

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 925

Introduced by Assembly Member Low

February 26, 2015

An act to amend Section ~~632~~ 632.7 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 925, as amended, Low. ~~Confidential—conversations: eavesdropping.~~ *Interception and intentional recording of communication.*

Existing law makes it a misdemeanor, punishable by a fine not to exceed \$2,500, by imprisonment in county jail for not more than one year or in the state prison, or by both that fine and imprisonment to, without the consent of both parties, intercept or receive and intentionally record, or assist in the interception or receipt and intentional recording of, a communication transmitted between 2 devices, including cordless telephones and cellular radio telephones.

This bill would increase the fine for this crime to not more than \$3,500.

~~Existing law makes it a crime to intentionally and without consent of all parties to a confidential communication, by means of any electronic amplifying or recording device, eavesdrop upon or record the confidential communication, whether the communication is carried on among the parties in the presence of one another or by means of a telegraph, telephone, or other device, except a radio. Existing law also makes evidence obtained as a result of eavesdropping upon or recording~~

~~a confidential communication inadmissible in any judicial, administrative, legislative, or other proceeding.~~

~~This bill would make nonsubstantive, technical changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 632.7 of the Penal Code is amended to
2 read:

3 632.7. (a) Every person who, without the consent of all parties
4 to a communication, intercepts or receives and intentionally
5 records, or assists in the interception or reception and intentional
6 recordation of, a communication transmitted between two cellular
7 radio telephones, a cellular radio telephone and a landline
8 telephone, two cordless telephones, a cordless telephone and a
9 landline telephone, or a cordless telephone and a cellular radio
10 telephone, shall be punished by a fine not exceeding ~~two~~ *three*
11 thousand five hundred dollars—~~(\$2,500); (\$3,500)~~, or by
12 imprisonment in a county jail not exceeding one year, or in the
13 state prison, or by both that fine and imprisonment. If the person
14 has been convicted previously of a violation of this section or of
15 Section 631, 632, 632.5, 632.6, or 636, the person shall be punished
16 by a fine not exceeding ten thousand dollars (\$10,000), by
17 imprisonment in a county jail not exceeding one year, or in the
18 state prison, or by both that fine and imprisonment.

19 (b) This section shall not apply to any of the following:

20 (1) ~~Any~~ A public utility engaged in the business of providing
21 communications services and facilities, or to the officers,
22 employees, or agents thereof, where the acts otherwise prohibited
23 are for the purpose of construction, maintenance, conduct, or
24 operation of the services and facilities of the public utility.

25 (2) The use of any instrument, equipment, facility, or service
26 furnished and used pursuant to the tariffs of the public utility.

27 (3) ~~Any~~ A telephonic communication system used for
28 communication exclusively within a state, county, city and county,
29 or city correctional facility.

30 (c) As used in this section, each of the following terms have the
31 following meaning:

1 (1) “Cellular radio telephone” means a wireless telephone
2 authorized by the Federal Communications Commission to operate
3 in the frequency bandwidth reserved for cellular radio telephones.

4 (2) “Cordless telephone” means a two-way, low power
5 communication system consisting of two parts, a “base” unit which
6 connects to the public switched telephone network and a handset
7 or “remote” unit, that are connected by a radio link and authorized
8 by the Federal Communications Commission to operate in the
9 frequency bandwidths reserved for cordless telephones.

10 (3) “Communication” includes, but is not limited to,
11 communications transmitted by voice, data, or image, including
12 facsimile.

13 ~~SECTION 1. Section 632 of the Penal Code is amended to~~
14 ~~read:~~

15 ~~632. (a) (1) A person who, intentionally and without the~~
16 ~~consent of all parties to a confidential communication, by means~~
17 ~~of any electronic amplifying or recording device, eavesdrops upon~~
18 ~~or records the confidential communication, whether the~~
19 ~~communication is carried on among the parties in the presence of~~
20 ~~one another or by means of a telegraph, telephone, or other device,~~
21 ~~except a radio, shall be punished by a fine not exceeding two~~
22 ~~thousand five hundred dollars (\$2,500), or imprisonment in county~~
23 ~~jail not exceeding one year, or in the state prison, or by both that~~
24 ~~fine and imprisonment.~~

25 ~~(2) If the person has previously been convicted of a violation~~
26 ~~of this section or Section 631, 632.5, 632.6, 632.7, or 636, the~~
27 ~~person shall be punished by a fine not exceeding ten thousand~~
28 ~~dollars (\$10,000), by imprisonment in county jail not exceeding~~
29 ~~one year, or in the state prison, or by both that fine and~~
30 ~~imprisonment.~~

31 ~~(b) For purposes of this section “person” means an individual,~~
32 ~~business entity, or other legal entity, and an individual acting, or~~
33 ~~purporting to act, for or on behalf of a government or subdivision~~
34 ~~of a government, whether federal, state, or local. “Person” excludes~~
35 ~~an individual known by all parties to a confidential communication~~
36 ~~to be overhearing or recording the communication.~~

37 ~~(c) For purposes of this section “Confidential communication”~~
38 ~~means a communication carried on in circumstances as may~~
39 ~~reasonably indicate that a party to the communication desires the~~
40 ~~communication to be confined to the participating parties.~~

1 ~~“Confidential communication” excludes a communication made~~
2 ~~in a public gathering or in a legislative, judicial, executive, or~~
3 ~~administrative proceeding open to the public, or in any other~~
4 ~~circumstance in which the parties to the communication may~~
5 ~~reasonably expect that the communication may be overheard or~~
6 ~~recorded.~~

7 ~~(d) Except as proof in an action or prosecution for violation of~~
8 ~~this section, no evidence obtained as a result of eavesdropping~~
9 ~~upon or recording a confidential communication in violation of~~
10 ~~this section shall be admissible in any judicial, administrative,~~
11 ~~legislative, or other proceeding.~~

12 ~~(e) This section does not apply (1) to any public utility engaged~~
13 ~~in the business of providing communications services and facilities,~~
14 ~~or to the officers, employees or agents thereof, where the acts~~
15 ~~otherwise prohibited by this section are for the purpose of~~
16 ~~construction, maintenance, conduct or operation of the services~~
17 ~~and facilities of the public utility, or (2) to the use of any~~
18 ~~instrument, equipment, facility, or service furnished and used~~
19 ~~pursuant to the tariffs of a public utility, or (3) to any telephonic~~
20 ~~communication system used for communication exclusively within~~
21 ~~a state, county, city and county, or city correctional facility.~~

22 ~~(f) This section does not apply to the use of hearing aids and~~
23 ~~similar devices, by a person afflicted with impaired hearing, for~~
24 ~~the purpose of overcoming the impairment to permit the hearing~~
25 ~~of sounds ordinarily audible to the human ear.~~