

No. 2002-52

## AN ACT

SB 369

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, authorizing police officers to record certain oral communications.

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

Section 1. Sections 5704 and 5706(b) of Title 18 of the Pennsylvania Consolidated Statutes are amended by adding paragraphs to read:

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

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

\* \* \*

*(16) A law enforcement officer, whether or not certified under section 5724 (relating to training), acting in the performance of his official duties to intercept and record an oral communication between individuals in accordance with the following:*

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

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

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

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

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

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

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

*"Law enforcement officer." A member of the Pennsylvania State Police or an individual employed as a police officer who holds a current certificate under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training).*

***“Recorder.” An electronic, mechanical or other device used to store an oral communication on tape or on some other comparable medium.***

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

\* \* \*

(b) Responsibility.—

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

(2) The division or bureau or section of the Pennsylvania State Police responsible for conducting the training in the technical aspects of wiretapping and electronic surveillance as required by section 5724 (relating to training) may buy and possess any electronic, mechanical or other device which is to be used by investigative or law enforcement officers for purposes of interception as authorized under section 5704(2), (5) and (12), 5712, 5713 or 5713.1 for the purpose of training. However, any electronic, mechanical or other device bought or possessed under this provision may be loaned to or used by investigative or law enforcement officers for purposes of interception as authorized under section 5704(2), (5) and (12), 5712, 5713 or 5713.1 only upon written approval by the Attorney General or a deputy attorney general designated in writing by the Attorney General, or the district attorney or an assistant district attorney designated in writing by the district attorney of the county wherein the interception is to be made.

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

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

Section 2. This act shall take effect immediately.

APPROVED—The 11th day of June, A.D. 2002.

MARK S. SCHWEIKER