
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 369 Session of
2001

INTRODUCED BY GERLACH, PUNT, BELL, WENGER, CORMAN, WAGNER,
THOMPSON, MOWERY, WOZNIAK, LOGAN AND TILGHMAN,
FEBRUARY 7, 2001

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, APRIL 9, 2002

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; and further
4 providing for windshield obstructions and wipers.

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

7 Section 1. Sections 5704 and 5706(b) of Title 18 of the
8 Pennsylvania Consolidated Statutes are amended by adding
9 paragraphs to read:

10 § 5704. Exceptions to prohibition of interception and
11 disclosure of communications.

12 It shall not be unlawful and no prior court approval shall be
13 required under this chapter for:

14 * * *

15 ~~(16) (i) A law enforcement officer acting in the~~ <—
16 ~~performance of his official duties to intercept and~~

1 (16) A LAW ENFORCEMENT OFFICER, WHETHER OR NOT CERTIFIED <—
2 UNDER SECTION 5724 (RELATING TO TRAINING), ACTING IN THE
3 PERFORMANCE OF HIS OFFICIAL DUTIES TO INTERCEPT AND record an
4 oral communication between individuals if, at the time of the <—
5 interception, the oral communication occurs outside the
6 residences of any of the individuals and IN ACCORDANCE WITH <—
7 THE FOLLOWING:

8 (I) AT THE TIME OF THE INTERCEPTION, THE ORAL
9 COMMUNICATION DOES NOT OCCUR INSIDE THE RESIDENCE OF ANY
10 OF THE INDIVIDUALS.

11 (II) AT THE TIME OF THE INTERCEPTION, the law
12 enforcement officer:

13 (A) is operating the visual or audible warning
14 system of the law enforcement officer's vehicle
15 authorized by 75 Pa.C.S. § 4571 (relating to visual
16 and audible signals on emergency vehicles) or
17 otherwise identifies himself IS OTHERWISE <—
18 IDENTIFIABLE as a law enforcement officer;

19 (B) is in close proximity to the individuals'
20 oral communication; and

21 (C) notifies, as soon as practicable, the
22 individuals identifiably present at the location that
23 the oral communication is being or has been
24 intercepted and recorded.

25 (ii) For the purposes of this paragraph, "law <—
26 enforcement officer" shall mean a member of the
27 Pennsylvania State Police or an individual employed as a
28 police officer who has received the certification
29 required under 53 Pa.C.S. Ch. 21 Subch. D (relating to
30 municipal police education and training).

1 (III) AS USED IN THIS PARAGRAPH, THE FOLLOWING WORDS <—
2 AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
3 SUBPARAGRAPH:

4 "LAW ENFORCEMENT OFFICER." A MEMBER OF THE
5 PENNSYLVANIA STATE POLICE OR AN INDIVIDUAL EMPLOYED AS A
6 POLICE OFFICER WHO IS REQUIRED TO BE TRAINED UNDER 53
7 PA.C.S. CH. 21 SUBCH. D (RELATING TO MUNICIPAL POLICE
8 EDUCATION AND TRAINING).

9 § 5706. Exceptions to prohibitions in possession, sale,
10 distribution, manufacture or advertisement of
11 electronic, mechanical or other devices.

12 * * *

13 (b) Responsibility.--

14 (1) Except as provided under paragraph (2), the Attorney
15 General and the district attorney or their designees so
16 designated in writing shall have the sole responsibility to
17 buy, possess and loan any electronic, mechanical or other
18 device which is to be used by investigative or law
19 enforcement officers for purposes of interception as
20 authorized under section 5704(2), (5) and (12) (relating to
21 exceptions to prohibition of interception and disclosure of
22 communications), 5712 (relating to issuance of order and
23 effect), 5713 (relating to emergency situations) or 5713.1
24 (relating to emergency hostage and barricade situations).

25 (2) The division or bureau or section of the
26 Pennsylvania State Police responsible for conducting the
27 training in the technical aspects of wiretapping and
28 electronic surveillance as required by section 5724 (relating
29 to training) may buy and possess any electronic, mechanical
30 or other device which is to be used by investigative or law

1 enforcement officers for purposes of interception as
2 authorized under section 5704(2), (5) and (12), 5712, 5713 or
3 5713.1 for the purpose of training. However, any electronic,
4 mechanical or other device bought or possessed under this
5 provision may be loaned to or used by investigative or law
6 enforcement officers for purposes of interception as
7 authorized under section 5704(2), (5) and (12), 5712, 5713 or
8 5713.1 only upon written approval by the Attorney General or
9 a deputy attorney general designated in writing by the
10 Attorney General, or the district attorney or an assistant
11 district attorney designated in writing by the district
12 attorney of the county wherein the interception is to be
13 made.

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

24 (4) The Pennsylvania State Police shall annually
25 establish equipment standards for any electronic, mechanical
26 or other device which is to be used by law enforcement
27 officers for purposes of interception as authorized under
28 section 5704(16). The equipment standards shall be published
29 annually in the Pennsylvania Bulletin.

30 Section 2. Section 4524 of Title 75 is amended by adding a

1 subsection to read:

2 § 4524. Windshield obstructions and wipers.

3 * * *

4 (f) Exception.--This section does not apply to mobile video
5 recording equipment installed in a vehicle exclusively used for
6 official police purposes.

7 Section 3. This act shall take effect ~~in 60 days~~

<—

8 IMMEDIATELY.

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