

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-14-81

Time _____

No: 1055

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981



ENROLLED

Com. Sub. for
HOUSE BILL No. 1055

(By Mr. Carmichael + Mr. Hoyich)



Passed April 3, 1981

In Effect Ninety Days From Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 1055

(By MR. CARMICHAEL and MR. GVOYICH)

[Passed April 3, 1981; in effect ninety days from passage.]

AN ACT to amend article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-four-c, relating to making it a crime to intercept or monitor certain customer telephone communications and providing a criminal penalty therefor; providing for circumstances by which certain telephone communications may be monitored; and providing for certain exceptions.

Be it enacted by the Legislature of West Virginia:

That article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twenty-four-c, to read as follows:

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-24c. Intercepting or monitoring customer telephone calls; penalty.

- 1 (a) It is unlawful for any person, firm or corporation to
- 2 intercept or monitor, or to attempt to intercept or monitor, the
- 3 transmission of a message, signal or other communication by

4 telephone between an employee or similar agent of such
5 person, firm or corporation and a customer of such person,
6 firm or corporation unless such person, firm or corporation
7 does all of the following:

8 (1) Clearly marks each telephone instrument in the pos-
9 session of said person, firm or corporation from which any
10 such communication may be intercepted or in any way moni-
11 tored, with accompanying explanation in each telephone direc-
12 tory at the next succeeding publication after enactment of
13 this section and all succeeding publications used by its em-
14 ployees or customers.

15 (2) Throughout the period of each such interception or
16 monitoring or attempted interception or monitoring, utilizes an
17 automated tone warning device that produces a distinct warn-
18 ing signal or beep tone, which signal or tone is clearly audible
19 to each party to the communication or by other audible means
20 clearly indicates that such message, signal or other communi-
21 cation is being monitored or intercepted.

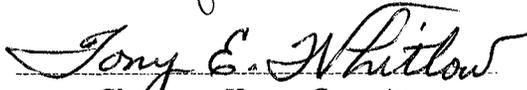
22 Any person, firm or corporation violating the provisions of
23 this section is guilty of a misdemeanor, and, upon conviction
24 thereof, shall be fined not less than two hundred dollars, or
25 imprisoned in the county jail not more than one year, or both
26 fined and imprisoned.

27 (b) Nothing contained in this section shall require marking
28 of telephone instruments and directories, nor require consent to
29 interception or monitoring, nor require utilization of an auto-
30 mated tone warning device, in the case of a wiretap or other
31 form of monitoring which is engaged in for the sole purpose
32 of law enforcement and which is lawful in all other respects.

33 (c) The public service commission shall not issue any rule
34 or regulation requiring or suggesting the monitoring of any
35 message, signal or other communication by telephone to or
36 from any telephone utility customer so as to obtain the con-
37 tent or substance of any such communication.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

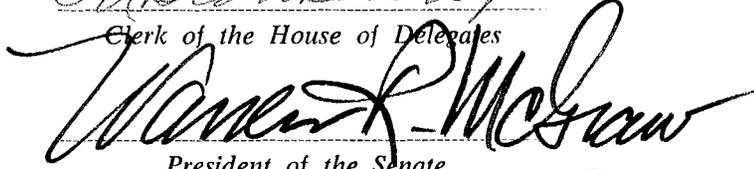

Chairman House Committee

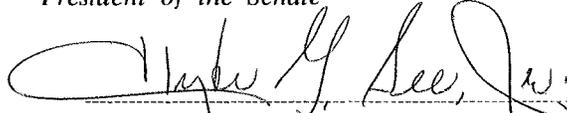
Originated in the House.

Takes effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within is approved this the 14
day of April, 1981.


Governor

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SECY.