

Regular Session, 2012

SENATE BILL NO. 307

BY SENATOR WHITE

LAW ENFORCEMENT. Authorizes sheriffs to participate in the interception of certain communications. (8/1/12)

1 AN ACT

2 To amend and reenact R.S. 15:1302(12), 1305, and 1315(E)(4), and to enact R.S.
3 15:1304(C)(3), relative to the interception of communications; to include sheriffs in
4 the definition of investigative or law enforcement officer for purposes associated
5 with the interception and disclosure of wire, electronic, or oral communications; and
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 15:1302(12), 1305, and 1315(E)(4) are hereby amended and
9 reenacted, and R.S. 15:1304(C)(3) is hereby enacted to read as follows:

10 §1302. Definitions

11 As used in this Chapter:

12 * * *

13 (12) "Investigative or law enforcement officer" means any commissioned
14 state police officer of the Department of Public Safety and Corrections, or any
15 commissioned sheriff officer, who, in the normal course of his law enforcement
16 duties, is investigating an offense enumerated in this Chapter, and the district
17 attorney authorized by law to prosecute or participate in the prosecution of such

1 offense.

2 * * *

3 §1304. Manufacture, distribution, or possession of wire or oral communication
4 intercepting devices prohibited

5 * * *

6 C. It shall not be unlawful under this Section for:

7 * * *

8 **(3) A commissioned sheriff's officer specifically authorized by the sheriff**
9 **in writing to possess or use pursuant to court authorization, in the normal**
10 **course of activities of the sheriff's office, to manufacture, assemble, possess, or**
11 **sell any electronic, mechanical, or other device knowing or having reason to**
12 **know that the design of such device renders it primarily useful for the purpose**
13 **of surreptitious interception of wire or oral communications.**

14 * * *

15 §1305. Confiscation of wire or oral communication intercepting devices

16 Any electronic, mechanical, or other device used, manufactured, assembled,
17 possessed, sold, or advertised in violation of R.S. 15:1304 may be seized. Upon
18 seizure, it is forfeited to the state and may be disposed of by the state. No device
19 shall be sold at public or private sale. Any competent judge in whose jurisdiction the
20 device was seized or the judge of the trial court may order the device destroyed or
21 may order it transferred without cost to the Department of Public Safety and
22 Corrections **or sheriff's office.**

23 * * *

24 §1315. Issuance of an order for a pen register or a trap and trace device

25 * * *

26 E. The head of each law enforcement agency possessing or making
27 application for the installation and use of a pen register or trap and trace device shall
28 establish and implement procedures which shall provide for and ensure the
29 following:

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(4) That a designated sworn and commissioned officer of that law enforcement agency executes and transmits no later than March first of each calendar year to the deputy secretary of public safety services of the Department of Public Safety and Corrections **or to the sheriff, as appropriate**, a sworn affidavit stating that, to the best of the affiant's knowledge, information and belief, all installations and uses of the pen register or trap and trace devices in the custody of that law enforcement agency have been in accordance with the provisions of this Part and further that no pen register or trap and trace device in the custody of that agency has been the subject of an unauthorized or illegal installation or use.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Cathy R. Wells.

DIGEST

Present law for the purposes of interception of communications, defines "investigative or law enforcement officer" as any commissioned state police officer of the DPS&C who, in the normal course of his law enforcement duties, is investigating an offense and the district attorney authorized by law to prosecute or participate in the prosecution of such offense.

Proposed law retains present law and includes sheriffs in the definition of "investigative or law enforcement officer" for the purposes of interception and disclosure of wire, electronic, or oral communications.

Effective August 1, 2012.

(Amends R.S. 15:1302(12), 1305, and 1315(E)(4); adds R.S. 15:1304(C)(3))