

105TH CONGRESS
2D SESSION

H. R. 2369

IN THE SENATE OF THE UNITED STATES

MARCH 5, 1998

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

To amend the Communications Act of 1934 to strengthen
and clarify prohibitions on electronic eavesdropping, and
for other purposes.

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 “Wireless Privacy En-
3 hancement Act of 1998”.

4 **SEC. 2. COMMERCE IN ELECTRONIC EAVESDROPPING**
5 **DEVICES.**

6 (a) **PROHIBITION ON MODIFICATION.**—Section
7 302(b) of the Communications Act of 1934 (47 U.S.C.
8 302a(b)) is amended by inserting before the period at the
9 end thereof the following: “, or modify any such device,
10 equipment, or system in any manner that causes such de-
11 vice, equipment, or system to fail to comply with such reg-
12 ulations”.

13 (b) **PROHIBITION ON COMMERCE IN SCANNING RE-**
14 **CEIVERS.**—Section 302(d) of such Act (47 U.S.C.
15 302a(d)) is amended to read as follows:

16 “(d) **EQUIPMENT AUTHORIZATION REGULATIONS.**—

17 “(1) **PRIVACY PROTECTIONS REQUIRED.**—The
18 Commission shall prescribe regulations, and review
19 and revise such regulations as necessary in response
20 to subsequent changes in technology or behavior, de-
21 nying equipment authorization (under part 15 of
22 title 47, Code of Federal Regulations, or any other
23 part of that title) for any scanning receiver that is
24 capable of—

25 “(A) receiving transmissions in the fre-
26 quencies that are allocated to the domestic cel-

1 lular radio telecommunications service or the
2 personal communications service;

3 “(B) readily being altered to receive trans-
4 missions in such frequencies;

5 “(C) being equipped with decoders that—

6 “(i) convert digital domestic cellular
7 radio telecommunications service, personal
8 communications service, or protected spe-
9 cialized mobile radio service transmissions
10 to analog voice audio; or

11 “(ii) convert protected paging service
12 transmissions to alphanumeric text; or

13 “(D) being equipped with devices that oth-
14 erwise decode encrypted radio transmissions for
15 the purposes of unauthorized interception.

16 “(2) PRIVACY PROTECTIONS FOR SHARED FRE-
17 QUENCIES.—The Commission shall, with respect to
18 scanning receivers capable of receiving transmissions
19 in frequencies that are used by commercial mobile
20 services and that are shared by public safety users,
21 examine methods, and may prescribe such regula-
22 tions as may be necessary, to enhance the privacy of
23 users of such frequencies.

24 “(3) TAMPERING PREVENTION.—In prescribing
25 regulations pursuant to paragraph (1), the Commis-

1 sion shall consider defining ‘capable of readily being
2 altered’ to require scanning receivers to be manufac-
3 tured in a manner that effectively precludes alter-
4 ation of equipment features and functions as nec-
5 essary to prevent commerce in devices that may be
6 used unlawfully to intercept or divulge radio commu-
7 nication.

8 “(4) WARNING LABELS.—In prescribing regula-
9 tions under paragraph (1), the Commission shall
10 consider requiring labels on scanning receivers warn-
11 ing of the prohibitions in Federal law on inten-
12 tionally intercepting or divulging radio communica-
13 tions.

14 “(5) DEFINITIONS.—As used in this subsection,
15 the term ‘protected’ means secured by an electronic
16 method that is not published or disclosed except to
17 authorized users, as further defined by Commission
18 regulation.”.

19 (c) IMPLEMENTING REGULATIONS.—Within 90 days
20 after the date of enactment of this Act, the Federal Com-
21 munications Commission shall prescribe amendments to
22 its regulations for the purposes of implementing the
23 amendments made by this section.

1 **SEC. 3. UNAUTHORIZED INTERCEPTION OR PUBLICATION**
2 **OF COMMUNICATIONS.**

3 Section 705 of the Communications Act of 1934 (47
4 U.S.C. 605) is amended—

5 (1) in the heading of such section, by inserting
6 **“INTERCEPTION OR”** after **“UNAUTHORIZED”**;

7 (2) in the first sentence of subsection (a), by
8 striking “Except as authorized by chapter 119, title
9 18, United States Code, no person” and inserting
10 “No person”;

11 (3) in the second sentence of subsection (a)—

12 (A) by inserting “intentionally” before
13 “intercept”; and

14 (B) by striking “and divulge” and insert-
15 ing “or divulge”;

16 (4) by striking the last sentence of subsection
17 (a) and inserting the following: “Nothing in this
18 subsection prohibits an interception or disclosure of
19 a communication as authorized by chapter 119 of
20 title 18, United States Code.”;

21 (5) in subsection (e)(1)—

22 (A) by striking “fined not more than
23 \$2,000 or”; and

24 (B) by inserting “or fined under title 18,
25 United States Code,” after “6 months,”; and

1 (6) in subsection (e)(3), by striking “any viola-
2 tion” and inserting “any receipt, interception, divul-
3 gence, publication, or utilization of any communica-
4 tion in violation”;

5 (7) in subsection (e)(4), by striking “any other
6 activity prohibited by subsection (a)” and inserting
7 “any receipt, interception, divulgence, publication, or
8 utilization of any communication in violation of sub-
9 section (a)”;

10 (8) by adding at the end of subsection (e) the
11 following new paragraph:

12 “(7) Notwithstanding any other investigative or en-
13 forcement activities of any other Federal agency, the Com-
14 mission shall investigate alleged violations of this section
15 and may proceed to initiate action under section 503 of
16 this Act to impose forfeiture penalties with respect to such
17 violation upon conclusion of the Commission’s
18 investigation.”.

Passed the House of Representatives March 5,
1998.

Attest:

ROBIN H. CARLE,
Clerk.