

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 840

Short Title: Intercept Communications/All Party Consent. (Public)

Sponsors: Representative Moffitt.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

May 5, 2021

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE INTERCEPTION AND DISCLOSURE OF A WIRE, ORAL,
OR ELECTRONIC COMMUNICATION WITHOUT THE CONSENT OF ALL PARTIES
TO THE COMMUNICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-287 reads as rewritten:

"§ 15A-287. **Interception and disclosure of wire, oral, or electronic communications prohibited.**

(a) Except as otherwise specifically provided in this Article, a person is guilty of a Class H felony if, without the prior consent of at least one party ~~all parties~~ to the communication, the ~~person~~ person does any of the following:

(1) Willfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication.

(2) Willfully uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication ~~when~~ when either of the following applies:

a. The device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire ~~communications;~~ communications.

b. The device transmits communications by radio, or interferes with the transmission of such communications.

(3) Willfully discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through violation of this ~~Article;~~ Article.

(4) Willfully uses, or endeavors 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 Article.

(b) It is not unlawful under this Article for any person ~~to~~ to do any of the following:

(1) Intercept or access an electronic communication made through an electronic communication system that is configured so that the electronic communication is readily accessible to the general ~~public;~~ public.



- 1 (2) Intercept any radio communication which is ~~transmitted~~transmitted in
2 accordance with any of the following:
3 a. For use by the general public, or that relates to ships, aircraft, vehicles,
4 or persons in ~~distress~~distress.
5 b. By any governmental, law enforcement, civil defense, private land
6 mobile, or public safety communication system, including police and
7 fire, readily available to the general ~~public~~public.
8 c. By a station operating on any authorized band within the bands
9 allocated to the amateur, citizens band, or general mobile radio
10 ~~services~~or services.
11 d. By any marine or aeronautical communication ~~system~~or system.
- 12 (3) Intercept any communication in a manner otherwise allowed by Chapter 119
13 of the United States Code.
- 14 (4) For an investigative or law enforcement officer, or a person acting under the
15 direction of an investigative or law enforcement officer, to intercept a wire,
16 oral, or electronic communication when both of the following requirements
17 are met:
18 a. The officer, or person acting under the direction of the officer, is a
19 party to the communication, or one of the parties to the conversation
20 has given prior consent to the interception of the communication.
21 b. The purpose of the interception is to obtain evidence of a criminal act.
- 22 (5) For a law enforcement officer to intercept a communication as part of making
23 a recording from a body-worn camera or dashboard camera, as those terms are
24 defined in G.S. 132-1.4A, during the course of the officer's official duties.
- 25 (6) For an employee of a telephone company to intercept a wire communication
26 for the sole purpose of tracing the origin of the communication when the
27 interception is requested by the recipient of the communication and the
28 recipient alleges that the communication is obscene, harassing, or threatening
29 in nature. Within 48 hours after the time of the interception, the individual
30 conducting the interception under this subdivision shall provide notice of the
31 interception to the local law enforcement agency that has the primary
32 responsibility for enforcing the criminal laws in the location in which the
33 interception occurred.
- 34 (7) For an employee of a public utility as defined in G.S. 62-3, or a law
35 enforcement agency, fire department, ambulance company, or other
36 emergency medical services provider, when receiving or responding to an
37 emergency call, to intercept or disclose a communication, while engaged in
38 any activity which is a necessary incident to the rendition of service or the
39 protection of life or property.

40 (c) It is not unlawful under this Article for an operator of a switchboard, or an officer,
41 employee, or agent of a provider of electronic communication service, whose facilities are used
42 in the transmission of a wire or electronic communication, to intercept, disclose, or use that
43 communication in the normal course of employment while engaged in any activity that is a
44 necessary incident to the rendition of his or her service or to the protection of the rights or
45 property of the provider of that service, provided that a provider of wire or electronic
46 communication service may not utilize service observing or random monitoring except for
47 mechanical or service quality control checks.

48 (d) It is not unlawful under this Article for an officer, employee, or agent of the Federal
49 Communications Commission, in the normal course of his employment and in discharge of the
50 monitoring responsibilities exercised by the Commission in the enforcement of Chapter 5 of Title

1 47 of the United States Code, to intercept a wire or electronic communication, or oral
2 communication transmitted by radio, or to disclose or use the information thereby obtained.

3 (e) Any person who, as a result of the person's official position or employment, has
4 obtained knowledge of the contents of any wire, oral, or electronic communication lawfully
5 intercepted pursuant to an electronic surveillance order or of the pendency or existence of or
6 implementation of an electronic surveillance order who shall knowingly and willfully disclose
7 such information for the purpose of hindering or thwarting any investigation or prosecution
8 relating to the subject matter of the electronic surveillance order, except as is necessary for the
9 proper and lawful performance of the duties of his position or employment or as shall be required
10 or allowed by law, shall be guilty of a Class G felony.

11 (f) Any person who shall, knowingly or with gross negligence, divulge the existence of
12 or contents of any electronic surveillance order in a way likely to hinder or thwart any
13 investigation or prosecution relating to the subject matter of the electronic surveillance order or
14 anyone who shall, knowingly or with gross negligence, release the contents of any wire, oral, or
15 electronic communication intercepted under an electronic surveillance order, except as is
16 necessary for the proper and lawful performance of the duties of his position or employment or
17 as is required or allowed by law, shall be guilty of a Class 1 misdemeanor.

18 (g) Any public officer who shall violate subsection (a) or (d) of this section or who shall
19 knowingly violate subsection (e) of this section shall be removed from any public office ~~he~~the
20 officer may hold and shall thereafter be ineligible to hold any public office, whether elective or
21 appointed."

22 **SECTION 2.** This act becomes effective December 1, 2021, and applies to offenses
23 committed on or after that date.