

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2117 Session of
2007

INTRODUCED BY LENTZ, CALTAGIRONE, BAKER, BELFANTI, BOYD,
BRENNAN, CREIGHTON, FRANKEL, GEIST, GEORGE, HALUSKA, HARKINS,
HARPER, HELM, HORNAMAN, JAMES, KORTZ, KOTIK, KULA, LONGIETTI,
MAHONEY, MARSHALL, MCGEEHAN, MICOZZIE, MURT, MYERS, PALLONE,
PASHINSKI, PAYNE, PETRONE, RAYMOND, REICHLEY, SABATINA,
SIPTROTH, K. SMITH, THOMAS, VEREB, VULAKOVICH AND YOUNGBLOOD,
DECEMBER 13, 2007

REFERRED TO COMMITTEE ON JUDICIARY, DECEMBER 13, 2007

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in wiretapping and electronic
3 surveillance, further providing for exceptions to prohibition
4 of interception and disclosure of communications.

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

7 Section 1. Section 5704 of Title 18 of the Pennsylvania
8 Consolidated Statutes is amended by adding a paragraph to read:

9 § 5704. Exceptions to prohibition of interception and
10 disclosure of communications.

11 It shall not be unlawful and no prior court approval shall be
12 required under this chapter for:

13 * * *

14 (17) A law enforcement office, whether or not certified
15 under section 5724, acting in the performance of his official
16 duties to intercept and record an oral communication or image

1 or video while using an electric or electronic incapacitation
2 device in accordance with the following:

3 (i) At the time of the interception, the law
4 enforcement officer:

5 (A) has clearly identified himself or herself as
6 a law enforcement officer;

7 (B) is using an electric or electronic
8 incapacitation device that has been approved under
9 section 5706(b)(4);

10 (C) believes that the use of an electric or
11 electronic incapacitation device is necessary in the
12 performance of his or her duty; and

13 (D) informs, as soon as reasonably practicable,
14 the individual or individuals identifiably present
15 that he has intercepted and recorded audio or video
16 details.

17 (ii) Audio or video recordings shall be permissible
18 in:

19 (A) areas which are open to the public; and

20 (B) areas which are not open to the public,
21 including, but not limited to, residences, when the
22 officer is present in the course of his duties.

23 (iii) As used in this paragraph, the following words
24 and phrases shall have the meanings given to them in this
25 subparagraph:

26 "Electric or electronic incapacitation device."

27 A portable device that is designed or intended by the
28 manufacturer to be used, offensively or defensively,
29 to temporarily immobilize or incapacitate persons by
30 means of electric pulse or current or by means of

1 carbon dioxide propellant, regardless of whether the
2 device includes a means to store an oral
3 communication on tape or on some other comparable
4 medium. The term does not include a cattle prod,
5 electric fence or other electric device used in
6 agricultural, animal husbandry or food production
7 activities.

8 "Law enforcement officer." A member of the
9 Pennsylvania State Police or an individual employed
10 as a police officer who holds a current certificate
11 under 53 Pa.C.S. Ch. 21 Subch. D.

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