

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1144

Short Title: Need Consent to Tape Communication.

(Public)

Sponsors: Representative Michaux.

Referred to: Judiciary II.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE RECORDING OF COMMUNICATIONS WITHOUT
CONSENT.

The General Assembly of North Carolina enacts:

Section 1. Article 52 of Chapter 14 of the General Statutes is amended by
adding a new section to read:

"§ 14-394.1. No recording of communications without consent.

(a) Every person who, intentionally and without the express consent of all parties to a communication, by means of any electronic or other recording device, records any communication, whether the communication is carried on among the parties in the presence of one another or by means of a telegraph, telephone, cellular or cordless telephone, two-way radio, or other device, is guilty of a Class I felony.

(b) Any person whose communications, whether the communications are carried on among the parties in the presence of one another or by means of a telegraph, telephone, cellular or cordless telephone, two-way radio, or other device, is recorded intentionally and without the express consent of all parties to the communication, may in a civil action recover from the person who recorded such communications such relief as may be appropriate, including a reasonable attorney's fee and other litigation costs incurred.

1 (c) The term 'communication' includes any oral or spoken communication,
2 whether the communication is carried on among the parties in the presence of one another
3 or by means of a telegraph, telephone, cellular or cordless telephone, two-way radio, or
4 other device, regarding or relating to the transaction of interstate or intrastate commerce,
5 regardless of whether for profit or otherwise.

6 (d) This section does not apply to any telephonic communication system used for
7 communication exclusively with a State, county, city and county, or city correctional
8 facility.

9 (e) This section shall not be construed to impair or limit any otherwise lawful
10 activities of law enforcement personnel or employees of governmental agencies who, in
11 the course and scope of their employment, and supported by an articulable suspicion,
12 attempt to capture any type of visual image, sound recording, or other physical
13 impression of a person during an investigation, surveillance or monitoring of any conduct
14 to obtain evidence of suspected illegal activity, the suspected violation of any
15 administrative rule or regulation, or any suspected fraudulent scheme, conduct, or activity
16 involving violation of law or pattern of practice threatening to adversely affect the public
17 health and safety."

18 Section 2. This act becomes effective December 1, 1999, and applies to
19 offenses committed on or after that date.