

**TITLE 18 - CRIMES AND CRIMINAL PROCEDURE**  
**PART II - CRIMINAL PROCEDURE**  
**CHAPTER 206 - PEN REGISTERS AND TRAP AND TRACE DEVICES**

**§ 3121. General prohibition on pen register and trap and trace device use; exception**

(a) **In General.**— Except as provided in this section, no person may install or use a pen register or a trap and trace device without first obtaining a court order under section 3123 of this title or under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

(b) **Exception.**— The prohibition of subsection (a) does not apply with respect to the use of a pen register or a trap and trace device by a provider of electronic or wire communication service—

(1) relating to the operation, maintenance, and testing of a wire or electronic communication service or to the protection of the rights or property of such provider, or to the protection of users of that service from abuse of service or unlawful use of service; or

(2) to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire communication, or a user of that service, from fraudulent, unlawful or abusive use of service; or

(3) where the consent of the user of that service has been obtained.

(c) **Limitation.**— A government agency authorized to install and use a pen register or trap and trace device under this chapter or under State law shall use technology reasonably available to it that restricts the recording or decoding of electronic or other impulses to the dialing, routing, addressing, and signaling information utilized in the processing and transmitting of wire or electronic communications so as not to include the contents of any wire or electronic communications.

(d) **Penalty.**— Whoever knowingly violates subsection (a) shall be fined under this title or imprisoned not more than one year, or both.

(Added Pub. L. 99–508, title III, § 301(a), Oct. 21, 1986, 100 Stat. 1868; amended Pub. L. 103–414, title II, § 207(b), Oct. 25, 1994, 108 Stat. 4292; Pub. L. 107–56, title II, § 216(a), Oct. 26, 2001, 115 Stat. 288.)

### References in Text

The Foreign Intelligence Surveillance Act of 1978, referred to in subsec. (a), is Pub. L. 95–511, Oct. 25, 1978, 92 Stat. 1783, as amended, which is classified principally to chapter 36 (§ 1801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 50 and Tables.

### Amendments

2001—Subsec. (c). Pub. L. 107–56 inserted “or trap and trace device” after “pen register” and “, routing, addressing,” after “dialing” and substituted “the processing and transmitting of wire or electronic communications so as not to include the contents of any wire or electronic communications” for “call processing”.

1994—Subsecs. (c), (d). Pub. L. 103–414 added subsec. (c) and redesignated former subsec. (c) as (d).

### Effective Date

Section 302 of title III of Pub. L. 99–508 provided that:

“(a) In General.—Except as provided in subsection (b), this title and the amendments made by this title [enacting this chapter and section 1367 of this title] shall take effect ninety days after the date of the enactment of this Act [Oct. 21, 1986] and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.

“(b) Special Rule for State Authorizations of Interceptions.—Any pen register or trap and trace device order or installation which would be valid and lawful without regard to the amendments made by this title shall be valid and lawful notwithstanding such amendments if such order or installation occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

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*NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see <http://www.law.cornell.edu/uscode/uscpri.html>).*

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“(1) the day before the date of the taking effect of changes in State law required in order to make orders or installations under Federal law as amended by this title; or

“(2) the date two years after the date of the enactment of this Act [Oct. 21, 1986].”