

CHAPTER 381

(House Bill 869)

AN ACT concerning

Admissibility of Evidence – Intercepted Communications – Electronic

FOR the purpose of repealing a provision of law excluding a certain radio portion of certain telephone communications from a certain definition of “electronic communication”; prohibiting the admissibility of the contents of an intercepted electronic communication or information derived from an intercepted electronic communication as evidence in certain proceedings under certain circumstances; providing that an electronic communication that was intercepted in the violation of certain provisions of law may be admissible in certain proceedings under certain circumstances; and generally relating to the admissibility of evidence and intercepted electronic communications.

BY repealing and reenacting, without amendments,
Article – Courts and Judicial Proceedings
Section 10–401(11)
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 10–405
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

10–401.

As used in this subtitle the following terms have the meanings indicated:

(11) (i) “Electronic communication” means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system.

(ii) “Electronic communication” does not include:

~~1. The radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;~~

~~2.~~ Any wire or oral communication;

~~3.~~ 2. Any communication made through a tone-only paging device; or

~~4.~~ 3. Any communication from a tracking device.

10-405.

(a) Except as provided in subsection (b) of this section, whenever any [wire or oral] **WIRE, ORAL, OR ELECTRONIC** communication has been intercepted, no part of the contents of the communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of this State, or a political subdivision thereof if the disclosure of that information would be in violation of this subtitle.

(b) If any [wire or oral] **WIRE, ORAL, OR ELECTRONIC** communication is intercepted in any state or any political subdivision of a state, the United States or any territory, protectorate, or possession of the United States, including the District of Columbia in accordance with the law of that jurisdiction, but that would be in violation of this subtitle if the interception was made in this State, the contents of the communication and evidence derived from the communication may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of this State, or any political subdivision of this State if:

(1) At least one of the parties to the communication was outside the State during the communication;

(2) The interception was not made as part of or in furtherance of an investigation conducted by or on behalf of law enforcement officials of this State; and

(3) All parties to the communication were co-conspirators in a crime of violence as defined in § 14-101 of the Criminal Law Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.