

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

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, JUNE 12, 2001

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. ~~Section 5704~~ SECTIONS 5704 AND 5706(B) of Title <—
8 18 of the Pennsylvania Consolidated Statutes ~~is amended by~~ <—
9 ~~adding a paragraph~~ ARE AMENDED BY ADDING 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
17 record an oral communication between individuals if, at
18 the time of the interception, THE ORAL COMMUNICATION <—

1 OCCURS OUTSIDE THE HOME OF THE INDIVIDUALS AND the law
2 enforcement officer:

3 ~~(A) is acting in the performance of his law~~ <—
4 ~~enforcement duties;~~

5 ~~(B) (A) is operating the visual or audible~~ <—
6 ~~warning system of the law enforcement officer's~~
7 ~~vehicle authorized by 75 Pa.C.S. § 4571 (relating to~~
8 ~~visual and audible signals on emergency vehicles) or~~
9 ~~otherwise identifies himself as a law enforcement~~
10 ~~officer; and~~ <—

11 ~~(C) is in proximity to the individuals to the~~
12 ~~oral communication where, under the existing~~
13 ~~circumstance, the individuals would have no~~
14 ~~reasonable expectation of privacy.~~

15 ~~(ii) Either during the oral communication or as soon~~
16 ~~as practicable thereafter, the law enforcement officer~~
17 ~~shall notify the individuals identifiably present at the~~

18 ~~(B) IS IN CLOSE PROXIMITY TO THE INDIVIDUALS'~~ <—
19 ~~ORAL COMMUNICATION; AND~~

20 ~~(C) NOTIFIES, AS SOON AS PRACTICABLE, THE~~
21 ~~INDIVIDUALS IDENTIFIABLY PRESENT AT THE location that~~
22 ~~their THE oral communication is being or has been~~ <—
23 ~~intercepted and recorded.~~

24 ~~(iii) (II) For the purposes of this paragraph, "law~~ <—
25 ~~enforcement officer" shall include BE a member of the~~ <—
26 ~~Pennsylvania State Police or an individual employed as a~~
27 ~~police officer that requires training under 53 Pa.C.S.~~
28 ~~Ch. 21 Subch. D (relating to municipal police education~~
29 ~~and training).~~

30 Section 2. ~~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) Except as provided under paragraph (2), 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), (5) ~~and (12), (15) and~~ ~~(16)~~ 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).

(2) The division or bureau or section of the Pennsylvania State Police responsible for conducting the training in the technical aspects of wiretapping and electronic surveillance as required by section 5724 (relating to training) may buy and possess 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), (5) ~~and (12), (15) and~~ ~~(16)~~ AND (12), 5712, 5713 or 5713.1 for the purpose of training. However, any electronic, mechanical or other device bought or possessed under this provision may be loaned to or used by investigative or law enforcement officers for purposes of interception as authorized under section 5704(2),

1 (5) ~~and~~, ~~(12)~~, ~~(15)~~ and ~~(16)~~ AND (12), 5712, 5713 or 5713.1 <—
2 only upon written approval by the Attorney General or a
3 deputy attorney general designated in writing by the Attorney
4 General, or the district attorney or an assistant district
5 attorney designated in writing by the district attorney of
6 the county wherein the interception is to be made.

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

17 (4) THE PENNSYLVANIA STATE POLICE SHALL ANNUALLY <—
18 ESTABLISH EQUIPMENT STANDARDS FOR ANY ELECTRONIC, MECHANICAL
19 OR OTHER DEVICE WHICH IS TO BE USED BY LAW ENFORCEMENT
20 OFFICERS FOR PURPOSES OF INTERCEPTION AS AUTHORIZED UNDER
21 SECTION 5704(16). THE EQUIPMENT STANDARDS SHALL BE PUBLISHED
22 ANNUALLY IN THE PENNSYLVANIA BULLETIN.

23 Section 3 2. Section 4524 of Title 75 is amended by adding a <—
24 subsection to read:

25 § 4524. Windshield obstructions and wipers.

26 * * *

27 ~~(f) Exception for video equipment in police or sheriff~~ <—
28 ~~vehicles. This section does not prevent the installation or use~~
29 ~~of video recording or projection equipment upon the windshield~~
30 ~~or any window of a police or sheriff vehicle used exclusively~~

1 ~~for official purposes.~~

2 (F) EXCEPTION.--THIS SECTION DOES NOT APPLY TO MOBILE VIDEO <—
3 RECORDING EQUIPMENT INSTALLED IN A VEHICLE EXCLUSIVELY USED FOR
4 OFFICIAL POLICE PURPOSES.

5 Section 4 3. This act shall take effect in 60 days. <—