

1 AMENDMENT TO HOUSE BILL 220

2 AMENDMENT NO. _____. Amend House Bill 220 as follows:

3 by replacing everything after the enacting clause with the
4 following:

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

7 (720 ILCS 5/14-3) (from Ch. 38, par. 14-3)

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

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

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

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

1 the main purpose for which such broadcasts are then being
2 made;

3 (d) Recording or listening with the aid of any device to
4 any emergency communication made in the normal course of
5 operations by any federal, state or local law enforcement
6 agency or institutions dealing in emergency services,
7 including, but not limited to, hospitals, clinics, ambulance
8 services, fire fighting agencies, any public utility,
9 emergency repair facility, civilian defense establishment or
10 military installation;

11 (e) Recording the proceedings of any meeting required to
12 be open by the Open Meetings Act, as amended;

13 (f) Recording or listening with the aid of any device to
14 incoming telephone calls of phone lines publicly listed or
15 advertised as consumer "hotlines" by manufacturers or
16 retailers of food and drug products. Such recordings must be
17 destroyed, erased or turned over to local law enforcement
18 authorities within 24 hours from the time of such recording
19 and shall not be otherwise disseminated. Failure on the part
20 of the individual or business operating any such recording or
21 listening device to comply with the requirements of this
22 subsection shall eliminate any civil or criminal immunity
23 conferred upon that individual or business by the operation
24 of this Section;

25 (g) With prior notification to the State's Attorney of
26 the county in which it is to occur, recording or listening
27 with the aid of any device to any conversation where a law
28 enforcement officer, or any person acting at the direction of
29 law enforcement, is a party to the conversation and has
30 consented to it being intercepted or recorded under
31 circumstances where the use of the device is necessary for
32 the protection of the law enforcement officer or any person
33 acting at the direction of law enforcement, in the course of
34 an investigation of a forcible felony, a felony violation of

1 the Illinois Controlled Substances Act, a felony violation of
2 the Cannabis Control Act, or any "streetgang related" or
3 "gang-related" felony as those terms are defined in the
4 Illinois Streetgang Terrorism Omnibus Prevention Act. Any
5 recording or evidence derived as the result of this exemption
6 shall be inadmissible in any proceeding, criminal, civil or
7 administrative, except (i) where a party to the conversation
8 suffers great bodily injury or is killed during such
9 conversation, or (ii) when used as direct impeachment of a
10 witness concerning matters contained in the interception or
11 recording. The Director of the Department of State Police
12 shall issue regulations as are necessary concerning the use
13 of devices, retention of tape recordings, and reports
14 regarding their use;

15 (h) Recordings made simultaneously with a video
16 recording of an oral conversation between a peace officer,
17 who has identified his or her office, and a person stopped
18 for an investigation of an offense under the Illinois Vehicle
19 Code;

20 (i) Recording of a conversation made by or at the
21 request of a person, not a law enforcement officer or agent
22 of a law enforcement officer, who is a party to the
23 conversation, under reasonable suspicion that another party
24 to the conversation is committing, is about to commit, or has
25 committed a criminal offense against the person or a member
26 of his or her immediate household, and there is reason to
27 believe that evidence of the criminal offense may be obtained
28 by the recording; and

29 (j) The use of a telephone monitoring device by either
30 (1) a corporation or other business entity engaged in
31 marketing or opinion research or (2) a corporation or other
32 business entity engaged in telephone solicitation, as defined
33 in this subsection, to record or listen to oral telephone
34 solicitation conversations or marketing or opinion research

1 conversations by an employee of the corporation or other
2 business entity when:

3 (i) the monitoring is used for the purpose of
4 service quality control of marketing or opinion research
5 or telephone solicitation, the education or training of
6 employees or contractors engaged in marketing or opinion
7 research or telephone solicitation, or internal research
8 related to marketing or opinion research or telephone
9 solicitation; and

10 (ii) the monitoring is used with the consent of at
11 least one person who is an active party to the marketing
12 or opinion research conversation or telephone
13 solicitation conversation being monitored.

14 No communication or conversation or any part, portion, or
15 aspect of the communication or conversation made, acquired,
16 or obtained, directly or indirectly, under this exemption
17 (j), may be, directly or indirectly, furnished to any law
18 enforcement officer, agency, or official for any purpose or
19 used in any inquiry or investigation, or used, directly or
20 indirectly, in any administrative, judicial, or other
21 proceeding, or divulged to any third party.

22 When recording or listening authorized by this subsection
23 (j) on telephone lines used for marketing or opinion research
24 or telephone solicitation purposes results in recording or
25 listening to a conversation that does not relate to marketing
26 or opinion research or telephone solicitation; the person
27 recording or listening shall, immediately upon determining
28 that the conversation does not relate to marketing or opinion
29 research or telephone solicitation, terminate the recording
30 or listening and destroy any such recording as soon as is
31 practicable.

32 Business entities that use a telephone monitoring or
33 telephone recording system pursuant to this exemption (j)
34 shall provide current and prospective employees with notice

1 that the monitoring or recordings may occur during the course
2 of their employment. The notice shall include prominent
3 signage notification within the workplace.

4 Business entities that use a telephone monitoring or
5 telephone recording system pursuant to this exemption (j)
6 shall provide their employees or agents with access to
7 personal-only telephone lines which may be pay telephones,
8 that are not subject to telephone monitoring or telephone
9 recording.

10 For the purposes of this subsection (j), "telephone
11 solicitation" means a communication through the use of a
12 telephone by live operators:

- 13 (i) soliciting the sale of goods or services;
- 14 (ii) receiving orders for the sale of goods or
15 services;
- 16 (iii) assisting in the use of goods or services; or
- 17 (iv) engaging in the solicitation, administration,
18 or collection of bank or retail credit accounts.

19 For the purposes of this subsection (j), "marketing or
20 opinion research" means a marketing or opinion research
21 interview conducted by a live telephone interviewer engaged
22 by a corporation or other business entity whose principal
23 business is the design, conduct, and analysis of polls and
24 surveys measuring the opinions, attitudes, and responses of
25 respondents toward products and services, or social or
26 political issues, or both.

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