

No. 1983-67

AN ACT

HB 258

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for computer-related offenses; further providing for authorization of interception of wire or oral communications; and extending the sunset provision relating to wiretapping and electronic surveillance.

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

Section 1. Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 3933. *Unlawful use of computer.*

(a) *Offense defined.*—A person commits an offense if he:

(1) *accesses, alters, damages or destroys any computer, computer system, computer network, computer software, computer program or data base or any part thereof, with the intent to interrupt the normal functioning of an organization or to devise or execute any scheme or artifice to defraud or deceive or control property or services by means of false or fraudulent pretenses, representations or promises; or*

(2) *intentionally and without authorization accesses, alters, damages or destroys any computer, computer system, computer network, computer software, computer program or computer data base or any part thereof.*

(b) *Grading.*—An offense under subsection (a)(1) is a felony of the third degree. An offense under subsection (a)(2) is a misdemeanor of the first degree.

(c) *Definitions.*—As used in this section the following words and phrases shall have the meanings given to them in this subsection:

“Access.” *To instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or computer network.*

“Computer.” *An electronic, magnetic, optical, hydraulic, organic or other high speed data processing device or system which performs logic, arithmetic or memory functions and includes all input, output, processing, storage, software or communication facilities which are connected or related to the device in a system or network.*

“Computer network.” *The interconnection of two or more computers through the usage of satellite, microwave, line or other communication medium.*

“Computer program.” *An ordered set of instructions or statements and related data that, when automatically executed in actual or modified form in a computer system, causes it to perform specified functions.*

“Computer software.” *A set of computer programs, procedures and associated documentation concerned with the operation of a computer system.*

“Computer system.” *A set of related, connected or unconnected computer equipment, devices and software.*

“Data base.” *A representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalized manner and are intended for use in a computer, computer system or computer network.*

“Financial instrument.” *Includes, but is not limited to, any check, draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security or any computer system representation thereof.*

“Property.” *Includes, but is not limited to, financial instruments, computer software and programs in either machine or human readable form, and anything of value, tangible or intangible.*

“Services.” *Includes, but is not limited to, computer time, data processing and storage functions.*

Section 2. Section 5708 of Title 18 is amended and a section is added to read:

§ 5708. Order authorizing interception of wire or oral communications.

[The] (a) Authorization.—*Except in cases referred to in subsection (b), the Attorney General, or, during the absence or incapacity of the Attorney General, a deputy attorney general designated in writing by the Attorney General or the district attorney or, during the absence or incapacity of the district attorney, an assistant district attorney designated in writing by the district attorney of the county wherein the interception is to be made, may make written application to any Superior Court judge for an order authorizing the interception of a wire or oral communication by the investigative or law enforcement officers or agency having responsibility for an investigation involving suspected criminal activities when such interception may provide evidence of the commission of any of the following offenses, or may provide evidence aiding in the apprehension of the perpetrator or perpetrators of any of the following offenses:*

(1) Under this title:

Section 2501 (relating to criminal homicide)

Section 2502 (relating to murder)

Section 2503 (relating to voluntary manslaughter)

Section 2706 (relating to terroristic threats)

Section 2901 (relating to kidnapping)

Section 3121 (relating to rape)

Section 3123 (relating to involuntary deviate sexual intercourse)

Section 3301 (relating to arson and related offenses)

Section 3302 (relating to causing or risking catastrophe)

Section 3502 (relating to burglary)

Section 3701 (relating to robbery)

Section 3921 (relating to theft by unlawful taking or disposition)

Section 3922 (relating to theft by deception)

Section 3923 (relating to theft by extortion)

Section 4701 (relating to bribery in official and political matters)

Section 4702 (relating to threats and other improper influence in official and political matters)

Section 5513 (relating to gambling devices, gambling, etc.)

Section 5514 (relating to pool selling and bookmaking)

(2) Under this title, where such offense is dangerous to life, limb or property and punishable by imprisonment for more than one year:

Section 3925 (relating to receiving stolen property)

Section 3926 (relating to theft of services)

Section 3927 (relating to theft by failure to make required disposition of funds received)

Section 4108 (relating to commercial bribery and breach of duty to act disinterestedly)

Section 4109 (relating to rigging publicly exhibited contest)

Section 4902 (relating to perjury)

Section 4907 (relating to tampering with witnesses and informants)

Section 4909 (relating to witness or informant taking bribe)

Section 4911 (relating to tampering with public records or information)

Section 5101 (relating to obstructing administration of law or other governmental function)

Section 5504 (relating to harassment by communication or address)

Section 5902 (relating to prostitution and related offenses)

(3) Under the act of July 22, 1970 (P.L.513, No.178), known as the "Pennsylvania Cigarette Tax Act," where such offense is dangerous to life, limb or property and punishable by imprisonment for more than one year:

Section 902. Sales of unstamped cigarettes.

Section 903. Possession of unstamped cigarettes.

Section 904. Counterfeiting.

(4) Any offense set forth under section 13(a) of the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," not including the offense described in clause (31) of section 13(a).

(5) Any offense set forth under the act of November 15, 1972 (P.L.1227, No.272).

(6) Any conspiracy to commit any of the offenses set forth in this section.

(b) Exception.—*Whenever the interception of wire or oral communication is to be made by an investigative officer employed by the Pennsylvania Crime Commission, the application for the authorizing order shall be made by the Attorney General.*

§ 5727. **Expiration.**

This chapter expires December 4, 1988 unless extended by statute.

Section 3. Section 3 of the act of October 4, 1978 (P.L.831, No.164), entitled "An act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, making certain repeals and adding new provisions relating to wiretapping and electronic surveillance," is repealed.

Section 4. (a) Section 1, insofar as it relates to 18 Pa.C.S. § 3933, shall take effect in 60 days.

(b) The remainder of this act shall take effect immediately.

APPROVED—The 2nd day of December, A. D. 1983.

DICK THORNBURGH