

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 72 Session of 2009

INTRODUCED BY MARSICO, TURZAI, BAKER, BEYER, BOYD, CALTAGIRONE, CAUSER, CIVERA, CLYMER, CREIGHTON, DALLY, ELLIS, FLECK, GEIST, GIBBONS, GINGRICH, GRELL, HARRIS, HELM, HENNESSEY, HESS, HICKERNELL, KAUFFMAN, M. KELLER, MENSCH, MILLER, MURT, O'NEILL, PETRI, PICKETT, REICHLEY, ROCK, SAYLOR, SCAVELLO, STERN, VEREB AND VULAKOVICH, JANUARY 26, 2009

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 26, 2009

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing for applicability to
3 providers outside this Commonwealth; and further providing
4 for investigative disclosure or use of contents of wire,
5 electronic or oral communications or derivative evidence, for
6 requirements for governmental access and for issuance of an
7 order for use of certain devices.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Title 18 of the Pennsylvania Consolidated
11 Statutes is amended by adding a section to read:

12 Section 5701.1. Applicability to providers outside this
13 Commonwealth.

14 This chapter shall apply to providers of an electronic or
15 wire communication service located outside this Commonwealth if
16 they are engaged in transacting any business in this
17 Commonwealth as determined under 42 Pa.C.S. § 5322(a)(1)
18 (relating to bases of personal jurisdiction over persons outside

1 this Commonwealth).

2 Section 2. Section 5717 of Title 18 is amended by adding a
3 subsection to read:

4 § 5717. Investigative disclosure or use of contents of wire,
5 electronic or oral communications or derivative
6 evidence.

7 * * *

8 (c) Otherwise authorized personnel.--

9 (1) Except as provided under paragraph (2), any
10 investigative or law enforcement officer who, by any means
11 authorized by the laws of the Federal Government or another
12 state, has obtained knowledge of the contents of any wire,
13 electronic or oral communication, or evidence derived
14 therefrom, may disclose the contents or evidence to an
15 investigative or law enforcement officer and may disclose the
16 contents or evidence if otherwise admissible while giving
17 testimony under oath or affirmation in any proceeding in any
18 court of this Commonwealth.

19 (2) The contents of a nonconsensual interception
20 authorized by the laws of the Federal Government or another
21 state shall not be admissible unless the interception was
22 authorized by a court upon a finding of probable cause that
23 the target of the surveillance is engaged or will engage in a
24 violation of the criminal laws of the Federal Government or
25 any state.

26 Section 3. Sections 5743(d) and 5773(c) of Title 18 are
27 amended to read:

28 § 5743. Requirements for governmental access.

29 * * *

30 (d) Requirements for court order.--A court order for

disclosure under subsection (b) or (c) shall be issued only if the investigative or law enforcement officer shows that there are specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order if the information or records requested are unusually voluminous in nature or compliance with the order would otherwise cause an undue burden on the provider. An order issued under this subsection shall be sealed until otherwise ordered by the court.

* * *

§ 5773. Issuance of an order for use of certain devices.

* * *

(c) Time period and extensions.--

(1) An order issued under this section shall authorize the installation and use of a pen register, trap and trace device or a telecommunication identification interception device for a period not to exceed [30] 60 days.

(2) Extensions of such an order may be granted but only upon an application for an order under section 5772 and upon the judicial finding required by subsection (a). The period of each extension shall be for a period not to exceed [30] 60 days.

* * *

Section 4. This act shall take effect in 60 days.