

Amendment No. 792

Senate Amendment to Assembly Bill No. 127

(BDR 15-1049)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold*** is newly added transitory language.

BFG/BAW



Date: 5/18/2007

A.B. No. 127—Revises provisions relating to interception of wire communications.
(BDR 15-1049)



ASSEMBLY BILL NO. 127—ASSEMBLYMEN SMITH, PARKS, LESLIE, KOIVISTO, CONKLIN, ATKINSON, BOBZIEN, BUCKLEY, CLABORN, DENIS, HOGAN, HORNE, KIHUEN, KIRKPATRICK, MANENDO, MCCLAIN, MORTENSON, OCEGUERA, OHRENSCHALL, PARNELL, PIERCE, SEGERBLOM AND WOMACK

FEBRUARY 20, 2007

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to interception of wire communications. (BDR ~~[15-1049]~~ 54-1049)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to communications; ~~[authorizing]~~ **clarifying that** a person ~~[to]~~ **may** record certain telephone calls made by collection agents and collection agencies ~~[without obtaining their consent]~~ **after providing notice that the call is being recorded and making a statement to that effect on the recording;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally requires two-party consent before a person may record a telephone conversation. (NRS 200.620) The Nevada Supreme Court has interpreted existing law to prohibit a person from recording his own telephone conversations unless the other party to the conversation gives prior consent to the recording. (*Lane v. Allstate Ins. Co.*, 114 Nev. 1176 (1998)) ~~[However, the law recognizes exceptions to the requirement of two-party consent for certain situations, including: (1) interceptions of wire communications made pursuant to a court order; (2) interceptions of wire communications made with the consent of one party in an emergency situation and later ratified by a court; (3) interceptions of communications made by an offender in an institution or facility with a person outside of the institution or facility in certain circumstances; and (4) a public utility recording telephone calls relating to emergencies and service outages in certain circumstances. (NRS 179.410-179.515, 200.410, 704.195)]~~ **Existing law also prohibits the surreptitious listening, monitoring or recording of private conversations engaged in by other persons. (NRS 200.650)**

~~[Sections 1 and]~~ **Section 4** of this bill ~~[provide an additional exception to the two-party consent requirement set forth in NRS 200.620. Section 4 authorizes]~~ **provides that, after providing notice to the collection agency or collection agent that the telephone call is being recorded and making a statement to that effect on the recording,** a person ~~[to]~~ **may** record any telephone call concerning a debt which is owed or asserted to be owed by the person if the telephone call is initiated by a collection agency or collection agent and received by the person who owes or is alleged to owe the debt. ~~[Section 4 further provides that the person who records the telephone call is not required to obtain the consent of the collection agency or collection agent to record the telephone call or provide notice to the collection agency or collection agent that the telephone call is being recorded.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[NRS 200.620 is hereby amended to read as follows:~~

~~200.620 1. Except as otherwise provided in NRS 179.410 to 179.515, inclusive, 209.419 and 704.195, and section 4 of this act, it is unlawful for any person to intercept or attempt to intercept any wire communication unless:~~

~~(a) The interception or attempted interception is made with the prior consent of one of the parties to the communication; and~~

~~(b) An emergency situation exists and it is impractical to obtain a court order as required by NRS 179.410 to 179.515, inclusive, before the interception, in which event the interception is subject to the requirements of subsection 3. If the application for ratification is denied, any use or disclosure of the information so intercepted is unlawful, and the person who made the interception shall notify the sender and the receiver of the communication that:~~

~~(1) The communication was intercepted; and~~

~~(2) Upon application to the court, ratification of the interception was denied.~~

~~2. This section does not apply to any person, or to the officers, employees or agents of any person, engaged in the business of providing service and facilities for wire communication where the interception or attempted interception is to construct, maintain, conduct or operate the service or facilities of that person.~~

~~3. Any person who has made an interception in an emergency situation as provided in paragraph (b) of subsection 1 shall, within 72 hours of the interception, make a written application to a justice of the Supreme Court or district judge for ratification of the interception. The interception must not be ratified unless the applicant shows that:~~

~~(a) An emergency situation existed and it was impractical to obtain a court order before the interception; and~~

~~(b) Except for the absence of a court order, the interception met the requirements of NRS 179.410 to 179.515, inclusive.~~

~~4. NRS 200.610 to 200.690, inclusive, do not prohibit the recording, and NRS 179.410 to 179.515, inclusive, do not prohibit the reception in evidence, of conversations on wire communications installed in the office of an official law enforcement or fire fighting agency, or a public utility, if the equipment used for the recording is installed in a facility for wire communications or on a telephone with a number listed in a directory, on which emergency calls or requests by a person for response by the law enforcement or fire fighting agency or public utility are likely to be received. In addition, those sections do not prohibit the recording or reception in evidence of conversations initiated by the law enforcement or fire fighting agency or public utility from such a facility or telephone in connection with responding to the original call or request, if the agency or public utility informs the other party that the conversation is being recorded.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 200.650 is hereby amended to read as follows:~~

~~200.650 Except as otherwise provided in NRS 179.410 to 179.515, inclusive, and 704.195, and section 4 of this act, a person shall not intrude upon the privacy of other persons by surreptitiously listening to, monitoring or recording, or attempting to listen to, monitor or record, by means of any mechanical, electronic or other listening device, any private conversation engaged in by the other persons, or disclose the existence, content, substance, purport, effect or meaning of any~~

1 ~~conversation so listened to, monitored or recorded, unless authorized to do so by~~
2 ~~one of the persons engaging in the conversation.] (Deleted by amendment.)~~

3 **Sec. 3.** ~~[NRS 179.458 is hereby amended to read as follows:~~

4 ~~179.458 The provisions of NRS 179.410 to 179.515, inclusive, do not~~
5 ~~prohibit the recording of any telephone call by [a]:~~

6 ~~1. A public utility pursuant to NRS 704.195 [.] ; or~~

7 ~~2. A person authorized to record a telephone call made by a collection~~
8 ~~agency or collection agent pursuant to section 4 of this act.] (Deleted by~~
9 ~~amendment.)~~

10 **Sec. 4.** Chapter 649 of NRS is hereby amended by adding thereto a new
11 section to read as follows:

12 1. ~~[A]~~ After providing notice that the telephone conversation will be
13 recorded, a person may record any telephone call that:

14 (a) Concerns a claim which is owed or asserted to be owed by the person;

15 (b) Is made by a collection agency or collection agent; and

16 (c) Is received by the person.

17 2. A person who records a telephone call pursuant to this section is ~~(not)~~
18 required to ~~to~~

19 ~~(a) Obtain the consent of the collection agency or collection agent to record~~
20 ~~the telephone call; or~~

21 ~~(b) Provide notice to the collection agency or collection agent that the person~~
22 ~~is recording the telephone call.]~~ make a statement immediately after the recording
23 begins that the telephone call is being recorded.

24 3. As used in this section, "record" means the acquisition of the contents of
25 a wire communication through the use of a recording device.