

# Senate Bill 831

Sponsored by Senator PROZANSKI (at the request of Travis Glover)

## 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**.

Prohibits person from obtaining or attempting to obtain telecommunication or radio communication unless consent is given by all participants. Punishes by maximum of 364 days' imprisonment, \$6,250 fine, or both.

## A BILL FOR AN ACT

1  
2 Relating to communications crimes; 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*] **all participants**.

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 person who records a conversation during a felony that endangers human life;

11 (b) A person who records a conversation in which a law enforcement officer is a participant, if:

12 (A) The recording is made while the officer is performing official duties;

13 (B) The recording is made openly and in plain view of the participants in the conversation;

14 (C) The conversation being recorded is audible to the person by normal unaided hearing; and

15 (D) The person is in a place where the person lawfully may be;

16 (c)(A) A person who, pursuant to ORS 133.400, records an interview conducted by a peace officer  
17 in a law enforcement facility; or

18 (B) A person who, pursuant to ORS 133.402, records a custodial interview, as defined ORS  
19 133.402;

20 (d) A law enforcement officer who is in uniform and displaying a badge and who is operating:

21 (A) A vehicle-mounted video camera that records the scene in front of, within or surrounding  
22 a police vehicle, unless the officer has reasonable opportunity to inform participants in the conver-  
23 sation that the conversation is being obtained; or

24 (B) A video camera worn upon the officer's person that records the officer's interactions with  
25 members of the public while the officer is on duty, unless:

26 (i) The officer has an opportunity to announce at the beginning of the interaction that the con-  
27 versation is being obtained; and

28 (ii) The announcement can be accomplished without causing jeopardy to the officer or any other  
29 person and without unreasonably impairing a criminal investigation; or

30 (e) A law enforcement officer who, acting in the officer's official capacity, deploys an Electro-  
31 Muscular Disruption Technology device that contains a built-in monitoring system capable of re-  
32 cording audio or video, for the duration of that deployment.

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

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

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

39 or

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

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

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

45 (b) Person who intercepts a radio communication that is transmitted by any governmental, law

1 enforcement, civil defense or public safety communications system, including police and fire, readily  
2 accessible to the general public provided that the interception is not for purposes of illegal activity.

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

4 (9) The exception described in subsection (5)(b) of this section does not authorize the person  
5 recording the law enforcement officer to engage in criminal trespass as described in ORS 164.243,  
6 164.245, 164.255, 164.265 or 164.278 or to interfere with a peace officer as described in ORS 162.247.

7 (10) As used in this section:

8 (a) "Electro-Muscular Disruption Technology device" means a device that uses a high-voltage,  
9 low power charge of electricity to induce involuntary muscle contractions intended to cause tem-  
10 porary incapacitation. "Electro-Muscular Disruption Technology device" includes devices commonly  
11 known as tasers.

12 (b) "Law enforcement officer" has the meaning given that term in ORS 133.726.

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