

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1981 Session of
1979

INTRODUCED BY FREIND, NOVEMBER 14, 1979

REFERRED TO COMMITTEE ON JUDICIARY, NOVEMBER 14, 1979

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for penalties and
3 causes of actions for violations of Chapter 57 and further
4 providing for training.

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

7 Section 1. Sections 5703, 5706, 5725 and 5726 of Title 18,
8 act of November 25, 1970 (P.L.707, No.230), known as the
9 Pennsylvania Consolidated Statutes, are amended to read:

10 § 5703. Interception, disclosure or use of wire or oral
11 communications.

12 Except as otherwise provided in this chapter and except when
13 acting in good faith reliance on a court order, a person is
14 guilty of a felony of the third degree if he:

15 (1) willfully intercepts, endeavors to intercept, or
16 procures any other person to intercept or endeavor to
17 intercept any wire or oral communication;

18 (2) willfully discloses or endeavors to disclose to any

1 other person the contents of any wire or oral communication,
2 or evidence derived therefrom, knowing or having reason to
3 know that the information was obtained through the
4 interception of a wire or oral communication; or

5 (3) willfully uses or endeavors to use the contents of
6 any wire or oral communications, or evidence derived
7 therefrom, knowing or having reason to know, that the
8 information was obtained through the interception of a wire
9 or oral communication.

10 § 5706. Exceptions to prohibitions in possession, sale,
11 distribution, manufacture or advertisement of
12 intercepting devices.

13 (a) Unlawful activities.--It shall not be unlawful under
14 this chapter for:

15 (1) a communication common carrier or an officer, agent
16 or employee of, or a person under contract with a
17 communication common carrier, in the usual course of the
18 communication common carrier's business; or

19 (2) a person under contract with the United States, a
20 state or a political subdivision thereof, or an officer,
21 agent or employee of a state or a political subdivision
22 thereof,

23 to possess, sell, distribute, manufacture, assemble or advertise
24 any intercepting device, while acting in furtherance of the
25 appropriate activities of the United States, a state or a
26 political subdivision thereof or a communication common carrier.

27 (b) Responsibility.--[The]

28 (1) Except as provided in paragraph (2), the Attorney
29 General and the district attorney or their designees shall
30 have the sole responsibility to buy, possess and loan any

1 intercepting device which is to be used by investigative or
2 law enforcement officers for purposes of interception as
3 authorized under section 5704(2) (relating to exceptions to
4 prohibition on interception and disclosure of
5 communications), 5712 (relating to issuance of order and
6 effect) or 5713 (relating to emergency situations).

7 (2) The Pennsylvania State Police shall be authorized to
8 buy and possess intercepting devices solely for the purpose
9 of training authorized investigative and law enforcement
10 officers pursuant to section 5724 (relating to training).

11 § 5725. Civil action for unlawful interception, disclosure or
12 use of wire or oral communication.

13 (a) Cause of action.--

14 (1) Any person whose wire or oral communications is
15 intercepted, disclosed or used in violation of this chapter
16 shall have a civil cause of action against any person who
17 willfully intercepts, discloses or uses or procures any other
18 person to intercept, disclose or use, such communication; and
19 shall be entitled to recover from any such person:

20 [(1)] (i) Actual damages, but not less than
21 liquidated damages computed at the rate of \$100 a day for
22 each day of violation, or \$1,000, whichever is higher.

23 [(2)] (ii) Punitive damages.

24 [(3)] (iii) A reasonable attorney's fee and other
25 litigation costs reasonably incurred.

26 (2) It shall be a defense to an action brought pursuant
27 to this section if the defendant was acting in good faith
28 reliance on a court order.

29 (b) Waiver of sovereign immunity.--To the extent that the
30 Commonwealth and any of its officers officials or employees

1 would be shielded from liability under this section by the
2 doctrine of sovereign immunity, such immunity is hereby waived
3 for the purposes of this section.

4 § 5726. Action for removal from office or employment.

5 (a) Cause of action.--Any aggrieved person shall have the
6 right to bring an action in Commonwealth Court against any
7 investigative or law enforcement officer, public official or
8 public employee seeking the officer's, official's or employee's
9 removal from office or employment on the grounds that the
10 officer, official or employee has willfully violated the
11 provisions of this chapter. If the court shall conclude that
12 such officer, official or employee has in fact willfully
13 violated the provisions of this chapter, the court shall order
14 the dismissal or removal from office of said officer, official
15 or employee and the forfeiture of said officer, official or
16 employee's pension benefit entitlements, if any.

17 (b) Defense.--It shall be a defense to an action brought
18 pursuant to this section if the defendant was acting in good
19 faith reliance on a court order.

20 Section 2. This act shall take effect in 60 days.