

HB

952

Section

90. Punishment and civil liability for opening or obtaining message addressed to another

Section

100. [Repealed]
110. Bribing operator or employee to disclose private message

Sec. 42.20.020. Refusal to transmit or falsification of official communication. On application of an officer of the state in case of war, insurrection, riot, civil commotion or resistance of public authority, for the prevention and punishment of crime, or for the arrest of persons suspected or charged with crime, every telegraph company shall give immediate dispatch to the communication of the officer at the price of ordinary communications of the same length. An officer, agent, operator, or employee of the company who refuses or wilfully omits to transmit the communication, or designedly alters it or falsifies it is, upon conviction, punishable by a fine of not more than \$1000, or by imprisonment in jail for not more than one year, or by both. (§ 49-5-11 ACLA 1949)

Sec. 42.20.030. Punishment and civil liability for injury to, interference with, or obstruction of telegraph, telephone, electric, or gas lines. A person is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both, and is liable to the company or person whose property is injured, or line obstructed, or current diverted, in a sum equal to three times the amount of the actual damages sustained, and three times the price of the current, light, power, or gas diverted or used, if he

(1) wilfully and maliciously cuts, breaks, or throws down a pole, tree, pipeline, or other object used in a line of telegraph, telephone, gas line, or system for the transmission of light or power by use of electricity, or gas by pipeline;

(2) wilfully and maliciously breaks, displaces, or injures an insulator in use in the line, or wilfully and maliciously cuts, breaks, and removes from its insulator any wire used for any of the purposes set forth in (1) of this section;

(3) by any interference wilfully and maliciously destroys the insulation of the line, or interrupts the transmission of the electric current through it, or wilfully and maliciously destroys the protective wrapping of a gas pipeline;

(4) wilfully and maliciously injures, molests, or destroys property or materials appertaining to any of these lines or belonging to a telegraph, telephone, electric light or power company, or gas company;

(5) wilfully and maliciously interferes with the use of a telegraph, telephone, electric light or power line or gas line, or obstructs or postpones the transmission of a message over a telegraph or telephone line, or procures or advises injury, interference, or obstruction to any telegraph, telephone, electric light, power or gas line;

(6) wilfully and maliciously interferes with the use of a device for the transmission of a message or current over a telegraph, telephone, electric light or power line, or gas line, or obstructs or postpones the transmission of a message over a telegraph or telephone line, or procures or advises injury, interference, or obstruction to any telegraph, telephone, electric light, power or gas line;
(7) without the consent of the sender, wilfully and maliciously intercepts a message or current over a telegraph, telephone, electric light or power line, or gas line, or discloses the contents of a message or current so intercepted;
(§ 49-5-12 ACLA 1949)

Paragraph (5) punishes malicious interference with lines and messages. See *Sup. Ct. Op. No. 73 P.2d 1012 (1971)*.

Proof. — Proof of injury is not necessary under violation of paragraph. See *Selman v. State, Sup. Ct. Op. No. 527, 406 P.2d 1012 (1971)*. See also cases in *Whitton v. State, 661 (File No. 1153)*.

Sec. 42.20.040. Punishment and civil liability for injury to, interference with, or obstruction of wire. No agent, operator, or employee of a telegraph company may remove any instrument or part of an instrument from the building or premises in which the instrument is located without notice in writing to the company or to the tenant of the building or premises. In case of the absence of the tenant, the notice in the building or premises shall be placed in a conspicuous place. No telegraph company may enter any premises without the consent of the occupant. A person who violates this section, upon conviction, is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both. (§ 49-5-13 ACLA 1949)

Am. Jur. references: *Telegraphs and Telephones*.

Sec. 42.20.050. Punishment and civil liability for injury to, interference with, or obstruction of telegraph, telephone, electric light or power line, or gas line. A person who wilfully and maliciously interferes with the use of a telegraph, telephone, electric light or power line or gas line, or obstructs or postpones the transmission of a message over a telegraph or telephone line, or procures or advises injury, interference, or obstruction to any telegraph, telephone, electric light, power or gas line, or discloses the contents of a message or current so intercepted, upon conviction, is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both, and is liable to the company or person whose property is injured, or line obstructed, or current diverted, in a sum equal to three times the amount of the actual damages sustained, and three times the price of the current, light, power, or gas diverted or used, if he

(6) wilfully and maliciously interferes with or alters a meter or other device for the measuring of current, power, or gas; or

(7) without the authority of the owner diverts, uses, or appropriates a message or current or taps a wire or line used for the transmission of messages, current, power or gas, or procures or advises this to be done. (§ 49-5-12 ACLA 1949; am § 1 ch 39 SLA 1964)

Paragraph (5) prohibits willful and malicious interference with telephone lines and messages. *Anniskette v. State*, Sup. Ct. Op. No. 732 (File No. 1231), 489 P.2d 1012 (1971).

Proof. — Proof of the element of intent is not necessary under a count charging a violation of paragraph (7) of this section. *Selman v. State*, Sup. Ct. Op. No. 302 (File No. 527), 406 P.2d 181 (1965), overruled as to same-evidence test in double jeopardy cases in *Whitton v. State*, Sup. Ct. Op. No. 661 (File No. 1153), 479 P.2d 312 (1970).

Proof of any unauthorized diversion, use, appropriation or a mere tapping of a transmission line without the taking of any current would complete proof of an offense under paragraph (7) of this section. *Selman v. State*, Sup. Ct. Op. No. 302 (File No. 527), 406 P.2d 181 (1965), overruled as to same-evidence test in double jeopardy cases in *Whitton v. State*, Sup. Ct. Op. No. 661 (File No. 1153), 479 P.2d 312 (1970).

Am. Jur. reference. — 52 *Am. Jur.*, *Telegraphs and Telephones*, § 172 et seq.

Sec. 42.20.040. Removal of instrument or meter or disconnecting of wire. No agent or employee of a telephone or electric light company may remove any instrument or meter or disconnect any wire connected to the instrument or meter without notifying the owner, agent or tenant of the building or room where the instrument or meter is installed. A notice in writing of the intention to remove the instrument or meter or to disconnect a wire is sufficient if delivered to the owner, agent or tenant of the building or room before removal or disconnection, or in case of the absence of the owner, agent or tenant, either by depositing the notice in the post office with postage prepaid, or by posting in a conspicuous place upon the building or room 24 hours before removal or disconnection. No agent or employee of a telephone or electric light company may enter a building or room to examine, remove or disconnect an instrument or meter without first accounting his presence to the occupant. A person violating this section is guilty of a misdemeanor, and upon conviction, is punishable by a fine of not more than \$200, or by imprisonment for not more than 30 days, or by both. (§ 49-5-13 ACLA 1949)

Am. Jur. reference. — 52 *Am. Jur.*, *Telegraphs and Telephones*, §§ 34, 49.

Sec. 42.20.050. Altering message. (a) A person is guilty of a misdemeanor and is punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both if he wilfully alters a message by adding to it or omitting from it a word or figure so as to materially change the sense, purport, or meaning of the message, to the injury of the person sending or desiring to send it, or to whom it was directed.

I. REQUEST

Bill/Resolution No. CSHB 952
 Title Rel. to public utilities; eff. date
 Requested by (H) Judiciary Date 4-23-80

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development
 Program Category Affected Protection
 BRU, Program, or Subprogram(s) Affected Alaska Public Utilities Commission
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

There is no additional fiscal impact associated with passage of this bill.

IV. DATE 4-23-80 PREPARED BY David Creekman
 AGENCY Dept. of Commerce & Economic Development
 PHONE 465-2504
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)