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CRIMES AND OFFENSES

Offenses Against Public Order and Safety: Prohibit Interception and Publication of Cellular Radio Telephone Communications

CODE SECTION: O.C.G.A. § 16-11-66.1 (amended)
BILL NUMBER: SB 131
ACT NUMBER: 453
GEORGIA LAWS: 1995 Ga. Laws 1023
SUMMARY: The Act makes it unlawful to broadcast, print, or publish the contents of any intercepted communication transmitted between cellular radio telephones or between a landline telephone and a cellular telephone without the permission of one of the parties to the communication. The Act provides that the intentional interception or publishing of such a communication is a misdemeanor of a high and aggravated nature.
EFFECTIVE DATE: July 1, 1995

History

The precursor to this bill, HB 139, was codified as Code section 16-11-66.1, effective July 1993.¹ This Code section was prompted by concern that the mass marketing of scanners designed to intercept cellular telephone communications interfered with privacy rights.² Code section 16-11-66.1 clarifies that interception of cellular telephone calls is a misdemeanor,³ which is an exception to the general rule that violations of the Code relating to wiretapping, eavesdropping, and surveillance are felonies.⁴ However, broadcasting or publishing these

1. 1993 Ga. Laws 299 (formerly found at O.C.G.A. § 16-11-66.1 (Supp. 1994)).

2. See generally *Legislative Review*, 10 GA. ST. U. L. REV. 109, 110-11 (1993).

3. 1993 Ga. Laws 299 (codified at O.C.G.A. § 16-11-66.1 (Supp. 1995)).

4. *Id.* (codified at O.C.G.A. § 16-11-69 (Supp. 1995)); see also *Legislative Review*, *supra* note 2, at 112.

communications was not addressed in 1993.⁵ After such communications were published in the Augusta area, Senator Walker proposed these amendments.⁶

SB 131

The Act amends Code section 16-11-66.1 by adding the offense of publishing, broadcasting, or printing the contents of unlawfully intercepted communications.⁷ The Act provides that this offense is a misdemeanor of a high and aggravated nature.⁸ The crime of intercepting a cellular telephone call is also a misdemeanor of a high and aggravated nature.⁹ The grading of the offense is the only part of this bill that caused any controversy.¹⁰ In the original version of the bill, the offense of publishing such a communication was graded a felony.¹¹ The House Committee on Industry changed the grading of the crime from a felony to a misdemeanor of a high and aggravated nature.¹² The misdemeanor charge is an exception to the general rule that violations of this part of the Code are felonies.¹³

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5. See 1993 Ga. Laws 299 (formerly found at O.C.G.A. § 16-11-66.1 (Supp. 1994)).

6. Telephone Interview with Rep. Vinson Wall, House District No. 82 (Apr. 27, 1995) [hereinafter Wall Interview].

7. O.C.G.A. § 16-11-66.1(b)(2) (Supp. 1995).

8. *Id.* § 16-11-66.1(d)(2).

9. *Id.* § 16-11-66.1(d)(1).

10. Wall Interview, *supra* note 6. Rep. Wall stated that there was no controversy or even discussion of the bill on the House floor; it passed without comment. Wall Interview, *supra* note 6.

11. SB 131, as introduced, 1995 Ga. Gen. Assem.

12. SB 131 (HCS), 1995 Ga. Gen. Assem.

13. See 1993 Ga. Laws 299 (codified at O.C.G.A. § 16-11-69 (Supp. 1995)); *Legislative Review*, *supra* note 2, at 112.