

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

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House Bill 522

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House Judiciary Committee

Delaware County Chamber of Commerce
Media, Pennsylvania

Friday, October 24, 1997 - 10:00 a.m.

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BEFORE:

Honorable Thomas Gannon, Majority Chairperson
Honorable Thomas Caltagirone, Minority Chairperson
Honorable Kathy Manderino

ALSO PRESENT:

Heather Ruth
Majority Legislative Assistant

ORIGINAL

KEY REPORTERS

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1 CHAIRPERSON GANNON: I want to
2 welcome everybody to public hearings on House
3 Bill 522 which is intended to provide for a
4 fund so that the convenience stores can obtain
5 at a low interest a loan, security devices for
6 the stores. The intent is particularly for
7 small operations to dissuade some of the
8 violent crimes that we've seen in smaller
9 stores in neighborhoods in Philadelphia,
10 Delaware County, and other counties around the
11 state, Pittsburgh and Harrisburg so they will
12 be able to better serve their customers and
13 protect themselves from predators.

14 With that I'd like to introduce my
15 counterpart, Tom Caltagirone, who is the
16 Democrat Chairman of the Judiciary Committee.
17 We welcome our guests. Pat Meehan, District
18 Attorney of Delaware County, and John Cherry,
19 District Attorney of Dauphin County, thank you
20 for coming here today.

21 MR. CHERRY: Good morning. I
22 appreciate not only on behalf of Dauphin
23 County, but prosecutors across the state to be
24 able to address this committee involving the
25 low-interest loans for mom and pop stores. Let

1 me tell you an individual story. After the
2 story, a tape which will graphically illustrate
3 the value of having these small stores equipped
4 with cameras.

5 The individuals I'm going to talk
6 about this morning are people who have
7 immigrated from Korea. Their name is Chong
8 Kwak, Nam Som Kwak, his wife, and their two
9 sons. They came to Harrisburg, Pennsylvania,
10 with the same types of dreams that countless
11 millions of others who have come to this
12 country have looked forward to; to make a new
13 life; to give themselves and their children
14 opportunities that certainly didn't exist to
15 the extent that they exist in this country.
16 They worked very difficult. They saved enough
17 money to start their own mom and pop store in
18 the inner city in Harrisburg. In Harrisburg,
19 particularly in the city, the neighborhoods are
20 dotted with these mom and pop stores. Most of
21 those stores are run by individuals who have
22 immigrated to this country, of many
23 nationalities.

24 After hours and hours and days and
25 days and months of hard work, they made this

1 store become a success; in fact, became very
2 popular in the neighborhood. They were able to
3 save enough money so their son who graduated
4 from high school went to college and another
5 son was preparing.

6 More importantly, Chong Kwak took all
7 of the courses necessary and passed to become a
8 citizen of the United States, and within two
9 months was going to be made a citizen. This
10 was his greatest dream; and, of course, the
11 dream of many, many immigrants that come here.

12 But on February 4, 1996, the lives of
13 Chong Kwak and Nam Som Kwak and their sons and
14 countless other people in Dauphin County were
15 changed when four young men came into the store
16 on a Sunday evening, armed and robbed the
17 Kwaks. While a 13-year old stood outside
18 guarding, Ronald Briley, age 14, held the Kwaks
19 at gunpoint while Jeremy Enaire, age 14, and
20 Lee Smith, age 18, riffled the cash register.
21 They demanded repeatedly more money from the
22 Kwaks who indicated they had none.

23 By the way, the final take was about
24 \$84.00. While, as you will see on the tape,
25 Enaire and Smith graphically point at the Kwaks

1 and at Briley to do him; Briley, age 14, points
2 the gun at Chong Kwak's head and fires.

3 On this date Chong Kwak lies in a
4 nursing home comatose. The only measure of
5 life is from time to time a brief cough. The
6 prognosis for him surviving, let alone coming
7 back to where he was prior to this incident, is
8 almost to the point that doctors are describing
9 it's only a day-to-day matter until he dies.

10 Briley, Enaire and Smith were
11 convicted, along with the other juvenile who is
12 in a juvenile facility and are now in state
13 prison. Those individuals, the three of them
14 received an average prison term of 16 to 32
15 years.

16 Law enforcement officials are quite
17 sure that the four individuals involved, first,
18 had no idea that a camera existed in that
19 store. Maybe they would have thought twice.
20 But secondly, upon review of the tape, law
21 enforcement officials, and particularly two
22 juvenile officers, were able to recognize, even
23 though they had covered their faces as you will
24 see in the tape, one of the juveniles. From
25 that point we were able to put enough pressure

1 on that juvenile and others who were known to
2 him that we were able to bring all four to
3 justice, try them and convict them.

4 I think at this time I'd like the
5 tape to be shown so we can describe what took
6 place. I might also add, although all of the
7 media had the events leading up to the
8 shooting, I don't believe anyone has seen,
9 except if they were in the courtroom, the final
10 chapter in the disability of Chong Kwak.

11 (Video presentation)

12 MR. CHERRY: Here you see them
13 entering the store. The Kwaks are behind the
14 counter as they enter the store. There's Mr.
15 Kwak. That's Ronald Briley with the gun. Lee
16 Smith is pointing. Here comes Jeremy Enaire.
17 The other hand you see is Mrs. Kwak, Nan Som
18 Kwak. They are now reaching over riffling the
19 cash register. There is no audio with this
20 tape, but it is a video. Things are going to
21 happen very quickly here. You are going to
22 watch them pointing, do him, and out the door
23 they go. That's the end of the tape.

24 Certainly these tapes provide a
25 deterrent factor. There's no question that our

1 belief is that, if individuals know those tapes
2 exist, particularly in these neighborhood
3 stores and particularly are made available to
4 people that would receive help to get them
5 through these low-interest loans, that it would
6 deter crime.

7 Secondly, that tape was invaluable to
8 us. To the normal viewer you might say, how
9 could you ever recognize these people? But,
10 most juveniles that are going to engage in this
11 type of crime are repeat offenders. The police
12 and the juvenile people know them. Because
13 they have that knowledge, know them on a daily
14 basis, see them all the time, and particularly
15 in this case were able to identify the
16 individual and his coat, it made a huge
17 difference in the prosecution of this case.

18 On behalf of Dauphin County, I thank
19 you for the opportunity to talk to you this
20 morning. I certainly urge this committee to do
21 anything they can to see that this House bill
22 passes so that this will become a standard
23 rather than an exception in the mom and pop
24 stores. If there's any questions, I would be
25 very glad to answer them?

1 CHAIRPERSON GANNON: Thank you. Do
2 you have any comments?

3 MR. MEEHAN: Yes, I do,
4 Representative. I thank you for the
5 opportunity on behalf of district attorneys
6 and, in fact, law enforcement across the state.

7 In some ways I'm going to reiterate
8 some of the principles of my colleague from
9 Dauphin County, but I think we speak to a
10 number of very important issues that people in
11 law enforcement, but mom and pop owners
12 themselves appreciate about your interest in
13 this very, very vital issue in Pennsylvania.

14 The issue of mom and pop robberies is
15 something that people have a hard time
16 quantifying. We know that there's been almost
17 a thousand in the course of the last year in
18 the State of Pennsylvania. On average, there's
19 about \$635 worth of value that is taken from a
20 cash register in each of these robberies, but
21 you look at the things that we can't quantify.

22 As District Attorney Cherry
23 identified, for an average of \$635, we have a
24 person, a family that's been destroyed; a
25 business that's been destroyed, and taxpayers

1 all across the Commonwealth are picking up the
2 cost of the health care treatment for people
3 who are the victims of violent crime like this.

4 When we look at this, there are
5 really two types of issues as prosecutors that
6 we are looking at and are really speaking on
7 behalf of law enforcement when I say this. The
8 best and most effective thing we can do is
9 prevent crime. Your utilization of this loan
10 fund to mom and pop store owners gives them an
11 opportunity to do something very meaningful for
12 us, which is to create the kind of surveillance
13 tapes which put people on notice that their
14 actions are going to be utilized and they're
15 going to be visualized and, therefore,
16 available and make it much easier for us to
17 deal with the aftermath of an incident.

18 Hopefully, by the creation of a pool
19 of money which allows mom and pop store owners
20 to purchase these types of materials, there
21 will be a deterrent factor on people who are
22 looking to rob convenience stores, really the
23 mom and pop stores.

24 This is important for another reason.
25 Some of these incidents are violent, but some

1 of them may not be violent; in that, someone
2 escapes without shooting shots, but the impact
3 on that neighborhood is significant. We're in
4 a changing society where many people jump into
5 their cars and run out to the convenience
6 stores. But the fact of the matter is, it's
7 the mom and pop store which remains the one
8 which is convenient for the senior citizen who
9 can't get out to the major shopping center.

10 These are the types of stores that
11 still exist in many of our neighborhoods all
12 across Pennsylvania. They are the bread and
13 butter of our local neighborhoods, and to the
14 extent that we allow crime to seep into that
15 particular neighborhood, the whole quality of
16 life in that community is affected. If we can
17 deter that kind of crime, we can affect the
18 quality of life in many of our neighborhoods,
19 particularly the comfort level that senior
20 citizens have when they want to travel to a
21 store and feel that they can shop unmolested.

22 If we are not able to deter a crime,
23 the chief value of things like this,
24 particularly a surveillance tape, that's what I
25 find most valuable in this. The tape itself is

1 of tremendous value to prosecutors. Obviously,
2 it is the most real accounting of the facts and
3 circumstances that occurred during the course
4 of a commission of a felony.

5 If we are armed with those tapes,
6 frequently having that tape in and of itself
7 allows us to identify the perpetrators of the
8 crime; and more significantly, enter into an
9 appropriate treatment of that crime, either
10 with an unquestioned plea because there's no
11 doubt about who did it, and there's no ability
12 for somebody to utilize other kinds of defenses
13 which we have frequently if there's no tape.

14 It's one person's word. We're
15 looking at trying to get victims. We're
16 looking for witnesses. When we have the tape
17 there's no question. We have found, and it's
18 anecdotal, but we have found that when we can
19 introduce a tape in the course of negotiations
20 with defense counsel, our ability to secure a
21 very sound plea, a tough sentence is
22 significantly enhanced.

23 Also when we have to go to trial
24 there's no question that the most -- the
25 strongest evidence we have is the impact of

1 that tape.

2 Another important issue is,
3 frequently we may not know who that criminal
4 is. As District Attorney Cherry identified,
5 sometimes we begin to identify certain
6 perpetrators of crime, and this helps us nail a
7 perpetrator in a specific incident, but other
8 times we don't know who these people are.

9 As a result of the surveillance tape,
10 we can freeze a frame and create a composite.
11 That composite then can be distributed
12 throughout the neighborhood, and it helps us
13 dramatically in terms of identifying that
14 individual and then securing information from
15 others who are able to identify the perpetrator
16 and give us the ability then to use the other
17 evidence we have to make a case.

18 One of the things that we in a
19 suburban area face is the reality that mom and
20 pop stores are a very significant target for
21 people who have drug problems. We're in close
22 proximity to the urban drug dealing centers,
23 and that's a cash-based business. You don't
24 use credit cards when you are buying drugs from
25 a street corner. These people who have drug

1 problems, they need that cash, between 50 and
2 \$500.00. They have to have it on a regular
3 basis, and this is the likely target for them
4 because they can get cash in a significant
5 enough sum. They can do it quickly and they
6 feel they can get away with that crime with the
7 least interference.

8 They're not going to rob banks.
9 They're not going to steal hard goods like cars
10 or radios, et cetera, per se because then they
11 have to fence that material and it makes it
12 more difficult. We are zeroing in on
13 preventing a viable market for criminals if we
14 can do more to make those particular mom and
15 pop stores hard places for criminals to cause a
16 robbery and get away with it. To the extent
17 that the store owners avail themselves of this
18 opportunity will help us significantly.

19 Anecdotally (sic), I think John
20 reported to a particular circumstance he had.
21 We have seen a number here. The last point
22 I'll make is that, because the motivation
23 sometimes for these people is a desperation
24 associated with a drug problem, they care about
25 little except getting those drugs. Once they

1 have utilized one robbery, gotten the money and
2 fixed the habit for that one day, they're going
3 to be back again the next day. What we see is
4 a spree frequently in a particular area.

5 While I'm not free at this point in
6 time to talk about cases and their specifics, I
7 know Representative Gannon is very familiar
8 with the impact we had when there were a
9 variety of armed robberies along McDade
10 (phonetic) Boulevard area which were
11 attributable to a drug situation. The impact
12 that has on the whole community is again very,
13 very significant.

14 If we can get a surveillance tape,
15 catch this person on the first one, we may be
16 able to prevent subsequent robberies down the
17 road. That's another very valid and important
18 reason that store owners would hopefully make
19 themselves available -- would avail themselves
20 of this resource.

21 I say anecdotally (sic) because we do
22 have some convenience stores. When I look back
23 over the course of the last year, two very
24 effective prosecutions we've had have been in
25 robberies of Wawa Stores and McDonald's

1 restaurants. In both cases there were
2 circumstances where the larger corporate
3 headquarters made it a policy to make available
4 to these store owners these kinds of
5 surveillance cameras. We were able to utilize
6 those very, very effectively.

7 It's the small mom and pop operator
8 that doesn't have the benefit of big corporate
9 backing. They need these just as much. Your
10 bill making available the resources for them to
11 take these low-interest loans to obtain them
12 can be a real asset to those of us in law
13 enforcement. We thank you for your interest on
14 this issue.

15 CHAIRPERSON GANNON: Thank you, Mr.
16 Meehan.

17 REPRESENTATIVE CALTAGIRONE: I just
18 wanted to comment, I wholeheartedly agree with
19 both district attorneys that it's something
20 that is absolutely needed and probably long
21 overdue. I would hope that we would be able to
22 get the proper kind of support from our
23 colleagues in the House and the Senate and get
24 this legislation into law as soon as possible.

25 CHAIRPERSON GANNON: Just one

1 question. I appreciate your comments and your
2 support for the legislation. Do you have any
3 difficulty getting these types of tapes into
4 evidence at a trial?

5 MR. CHERRY: I've never experienced
6 any problem getting those tapes in. Under the
7 situation in this particular case, the only
8 reason that we -- three of the individuals
9 ended up pleading guilty was as a result of the
10 tape. The fourth individual who is an adult
11 had fled the area. He had nothing to lose. He
12 took a trial. The jury was picked from outside
13 of Dauphin County because of the tremendous
14 publicity.

15 When I spoke to the jurors after the
16 verdict, the first thing they said, we believed
17 the prosecution almost from the beginning, but
18 the tape absolutely sealed it for us,
19 particularly when the police officer was able
20 to identify this individual and show why they
21 knew it was his coat and why he was identified
22 from that point. We rarely have a problem
23 getting those in.

24 MR. MEEHAN: I'd like to reiterate
25 the district attorney's comments. We find

1 quite the opposite; that frequently the
2 necessity to even go to trial is lessened
3 significantly because of the availability of
4 the tapes. There just is no question.

5 This is anecdotal humor, but yes, we
6 did have problems in one case getting the tape
7 in, but it's not because of the tape itself.
8 It's because the robbers in one particular
9 McDonald's robbery were aware the tape was
10 being made; ran to the tape player; pulled the
11 tape out and threw it in the French fry fryer.
12 Our problem was being able, not just to be able
13 to reproduce the tape so it could be shown, but
14 there were issues of authenticity which we
15 ultimately got around.

16 But, it let's you know the impact
17 then that those who rob these stores, once they
18 see that tape, they know they are caught. Once
19 they pull that weapon out of their pocket, they
20 have attempted that crime. We know it. Now
21 they've got to do something to mitigate that
22 criminal behavior and the chance they are going
23 to get caught.

24 CHAIRPERSON GANNON: I just want to
25 say, I agree with your initial premise, and

1 that is the intent here is to prevent these
2 type of crimes. If those predators know that
3 there are these types of safeguards in a small
4 store, they're not going to go in the first
5 place. They never get to the point that you
6 have to use this type of stuff as evidence.
7 But if they do, then they are going to get
8 caught and they are going to be punished very
9 quickly.

10 I would hope with this legislation
11 they'll be aware that these stores do have good
12 security equipment and just going to bypass it
13 and go into more honest and productive means to
14 earn their money.

15 MR. CHERRY: I think a very positive
16 thing in this too is, this isn't something that
17 you sell as a giveaway program. It's not a
18 giveaway program. This is a program where
19 people are going to be paying, and they're
20 going to be paying interest. It's low, but
21 it's still interest. So, it's not something
22 we're just handing out.

23 Secondly, there's a light at the end
24 of the tunnel. When they have this camera it's
25 going to have a positive effect; not just with

1 the Commonwealth making some money, but it's
2 going to have an effect that's going to touch
3 all these neighborhoods in a community. I can
4 tell you that when this tape was shown without
5 the shooting part, for weeks that's all that
6 anyone wanted to talk to me about. Anytime
7 they saw me, people that didn't know me came up
8 to me in supermarkets and department stores and
9 said, we don't know each other, but I just want
10 to tell you how horrible I thought that tape
11 was. Of course, their second comment was, hang
12 those guys. We did.

13 CHAIRPERSON GANNON: Thank you very
14 much for being here today and presenting us
15 with your comments, your testimony and your
16 support for this legislation.

17 MR. CHERRY: Thank you very much.

18 MR. MEEHAN: Thank you for your
19 interest in the issue.

20 CHAIRPERSON GANNON: We are going to
21 jump out of order here. One of our witnesses
22 is delayed. I call on Jerry Kupris with the
23 Pennsylvania Distributors Association. Welcome
24 Jerry. Thank you for being here today to
25 present your comments concerning House Bill

1 522.

2 MR. KUPRIS: Thank you. For the
3 record my name is Jerry Kupris. I appear here
4 today as Executive Director of Pennsylvania
5 Distributors Association which is a trade
6 association of businesses who supply the
7 retailer with a myriad of consumer goods,
8 including tobacco, confectionery, health and
9 beauty aids, snack items, certain groceries,
10 car care products, and almost any item you
11 would see in both the chains and the so-called
12 mom and pop convenience stores. As such, our
13 membership has sales well in excess of
14 \$2 billion in this state, and for us the corner
15 store is still a very important source of our
16 business.

17 At the outset, let me state that our
18 association fully supports this kind of
19 legislation, especially since it's a straight-
20 forward attempt to address the concerns that
21 many have with respect to providing a means for
22 small businesses to improve safety and security
23 in the convenience store setting.

24 While the prior speakers talked about
25 the impact and why this legislation is good,

1 it's a far-gone conclusion for us. We want
2 this legislation. We are really supporting it,
3 but we have a couple technical things we want
4 to bring to your attention.

5 First, we are not exactly clear as to
6 who qualifies under the bill. We believe the
7 intent of the legislation is to make those
8 benefits available to small community stores
9 known as convenience stores. We're not sure if
10 the definition does that entirely.

11 On page 1, lines 15 through 17, the
12 definition of convenience stores lists retail
13 stores which sell a variety of products and
14 gasoline. A fair reading of this definition
15 could very well lead to the conclusion that
16 only those stores which sell consumer goods in
17 conjunction with gasoline would be included.
18 If this is not contemplated, then I would
19 suggest that you delete the word "and" on page
20 1, line 17, and insert the word "or".

21 But bear in mind now, even in this
22 new version putting in or, you still would not
23 be excluding any gasoline station so everybody
24 would be included. But we want to be sure that
25 the mom and pop that doesn't have gas, which

1 our guys also serve, that they are going to be
2 available to take the benefit of this program.

3 Further, this has to do with the
4 definition of fast foods on page 1, line 15.
5 By stating so many different ideas of what
6 would be included, we wonder if confectionery
7 and gum are included here. It's not on the
8 list. In our business confectionery and gum is
9 a special item, and it's not included in snack
10 items. Snacks is a specific item. If the
11 intent is to include that, please, we'd like to
12 have that put in.

13 Next, there's a limitation on
14 eligibility for this loan that any one store
15 that has gross receipts of less than \$700,000
16 would then be eligible; above that would not.

17 What if the store engages in sales at
18 that location at both wholesale and retail?
19 Does the qualification apply only to the retail
20 portion, and the wholesale portion would not be
21 part of that? He could still qualify as long
22 as the retail is under 700,000? We are hopeful
23 that it would only apply to the retail sale.
24 There are some stores that may have a small
25 wholesale business at the same location. We

1 are hopeful that that wholesale part of the
2 business would not be included.

3 Another limitation on eligibility for
4 the loan requires that the owner can't have
5 more than five convenience stores. Does this
6 mean that he can't be the sole owner of more
7 than five stores, or does it mean he can't have
8 any kind of ownership interest, either equity
9 or partnership in more than five stores?

10 Also, suppose he owns a typical mom
11 and pop store but has six newsstands in
12 Philadelphia. Under the definition, a
13 newsstand is a convenience store; therefore, he
14 would not qualify to have safeguards put in for
15 his mom and pop store. We hope that is not
16 what is intended.

17 Finally, the Attorney General
18 implements the law. We were wondering, due to
19 the various requirements of repayment
20 schedules, applications, setting of interest,
21 are regulations going to be required to fully
22 implement this law? What provision is there in
23 case of a default, or if the later audit
24 determines the loan was improperly granted?

25 To conclude, we believe that the

1 issues that we raised here are only technical
2 issues and we want them to be constructive in
3 nature. They can readily be addressed while
4 the legislation moves forward. To the extent
5 that these issues are very important to the
6 committee, our association stands ready to
7 render any assistance required. We urge your
8 speediest passage of this legislation. Thank
9 you.

10 CHAIRPERSON GANNON: Thank you very
11 much. Any questions?

12 REPRESENTATIVE CALTAGIRONE: No.

13 CHAIRPERSON GANNON: You and I have
14 discussed briefly the issues you raised in your
15 testimony. I was aware of your concerns. I
16 agree where we need some clarification that we
17 should do that to make it clearer what we're
18 intending to do and to execute what we're
19 intending to do here.

20 I appreciate your suggestions. We'll
21 have our staff take a look at all of them.
22 Where they are of concern to the committee,
23 we'll make appropriate changes to make certain
24 these funds become available to those stores
25 that they are intended to become available and

1 can be used for the purpose they are intended
2 to fill. We'll be glad to work with you on
3 that. Thank you.

4 MR. KUPRIS: Thank you very much.

5 CHAIRPERSON GANNON: Thank you,
6 Jerry. Our next witness is Alegra Moses who is
7 with Black Moses Market. Thank you for coming.
8 We appreciate it.

9 MS. MOSES: Thank you for your time.

10 CHAIRPERSON GANNON: You may proceed.

11 MS. MOSES: Mr. Chairman, and members
12 of the Judiciary Committee: I come on behalf
13 of our family who have owned a family-owned
14 business for the last 27 years. I'd like to
15 say we welcome this opportunity for the Mom and
16 Pop Convenience Store Protection Act, which
17 will allow us to install certain surveillance
18 cameras and certain surveillance of the objects
19 in our premises to secure our premises in the
20 event there should be a robbery.

21 CHAIRPERSON GANNON: Where is your
22 store located?

23 MS. MOSES: One store is located at
24 10th and Parker in Chester and the other store
25 is 1601 West 9th Street in Chester.

1 CHAIRPERSON GANNON: Do you have any
2 surveillance equipment in that store now?

3 MS. MOSES: No, we don't.

4 CHAIRPERSON GANNON: You had both of
5 these stores for about 20 years?

6 MS. MOSES: The 10th and Parker has
7 been in existence for 27 years; 1601 West 9th
8 Street is soon to open.

9 CHAIRPERSON GANNON: You have had a
10 chance to look at the bill?

11 MS. MOSES: Yes, I have.

12 CHAIRPERSON GANNON: Under the way
13 the bill is written right now, would your
14 stores be eligible for this type of a loan?

15 MS. MOSES: Yes, we would.

16 CHAIRPERSON GANNON: Have you ever
17 had any incidents in your stores that this
18 equipment may have helped, deter, or perhaps
19 catch anybody?

20 MS. MOSES: We had a robbery in our
21 store just about 21 years ago. Since then no,
22 we have not. Had we had this technology in our
23 store at that time, we would have had the
24 assistance to be able to apprehend the
25 culprits.

1 CHAIRPERSON GANNON: Any questions?

2 REPRESENTATIVE CALTAGIRONE: No.

3 CHAIRPERSON GANNON: We appreciate
4 your taking the time from your busy day to come
5 up here and give us your support for this
6 legislation, particularly since this would
7 directly impact the type of business you're
8 involved in personally. Are you an owner of
9 the store?

10 MS. MOSES: My mother and father are
11 primary owners.

12 CHAIRPERSON GANNON: And you work for
13 them?

14 MS. MOSES: I work for them.

15 CHAIRPERSON GANNON: Thank you. I
16 appreciate it very much.

17 REPRESENTATIVE CALTAGIRONE: Thank
18 you.

19 MS. MOSES: Thank you.

20 CHAIRPERSON GANNON: Our next witness
21 is Major Richard Morris, legislative liaison
22 for the Pennsylvania State Police. Thank you,
23 Major Morris, for coming out today and offering
24 your comments concerning House Bill 522.

25 MAJOR MORRIS: Good morning. On

1 behalf of Colonel Evanko and the Pennsylvania
2 State Police, we thank you for having the
3 opportunity to talk about this legislation.
4 You obviously heard already this morning from
5 the district attorneys some very compelling
6 reasons why video surveillance equipment and
7 those type of devices are important to law
8 enforcement. You've heard from the district
9 attorney here in Delaware County that the
10 primary reason is the protection of the
11 employees and the customers that come to these
12 businesses. We hope to deter people from ever
13 committing the crime in the first place.

14 But, from a law enforcement
15 perspective, we see the additional value of, on
16 those situations when a crime is committed,
17 they have exceptional value in helping us find
18 the actor; do successful interrogation in those
19 situations where we need to, and successful
20 prosecution.

21 I think most communities have seen --
22 For many years we've seen that banks, for
23 example, and larger convenience store chains
24 have seen the value in these pieces of
25 equipment for many years. It isn't something

1 new to society to see the strip on the door as
2 you are entering a convenience store that
3 allows the convenience store operator to tell
4 how tall an individual is, for example, when
5 they are coming into the store. It aids law
6 enforcement when we do an interview with that
7 individual to say, how tall was that
8 individual? Well, because the indicator on the
9 door said he was six foot two, they have some
10 indication that's a jog to their memory. It
11 aids law enforcement in our investigation.

12 What I was able to do prior to coming
13 today, I called around the state and was able
14 to find three incidents that I'd like to relate
15 to the committee on ways that these devices
16 have helped law enforcement. There are many
17 more, but these are three that we thought we'd
18 like to share with you today.

19 In the fall of 1996 in Armstrong
20 County, an 18-year old youth was kidnapped from
21 a local mall and subsequently murdered. That
22 young man was reported missing. Investigators
23 notified the credit card companies to place an
24 alert on his credit card in case someone
25 attempted to use it.

1 found out from the victim's wife where the
2 individual responded to from that call for the
3 tow truck. The investigators were able to use
4 the convenience store video to watch the
5 individual looking in the phone book to the
6 page for the tow truck. They were able to take
7 fingerprints from the phone book because they
8 could witness the actor placing his hand on the
9 phone book. So between the videotape and the
10 fingerprint, we now had positive identification
11 of who the actor was. This investigation
12 subsequently led to this individual's arrest
13 who was also wanted for a homicide committed in
14 South Carolina.

15 The last one strikes kind of close to
16 home for the state police. In 1994, in Greene
17 County, a trooper's personal car was parked at
18 the Waynesburg station. A suspect placed an
19 accelerant in a Snapple bottle and fire bombed
20 the trooper's car while it was parked at the
21 station. Criminal investigators located the
22 only convenience store in Greene County that
23 sold the Snapple beverage, ran the videotape,
24 and we were able to identify, arrest and
25 prosecute that suspect.

1 Again, we think the importance is
2 deterrence to begin with, but certainly from a
3 law enforcement perspective, when these actions
4 do take place, we see the unique value in
5 assisting law enforcement to be able to
6 prosecute successfully the people that
7 perpetrate these crimes.

8 CHAIRPERSON GANNON: Thank you, Major
9 Morris. Representative Caltagirone.

10 REPRESENTATIVE CALTAGIRONE: No
11 questions.

12 CHAIRPERSON GANNON: When this
13 incident that occurred at the convenience store
14 where the suspect used the phone book, if you
15 hadn't had those surveillance tapes, would you
16 have known that he had been at that convenience
17 store and used that phone book?

18 MAJOR MORRIS: We would have been
19 able to identify from the victim's wife the
20 last place he received the call. That would
21 have led us back to the convenience store.
22 There the investigator's skills have to come
23 into play. Whether or not the individual on
24 duty that night in the store would be able to
25 remember who came in, used the telephone book

1 or anything about that would be the next step.

2 In this case we were able to show the
3 tape. He pulled the book out, went to the page
4 for the tow trucks. You could almost read the
5 tow truck driver's name on the book where he
6 had placed his hand. That was phenomenal.

7 We have seen additional things like
8 that where we weren't able to identify the
9 suspect by the videotape. In Jonestown in
10 Lebanon County, for example, we had an armed
11 robbery and the suspects face was completely
12 covered by a mask, but on the way out the door
13 he put his hand on the glass door to open the
14 door. We went back, lifted the fingerprints,
15 and it was as good as he signed his name before
16 he left. The value is there.

17 CHAIRPERSON GANNON: That's very
18 interesting. Just an anecdotal story, I
19 remember a while ago seeing a video. It was on
20 television, one of the TV shows where these
21 people went in to rob a store and the store
22 owner disarmed them. There were two people in
23 this store. They disarmed these two or three
24 people and began to beat them up, people that
25 were trying to rob the store. They ran out of

1 the store as the police were coming in. They
2 told the police the store was being robbed and
3 customers were escaping.

4 Subsequently, the police, when they
5 viewed the tape, found out that these guys went
6 in to rob the store; were disarmed by the store
7 owner and his helper, and then they were trying
8 to capture them and they ran out. I don't know
9 how that story would have unfolded had they not
10 had the video to show exactly what happened
11 inside the store.

12 It's really interesting. I hadn't
13 thought about this aspect of it where these
14 incidental things occurred that you may not
15 have been aware of.

16 MAJOR MORRIS: Absolutely.

17 CHAIRPERSON GANNON: Perhaps without
18 the video, putting the individual's hand up
19 against that glass at that particular time, you
20 probably would never even get the -- assuming
21 you even knew there was a print there, you may
22 not have gotten any of the evidence because you
23 couldn't put a time and a --

24 MAJOR MORRIS: That's true. Plus, if
25 you go to process a convenience store, you have

1 thousands of people coming through the store
2 every week or month, all depends on the size of
3 the establishment. They may not clean that
4 front door for a month. Without knowing where
5 the suspect placed his hand to begin with, it
6 would be almost futile to attempt to lift
7 fingerprints from the entire door.

8 CHAIRPERSON GANNON: We're joined by
9 Representative Kathy Manderino. Do you have
10 any questions, Kathy?

11 REPRESENTATIVE MANDERINO: I'll pass.
12 Thank you.

13 CHAIRPERSON GANNON: Thank you very
14 much, Major Morris, for being here today to
15 give us your testimony and being here to
16 support this bill.

17 We have Ernest Miller, Automotive
18 Services Association of Pennsylvania.

19 MR. MILLER: Thank you, Mr. Chairman,
20 and committee members.

21 CHAIRPERSON GANNON: Thank you for
22 being here.

23 MR. MILLER: You're quite welcome.
24 We'd like to say that we support wholeheartedly
25 your bill. I'll read a statement and then make

1 a couple of comments about the bill.

2 I represent the Automotive Services
3 Association of Pennsylvania, and we represent
4 over 1,700 independent businesses in the state.
5 On behalf of our Service Station Division, this
6 is to communicate to you our support for H.B.
7 522 which creates a security loan fund for
8 small convenience store operators. It is our
9 feeling that this bill would provide the
10 opportunity for a significant improvement in
11 the well-being of our members and their
12 employees.

13 We would appreciate the opportunity
14 to work with you as this bill continues through
15 the legislative process. Thank you for your
16 interest in this matter. That comes from Tom
17 Esek (phonetic), our President.

18 A couple of comments of mine. I was
19 in the business of the service stations before
20 I worked with the ASA. I have had a gun
21 pointed at me, and that's quite an experience
22 if you have not had that ever happen to you,
23 and hopefully you never will. We didn't have
24 surveillance cameras in those days. The people
25 that did this eventually were caught because

1 they were apprehended in another incident.

2 But, this is a very, very good move
3 to the small business since the big corporate
4 entities can afford this sort of thing, but too
5 often the smaller business cannot. Yet, their
6 leases and things of that sort which are put
7 upon them by the leasing companies, the oil
8 companies, whoever they may be, can require
9 24-hour operations and things of that sort
10 which they must comply with.

11 But then, they are sort of abandoned
12 as far as protection is concerned and not
13 having the resources to put bulletproof windows
14 and things of that nature, and especially
15 surveillance equipment. This is a very, very
16 good move for those small businesses, and I
17 really appreciate your interest.

18 If we can be of any help, and
19 naturally we'll notify our people who are in
20 this business to get in touch with their
21 legislators to support this. Anything else
22 that you think would be important for us to do,
23 we'll be very happy to cooperate. Any
24 questions?

25 CHAIRPERSON GANNON: Representative

1 Manderino.

2 REPRESENTATIVE MANDERINO: Thank you.
3 Actually, I don't have a question necessarily
4 of you because maybe the Chairman would be able
5 to answer it. I don't have any perspective on
6 the cost. Like you made the comment that it's
7 cost prohibitive for a lot of small owners. I
8 don't really know, do you know, or do you know,
9 Tom, what a surveillance system costs and --

10 MR. MILLER: The comment I would make
11 there, the state police made an interesting
12 comment. You must have quality equipment that
13 will give you the clarity to identify. There
14 is inexpensive equipment that the picture image
15 is such that it makes it very hard to identify
16 the person to whom you're taking the picture.
17 When you're in a court situation, the defense
18 can easily say you can't identify that person
19 distinctly.

20 When he made the comment that they
21 could read the phone book, that's very
22 high-quality equipment and naturally would be
23 of benefit. That's a decision that each
24 individual would have to make as far as how
25 far -- Now, this loan will make it possible for

1 them to buy better quality equipment which
2 would not only aid in apprehension, but I think
3 would deter as well.

4 CHAIRPERSON GANNON: My guess would
5 be, the way the bill is set up, it would
6 include outdoor lighting, which we are not just
7 talking about -- We dwell on security
8 surveillance type equipment, but we are talking
9 about outdoor lighting, secure cash registers
10 and the surveillance equipment.

11 But, I would imagine with the
12 technology and the fact that the cost of this
13 stuff has gone down dramatically in the past
14 couple years, we're not talking about a lot of
15 money from an objective standpoint. But, when
16 you have a very small store and you're using
17 that to support your family and those profit
18 margins are not very high because you are
19 competing with the malls and the supermarkets--
20 you're really a convenience for the
21 neighborhood more than anything else--even a
22 couple hundred dollars for this type of
23 equipment would be prohibitive. That's really
24 the purpose to get that money available at a
25 very low interest to those folks so they can do

1 something to protect themselves.

2 As the district attorney said, you
3 have a lot of the older folks in the local
4 neighborhood, they don't want to jump into the
5 car. Maybe they can't get in the car and ride
6 up to the supermarket or the chain convenience
7 store. They like having a little store on the
8 corner. That's where this is really focused
9 on.

10 MR. MILLER: It also could lower
11 their insurance rates in some cases by having
12 this equipment. Insurance companies with
13 garage liability policies and things of that
14 sort take into consideration safety issues.
15 This would certainly come under that heading.

16 REPRESENTATIVE MANDERINO: I note
17 this is probably more of a question for the
18 Chairman. Thank you for indulging me for a
19 follow-up question.

20 I notice the \$700,000 kind of gross
21 receipts threshold as a way to define
22 eligibility and distinguish the big stores from
23 the small stores. I'm just wondering, do we
24 know for the most part that the big chains, the
25 Wawa's, the Cumberland Farms, et cetera, would

1 far exceed this, so there's no concern that the
2 money is being gobbled up by the big guys?

3 CHAIRPERSON GANNON: Yes, we looked
4 into that. That's a pretty threshold number.
5 They do much much better than that. We're just
6 focusing on those folks that have a couple
7 stores, one, couple stores; they are under that
8 number.

9 MR. MILLER: Would this include
10 service stations that do not sell food in
11 particular, but are open extended hours and
12 this threshold would have to include their
13 repair business?

14 CHAIRPERSON GANNON: I don't have a
15 problem with that. I don't know if you were
16 here to hear Jerry Kupris's comments. He made
17 some technical suggestions.

18 MR. MILLER: Yes.

19 CHAIRPERSON GANNON: We'd like to
20 follow-up, and perhaps work with you on those
21 items, because I know years ago I worked in the
22 garage business. We just had a one operation.
23 My dad owned a repair garage. I know exactly
24 what you're talking about. Although we never
25 had any incidents, that doesn't necessarily

1 mean it couldn't happen because we would
2 frequently take cash from customers for
3 repairing their vehicles.

4 The other thing that I thought about
5 is where you have a store that did sell gas.
6 We would want to look at excluding the gas item
7 from that revenue, because --

8 MR. MILLER: Sure, that would inflate
9 it.

10 CHAIRPERSON GANNON: -- that would
11 inflate it dramatically and may not quite give
12 a true picture of what type of operation it is.

13 MR. MILLER: That's right.

14 CHAIRPERSON GANNON: We're thinking
15 about that. We'd like to work with you on
16 getting the clarification and getting the
17 correct language in there because we really
18 want to keep those -- Whether it's a service
19 station or a local convenience store, we want
20 to make sure that they stay in business. If
21 this is something we can make available to
22 them, we would like to do it.

23 MR. MILLER: Any other questions of
24 me?

25 CHAIRPERSON GANNON: No. Thank you

1 very much.

2 MR. MILLER: Thank you very much.

3 CHAIRPERSON GANNON: Thank you very
4 much for being with us today. I don't believe
5 we have anymore witnesses scheduled unless
6 there was someone who is not a scheduled
7 witness who would like to make some comments.
8 I don't see anybody.

9 So with that, we'll adjourn this
10 hearing of the House Judiciary Committee on
11 House Bill 522 and thank everyone for attending
12 who is here.

13 (At or about 11:00 o'clock the
14 hearing concluded)

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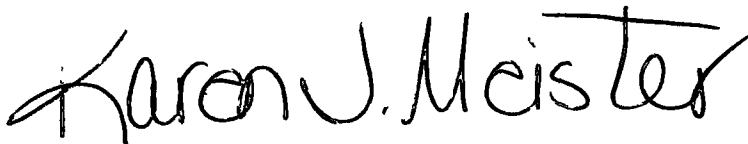
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C E R T I F I C A T E

I, Karen J. Meister, Reporter, Notary Public, duly commissioned and qualified in and for the County of York, Commonwealth of Pennsylvania, hereby certify that the foregoing is a true and accurate transcript of my stenotype notes taken by me and subsequently reduced to computer printout under my supervision, and that this copy is a correct record of the same.

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Dated this 2nd day of November, 1997.



Karen J. Meister - Reporter
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