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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 369 Session of  
2001

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

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
APRIL 15, 2002

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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 CLEARLY <—  
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                   (C) IS USING AN ELECTRONIC, MECHANICAL OR OTHER <—  
26                   DEVICE WHICH HAS BEEN APPROVED UNDER SECTION  
27                   5706(B)(4) (RELATING TO EXCEPTIONS TO PROHIBITIONS IN  
28                   POSSESSION, SALE, DISTRIBUTION, MANUFACTURE OR  
29                   ADVERTISEMENT OF ELECTRONIC, MECHANICAL OR OTHER  
30                   DEVICES) TO INTERCEPT THE ORAL COMMUNICATION, THE

1           RECORDER OF WHICH IS MOUNTED IN THE LAW ENFORCEMENT  
2           OFFICER'S VEHICLE; AND

3           (D) INFORMS, AS SOON AS REASONABLY PRACTICABLE,  
4           THE INDIVIDUALS IDENTIFIABLY PRESENT THAT HE HAS  
5           INTERCEPTED AND RECORDED THE ORAL COMMUNICATION.

6           ~~(ii) For the purposes of this paragraph, "law~~ <—  
7           ~~enforcement officer" shall mean a member of the~~  
8           ~~Pennsylvania State Police or an individual employed as a~~  
9           ~~police officer who has received the certification~~  
10           ~~required under 53 Pa.C.S. Ch. 21 Subch. D (relating to~~  
11           ~~municipal police education and training).~~

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

15           "LAW ENFORCEMENT OFFICER." A MEMBER OF THE  
16           PENNSYLVANIA STATE POLICE OR AN INDIVIDUAL EMPLOYED AS A  
17           POLICE OFFICER WHO IS REQUIRED TO BE TRAINED UNDER 53  
18           PA.C.S. CH. 21 SUBCH. D (RELATING TO MUNICIPAL POLICE  
19           EDUCATION AND TRAINING).

20           "RECORDER." AN ELECTRONIC, MECHANICAL OR OTHER <—  
21           DEVICE USED TO STORE AN ORAL COMMUNICATION ON TAPE OR ON  
22           SOME OTHER COMPARABLE MEDIUM.

23   § 5706. Exceptions to prohibitions in possession, sale,  
24           distribution, manufacture or advertisement of  
25           electronic, mechanical or other devices.

26           \* \* \*

27           (b) Responsibility.--

28           (1) Except as provided under paragraph (2), the Attorney  
29           General and the district attorney or their designees so  
30           designated in writing shall have the sole responsibility to

1 buy, possess and loan any electronic, mechanical or other  
2 device which is to be used by investigative or law  
3 enforcement officers for purposes of interception as  
4 authorized under section 5704(2), (5) and (12) (relating to  
5 exceptions to prohibition of interception and disclosure of  
6 communications), 5712 (relating to issuance of order and  
7 effect), 5713 (relating to emergency situations) or 5713.1  
8 (relating to emergency hostage and barricade situations).

9 (2) The division or bureau or section of the  
10 Pennsylvania State Police responsible for conducting the  
11 training in the technical aspects of wiretapping and  
12 electronic surveillance as required by section 5724 (relating  
13 to training) may buy and possess any electronic, mechanical  
14 or other device which is to be used by investigative or law  
15 enforcement officers for purposes of interception as  
16 authorized under section 5704(2), (5) and (12), 5712, 5713 or  
17 5713.1 for the purpose of training. However, any electronic,  
18 mechanical or other device bought or possessed under this  
19 provision may be loaned to or used by investigative or law  
20 enforcement officers for purposes of interception as  
21 authorized under section 5704(2), (5) and (12), 5712, 5713 or  
22 5713.1 only upon written approval by the Attorney General or  
23 a deputy attorney general designated in writing by the  
24 Attorney General, or the district attorney or an assistant  
25 district attorney designated in writing by the district  
26 attorney of the county wherein the interception is to be  
27 made.

28 (3) With the permission of the Attorney General or a  
29 district attorney who has designated any supervising law  
30 enforcement officer for purposes of interceptions as

1 authorized under section 5713.1, the law enforcement agency  
2 which employs the supervising law enforcement officer may  
3 buy, possess, loan or borrow any electronic, mechanical or  
4 other device which is to be used by investigative or law  
5 enforcement officers at the direction of the supervising law  
6 enforcement officer solely for the purpose of interception as  
7 authorized under sections 5704(12) and 5713.1.

8 (4) The Pennsylvania State Police shall annually  
9 establish equipment standards for any electronic, mechanical  
10 or other device which is to be used by law enforcement  
11 officers for purposes of interception as authorized under  
12 section 5704(16). The equipment standards shall be published  
13 annually in the Pennsylvania Bulletin.

14 Section 2. Section 4524 of Title 75 is amended by adding a  
15 subsection to read:

16 § 4524. Windshield obstructions and wipers.

17 \* \* \*

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

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

22 IMMEDIATELY.

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