

CHAPTER 151

---

**CRIMINAL LAW AND PROCEDURE**

---

**HOUSE BILL 97-1268**

BY REPRESENTATIVES Tupa, Bacon, Kaufman, Leyba, Nichol, Paschall, Smith, Sullivant, Tool, Udall, Veiga, Zimmerman, Dean, and Taylor;  
also SENATORS Duke, Arnold, Bishop, Blickensderfer, Congrove, Hernandez, Martinez, Mutzebaugh, Norton, Pascoe, Perlmutter, Phillips, Powers, Reeves, Rizzuto, Rupert, and Wattenberg.

**AN ACT**

CONCERNING THE PRIVACY OF ELECTRONIC COMMUNICATIONS MADE VIA CORDLESS TELEPHONES.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 16-15-101 (3.3) and (9), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**16-15-101. Definitions.** As used in this article, unless the context otherwise requires:

(3.3) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system that affects interstate or foreign commerce but does not include:

- (a) ~~The radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;~~
- (b) Any wire or oral communication;
- (c) Any communication made through a tone-only paging device; or
- (d) Any communication from a tracking device.

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(9) "Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection, including the use of such connection in a switching station, between the point of origin and the point of reception, furnished or operated by any person engaged in providing or operating such facilities for the transmission of communications and includes any electronic storage of such communication. ~~but does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit.~~

**SECTION 2.** 18-9-301 (3.3) and (9), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**18-9-301. Definitions.** As used in sections 18-9-301 to 18-9-305, unless the context otherwise requires:

(3.3) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system that affects interstate or foreign commerce but does not include:

(a) ~~The radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;~~

(b) Any wire or oral communication;

(c) Any communication made through a tone-only paging device; or

(d) Any communication from a tracking device.

(9) "Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection, including the use of such connection in a switching station, between the point of origin and the point of reception, furnished or operated by any person engaged in providing or operating such facilities for the transmission of communications and includes any electronic storage of such communication. ~~but does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit.~~

**SECTION 3.** 18-9-303 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-9-303. Wiretapping prohibited - penalty.** (2) Wiretapping is a class 6 felony; EXCEPT THAT, IF THE WIRETAPPING INVOLVES A CORDLESS TELEPHONE, IT IS A CLASS 1 MISDEMEANOR.

**SECTION 4.** 18-9-305, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**18-9-305. Exceptions.** (4.9) IT SHALL NOT BE UNLAWFUL FOR A DISTRICT

ATTORNEY OR LAW ENFORCEMENT OFFICER TO LISTEN TO A RECORDING OF OR TO READ A TRANSCRIPTION OF THE CONTENTS OF AN ELECTRONIC COMMUNICATION INVOLVING A CORDLESS TELEPHONE WHEN THE DISTRICT ATTORNEY OR LAW ENFORCEMENT OFFICER HAS COME INTO POSSESSION OF SUCH MATERIALS FROM A THIRD PARTY. IN ORDER TO USE SUCH MATERIALS AS EVIDENCE IN A PROSECUTION FOR A CRIME OTHER THAN WIRETAPPING OR EAVESDROPPING, THE DISTRICT ATTORNEY OR LAW ENFORCEMENT OFFICER SHALL HAVE A REASONABLE BASIS FOR BELIEVING THAT THE RECORDING OR TRANSCRIPTION IS RELIABLE AND SHALL ALSO HAVE SEPARATE PROBABLE CAUSE BASED ON CORROBORATING EVIDENCE TO SUPPORT A REASONABLE BELIEF THAT THE CRIME WAS COMMITTED. NOTHING IN THIS SUBSECTION (4.9) SHALL PRECLUDE A DISTRICT ATTORNEY FROM PROSECUTING A PERSON FOR A VIOLATION OF SECTION 18-9-303 OR 18-9-304.

**SECTION 5. Effective date - applicability.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor. This act shall apply to offenses committed on or after said effective date.

Approved: April 30, 1997