

1 SENATE BILL 127

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Bill B. O'Neill

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10 AN ACT

11 RELATING TO COMMUNICATIONS; REQUIRING ALL PARTIES TO CONSENT TO
12 RECORD CONFIDENTIAL COMMUNICATIONS.

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 30-12-1 NMSA 1978 (being Laws 1963,
16 Chapter 303, Section 12-1, as amended) is amended to read:

17 "30-12-1. INTERFERENCE WITH COMMUNICATIONS--DEFINITION--
18 EXCEPTION.--

19 A. As used in this section, "confidential message,
20 communication or report" means a message, communication or
21 report made in circumstances that indicate that a party to the
22 message, communication or report desires, and has a reasonable
23 expectation, that the message, communication or report be
24 confined to the parties thereto, but does not include a
25 message, communication or report made in circumstances in which

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1 the parties to the message, communication or report may
2 reasonably expect that the message, communication or report may
3 be overheard or recorded.

4 B. Interference with communications consists of
5 knowingly and without lawful authority:

6 [A-] (1) displacing, removing, injuring or
7 destroying any radio station, television tower, antenna or
8 cable, telegraph or telephone line, wire, cable, pole or
9 conduit belonging to another or the material or property
10 appurtenant [~~thereto~~] to them;

11 [B-] (2) cutting, breaking, tapping or making
12 any connection with any telegraph or telephone line, wire,
13 cable or instrument belonging to or in the lawful possession or
14 control of another without the consent of [~~such~~] the person
15 owning, possessing or controlling [~~such~~] the property;

16 [C-] (3) reading, interrupting, taking or
17 copying any confidential message, communication or report
18 intended for another by telegraph or telephone without the
19 consent of [~~a sender or intended recipient thereof~~] all parties
20 to the confidential message, communication or report;

21 [D-] (4) preventing, obstructing or delaying
22 the sending, transmitting, conveying or delivering in this
23 state of any message, communication or report by or through
24 telegraph or telephone; or

25 [E-] (5) using any apparatus to do or cause to

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1 be done any of the acts [~~hereinbefore~~] mentioned in Paragraphs
2 (1) through (4) of this subsection or to aid, agree with,
3 comply or conspire with any person to do or permit or cause to
4 be done any of the acts [~~hereinbefore~~] mentioned in those
5 paragraphs.

6 C. Whoever commits interference with communications
7 is guilty of a misdemeanor unless [~~such~~] the interference with
8 communications is done:

9 (1) under a court order as provided in
10 Sections 30-12-2 through 30-12-11 NMSA 1978; [~~or~~]

11 (2) by an operator of a switchboard or an
12 officer, employee or agent of any communication common carrier
13 in the normal course of [~~his~~] employment while engaged in any
14 activity [~~which~~] that is a necessary incident to the rendition
15 of [~~his~~] services or to the protection of rights or property of
16 the carrier of [~~such~~] the communication; or

17 (3) by a person acting under color of law in
18 the investigation of a crime where [~~such~~] the person is a party
19 to the communication, or one of the parties to the
20 communication has given prior consent to [~~such~~] the
21 interception, monitoring or recording of [~~such~~] the
22 communication."