

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2326

By: Tedford

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5  
6 AS INTRODUCED

7 An Act relating to common carriers; amending 13 O.S.  
8 2021, Sections 176.3 and 176.4, which relate to the  
9 Security of Communications Act; creating certain  
10 exception; requiring all parties of certain  
11 communication to consent to interception of that  
12 communication; and providing an effective date.

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14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 13 O.S. 2021, Section 176.3, is  
16 amended to read as follows:

17 Section 176.3 Except as otherwise specifically provided in this  
18 act, any person is guilty of a felony and upon conviction shall be  
19 punished by a fine of not less than Five Thousand Dollars  
20 (\$5,000.00), or by ~~imprisonment~~ incarceration by the Oklahoma  
21 Department of Corrections of not more than five (5) years, or by  
22 both, who:

23 1. Willfully intercepts, endeavors to intercept or procures any  
24 other person to intercept or endeavor to intercept any wire, oral or

1 electronic communication, except if such interception involves a  
2 communication that conveys threats of extortion, blackmail, bodily  
3 harm, stalking, or other unlawful requests or demands and when the  
4 person intercepting the communication is a party to the  
5 communication or one of the parties to the communication has given  
6 prior consent to such interception;

7 2. Willfully uses, endeavors to use or procures any other  
8 person to use or endeavor to use any electronic, mechanical or other  
9 device to intercept any oral communication;

10 3. Willfully discloses or endeavors to disclose to any other  
11 person the contents of any wire, oral or electronic communication,  
12 knowing or having reason to know that the information was obtained  
13 in violation of the provisions of the Security of Communications  
14 Act;

15 4. Willfully uses or endeavors to use the contents of any wire,  
16 oral or electronic communication, knowing or having reason to know  
17 that the information was obtained in violation of the provisions of  
18 the Security of Communications Act;

19 5. Willfully and maliciously, without legal authority, removes,  
20 injures or obstructs any telephone or telegraph line, or any part or  
21 appurtenances or apparatus connected thereto, or severs any wires  
22 thereof;

23 6. Sends through the mail or sends or carries any electronic,  
24 mechanical or other device with the intention of rendering the

1 device primarily useful for the purpose of the illegal interception  
2 of wire, oral or electronic communications in violation of the  
3 provisions of the Security of Communications Act;

4 7. Manufactures, assembles, possesses or sells any electronic,  
5 mechanical or other device with the intention of rendering the  
6 device primarily useful for the purpose of the illegal interception  
7 of wire, oral or electronic communications in violation of the  
8 provisions of the Security of Communications Act; or

9 8. Willfully uses any communication facility in committing or  
10 in causing or facilitating the commission of any act or acts  
11 constituting one or more of the felonies enumerated in Section 176.7  
12 of this title. Each separate use of a communication facility to  
13 cause or facilitate such a felony shall be a separate offense.  
14 Venue for any violation of this section shall lie in the same county  
15 as venue for the underlying felony enumerated in Section 176.7 of  
16 this title.

17 SECTION 2. AMENDATORY 13 O.S. 2021, Section 176.4, is  
18 amended to read as follows:

19 Section 176.4 It is not unlawful pursuant to the Security of  
20 Communications Act for:

21 1. ~~an~~ An operator of a switchboard, or an officer, employee, or  
22 agent of any communication common carrier whose facilities are used  
23 in the transmission of a wire, oral or electronic communication, to  
24 intercept, disclose, or use that communication in the normal course

1 of his or her employment while engaged in any activity which is a  
2 necessary incident to the rendition of his or her service or to the  
3 protection of the rights or property of the carrier of such  
4 communication. Said communication common carriers shall not utilize  
5 service observing or random monitoring except for mechanical or  
6 service quality control checks; or

7 2. ~~an~~ An officer, employee, or agent of any communication  
8 common carrier or other person authorized to provide information,  
9 facilities, or technical assistance to a law enforcement officer who  
10 is authorized to intercept a wire, oral or electronic communication;  
11 or

12 3. ~~an~~ An officer, employee, or agent of the Federal  
13 Communications Commission, in the normal course of his or her  
14 employment and in discharge of the monitoring responsibilities  
15 exercised by the Commission in the enforcement of Chapter 5 of Title  
16 47 of the United States Code, to intercept a wire, oral or  
17 electronic communication transmitted by radio or to disclose or use  
18 the information obtained; or

19 4. ~~a~~ A person acting under color of law to intercept a wire,  
20 oral or electronic communication when ~~such person is a party to the~~  
21 ~~communication or one~~ all of the parties to the communication ~~has~~  
22 have given prior consent to such interception; or

23 5. ~~a~~ A person not acting under color of law to intercept a  
24 wire, oral or electronic communication when ~~such person is a party~~

1 ~~to the communication or when one~~ all of the parties to the  
2 communication ~~has~~ have given prior consent to such interception  
3 unless the communication is intercepted for the purpose of  
4 committing any criminal act; or

5 6. ~~a~~ A communication common carrier or an officer, agent, or  
6 employee thereof, or a person under contract with a communication  
7 common carrier, in the normal course of the business of the  
8 communication common carrier bidding upon contracts with or in the  
9 course of doing business with the United States, a state, or a  
10 political subdivision thereof, in the normal course of the  
11 activities of said entities, to send through the mail, send or carry  
12 in interstate or foreign commerce, manufacture, assemble, possess,  
13 or sell any electronic, mechanical, or other device knowing or  
14 having reason to know that the design of such device renders the  
15 device primarily useful for the purpose of the illegal interception  
16 of wire, oral or electronic communications; or

17 7. ~~an~~ An officer or employee of the Oklahoma Department of  
18 Corrections to monitor any wire, oral or electronic communication  
19 where an incarcerated inmate is a party to that communication, if  
20 the inmate is given prior and conspicuous notice of the surveillance  
21 or monitoring.

22 SECTION 3. This act shall become effective November 1, 2023.

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24 59-1-5778 JBH 12/19/22