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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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SENATE AMENDMENTS TO HOUSE AMENDMENTS, MAY 7, 2002

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AN ACT

1 Amending ~~Titles~~ TITLE 18 (Crimes and Offenses) ~~and 75 (Vehicles)~~ <—  
2 of 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) A law enforcement officer, whether or not certified  
16 under section 5724 (relating to training), acting in the  
17 performance of his official duties to intercept and record an

1 oral communication between individuals in accordance with the  
2 following:

3 (i) At the time of the interception, the oral  
4 communication does not occur inside the residence of any  
5 of the individuals.

6 (ii) At the time of the interception, the law  
7 enforcement officer:

8 (A) is operating the visual or audible warning  
9 system of the law enforcement officer's vehicle  
10 authorized by 75 Pa.C.S. § 4571 (relating to visual  
11 and audible signals on emergency vehicles) or is  
12 clearly identifiable as a law enforcement officer;

13 (B) is in close proximity to the individuals'  
14 oral communication;

15 (C) is using an electronic, mechanical or other  
16 device which has been approved under section  
17 5706(b)(4) (relating to exceptions to prohibitions in  
18 possession, sale, distribution, manufacture or  
19 advertisement of electronic, mechanical or other  
20 devices) to intercept the oral communication, the  
21 recorder of which is mounted in the law enforcement  
22 officer's vehicle; and

23 (D) informs, as soon as reasonably practicable,  
24 the individuals identifiably present that he has  
25 intercepted and recorded the oral communication.

26 (iii) As used in this paragraph, the following words  
27 and phrases shall have the meanings given to them in this  
28 subparagraph:

29 "Law enforcement officer." A member of the  
30 Pennsylvania State Police or an individual employed as a

1        police officer who is required to be trained HOLDS A  
2        CURRENT CERTIFICATE under 53 Pa.C.S. Ch. 21 Subch. D  
3        (relating to municipal police education and training).

4        "Recorder." An electronic, mechanical or other  
5        device used to store an oral communication on tape or on  
6        some other comparable medium.

7    § 5706. Exceptions to prohibitions in possession, sale,  
8        distribution, manufacture or advertisement of  
9        electronic, mechanical or other devices.

10    \* \* \*

11    (b) Responsibility.--

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

23        (2) The division or bureau or section of the  
24        Pennsylvania State Police responsible for conducting the  
25        training in the technical aspects of wiretapping and  
26        electronic surveillance as required by section 5724 (relating  
27        to training) may buy and possess any electronic, mechanical  
28        or other device which is to be used by investigative or law  
29        enforcement officers for purposes of interception as  
30        authorized under section 5704(2), (5) and (12), 5712, 5713 or

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

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

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

28 ~~Section 2. Section 4524 of Title 75 is amended by adding a~~ <—  
29 ~~subsection to read:~~

30 ~~§ 4524. Windshield obstructions and wipers.~~

1       \* \* \*

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 3 2. This act shall take effect immediately.

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