

House Bill 2819

Sponsored by Representative BARKER (at the request of Oregon Council of Police Associations)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Exempts uniformed public safety officer from prohibition against obtaining communication without knowledge of all participants.

A BILL FOR AN ACT

1
2 Relating to obtaining communications; amending ORS 165.540.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 165.540 is amended to read:

5 165.540. (1) Except as otherwise provided in ORS 133.724 or 133.726 or subsections (2) to (7) of
6 this section, a person may not:

7 (a) Obtain or attempt to obtain the whole or any part of a telecommunication or a radio com-
8 munication to which the person is not a participant, by means of any device, contrivance, machine
9 or apparatus, whether electrical, mechanical, manual or otherwise, unless consent is given by at
10 least one participant.

11 (b) Tamper with the wires, connections, boxes, fuses, circuits, lines or any other equipment or
12 facilities of a telecommunication or radio communication company over which messages are trans-
13 mitted, with the intent to obtain unlawfully the contents of a telecommunication or radio communi-
14 cation to which the person is not a participant.

15 (c) Obtain or attempt to obtain the whole or any part of a conversation by means of any device,
16 contrivance, machine or apparatus, whether electrical, mechanical, manual or otherwise, if not all
17 participants in the conversation are specifically informed that their conversation is being obtained.

18 (d) Obtain the whole or any part of a conversation, telecommunication or radio communication
19 from any person, while knowing or having good reason to believe that the conversation, telecom-
20 munication or radio communication was initially obtained in a manner prohibited by this section.

21 (e) Use or attempt to use, or divulge to others, any conversation, telecommunication or radio
22 communication obtained by any means prohibited by this section.

23 (2)(a) The prohibitions in subsection (1)(a), (b) and (c) of this section do not apply to:

24 (A) Officers, employees or agents of a telecommunication or radio communication company who
25 perform the acts prohibited by subsection (1)(a), (b) and (c) of this section for the purpose of con-
26 struction, maintenance or conducting of their telecommunication or radio communication service,
27 facilities or equipment.

28 (B) Public officials in charge of and at jails, police premises, sheriffs' offices, Department of
29 Corrections institutions and other penal or correctional institutions, except as to communications
30 or conversations between an attorney and the client of the attorney.

31 (b) Officers, employees or agents of a telecommunication or radio communication company who

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 obtain information under paragraph (a) of this subsection may not use or attempt to use, or divulge
2 to others, the information except for the purpose of construction, maintenance, or conducting of
3 their telecommunication or radio communication service, facilities or equipment.

4 (3) The prohibitions in subsection (1)(a), (b) or (c) of this section do not apply to subscribers or
5 members of their family who perform the acts prohibited in subsection (1) of this section in their
6 homes.

7 (4) The prohibitions in subsection (1)(a) of this section do not apply to the receiving or obtaining
8 of the contents of any radio or television broadcast transmitted for the use of the general public.

9 (5) The prohibitions in subsection (1)(c) of this section do not apply to:

10 (a) **A uniformed public safety officer; or**

11 (b) A person who records a conversation during a felony that endangers human life.

12 (6) The prohibitions in subsection (1)(c) of this section do not apply to persons who intercept
13 or attempt to intercept with an unconcealed recording device the oral communications that are part
14 of any of the following proceedings:

15 (a) Public or semipublic meetings such as hearings before governmental or quasi-governmental
16 bodies, trials, press conferences, public speeches, rallies and sporting or other events;

17 (b) Regularly scheduled classes or similar educational activities in public or private institutions;
18 or

19 (c) Private meetings or conferences if all others involved knew or reasonably should have known
20 that the recording was being made.

21 (7) The prohibitions in subsection (1)(a), (c), (d) and (e) of this section do not apply to any:

22 (a) Radio communication that is transmitted by a station operating on an authorized frequency
23 within the amateur or citizens bands; or

24 (b) Person who intercepts a radio communication that is transmitted by any governmental, law
25 enforcement, civil defense or public safety communications system, including police and fire, readily
26 accessible to the general public provided that the interception is not for purposes of illegal activity.

27 (8) Violation of subsection (1) or (2)(b) of this section is a Class A misdemeanor.
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