
HOUSE BILL 2040

State of Washington 53rd Legislature 1993 Regular Session

By Representatives Appelwick, Locke, Brough and Lemmon

Read first time 02/24/93. Referred to Committee on Judiciary.

1 AN ACT Relating to videotaping of major traffic offenses; and
2 amending RCW 9.73.090.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9.73.090 and 1989 c 271 s 205 are each amended to read
5 as follows:

6 (1) The provisions of RCW 9.73.030 through 9.73.080 shall not apply
7 to police, fire, emergency medical service, emergency communication
8 center, and poison center personnel in the following instances:

9 (a) Recording incoming telephone calls to police and fire stations,
10 licensed emergency medical service providers, emergency communication
11 centers, and poison centers;

12 (b) Police officers in the course of their lawful duties in
13 investigating and enforcing traffic laws contained in Title 46 RCW, may
14 make video or sound recordings, or both. The recordings must conform
15 strictly to the following:

16 (i) Video only recordings may be made of any traffic or traffic-
17 related activity lawfully observed by a police officer;

1 (ii) Video or sound recordings, or both, may be made of persons
2 detained by police officers for felony traffic offenses or serious
3 traffic offenses, both as defined in RCW 9.94A.030;

4 (iii) The detained person must be informed that a sound recording
5 is being made and the statement so informing the person must be
6 included in the recording;

7 (iv) The times of operation of the recording must be displayed on
8 the tape; and

9 (v) The recordings may only be used for valid police or court
10 activities.

11 (c) Video and/or sound recordings may be made of arrested persons
12 by police officers responsible for making arrests or holding persons in
13 custody before their first appearance in court. Such video and/or
14 sound recordings shall conform strictly to the following:

15 (i) The arrested person shall be informed that such recording is
16 being made and the statement so informing him or her shall be included
17 in the recording;

18 (ii) The recording shall commence with an indication of the time of
19 the beginning thereof and terminate with an indication of the time
20 thereof;

21 (iii) At the commencement of the recording the arrested person
22 shall be fully informed of his or her constitutional rights, and such
23 statements informing him or her shall be included in the recording;

24 (iv) The recordings shall only be used for valid police or court
25 activities.

26 (2) It shall not be unlawful for a law enforcement officer acting
27 in the performance of the officer's official duties to intercept,
28 record, or disclose an oral communication or conversation where the
29 officer is a party to the communication or conversation or one of the
30 parties to the communication or conversation has given prior consent to
31 the interception, recording, or disclosure: PROVIDED, That prior to
32 the interception, transmission, or recording the officer shall obtain
33 written or telephonic authorization from a judge or magistrate, who
34 shall approve the interception, recording, or disclosure of
35 communications or conversations with a nonconsenting party for a
36 reasonable and specified period of time, if there is probable cause to
37 believe that the nonconsenting party has committed, is engaged in, or
38 is about to commit a felony: PROVIDED HOWEVER, That if such
39 authorization is given by telephone the authorization and officer's

1 statement justifying such authorization must be electronically recorded
2 by the judge or magistrate on a recording device in the custody of the
3 judge or magistrate at the time transmitted and the recording shall be
4 retained in the court records and reduced to writing as soon as
5 possible thereafter.

6 Any recording or interception of a communication or conversation
7 incident to a lawfully recorded or intercepted communication or
8 conversation pursuant to this subsection shall be lawful and may be
9 divulged.

10 All recordings of communications or conversations made pursuant to
11 this subsection shall be retained for as long as any crime may be
12 charged based on the events or communications or conversations
13 recorded.

14 (3) Communications or conversations authorized to be intercepted,
15 recorded, or disclosed by this section shall not be inadmissible under
16 RCW 9.73.050.

17 (4) Authorizations issued under subsection (2) of this section
18 shall be effective for not more than seven days, after which period the
19 issuing authority may renew or continue the authorization for
20 additional periods not to exceed seven days.

21 (5) If the judge or magistrate determines that there is probable
22 cause to believe that the communication or conversation concerns the
23 unlawful manufacture, delivery, sale, or possession with intent to
24 manufacture, deliver, or sell, controlled substances as defined in
25 chapter 69.50 RCW, or legend drugs as defined in chapter 69.41 RCW, or
26 imitation controlled substances as defined in chapter 69.52 RCW, the
27 judge or magistrate may authorize the interception, transmission,
28 recording, or disclosure of communications or conversations under
29 subsection (2) of this section even though the true name of the
30 nonconsenting party, or the particular time and place for the
31 interception, transmission, recording, or disclosure, is not known at
32 the time of the request, if the authorization describes the
33 nonconsenting party and subject matter of the communication or
34 conversation with reasonable certainty under the circumstances. Any
35 such communication or conversation may be intercepted, transmitted,
36 recorded, or disclosed as authorized notwithstanding a change in the
37 time or location of the communication or conversation after the
38 authorization has been obtained or the presence of or participation in

1 the communication or conversation by any additional party not named in
2 the authorization.

3 Authorizations issued under this subsection shall be effective for
4 not more than fourteen days, after which period the issuing authority
5 may renew or continue the authorization for an additional period not to
6 exceed fourteen days.

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