

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1194

Short Title: Need Consent to Tape Conversation.

(Public)

Sponsors: Representatives Nesbitt; and Luebke.

Referred to: Judiciary I.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT IT IS UNLAWFUL TO RECORD A TELEPHONE CONVERSATION WITHOUT THE CONSENT OF ALL PARTIES TO THE CONVERSATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-287(a) reads as rewritten:

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

(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:

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

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

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

5 (4) Willfully uses, or endeavors to use, the contents of any wire or oral
6 communication, knowing or having reason to know that the information
7 was obtained through the interception of a wire or oral communication
8 in violation of this Article."

9 Section 2. G.S. 15A-261 reads as rewritten:

10 **"§ 15A-261. Prohibition and exceptions.**

11 (a) In General. – Except as provided in subsection (b) of this section, no person
12 may install or use a pen register or a trap and trace device without first obtaining a court
13 order as provided in this Article.

14 (b) Exception. – The prohibition of subsection (a) of this section does not apply to
15 the use of a pen register or a trap and trace device by a provider of wire or electronic
16 communication service:

17 (1) Relating to the operation, maintenance, or testing of a wire or electronic
18 communication service or to the protection of the rights or property of
19 the provider, or to the protection of users of that service from abuse of
20 service or unlawful use of service; or

21 (2) To record the fact that a wire or electronic communication was initiated
22 or completed in order to protect the provider, another provider
23 furnishing service toward the completion of the wire communication, or
24 a user of that service, from fraudulent, unlawful or abusive use of
25 service; or

26 (3) With the consent of the user of that service. However, anyone who
27 communicates with the user must be informed at the beginning of the
28 conversation that the conversation is being recorded.

29 (c) Penalty. – A person who willfully and knowingly violates subsection (a) of this
30 section is guilty of a Class 1 misdemeanor."

31 Section 3. The title of Article 50 of Chapter 14 of the General Statutes reads as
32 rewritten:

33 **"PROTECTION OF LETTERS, TELEGRAMS, ~~AND TELEPHONE~~**
34 **MESSAGES. ~~MESSAGES AND TELEPHONE CONVERSATIONS.~~"**

35 Section 4. Article 50 of Chapter 14 of the General Statutes is amended by
36 adding a new section to read:

37 **"§ 14-372.1. Unauthorized recording of telephone conversations.**

38 (a) It is unlawful for any person knowingly to record a telephone conversation
39 without the consent of all parties to the conversation.

40 (b) This section does not apply if there is a court order authorizing or approving
41 the recording of the telephone conversation.

42 (c) A violation of this section is a Class 1 misdemeanor."

1 Section 5. This act becomes effective December 1, 1999, and applies to
2 offenses committed on or after that date.