

JAN 25 2006

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# A BILL FOR AN ACT

RELATING TO USE OF FEDERAL ELECTRONIC EAVESDROPPING EVIDENCE BY  
STATE LAW ENFORCEMENT OR IN STATE COURT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 803-41, Hawaii Revised Statutes, is  
2 amended by adding two new definitions to be appropriately  
3 inserted and to read as follows:

4           "Federal evidence" means the contents of any wire, oral,  
5 or electronic communication, or evidence derived therefrom,  
6 obtained by a United States officer in accordance with federal  
7 law.

8           "United States officer" means any officer of the United  
9 States who is empowered by the law thereof to conduct an  
10 investigation or to make an arrest for a federal offense based  
11 on a purported transaction that would also provide a basis to  
12 conduct an investigation or make an arrest for an offense  
13 enumerated in this part."

14           SECTION 2. Section 803-45, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           "**§803-45 Authorization for disclosure and use of**  
17 **intercepted wire, oral, or electronic communications.** (a) Any



1 investigative or law enforcement officer, who, by any means  
2 authorized by this part, has obtained knowledge of the contents  
3 of any wire, oral, or electronic communication, or evidence  
4 derived therefrom, may disclose such contents to another  
5 investigative or law enforcement officer to the extent that such  
6 disclosure is appropriate to the proper performance of the  
7 official duties of the officer making or receiving the  
8 disclosure.

9 Any investigative or law enforcement officer to whom  
10 federal evidence has been disclosed by a United States officer  
11 in accordance with federal law, may disclose such evidence or  
12 any evidence derived therefrom to another investigative or law  
13 enforcement officer or to another United States officer to the  
14 extent that such disclosure is appropriate to the proper  
15 performance of the official duties of the officer making or  
16 receiving the disclosure.

17 (b) Any investigative or law enforcement officer, who by  
18 any means authorized by this part, has obtained knowledge of the  
19 contents of any wire, oral, or electronic communication or  
20 evidence derived therefrom may use such contents to the extent  
21 such use is appropriate to the proper performance of the  
22 officer's official duties.



1        Any investigative or law enforcement officer to whom  
2        federal evidence has been disclosed by a United States officer  
3        in accordance with federal law may use such evidence, or any  
4        evidence derived therefrom, to the extent such use is  
5        appropriate to the proper performance of the officer's official  
6        duties.

7            (c) Any person who has received, by any means authorized  
8 by this part, any information concerning a wire, oral, or  
9 electronic communication, or evidence derived therefrom  
10 intercepted in accordance with the provisions of this part may  
11 disclose the contents of that communication or such derivative  
12 evidence while giving testimony under oath or affirmation in any  
13 proceeding in any court or before the grand jury in this State.

14            Any person who has received federal evidence in accordance  
15 with federal law or evidence derived therefrom may disclose such  
16 evidence while giving testimony under oath or affirmation in any  
17 proceeding in any court or before the grand jury in this State.

18            (d) No otherwise privileged wire, oral, or electronic  
19 communication intercepted in accordance with, or in violation  
20 of, the provisions of this part shall lose its privileged  
21 character.



1           (e) When an investigative or law enforcement officer,  
2 while engaged in intercepting wire, oral, or electronic  
3 communications in the manner authorized, intercepts  
4 communications relating to offenses other than those specified  
5 in the order of authorization or approval, the contents thereof,  
6 and evidence derived therefrom, may be disclosed or used as  
7 provided in subsections (a) and (b) of this section. Such  
8 contents and any evidence derived therefrom may be used under  
9 subsection (c) of this section when authorized or approved by  
10 the designated circuit court where such court finds on  
11 subsequent application, made as soon as practicable, that the  
12 contents were otherwise intercepted in accordance with the  
13 provisions of this part.

14           (f) No testimony or evidence relating to a wire, oral, or  
15 electronic communication or any evidence derived therefrom  
16 intercepted in accordance with the provisions of this part shall  
17 be admissible in support of any misdemeanor charge.

18           No federal evidence, evidence derived therefrom, or  
19 testimony relating thereto shall be admissible in support of any  
20 misdemeanor charge."

21           SECTION 3. New statutory material is underscored.

22           SECTION 4. This Act shall take effect upon its approval.



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INTRODUCED BY:

*James M. Slon*  
*Bob Heggie*  
*Paula L. C.*  
*Will Szabo*



# SB. NO. 2523

**Report Title:**

USE OF FEDERAL EAVESDROPPING EVIDENCE IN STATE CRIMINAL PROCESS.

**Description:**

ALLOWS USE OF FEDERAL EAVESDROPPING EVIDENCE BY STATE LAW ENFORCEMENT OR IN STATE CRIMINAL PROSECUTIONS.

