

## No. 30

## AN ACT

## HB 749

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, relating to breach of privacy of telephone communications.

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

Section 1. Section 5702 of Title 18, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, added December 6, 1972 (P.L.1482, No.334) and amended June 27, 1973 (P.L.69, No.29), is amended to read:

§ 5702. Breach of privacy of telephone or telegraph communications.

(a) Offense defined.—A person commits a misdemeanor of the second degree if he:

(1) intercepts without permission of the parties to the communication a message or other communication by telephone or telegraph;

(2) installs or employs any device for overhearing or recording communications passing through a telephone or telegraph line with intent to intercept a communication in violation of this chapter; or

(3) divulges or uses without the consent of the sender or receiver the existence or contents of any such message or other communication if the actor knows that the message was illegally intercepted, or if he learned of the message in the course of employment with an agency engaged in transmitting it.

(b) [Exception.—Paragraph (a) of this section] *Telephone and telegraph personnel.—Subsection (a)* shall not extend to acts done by personnel of any telephone or telegraph common carrier in the performance of their duties in connection with the construction, maintenance or operation of a telephone or telegraph system.

(c) *Police and emergency communications systems.—Subsection (a)* shall not extend to the recording of telephone communications coming into and going out of the communications system of a police department, fire department, or county emergency center: *Provided, That the telephones thereof are limited to the exclusive use of the communication system for administrative purposes and provided the communication system employs a periodic warning tone to indicate to the parties to the conversation that the call is being recorded: And provided That:*

(1) *No use shall be made of any recording made pursuant to this subsection including, but not limited to, direct or indirect use in any court or administrative proceeding, except:*

*(i) as required to aid police, fire or county emergency personnel or authorized personnel thereof, in responding to the call;*

*(ii) with the written consent of the person calling the communication center;*

*(iii) by court order or in accordance with established court-approved procedures to evaluate performance in responding to a call;*  
*or*

*(iv) in a departmental disciplinary proceeding.*

*(2) All recordings made pursuant to this subsection, all notes made therefrom, and all transcriptions thereof shall be destroyed within two years after said call has been recorded, except as specifically required with regard to a pending matter pursuant to paragraph (1)(ii) through (iv).*

*(3) The police department, fire department or county emergency center operating the communication center shall make available at least one nonrecorded line for public use.*

Section 2. This act shall take effect immediately.

APPROVED—The 7th day of April, A. D. 1976.

MILTON J. SHAPP