
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by James Benton.

DIGEST

Present law provides that "communications common carrier" means any person engaged as a common carrier for hire in communication by wire or radio, or electronic communications; however, a person engaged in commercial radio broadcasting which is supervised by the Federal Communications Commission shall not, insofar as such person is so engaged, be deemed a common carrier.

Proposed law retains present law and adds electronic communications.

Present law provides that "intercept" means the aural acquisition of the contents of any wire, or oral communication through the use of any electronic, mechanical, or other device.

Proposed law retains present law and adds electronic communication.

Present law provides that "pen register" means a device which records and decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached, but this term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business.

Proposed law provides that "pen register" means dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted, if the information does not include the contents of the communication. The term does not include a device used by a provider or customer of a wire or electronic communication service in the ordinary course of the provider's or customer's business for purposes of:

1. Billing or recording as an incident to billing for communications services; or
2. Cost accounting, security control, or other ordinary business purposes.

Proposed law provides that it will be unlawful for any person to:

1. Willfully intercept, endeavor to intercept, or procure any other person to intercept or endeavor to intercept, any wire or oral communication;
2. Willfully use, endeavor to use, or procure any other person to use or endeavor to use, any electronic, mechanical, or other device to intercept any oral communication when:

- (a) Such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or
 - (b) Such device transmits communications by radio or interferes with the transmission of such communication;
3. Willfully disclose, or endeavor to disclose, to any other person the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire, electronic, or oral communication in violation of this Subsection; or
 4. Willfully use, or endeavor to use, the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication in violation of this Subsection.

Proposed law retains present law and adds electronic communication.

Present law provides that it will not be unlawful under present law for an officer, employee, or agent of the Federal Communications Commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the commission in the enforcement of present law, to intercept a wire or electronic communication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained. Further provides that it shall not be unlawful under present law for a person acting under color of law to intercept a wire, electronic, 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. Such a person acting under color of law is authorized to possess equipment used under such circumstances. It shall not be unlawful under present law for a person not acting under color of law to intercept a wire, electronic, or oral communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception, unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the constitution or laws of the United States or of the state or for the purpose of committing any other injurious act.

Proposed law retains present law and adds electronic communications.

Present law provides that except as otherwise specifically provided in present law, it will be unlawful for any person willfully to manufacture, assemble, possess, or sell any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of surreptitious interception of wire or oral communications.

Proposed law retains present law and adds electronic communications.

Present law provides that the attorney general, or the deputy or any assistant attorney general

acting pursuant to the authorization of the attorney general, with the approval of the district attorney or any assistant district attorney acting pursuant to the written authorization of the district attorney in whose district the interception of wire or oral communications shall take place, and the district attorney or authorized assistant district attorney, with the approval of the attorney general or authorized deputy or assistant attorney general may authorize an application to a judge in whose district the interception of wire or oral communications shall take place, and such judge may grant in conformity with present law an order authorizing or approving the interception of wire or oral communications by an investigative or law enforcement officer having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of:

Failure of the district attorney to obtain approval for the interception of wire or oral communications as set forth in present law will constitute cause for the attorney general to institute, prosecute, or intervene in a criminal action or proceeding as authorized by law.

Proposed law retains present law and adds electronic communications.

Proposed law provides for the authorization for disclosure and use of intercepted wire or oral communications.

Proposed law retains present law and adds electronic communications.

Present law provides for the procedure for interception of wire or oral communications.

Proposed law retains present law and adds electronic communications.

Present law provides relative to reports concerning intercepted wire or oral communications.

Proposed law retains present law and adds electronic communications.

Present law provides that any person whose wire or oral communication is intercepted, disclosed, or used in violation of present law will have a civil cause of action against any person who intercepts, discloses, or uses, or procures any other person to intercept, disclose, or use such communications, and be entitled to recover from any such person

Proposed law retains present law and adds electronic communications.

Effective August 1, 2012.

(Amends R.S. 15:1302(4), (11) and (15), 1303(A)(1), (2), (3), and (4), (C)(2), (3) and (4), 1304(A), 1308(A) (intro para) and 1308(B), 1309, 1310(A) (intro para) and 1310(A)(6), 1310(C) (intro para) and 1310(C)(5), 1310(D)(1) (intro para), 1310(E), (F)(1) and (2), 1310(F)(4) (intro para), 1310(F)(4)(c) and (G), 1310(H)(1) (intro para) and 1310(H)(2), 1311(C) and 1312(A) (intro para))