

INITIATIVE 268

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 268 to the Legislature is a true and correct copy as it was received by this office.

1 AN ACT Relating to intercepting private communications transmitted
2 by e-mail; and reenacting and amending RCW 9.73.030.

3 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9.73.030 and 1986 c 38 s 1 and 1985 c 260 s 2 are each
5 reenacted and amended to read as follows:

6 (1) Except as otherwise provided in this chapter, it shall be
7 unlawful for any individual, partnership, corporation, association, or
8 the state of Washington, its agencies, and political subdivisions to
9 intercept, or record any:

10 (a) Private communication transmitted by telephone, e-mail,
11 telegraph, radio, or other device between two or more individuals
12 between points within or without the state by any device electronic or
13 otherwise designed to record and/or transmit said communication
14 regardless how such device is powered or actuated, without first
15 obtaining the consent of all the participants in the communication;

16 (b) Private conversation, by any device electronic or otherwise
17 designed to record or transmit such conversation regardless how the
18 device is powered or actuated without first obtaining the consent of
19 all the persons engaged in the conversation.

1 (2) Notwithstanding subsection (1) of this section, wire
2 communications or conversations (a) of an emergency nature, such as the
3 reporting of a fire, medical emergency, crime, or disaster, or (b)
4 which convey threats of extortion, blackmail, bodily harm, or other
5 unlawful requests or demands, or (c) which occur anonymously or
6 repeatedly or at an extremely inconvenient hour, or (d) which relate to
7 communications by a hostage holder or barricaded person as defined in
8 RCW 70.85.100, whether or not conversation ensues, may be recorded with
9 the consent of one party to the conversation.

10 (3) Where consent by all parties is needed pursuant to this
11 chapter, consent shall be considered obtained whenever one party has
12 announced to all other parties engaged in the communication or
13 conversation, in any reasonably effective manner, that such
14 communication or conversation is about to be recorded or transmitted:
15 PROVIDED, That if the conversation is to be recorded that said
16 announcement shall also be recorded.

17 (4) An employee of any regularly published newspaper, magazine,
18 wire service, radio station, or television station acting in the course
19 of bona fide news gathering duties on a full-time or contractual or
20 part-time basis, shall be deemed to have consent to record and divulge
21 communications or conversations otherwise prohibited by this chapter if
22 the consent is expressly given or if the recording or transmitting
23 device is readily apparent or obvious to the speakers. Withdrawal of
24 the consent after the communication has been made shall not prohibit
25 any such employee of a newspaper, magazine, wire service, or radio or
26 television station from divulging the communication or conversation.

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