

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1258 Session of
1997

INTRODUCED BY MAYERNIK, STRITTMATTER, CAWLEY, ITKIN, BROWN,
READSHAW, FARGO, B. SMITH AND BELARDI, APRIL 8, 1997

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 8, 1997

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 75 (Vehicles) of
2 the Pennsylvania Consolidated Statutes, authorizing police
3 officers to record certain oral communications; providing for
4 authority to purchase surveillance devices; and providing for
5 windshield obstructions and wipers.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. The definition of "electronic, mechanical or
9 other device" in section 5702 of Title 18 of the Pennsylvania
10 Consolidated Statutes is amended by adding a paragraph to read:
11 § 5702. Definitions.

12 As used in this chapter, the following words and phrases
13 shall have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 * * *

16 "Electronic, mechanical or other device." Any device or
17 apparatus, including an induction coil, that can be used to
18 intercept a wire, electronic or oral communication other than:

19 * * *

1 (3) Equipment or devices used to conduct interceptions
2 under section 5704(15) (relating to exceptions to prohibition
3 of interception and disclosure of communications).

4 * * *

5 Section 2. Section 5704 of Title 18 is amended by adding a
6 paragraph to read:

7 § 5704. Exceptions to prohibition of interception and
8 disclosure of communications.

9 It shall not be unlawful under this chapter for:

10 * * *

11 (15) (i) A police officer who has the authority to
12 enforce Title 75 (relating to vehicles) and who stops a
13 vehicle for a suspected violation of Title 75 while on
14 duty and utilizing an audio intercepting device to
15 intercept the oral communications occurring between that
16 police officer and any other person present at the
17 location of and during the vehicle stop. During the time
18 of the vehicle stop, the officer shall notify the driver
19 and other occupants of the vehicle that their oral
20 communications are being recorded. During the time of the
21 vehicle stop, any person in the vehicle may request that
22 his oral communication not be recorded. If such request
23 is made, any statement made by that person shall be
24 excluded from evidence in any civil or criminal
25 proceeding. Except as provided in the preceding sentence,
26 evidence obtained on an audio-intercepting device as a
27 result of a Title 75 stop under this subparagraph shall
28 not be excluded in any civil or criminal proceeding. A
29 police department, agency or office shall not by order,
30 regulation or otherwise require an officer to activate an

audio device mounted or carried in the officer's vehicle
except in the following situations:

(A) when the police officer makes use of the
audible warning system authorized by 75 Pa.C.S. §
4571 (relating to visual and audible signals on
emergency vehicles);

(B) when the police officer is making use of the
visual signals authorized by 75 Pa.C.S. § 4571; or

(C) when the police officer is making use of the
audible warning system and visual signals.

(ii) For purposes of this paragraph, the term
"police officer" shall mean an individual who has the
authority to enforce Title 75.

Section 3. Section 5706(b) of Title 18 is amended to read:

§ 5706. Exceptions to prohibitions in possession, sale,
distribution, manufacture or advertisement of
electronic, mechanical or other devices.

* * *

(b) Responsibility.--

(1) The Attorney General and the district attorney or
their designees so designated in writing shall have the sole
responsibility to buy, possess and loan any electronic,
mechanical or other device which is to be used by
investigative or law enforcement officers for purposes of
interception as authorized under section 5704(2) and (12)
(relating to exceptions to prohibition of interception and
disclosure of communications), 5712 (relating to issuance of
order and effect), 5713 (relating to emergency situations) or
5713.1 (relating to emergency hostage and barricade
situations).

1 (2) The division or bureau or section of the
2 Pennsylvania State Police responsible for conducting the
3 training in the technical aspects of wiretapping and
4 electronic surveillance as required by section 5724 (relating
5 to training) may buy and possess any electronic, mechanical
6 or other device which is to be used by investigative or law
7 enforcement officers for purposes of interception as
8 authorized under section 5704(2) and (12), 5712, 5713 or
9 5713.1 for the purpose of training, provided, however, that
10 any electronic, mechanical or other device bought or
11 possessed under this provision may be loaned to or used by
12 investigative or law enforcement officers for purposes of
13 interception as authorized under section 5704(2) and (12),
14 5712, 5713 or 5713.1 only upon written approval by the
15 Attorney General or a deputy attorney general designated in
16 writing by the Attorney General, or the district attorney or
17 an assistant district attorney designated in writing by the
18 district attorney of the county wherein the interception is
19 to be made.

20 (3) With the permission of the Attorney General or a
21 district attorney who has designated any supervising law
22 enforcement officer for purposes of interceptions as
23 authorized under section 5713.1, the law enforcement agency
24 which employs the supervising law enforcement officer may
25 buy, possess, loan or borrow any electronic, mechanical or
26 other device which is to be used by investigative or law
27 enforcement officers at the direction of the supervising law
28 enforcement officer solely for the purpose of interception as
29 authorized under sections 5704(12) and 5713.1.

30 Section 4. Section 5717 of Title 18 is amended by adding a

1 subsection to read:

2 § 5717. Disclosure or use of contents of wire, electronic or
3 oral communications or derivative evidence.

4 * * *

5 (d) Limitation on certain interceptions.--Any audio
6 communications recorded under section 5704(15) (relating to
7 exceptions to prohibition of interception and disclosure of
8 communications) and any evidence derived therefrom shall be
9 admissible only when giving testimony under oath or affirmation
10 in any proceeding in any court of this Commonwealth on matters
11 relating to alleged misconduct by any individual recorded on the
12 audio recording.

13 Section 5. Section 4524 of Title 75 is amended by adding a
14 subsection to read:

15 § 4524. Windshield obstructions and wipers.

16 * * *

17 (f) Exception for video equipment in police or sheriff
18 vehicles.--This section does not prevent the installation or use
19 of video recording or projection equipment, that has been
20 approved by the department, upon the windshield or any window of
21 a police or sheriff vehicle used exclusively for official
22 purposes.

23 Section 6. This act shall take effect in 60 days.