
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 428 Session of
2007

INTRODUCED BY MOYER, SHAPIRO, GODSHALL, CALTAGIRONE, BELFANTI,
DALLY, FLECK, HERSHEY, O'NEILL, QUIGLEY, SCAVELLO, STERN AND
VEREB, FEBRUARY 26, 2007

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 26, 2007

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for requirements for
3 governmental access to certain electronic communications.

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

6 Section 1. Section 5743(c), (d) and (e) of Title 18 of the
7 Pennsylvania Consolidated Statutes are amended to read:

8 § 5743. Requirements for governmental access.

9 * * *

10 (c) Records concerning electronic communication service [or
11 remote computing service], remote computing service or cellular
12 telephone sales.--

13 (1) Except as provided in paragraph (2), a provider of
14 electronic communication service or remote computing service
15 may disclose a record or other information pertaining to a
16 subscriber to or customer of the service, not including the
17 contents of communication covered by subsection (a) or (b),
18 to any person other than an investigative or law enforcement

1 officer.

2 (1.1) A purchaser of a cellular telephone must provide
3 the seller with information adequate for the seller to
4 determine the purchaser's identity, including at least one
5 picture identification. The seller shall record the identity
6 of the purchaser in a log book, including the purchaser's
7 name, date of birth, address, date of purchase and
8 corresponding cellular telephone number. The seller shall
9 maintain the log book for at least two years from date of
10 purchase. It is a misdemeanor of the third degree for a
11 purchaser to provide false or misleading identification
12 information as required under this subsection.

13 (2) A provider of electronic communication service [or
14 remote computing service], remote computing service or
15 cellular telephone sales shall disclose a record, log book or
16 other information pertaining to a subscriber to or customer
17 of the service, not including the contents of communications
18 covered by subsection (a) or (b), to an investigative or law
19 enforcement officer only when the investigative or law
20 enforcement officer:

21 (i) uses an administrative subpoena authorized by a
22 statute or a grand jury subpoena;

23 (ii) obtains a warrant issued under the Pennsylvania
24 Rules of Criminal Procedure;

25 (iii) obtains a court order for the disclosure under
26 subsection (d); or

27 (iv) has the consent of the subscriber or customer
28 to the disclosure.

29 (3) An investigative or law enforcement officer
30 receiving records or information under paragraph (2) is not

1 required to provide notice to the customer or subscriber.

2 (d) Requirements for court order.--A court order for
3 disclosure under subsection (b) or (c) shall be issued only if
4 the investigative or law enforcement officer shows that there
5 are specific and articulable facts showing that there are
6 reasonable grounds to believe that the contents of a wire or
7 electronic communication, or the records or other information
8 sought, are relevant and material to an ongoing criminal
9 investigation. A court issuing an order pursuant to this
10 section, on a motion made promptly by the service provider or
11 seller, may quash or modify the order if the information or
12 records requested are unusually voluminous in nature or
13 compliance with the order would otherwise cause an undue burden
14 on the provider or seller.

15 (e) No cause of action against a provider or seller
16 disclosing information under this subchapter.--No cause of
17 action shall lie against any provider of wire or electronic
18 communication service or seller of cellular telephones, its
19 officers, employees, agents or other specified persons for
20 providing information, facilities or assistance in accordance
21 with the terms of a court order, warrant, subpoena or
22 certification under this subchapter.

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