

111TH CONGRESS
1ST SESSION

S. 251

AN ACT

To amend the Communications Act of 1934 to permit targeted interference with mobile radio services within prison facilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Safe Prisons Commu-
3 nications Act of 2009”.

4 **SEC. 2. INTERFERENCE PERMITTED WITHIN CORREC-
5 TIONAL FACILITIES.**

6 Title III of the Communications Act of 1934 (47
7 U.S.C. 301 et seq.) is amended by inserting after section
8 333 the following:

9 **“SEC. 333A. JAMMING UNAUTHORIZED WIRELESS DEVICES
10 IN CORRECTIONAL FACILITIES.**

11 “(a) IN GENERAL.—Notwithstanding any other pro-
12 vision of this Act, after the Commission has promulgated
13 final regulations under sections 3 and 4 of the Safe Pris-
14 ons Communications Act of 2009, the Commission may
15 authorize the supervisory authority of a correctional facil-
16 ity to operate a jamming system within the correctional
17 facility to prevent, jam, or otherwise interfere with unau-
18 thorized wireless communications within the facility by in-
19 dividuals held in the facility. In order to obtain such au-
20 thority, a supervisory authority shall file a notice of intent
21 under subsection (b), file a petition for such authority
22 under subsection (c), and comply with the requirements
23 of this section and the regulations under this section.

24 “(b) NOTICE OF INTENT PROCEDURE.—

25 “(1) FILING WITH THE COMMISSION.—Not less
26 than 30 days before filing a petition for authority to

1 operate a jamming system under subsection (c), a
2 correctional facility supervisory authority shall file
3 with the Commission a notice of intent to seek such
4 authority. The notice shall identify the correctional
5 facility to which the authority will relate and be in
6 such form, and contain such information, as the
7 Commission may require.

8 “(2) NOTIFICATION OF PUBLIC SAFETY AGEN-
9 CIES AND COMMERCIAL MOBILE SERVICE PRO-
10 VIDERS.—Within 10 days after receiving a notice
11 under paragraph (1), the Commission shall—

12 “(A) notify in writing each public safety
13 agency and each commercial mobile service pro-
14 vider serving the area in which the correctional
15 facility to which the notice of intent relates is
16 located; and

17 “(B) provide the name and address of each
18 such agency and provider so notified by the
19 Commission to the supervisory authority that
20 filed the notice of intent.

21 “(3) CONSULTATION AND ACCESS.—Before fil-
22 ing a petition for jamming authority under this sec-
23 tion, a supervisory authority—

24 “(A) shall consult with the public safety
25 agencies and commercial mobile service pro-

1 viders identified by the Commission under para-
2 graph (2)(B), if such consultation is requested,
3 to determine—

4 “(i) the types of equipment used by
5 those agencies and providers in the area in
6 which the correctional facility is located;

7 “(ii) the locations of towers and facili-
8 ties containing wireless transmission equip-
9 ment belonging to those agencies and pro-
10 viders in that area, to the extent those
11 agencies and providers voluntarily provide
12 such information; and

13 “(iii) the frequencies used by those
14 agencies and providers in that area;

15 “(B) shall provide access, upon request
16 and in the discretion of the supervisory author-
17 ity, by those agencies and providers to the outer
18 perimeter of the correctional facility for the
19 purpose of taking measurements and con-
20 ducting testing to determine signal strength
21 and the potential for interference with their
22 transmissions or service; and

23 “(C) may solicit recommendations from
24 those agencies and providers on the selection,

1 installation, and configuration of a jamming
2 system and jamming devices.

3 “(4) EXTENSION OF CONSULTATION PERIOD.—
4 Upon good cause shown, the Commission may re-
5 quire a supervisory authority that has filed a notice
6 of intent under this subsection to provide an addi-
7 tional period of up to 15 days for the activities de-
8 scribed in paragraph (3) before submitting a petition
9 for jamming authority to the Commission.

10 “(c) PETITION PROCEDURE.—

11 “(1) IN GENERAL.—After completing the con-
12 sultation process provided under subsection (b)(3)
13 (if such consultation was requested), a supervisory
14 authority may file a petition with the Commission
15 requesting authority to install and operate a jam-
16 ming system within a correctional facility under the
17 supervisory authority’s jurisdiction.

18 “(2) FEE.—The Commission may not charge a
19 filing fee for a petition under this section.

20 “(3) NOTIFICATION OF PUBLIC SAFETY AGEN-
21 CIES AND COMMERCIAL MOBILE SERVICE PRO-
22 VIDERS.—

23 “(A) PUBLIC SAFETY AGENCIES.—Upon
24 receipt of a petition under paragraph (1), the
25 Commission shall provide a copy of the petition

1 to each public safety agency serving the area
2 that includes the correctional facility to which
3 the petition applies.

4 “(B) CMS PROVIDERS.—Upon receipt of a
5 petition under paragraph (1), the Commission
6 shall provide a copy of the petition to each com-
7 mercial mobile service provider serving the area
8 that includes the correctional facility to which
9 the petition applies.

10 “(C) CONTENT OF NOTICE.—The notice
11 shall include a detailed description of the jam-
12 ming system and a list of all jamming devices,
13 including make and model, that the supervisory
14 authority proposes to use at the correctional fa-
15 cility.

16 “(4) DISPOSITION OF PETITION.—

17 “(A) IN GENERAL.—After the Commission
18 has promulgated final regulations under sec-
19 tions 3 and 4 of the Safe Prisons Communica-
20 tions Act of 2009, the Commission shall act on
21 a petition under this subsection within 60 days
22 after the date on which the Commission receives
23 a complete petition.

1 “(B) DETERMINATION CONSIDER-
2 ATIONS.—In determining whether to grant re-
3 quested jamming authority, the Commission—

4 “(i) shall consider, among other fac-
5 tors it deems appropriate, whether the pro-
6 posed jamming system would interfere with
7 emergency or public safety agency commu-
8 nications and the extent to which the pro-
9 posed jamming system may cause harmful
10 interference to commercial mobile service
11 communications outside the boundaries of
12 the correctional facility;

13 “(ii) shall consider whether the facility
14 in question is located in an urban area (as
15 defined by the Commission for purposes of
16 this subsection); and

17 “(iii) shall address the potential inter-
18 ference with public safety agency commu-
19 nications and commercial mobile service
20 (as defined in section 332(d)(1)) in such
21 area.

22 “(C) PUBLIC COMMENT.—Before making a
23 determination under this paragraph, the Com-
24 mission shall allow interested parties to submit
25 evidence for the record regarding the inter-

1 ference potential of the jamming system a su-
2 pervisory authority proposes to use at the cor-
3 rectional facility.

4 “(5) POST-PETITION COORDINATION.—

5 “(A) FCC NOTIFICATION.—When the
6 Commission approves a petition under this sec-
7 tion, the Commission shall notify each public
8 safety agency or commercial mobile service pro-
9 vider serving the area in which the correctional
10 facility to which the petition relates is located.

11 “(B) COORDINATION REQUEST.—When
12 any such agency or provider is notified by the
13 Commission under subparagraph (A), it shall
14 immediately notify the supervisory authority of
15 the correctional facility if it intends to partici-
16 pate in the coordination under subparagraph
17 (C) or the examination under subparagraph
18 (D).

19 “(C) INSTALLATION AND CONFIGURA-
20 TION.—During the 30-day period beginning on
21 the date on which the Commission approves a
22 petition, the correctional facility supervising au-
23 thority that filed the petition shall, upon re-
24 quest, coordinate the installation and configura-
25 tion of the jamming system authorized by the

1 Commission with any public safety agency or
2 commercial mobile service provider serving the
3 area in which the correctional facility is located.

4 “(D) INSPECTION.—Except as provided in
5 subparagraph (E), before commencing the oper-
6 ation of a jamming system authorized by the
7 Commission, the correctional facility super-
8 visory authority that filed the petition shall,
9 upon request, provide access to the correctional
10 facility to any such public safety agency or com-
11 mercial mobile service provider for the purpose
12 of examining the installation or configuration of
13 the jamming system and jamming devices.

14 “(E) COMMENCEMENT OF OPERATIONS.—
15 Unless otherwise directed by the Commission, a
16 correctional facility supervisory authority au-
17 thorized by the Commission to operate a jam-
18 ming system may commence operation of the
19 system 30 days after the date on which the
20 Commission approves the petition filed by that
21 authority.

22 “(d) TERMS OF AUTHORIZATION.—

23 “(1) TERM.—If the Commission grants a peti-
24 tion under this section, the authority granted pursu-
25 ant to that petition shall be in effect for a term

1 specified by the Commission of not more than 5
2 years, but shall be renewable by petition.

3 “(2) TERMINATION OR SUSPENSION OF AU-
4 THORITY.—

5 “(A) NOTICE FROM PROVIDER.—The Com-
6 mission shall immediately suspend authorization
7 granted under this section with respect to a cor-
8 rectional facility upon receiving written notice
9 from a commercial mobile service provider, sup-
10 ported by affidavit and such documentation as
11 the Commission may require, stating that use
12 of a jamming device by or at such correctional
13 facility is interfering with commercial mobile
14 service, or is otherwise preventing or jamming
15 such communications (other than within the
16 correctional facility).

17 “(B) BASIS FOR NOTICE.—In establishing
18 the requirements for the affidavit in subpara-
19 graph (A) and the necessary supporting docu-
20 mentation, the Commission shall require, at a
21 minimum, that the commercial mobile service
22 provider perform actual testing and measure-
23 ments in the area near the correctional facility
24 and submit the results to the Commission. No-
25 tice pursuant to subparagraph (A) may not be

1 predicated exclusively on customer complaints
2 or trouble reports unsupported by relevant tech-
3 nical analysis suggesting interference.

4 “(C) NOTICE FROM PUBLIC SAFETY LI-
5 CENSEE.—The Commission shall immediately
6 suspend an authorization granted under this
7 section with respect to a correctional facility
8 upon receiving written notice from a public
9 safety agency, supported by affidavit and such
10 documentation as the Commission may require,
11 stating that use of a device by or at such cor-
12 rectional facility is interfering with public safety
13 agency communications systems or otherwise
14 preventing or jamming communications on that
15 system, and describing the nature of the inter-
16 ference.

17 “(D) DEADLINE FOR ACTION ON NO-
18 TICE.—Within 90 days after receiving notice
19 under subparagraph (A) or subparagraph (C),
20 the Commission shall conclude an investigation
21 to determine whether the jamming device au-
22 thorized for use at the correctional facility is
23 causing such interference and, based on its
24 findings and conclusions, may issue an order re-

1 instating, modifying, or terminating the author-
2 ization.

3 “(E) NONCOMPLIANT USAGE.—If the
4 Commission has reason to believe that a correc-
5 tional facility for which an authorization has
6 been granted under this section is not in com-
7 pliance with the regulations under this section,
8 the Commission shall immediately suspend the
9 authorization until it can make a determination
10 with respect to such compliance after notice and
11 an opportunity for a hearing.

12 “(3) REVOCATION.—The Commission may re-
13 voke an authorization under this section for willful
14 or repeated violations, or failure to observe the re-
15 quirements, of the terms of the authorization or the
16 regulations promulgated by the Commission under
17 this section.

18 “(4) INTERIM USAGE.—If the Commission initi-
19 ates a suspension or a revocation proceeding under
20 this subsection, it shall prohibit use of an authorized
21 jamming system or device at the correctional facility
22 during the pendency of any such proceeding.

23 “(e) LIMITATIONS ON AUTHORIZATION.—

24 “(1) TRANSFER PROHIBITED.—A correctional
25 facility supervisory authority authorized by the Com-

1 mission to operate a jamming system may not trans-
2 fer the ownership or right to use the jamming sys-
3 tem or associated jamming devices to any third
4 party for use inside or outside the area of the cor-
5 rectional facility for which the authorization was
6 granted.

7 “(2) LOCATION; USE BY OTHER PARTIES.—The
8 Commission shall require any correctional facility su-
9 pervisory authority to prevent the use of an author-
10 ized jamming system (including any jamming device
11 used by the system)—

12 “(A) in any location other than the correc-
13 tional facility where use of the system is au-
14 thorized; or

15 “(B) by any entity other than the correc-
16 tional facility where use of the jamming system
17 is authorized.

18 “(3) LIMITATIONS ON USE.—The Commission
19 shall require that any correctional facility super-
20 visory authority granted authority under this section
21 to operate a jamming system—

22 “(A) utilize only a jamming device—

23 “(i) authorized by the Commission;

24 and

1 “(ii) specifically approved by the Com-
2 mission for the purposes of this section;

3 “(B) operate the jamming device at the
4 lowest possible transmission power necessary to
5 prevent, jam, or interfere with wireless commu-
6 nications by within the facility by individuals
7 held in the facility;

8 “(C) operate the device on a directionalized
9 basis, and utilizing all other reasonable inter-
10 ference-limiting capabilities, in a manner that
11 does not interfere with public safety agency
12 communications or lawful commercial wireless
13 communications that originate and terminate
14 inside or outside the area of the correctional fa-
15 cility;

16 “(D) operate the jamming device only in
17 the frequencies necessary to prevent, jam, or
18 interfere with wireless communications within
19 the correctional facility;

20 “(E) have a documented method of con-
21 trolling custody of such devices and ensure that
22 any jamming device operated pursuant to the
23 authority is destroyed upon expiration of the
24 authority, or at such time as a jamming device

1 is removed from service for any other reason,
2 including replacement by another device;

3 “(F) have a documented method of in-
4 specting the jamming system on a quarterly
5 basis to ensure proper functioning, and a docu-
6 mented method to limit access to the system to
7 personnel specifically designated by the correc-
8 tional facility;

9 “(G) install the jamming system in a se-
10 cure area that is inaccessible to individuals held
11 in the facility and connect the system to a per-
12 manent power supply with back-up power
13 sources; and

14 “(H) have a documented method of sealing
15 or locking the jamming system so as to prevent
16 tampering.

17 “(4) DESTRUCTION OF UNUSED OR EXPIRED
18 JAMMING DEVICES; NOTIFICATION OF ADDITIONAL
19 JAMMING DEVICE ACQUISITIONS.—Any correctional
20 facility supervisory authority authorized to operate a
21 jamming system shall—

22 “(A) destroy a jamming device within 60
23 days after the date on which such authorization
24 expires unless a petition is pending for renewal
25 of the authorization;

1 “(B) destroy any such jamming device that
2 is permanently removed from service;

3 “(C) certify such destruction to the Com-
4 mission; and

5 “(D) notify the Commission upon the ac-
6 quisition of any jamming device that replaces a
7 destroyed device.

8 “(f) DATABASE.—The Commission shall maintain an
9 electronic database containing a copy of each notice of in-
10 tent and each petition received by it under this section
11 and the disposition thereof. The Commission shall update
12 the database at least monthly and, to the extent consistent
13 with public safety and welfare, shall make the contents
14 of the database available upon request to a commercial
15 mobile service provider or public safety agency.

16 “(g) DEFINITIONS.—In this section:

17 “(1) COMMERCIAL MOBILE SERVICE PRO-
18 VIDER.—The term ‘commercial mobile service pro-
19 vider’ means a person providing commercial mobile
20 service (as defined in section 332(d)(1)).

21 “(2) CORRECTIONAL FACILITY.—In this sub-
22 section, the term ‘correctional facility’ means a jail,
23 prison, penitentiary, or other correctional facility.

24 “(3) JAMMING DEVICE.—The term ‘jamming
25 device’ means a radio signal generating device used

1 as part of a jamming system designed to disrupt,
2 prevent, interfere with, or jam wireless communica-
3 tions.

4 “(4) JAMMING SYSTEM.—The term ‘jamming
5 system’ means a system of radio signal generating
6 and processing equipment and antennas designed to
7 disrupt, prevent, interfere with, or jam wireless com-
8 munications within a correctional facility and in-
9 cludes the components and functionality of the sys-
10 tem, such as antennas, cabling, and cable elements,
11 the installation, interconnection, and operation of
12 system elements, power levels, and radio frequencies
13 carried on the cables or fed into antennas, the radi-
14 ation pattern of such antennas, and the location and
15 orientation of the antennas.

16 “(5) PUBLIC SAFETY AGENCY.—The term ‘pub-
17 lic safety agency’ has the meaning given that term
18 in section 3006(j)(1) of the Digital Television Tran-
19 sition and Public Safety Act of 2005 (47 U.S.C. 309
20 note).

21 “(6) SUPERVISORY AUTHORITY.—The term ‘su-
22 pervisory authority’ means the Director of the Fed-
23 eral Bureau of Prisons, the chief executive officer of
24 a State (or his or her designee), or the person in
25 charge of a county or local correctional facility not

1 under the authority of the chief executive officer of
2 a State.”.

3 **SEC. 3. FCC RULEMAKING REQUIRED.**

4 Within 180 days after the date of enactment of this
5 Act, the Federal Communications Commission shall ini-
6 tiate a rulemaking proceeding and shall promulgate final
7 regulations governing the use of jamming systems in cor-
8 rectional facilities under section 333A of the Communica-
9 tions Act of 1934 (47 U.S.C. 333A). In the proceeding,
10 the Commission shall—

11 (1) solicit and consider the recommendations of
12 the National Telecommunications and Information
13 Administration, as well as 1 or more entities with
14 relevant technical expertise in order to develop
15 standards and processes for such jamming systems
16 and jamming devices (as such terms are defined in
17 that section); and

18 (2) consider all available technologies capable of
19 preventing the operation of unauthorized wireless
20 communications devices in correctional facilities, in-
21 cluding those devices that may evade detection by
22 the supervisory authority of such a facility.

23 **SEC. 4. DEVICE CERTIFICATION CRITERIA RULEMAKING.**

24 (a) IN GENERAL.—Within 120 days after the date
25 of enactment of this Act, the Federal Communications

1 Commission shall adopt a final rule establishing criteria
2 for certification for the manufacture, sale, importation,
3 and interstate shipment of devices that may be used pur-
4 suant to authorization under section 333A of the Commu-
5 nications Act of 1934 (47 U.S.C. 333A), notwithstanding
6 section 302 of such Act (47 U.S.C. 302). In carrying out
7 the requirements of this subsection, the Commission shall
8 consider whether such devices can effectively prevent, jam,
9 or interfere with wireless communications within a correc-
10 tional facility (as defined in section 333A(g)(2) of that Act
11 (47 U.S.C. 333A(g)(2))) without causing harmful inter-
12 ference with commercial mobile services between points
13 outside facility boundaries, or public safety agency wire-
14 less communications services between points inside, pursu-
15 ant to a public safety agency responding to an incident
16 in a correctional facility, and outside facility boundaries.
17 The regulations shall require, at a minimum, that any
18 such device—

19 (1) operate at the lowest technically feasible
20 transmission power that will permit correctional fa-
21 cility staff to prevent, jam, or interfere with wireless
22 communications within the geographic boundaries of
23 a correctional facility by individuals held in the facil-
24 ity;

1 (2) be capable of directionalized operation and
2 limited to approved frequencies;

3 (3) comply with any other technical standards
4 deemed necessary or appropriate by the Commission
5 to ensure that the device does not create interference
6 to other than the targeted wireless communications;

7 (4) be marketed and sold only to correctional
8 facility supervisory authority (as defined in section
9 333A(g) of the Communications Act of 1934 (47
10 U.S.C. 333A(g)) authorized by the Commission
11 under section 333A) of that Act (47 U.S.C. 333A)
12 to possess and operate such a device; and

13 (5) is capable of being shut off from jamming
14 public safety agency communications within and
15 around a correctional facility when a public safety
16 agency is responding to an incident at the facility,
17 such as a fire, explosion, medical emergency, or oth-
18 erwise.

19 (b) **TECHNICIAN CREDENTIALING.**—As part of the
20 rulemaking proceeding required by subsection (a), the
21 Commission shall seek public comment on whether to es-
22 tablish minimum training, certification, and eligibility re-
23 quirements for technicians qualified to work on jamming
24 systems installed and operated by a supervisory authority.
25 The Commission may establish such training, certification,

1 and eligibility criteria as part of the final rule adopted
2 under subsection (a).

3 (c) CERTIFICATION PROCESS.—The Commission
4 shall conduct field testing of proposed devices to determine
5 whether they can operate without causing harmful inter-
6 ference with commercial mobile service communications
7 outside the boundaries of such a correctional facility or
8 public safety agency wireless communications inside, pur-
9 suant to a public safety entity responding to an incident
10 in a correctional facility, and outside the boundaries of
11 such a correctional facility. The Commission shall conduct
12 such testing through a public testing process and program.
13 After the date on which the final rule promulgated under
14 subsection (a) is published in the Federal Register, the
15 Commission shall grant or deny an application for certifi-
16 cation of a device described in subsection (a) within 120
17 calendar days of receiving an application therefor.

18 (d) LIST OF DEVICES.—The Commission shall main-
19 tain a list of all approved devices on its web site including

- 1 the make and model of each approved device and its tech-
- 2 nical specifications and operating parameters.

Passed the Senate October 5, 2009.

Attest:

Secretary.

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