# **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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