

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Criminal Code of 1961 is amended by  
5 changing Section 14-3 as follows:

6 (720 ILCS 5/14-3) (from Ch. 38, par. 14-3)

7 Sec. 14-3. Exemptions. The following activities shall  
8 be exempt from the provisions of this Article:

9 (a) Listening to radio, wireless and television  
10 communications of any sort where the same are publicly made;

11 (b) Hearing conversation when heard by employees of any  
12 common carrier by wire incidental to the normal course of  
13 their employment in the operation, maintenance or repair of  
14 the equipment of such common carrier by wire so long as no  
15 information obtained thereby is used or divulged by the  
16 hearer;

17 (c) Any broadcast by radio, television or otherwise  
18 whether it be a broadcast or recorded for the purpose of  
19 later broadcasts of any function where the public is in  
20 attendance and the conversations are overheard incidental to  
21 the main purpose for which such broadcasts are then being  
22 made;

23 (d) Recording or listening with the aid of any device to  
24 any emergency communication made in the normal course of  
25 operations by any federal, state or local law enforcement  
26 agency or institutions dealing in emergency services,  
27 including, but not limited to, hospitals, clinics, ambulance  
28 services, fire fighting agencies, any public utility,  
29 emergency repair facility, civilian defense establishment or  
30 military installation;

31 (e) Recording the proceedings of any meeting required to

1 be open by the Open Meetings Act, as amended;

2 (f) Recording or listening with the aid of any device to  
3 incoming telephone calls of phone lines publicly listed or  
4 advertised as consumer "hotlines" by manufacturers or  
5 retailers of food and drug products. Such recordings must be  
6 destroyed, erased or turned over to local law enforcement  
7 authorities within 24 hours from the time of such recording  
8 and shall not be otherwise disseminated. Failure on the part  
9 of the individual or business operating any such recording or  
10 listening device to comply with the requirements of this  
11 subsection shall eliminate any civil or criminal immunity  
12 conferred upon that individual or business by the operation  
13 of this Section;

14 (g) With prior notification to the State's Attorney of  
15 the county in which it is to occur, recording or listening  
16 with the aid of any device to any conversation where a law  
17 enforcement officer, or any person acting at the direction of  
18 law enforcement, is a party to the conversation and has  
19 consented to it being intercepted or recorded under  
20 circumstances where the use of the device is necessary for  
21 the protection of the law enforcement officer or any person  
22 acting at the direction of law enforcement, in the course of  
23 an investigation of a forcible felony, a felony violation of  
24 the Illinois Controlled Substances Act, a felony violation of  
25 the Cannabis Control Act, or any "streetgang related" or  
26 "gang-related" felony as those terms are defined in the  
27 Illinois Streetgang Terrorism Omnibus Prevention Act. Any  
28 recording or evidence derived as the result of this exemption  
29 shall be inadmissible in any proceeding, criminal, civil or  
30 administrative, except (i) where a party to the conversation  
31 suffers great bodily injury or is killed during such  
32 conversation, or (ii) when used as direct impeachment of a  
33 witness concerning matters contained in the interception or  
34 recording. The Director of the Department of State Police

1 shall issue regulations as are necessary concerning the use  
2 of devices, retention of tape recordings, and reports  
3 regarding their use;

4 (h) Recordings made simultaneously with a video  
5 recording of an oral conversation between a peace officer,  
6 who has identified his or her office, and a person stopped  
7 for an investigation of an offense under the Illinois Vehicle  
8 Code;

9 (i) Recording of a conversation made by or at the  
10 request of a person, not a law enforcement officer or agent  
11 of a law enforcement officer, who is a party to the  
12 conversation, under reasonable suspicion that another party  
13 to the conversation is committing, is about to commit, or has  
14 committed a criminal offense against the person or a member  
15 of his or her immediate household, and there is reason to  
16 believe that evidence of the criminal offense may be obtained  
17 by the recording; and

18 (j) The use of a telephone monitoring device by either  
19 (1) a corporation or other business entity engaged in  
20 marketing or opinion research or (2) a corporation or other  
21 business entity engaged in telephone solicitation, as defined  
22 in this subsection, to record or listen to oral telephone  
23 solicitation conversations or marketing or opinion research  
24 conversations by an employee of the corporation or other  
25 business entity when:

26 (i) the monitoring is used for the purpose of  
27 service quality control of marketing or opinion research  
28 or telephone solicitation, the education or training of  
29 employees or contractors engaged in marketing or opinion  
30 research or telephone solicitation, or internal research  
31 related to marketing or opinion research or telephone  
32 solicitation; and

33 (ii) the monitoring is used with the consent of at  
34 least one person who is an active party to the marketing

1 or opinion research conversation or telephone  
2 solicitation conversation being monitored.

3 No communication or conversation or any part, portion, or  
4 aspect of the communication or conversation made, acquired,  
5 or obtained, directly or indirectly, under this exemption  
6 (j), may be, directly or indirectly, furnished to any law  
7 enforcement officer, agency, or official for any purpose or  
8 used in any inquiry or investigation, or used, directly or  
9 indirectly, in any administrative, judicial, or other  
10 proceeding, or divulged to any third party.

11 When recording or listening authorized by this subsection  
12 (j) on telephone lines used for marketing or opinion research  
13 or telephone solicitation purposes results in recording or  
14 listening to a conversation that does not relate to marketing  
15 or opinion research or telephone solicitation; the person  
16 recording or listening shall, immediately upon determining  
17 that the conversation does not relate to marketing or opinion  
18 research or telephone solicitation, terminate the recording  
19 or listening and destroy any such recording as soon as is  
20 practicable.

21 Business entities that use a telephone monitoring or  
22 telephone recording system pursuant to this exemption (j)  
23 shall provide current and prospective employees with notice  
24 that the monitoring or recordings may occur during the course  
25 of their employment. The notice shall include prominent  
26 signage notification within the workplace.

27 Business entities that use a telephone monitoring or  
28 telephone recording system pursuant to this exemption (j)  
29 shall provide their employees or agents with access to  
30 personal-only telephone lines which may be pay telephones,  
31 that are not subject to telephone monitoring or telephone  
32 recording.

33 For the purposes of this subsection (j), "telephone  
34 solicitation" means a communication through the use of a

1 telephone by live operators:

- 2 (i) soliciting the sale of goods or services;
- 3 (ii) receiving orders for the sale of goods or  
4 services;
- 5 (iii) assisting in the use of goods or services; or
- 6 (iv) engaging in the solicitation, administration,  
7 or collection of bank or retail credit accounts.

8 For the purposes of this subsection (j), "marketing or  
9 opinion research" means a marketing or opinion research  
10 interview conducted by a live telephone interviewer engaged  
11 by a corporation or other business entity whose principal  
12 business is the design, conduct, and analysis of polls and  
13 surveys measuring the opinions, attitudes, and responses of  
14 respondents toward products and services, or social or  
15 political issues, or both.

16 (k) With prior notification to and verbal approval of  
17 the State's Attorney or his or her designee of the county in  
18 which the conversation is anticipated to occur, recording or  
19 listening with the aid of an eavesdropping device to a  
20 conversation in which a law enforcement officer, or any  
21 person acting at the direction of a law enforcement officer,  
22 is a party to an undercover conversation and has consented to  
23 the conversation being intercepted or recorded in the course  
24 of an investigation of a felony violation of the Illinois  
25 Controlled Substances Act or a felony violation of the  
26 Cannabis Control Act. The Director of State Police shall  
27 adopt any necessary rules concerning the use of devices,  
28 retention of recording media, and reports regarding their  
29 use.

30 (Source: P.A. 91-357, eff. 7-29-99.)