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BY REQUEST OF THE GOVERNOR
BY RULES COMMITTEE

IN THE HOUSE

HOUSE BILL NO. 335

IN THE LEGISLATURE OF THE STATE OF ALASKA
SECOND LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act prohibiting wiretapping and other forms of eavesdropping by instrument and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

Section 1. EAVESDROPPING. A person:

(a) not a sender or receiver of a telephone or telegraph communication who wilfully and by means of instrument overhears or records a telephone or telegraph communication, or who aids, authorizes, employs, procures or permits another to do so, without the consent of either a sender or receiver thereof; or

(b) not present during a conversation or discussion who wilfully and by means of instrument overhears or records such conversation or discussion, or who aids, authorizes, employs, procures or permits another to do so; without the consent of a party to such conversation or discussion; or

(c) who, not a member of a jury, records or listens to by means of instrument the deliberations of such jury or who aids, authorizes, employs, procures or permits another to do so; or

(d) present during a conversation or discussion who wilfully and by means of instrument records or causes to be recorded or overheard, not having the consent of all parties to the

1 conversation or discussion; is guilty of eavesdropping.

2 Sec. 2. EXEMPTION. There shall be exempt from the provi-
3 sions of this article:

4 (a) eavesdropping pursuant to an ex parte order
5 granted under the provisions of Sec. 3 of this Act;

6 (b) eavesdropping by a law enforcement officer
7 pursuant to Sec. 4 of this Act without an ex parte order
8 obtained under the provisions of Sec. 3 of this Act;

9 (c) the normal operation of a telephone or telegraph
10 corporation; and

11 (d) the normal use of the services and facilities
12 furnished by such corporation pursuant to its tariffs.

13 Sec. 3. EX PARTE ORDER FOR EAVESDROPPING. An ex parte
14 order for eavesdropping as defined in subdivision (b) or (d)
15 of Section 1 may be issued by any justice of the supreme court
16 or judge of a superior court upon oath or affirmation of a
17 district attorney, or of the attorney general, or of an officer
18 above the rank of sergeant of any police department of the
19 state or of any political subdivision thereof, that there is
20 reasonable ground to believe that evidence of a felony may
21 be thus obtained, and particularly describing the person or
22 persons whose communications, conversations or discussions are
23 to be overheard or recorded and the purpose thereof. In
24 connection with the issuance of such an order the justice
25 or judge may examine on oath the applicant and any other
26 witness he may produce and shall satisfy himself of the
27 existence of reasonable grounds for the granting of such
28 application. Any such order shall be effective for the time
29 specified therein but not for a period of more than two months

1 unless extended or renewed by the justice or judge who
2 signed and issued the original order upon satisfying himself
3 that such extension or renewal is in the public interest. Any
4 such order together with the papers upon which the application
5 was based, shall be delivered to and retained by the applicant
6 as authority for the eavesdropping authorized therein. A true
7 copy of such order shall at all times be retained in his possess-
8 ion by the judge or justice issuing the same, and, in the event
9 of the denial of an application for such an order, a true copy
10 of the papers upon which the application was based shall in like
11 manner be retained by the judge or justice denying the same.

12 Sec. 4. EAVESDROPPING BY LAW ENFORCEMENT OFFICERS WITHOUT
13 COURT ORDER UNDER CERTAIN CIRCUMSTANCES. Orders for eavesdrop-
14 ping as set forth in Sec. 3 of this Act must be obtained before
15 the eavesdropping commences, except as hereinafter in this sec-
16 tion provided. A law enforcement officer may eavesdrop as des-
17 cribed in subdivision (b) or (d) of Sec. 1 of this Act without
18 a court order obtained pursuant to Sec. 3 of this Act only
19 when he has reasonable grounds to believe (1) that evidence of
20 a felony may be thus obtained, and (2) that in order to obtain
21 such evidence time does not permit an application to be made
22 for such a court order before such eavesdropping must commence.
23 In any such case, an application for a court order pursuant
24 to Sec. 3 of this Act must be made within twenty-four hours
25 after such eavesdropping commenced. In computing said twenty-four
26 hour period legal holidays shall not be considered. The applica-
27 tion for such a court order must contain, in addition to the
28 requirements set forth in Sec. 3 of this Act, the time when such
29 eavesdropping commenced. If the application is denied, the

1 eavesdropping must cease immediately and any transcripts
2 or records of any type obtained in the course of that eavesdropp-
3 ing must be delivered to the court. No information obtained
4 in a case where court order is refused shall be admissible
5 in evidence for any purpose except in a prosecution for
6 violating the criminal provisions of this section. Any
7 violation of this section shall be a felony punishable by
8 imprisonment for not more than ten years.

9 Sec. 5. PUNISHMENT FOR EAVESDROPPING. Any person who
10 violates any subdivision of Sec. 1 of this Act shall be guilty
11 of a felony and shall be punishable by imprisonment for not
12 less than five nor more than ten years.

13 Sec. 6. This Act takes effect on the day after its passage
14 and approval or on the day it becomes law without such approval.
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