

Tex. Penal Code § 16.03

This document is current through the 2023 Regular Session; the 1st C.S.; the 2nd C.S.; the 3rd C.S. and the 4th C.S. of the 88th Legislature; and the November 7, 2023 general election results.

Texas Statutes & Codes Annotated by LexisNexis® > Penal Code > Title 4 Inchoate Offenses (Chs. 15 — 16) > Chapter 16 Criminal Instruments, Interception of Wire or Oral Communication, and Installation of Tracking Device (§§ 16.01 — 16.06)

Sec. 16.03. Unlawful Use of Pen Register or Trap and Trace Device.

(a) A person commits an offense if the person knowingly installs or uses a pen register or trap and trace device to record or decode electronic or other impulses for the purpose of identifying telephone numbers dialed or otherwise transmitted on a telephone line.

(b) In this section:

(1) “Authorized peace officer,” “pen register,” and “trap and trace device” have the meanings assigned by Article 18B.001, Code of Criminal Procedure.

(2) “Communication common carrier” has the meaning assigned by Article 18A.001, Code of Criminal Procedure.

(c) It is an affirmative defense to prosecution under Subsection (a) that the actor is:

(1) an officer, employee, or agent of a communication common carrier and the actor installs or uses a device or equipment to record a number dialed from or to a telephone instrument in the normal course of business of the carrier for purposes of:

(A) protecting property or services provided by the carrier; or

(B) assisting another who the actor reasonably believes to be a peace officer authorized to install or use a pen register or trap and trace device under Chapter 18B, Code of Criminal Procedure;

(2) an officer, employee, or agent of a lawful enterprise and the actor installs or uses a device or equipment while engaged in an activity that:

(A) is a necessary incident to the rendition of service or to the protection of property of or services provided by the enterprise; and

(B) is not made for the purpose of gathering information for a law enforcement agency or private investigative agency, other than information related to the theft of communication or information services provided by the enterprise; or

(3) a person authorized to install or use a pen register or trap and trace device under Chapter 18B, Code of Criminal Procedure.

- (d) An offense under this section is a state jail felony.

History

Enacted by Acts 1985, 69th Leg., ch. 587 (H.B. 10), § 6, effective August 26, 1985; am. Acts 1989, 71st Leg., ch. 958 (H.B. 241), § 2, effective September 1, 1989; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1997, 75th Leg., ch. 1051 (S.B. 1120), § 10, effective September 1, 1997; Acts 2017, 85th Leg., ch. 1058 (H.B. 2931), § 2.02, effective January 1, 2019.

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