprisonment for not more than 10 years and by a fine of not more than \$10,000 for each offense.

A. Exception. Devices manufactured under written contract for sale to common carriers and law enforcement agencies, provided that the production of any such device shall not have commenced prior to the signing of said contract by both parties.

§ 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.

§ 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, as defined in this chapter, 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, nor shall any such officer, employee or agent use or disclose to another the contents as defined in this chapter of the communication so intercepted.

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, except that any evidence so obtained shall not be admissible in a court of law.