

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1664 Session of  
2007

INTRODUCED BY CALTAGIRONE, MARSICO, DALEY, HARRIS, HERSHEY,  
JAMES, KORTZ, R. MILLER, MYERS, O'NEILL, PAYNE, PETRONE,  
PHILLIPS, REICHLEY, J. TAYLOR, WOJNAROSKI, YOUNGBLOOD, GEIST,  
THOMAS, SIPTROTH AND MARKOSEK, JULY 3, 2007

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 7, 2008

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing for theft of leased  
3 property; AND, IN WIRETAPPING AND ELECTRONIC SURVEILLANCE, ←  
4 FURTHER PROVIDING FOR DISCLOSURE OF CONTENTS AND FOR  
5 EXPIRATION OF CHAPTER.

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

8 Section 1. Section 3932(b) and (c)(2) of Title 18 of the  
9 Pennsylvania Consolidated Statutes are amended to read:

10 § 3932. Theft of leased property.

11 \* \* \*

12 (b) Definition.--As used in this section[, a]:

13 (1) A person "deals with the property as his own" if he  
14 sells, secretes, destroys, converts to his own use or  
15 otherwise disposes of the property.

16 (2) A "written demand to return the property is  
17 delivered" when it is sent SIMULTANEOUSLY by first class ←  
18 mail, evidenced by a certificate of mailing, AND BY ←

1 REGISTERED OR CERTIFIED MAIL to the address provided by the  
2 lessor LESSEE. ←

3 (c) Presumption.--A person shall be prima facie presumed to  
4 have intent if he:

5 \* \* \*

6 (2) fails to return the property to its owner within  
7 seven days after a written demand to return the property is  
8 delivered [by registered or certified mail to the person's  
9 last known address].

10 \* \* \*

11 SECTION 2. SECTION 5742 HEADING AND (A) INTRODUCTORY ←  
12 PARAGRAPH OF TITLE 18 ARE AMENDED, SUBSECTION (A) IS AMENDED BY  
13 ADDING A PARAGRAPH AND THE SECTION IS AMENDED BY ADDING  
14 SUBSECTIONS TO READ:

15 § 5742. DISCLOSURE OF CONTENTS AND RECORDS.

16 (A) PROHIBITIONS.--EXCEPT AS PROVIDED IN SUBSECTION (B) AND  
17 (C):

18 \* \* \*

19 (3) A PERSON OR ENTITY PROVIDING AN ELECTRONIC  
20 COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE TO THE  
21 PUBLIC SHALL NOT KNOWINGLY DIVULGE A RECORD OR OTHER  
22 INFORMATION PERTAINING TO A SUBSCRIBER TO, OR CUSTOMER OF,  
23 THE SERVICE.

24 \* \* \*

25 (C) EXCEPTIONS FOR DISCLOSURE OF RECORDS OR OTHER  
26 INFORMATION.--A PERSON OR ENTITY MAY DIVULGE A RECORD OR OTHER  
27 INFORMATION PERTAINING TO A SUBSCRIBER TO, OR CUSTOMER OF, THE  
28 SERVICE IF ANY OF THE FOLLOWING PARAGRAPHS APPLY:

29 (1) A RECORD OR OTHER INFORMATION MAY BE DIVULGED  
30 INCIDENT TO ANY SERVICE OR OTHER BUSINESS OPERATION OR TO THE

1 PROTECTION OF THE RIGHTS OR PROPERTY OF THE PROVIDER.

2 (2) A RECORD OR OTHER INFORMATION MAY BE DIVULGED TO ANY  
3 OF THE FOLLOWING:

4 (I) AN INVESTIGATIVE OR LAW ENFORCEMENT OFFICIAL AS  
5 AUTHORIZED IN SECTION 5743.

6 (II) THE SUBSCRIBER OR CUSTOMER UPON REQUEST.

7 (III) A THIRD PARTY, UPON RECEIPT FROM THE REQUESTER  
8 OF ADEQUATE PROOF OF LAWFUL CONSENT FROM THE SUBSCRIBER  
9 TO, OR CUSTOMER OF, THE SERVICE TO RELEASE THE  
10 INFORMATION TO THE THIRD PARTY.

11 (IV) A PARTY TO A LEGAL PROCEEDING, UPON RECEIPT  
12 FROM THE PARTY OF A COURT ORDER ENTERED UNDER SUBSECTION  
13 (C.1). THIS SUBPARAGRAPH DOES NOT APPLY TO AN  
14 INVESTIGATIVE OR LAW ENFORCEMENT OFFICIAL AUTHORIZED  
15 UNDER SECTION 5743.

16 (3) NOTWITHSTANDING PARAGRAPH (2), A RECORD OR OTHER  
17 INFORMATION MAY BE DIVULGED AS AUTHORIZED BY A COMMONWEALTH  
18 STATUTE OR AS AUTHORIZED BY A COMMONWEALTH REGULATORY AGENCY  
19 WITH OVERSIGHT OVER THE PERSON OR ENTITY.

20 (4) SUBJECT TO PARAGRAPH (2), A RECORD OR OTHER  
21 INFORMATION MAY BE DIVULGED AS AUTHORIZED BY FEDERAL LAW OR  
22 AS AUTHORIZED BY A FEDERAL REGULATORY AGENCY HAVING OVERSIGHT  
23 OVER THE PERSON OR ENTITY.

24 (C.1) ORDER FOR RELEASE OF RECORDS.--

25 (1) AN ORDER TO DIVULGE A RECORD OR OTHER INFORMATION  
26 PERTAINING TO A SUBSCRIBER OR CUSTOMER UNDER SUBSECTION  
27 (C)(2)(IV) MUST BE APPROVED BY A COURT PRESIDING OVER THE  
28 PROCEEDING IN WHICH A PARTY SEEKS THE RECORD OR OTHER  
29 INFORMATION.

30 (2) THE ORDER MAY BE ISSUED ONLY AFTER THE SUBSCRIBER OR

1 CUSTOMER RECEIVED NOTICE FROM THE PARTY SEEKING THE RECORD OR  
2 OTHER INFORMATION AND WAS GIVEN AN OPPORTUNITY TO BE HEARD.

3 (3) THE COURT MAY ISSUE A PRELIMINARY ORDER DIRECTING  
4 THE PROVIDER TO FURNISH THE COURT WITH THE IDENTITY OF OR  
5 CONTACT INFORMATION FOR THE SUBSCRIBER OR CUSTOMER IF THE  
6 PARTY DOES NOT POSSESS THIS INFORMATION.

7 (4) AN ORDER FOR DISCLOSURE OF A RECORD OR OTHER  
8 INFORMATION SHALL BE ISSUED ONLY IF THE PARTY SEEKING  
9 DISCLOSURE DEMONSTRATES SPECIFIC AND ARTICULABLE FACTS TO  
10 SHOW THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE  
11 RECORD OR OTHER INFORMATION SOUGHT IS RELEVANT AND MATERIAL  
12 TO THE PROCEEDING. IN MAKING ITS DETERMINATION, THE COURT  
13 SHALL CONSIDER THE TOTALITY OF THE CIRCUMSTANCES, INCLUDING  
14 INPUT OF THE SUBSCRIBER OR CUSTOMER, IF ANY, AND THE LIKELY  
15 IMPACT OF THE PROVIDER.

16 SECTION 3. SECTIONS 5743(C)(1), 5746(A), 5761(B) AND 5781 OF  
17 TITLE 18 ARE AMENDED TO READ:

18 § 5743. REQUIREMENTS FOR GOVERNMENTAL ACCESS.

19 \* \* \*

20 (C) RECORDS CONCERNING ELECTRONIC COMMUNICATION SERVICE OR  
21 REMOTE COMPUTING SERVICE.--

22 [(1) EXCEPT AS PROVIDED IN PARAGRAPH (2), A PROVIDER OF  
23 ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE  
24 MAY DISCLOSE A RECORD OR OTHER INFORMATION PERTAINING TO A  
25 SUBSCRIBER TO OR CUSTOMER OF THE SERVICE, NOT INCLUDING THE  
26 CONTENTS OF COMMUNICATION COVERED BY SUBSECTION (A) OR (B),  
27 TO ANY PERSON OTHER THAN AN INVESTIGATIVE OR LAW ENFORCEMENT  
28 OFFICER.]

29 \* \* \*

30 § 5746. COST REIMBURSEMENT.

1 (A) PAYMENT.--EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION  
2 (C), AN INVESTIGATIVE OR LAW ENFORCEMENT OFFICER OBTAINING THE  
3 CONTENTS OF COMMUNICATIONS, RECORDS OR OTHER INFORMATION UNDER  
4 SECTION 5742 (RELATING TO DISCLOSURE OF CONTENTS AND RECORDS),  
5 5743 (RELATING TO REQUIREMENTS FOR GOVERNMENTAL ACCESS) OR 5744  
6 (RELATING TO BACKUP PRESERVATION) SHALL REIMBURSE THE PERSON OR  
7 ENTITY ASSEMBLING OR PROVIDING THE INFORMATION FOR SUCH COSTS AS  
8 ARE REASONABLY NECESSARY AND WHICH HAVE BEEN DIRECTLY INCURRED  
9 IN SEARCHING FOR, ASSEMBLING, REPRODUCING AND OTHERWISE  
10 PROVIDING THE INFORMATION. REIMBURSABLE COSTS SHALL INCLUDE ANY  
11 COSTS DUE TO NECESSARY DISRUPTION OF NORMAL OPERATIONS OF ANY  
12 ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE IN  
13 WHICH THE INFORMATION MAY BE STORED.

14 \* \* \*

15 § 5761. MOBILE TRACKING DEVICES.

16 \* \* \*

17 (B) JURISDICTION.--ORDERS PERMITTED BY THIS SECTION MAY  
18 AUTHORIZE THE USE OF MOBILE TRACKING DEVICES WITHIN THE  
19 JURISDICTION OF THE COURT OF COMMON PLEAS, AND OUTSIDE THAT  
20 JURISDICTION [BUT WITHIN THIS COMMONWEALTH], IF THE DEVICE IS  
21 INSTALLED WITHIN THE JURISDICTION OF THE COURT OF COMMON PLEAS.

22 \* \* \*

23 § 5781. EXPIRATION OF CHAPTER.

24 THIS CHAPTER EXPIRES DECEMBER 31, [2008] 2013, UNLESS  
25 EXTENDED BY STATUTE.

26 ~~Section 2. This act shall take effect in 60 days.~~ <—

27 SECTION 4. THIS ACT SHALL TAKE EFFECT AS FOLLOWS: <—

28 (1) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

29 (2) THE AMENDMENT OF 18 PA.C.S. § 5781 SHALL TAKE EFFECT  
30 IMMEDIATELY.

1           (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60  
2       DAYS.