

Senate File 75 - Introduced

SENATE FILE 75

BY KINNEY

A BILL FOR

1 An Act relating to the interception of communications and civil
2 damages, civil and criminal immunity, and injunctive relief.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 808B.8, subsection 1, paragraphs a and b,
2 Code 2021, are amended to read as follows:

3 a. Have a civil cause of action against any ~~person~~
4 investigative or law enforcement officer or special state agent
5 who intercepts, discloses, or uses or procures any other person
6 to intercept, disclose, or use such communications.

7 b. Be entitled to recover from any such ~~person~~ investigative
8 or law enforcement officer or special state agent all of the
9 following:

10 (1) Actual damages, but not less than liquidated damages
11 computed at the rate of one hundred dollars a day for each day
12 of violation, or one thousand dollars, whichever is higher.

13 (2) Punitive damages upon a finding of a willful, malicious,
14 or reckless violation of **this chapter**.

15 (3) A reasonable attorney fee and other litigation costs
16 reasonably incurred.

17 Sec. 2. Section 808B.8, subsection 3, Code 2021, is amended
18 to read as follows:

19 3. A person whose wire, oral, or electronic communication is
20 intercepted, disclosed, or used in violation of **this chapter**
21 may seek an injunction, either temporary or permanent, against
22 any ~~person~~ investigative or law enforcement officer or special
23 state agent who violates **this chapter**.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
26 the explanation's substance by the members of the general assembly.

27 This bill relates to the interception of communications
28 and civil damages, civil and criminal immunity, and
29 injunctive relief under Code chapter 808B (interception of
30 communications).

31 Current law provides that a person whose wire, oral, or
32 electronic communication is intercepted, disclosed, or used
33 in violation of Code chapter 808B has a civil cause of action
34 against any person who intercepts, discloses, or uses or
35 procures any other person to intercept, disclose, or use such

1 communications. The person is entitled to recover from any
2 such person all of the following: actual damages, but not less
3 than liquidated damages computed at the rate of \$100 per day
4 for each day of violation, or \$1,000, whichever is higher;
5 punitive damages upon a finding of a willful, malicious, or
6 reckless violation of Code chapter 808B; and a reasonable
7 attorney fee and other litigation costs reasonably incurred.
8 A good faith reliance on a court order constitutes a complete
9 defense to any civil or criminal action. A person whose wire,
10 oral, or electronic communication is intercepted, disclosed, or
11 used in violation of Code chapter 808B may seek an injunction,
12 either temporary or permanent, against any person who violates
13 the Code chapter.

14 The bill provides that a person whose wire, oral, or
15 electronic communication is intercepted, disclosed, or used
16 in violation of Code chapter 808B has a civil cause of action
17 against only an investigative or law enforcement officer or
18 a special state agent who intercepts, discloses, or uses or
19 procures any other person to intercept, disclose, or use such
20 communications, and is entitled to recover from any such
21 investigative or law enforcement officer or special state
22 agent actual damages, punitive damages, a reasonable attorney
23 fee, and other reasonable litigation costs provided under
24 current law. A person whose communication is intercepted,
25 disclosed, or used in violation of Code chapter 808B may seek
26 an injunction against only an investigative or law enforcement
27 officer or special state agent who violates the Code chapter.