

105TH CONGRESS  
1ST SESSION

# H. R. 275

To combat domestic terrorism.

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. SCHUMER (for himself and Mr. CONYERS) introduced the following bill;  
which was referred to the Committee on the Judiciary

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## A BILL

To combat domestic terrorism.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Effective Antiterrorism  
5 Tools for Law Enforcement Act of 1997”.

6 **SEC. 2. PEN REGISTERS AND TRAP AND TRACE DEVICES IN**  
7 **FOREIGN COUNTERINTELLIGENCE AND**  
8 **COUNTERTERRORISM INVESTIGATIONS.**

9 (a) IN GENERAL.—Chapter 206, title 18, United  
10 States Code, is amended—

11 (1) by redesignating section 3127 as section  
12 3128; and

1           (2) by inserting after section 3126 the follow-  
2       ing:

3       **“§ 3127. Pen register or a trap and trace device in**  
4               **foreign counterintelligence and counter-**  
5               **terrorism investigations**

6       “(a) Notwithstanding any other law, this chapter  
7       shall be applicable to foreign counterintelligence and inter-  
8       national terrorism investigations conducted by the Federal  
9       Bureau of Investigation.

10       “(b) An application under this section for an order  
11       or an extension of an order under section 3123 of this  
12       title shall include—

13               “(1) the identity of the attorney for the Govern-  
14       ment and the fact that the investigation is being  
15       conducted by the Federal Bureau of Investigation;  
16       and

17               “(2) a certification by the applicant that the in-  
18       formation likely to be obtained is relevant to an on-  
19       going foreign counterintelligence or international ter-  
20       rorism investigation being conducted by the Federal  
21       Bureau of Investigation.

22       “(c) All applications and orders under this section  
23       shall be maintained by the Federal Bureau of Investiga-  
24       tion.”.

1 (b) CLERICAL AMENDMENT.—The table of sections  
 2 at the beginning of chapter 206 is amended—

3 (1) in the item relating to section 3127 by  
 4 striking “3127” and inserting “3128”; and

5 (2) by adding after the item relating to section  
 6 3126 the following:

“3127. Pen register or a trap and trace device in foreign counterintelligence and  
 counterterrorism investigations.”.

7 **SEC. 3. ACCESS TO RECORDS OF COMMON CARRIERS, PUB-**  
 8 **LIC ACCOMMODATION FACILITIES, PHYSICAL**  
 9 **STORAGE FACILITIES AND VEHICLE RENTAL**  
 10 **FACILITIES IN FOREIGN COUNTERINTEL-**  
 11 **LIGENCE AND COUNTERTERRORISM CASES.**

12 Title 18, United States Code, is amended by inserting  
 13 after chapter 121 the following:

14 **“CHAPTER 122—ACCESS TO CERTAIN RECORDS**  
 15 **“§ 2720. Access to records of common carriers, public**  
 16 **accommodation facilities, physical**  
 17 **storage facilities and vehicle rental**  
 18 **facilities in counterintelligence and**  
 19 **counterterrorism cases**

20 “(a) Any common carrier, public accommodation fa-  
 21 cility, physical storage facility or vehicle rental facility  
 22 shall comply with a request for records in its possession  
 23 made pursuant to this section by the Federal Bureau of  
 24 Investigation when the Director or designee (whose rank

1 shall be no lower than Assistant Special Agent in Charge)  
2 certifies in writing to the common carrier, public accom-  
3 modation facility, physical storage facility or vehicle rental  
4 facility that such records are sought for foreign counter-  
5 intelligence purposes and that there are specific and  
6 articulable facts giving reason to believe that the person  
7 to whom the records sought pertain, is a foreign power  
8 or an agent of a foreign power as defined in section 101  
9 of the Foreign Intelligence Surveillance Act (50 U.S.C.  
10 1801).

11 “(b) No common carrier, public accommodation facil-  
12 ity, physical storage facility or vehicle rental facility or any  
13 officer, employee or agent of such common carrier, public  
14 accommodation facility, physical storage facility or vehicle  
15 rental facility shall disclose to any person, other than  
16 those officers, agents or employees of the common carrier,  
17 public accommodation facility, physical storage facility or  
18 vehicle rental facility necessary to fulfill the requirement  
19 to disclose the information to the Federal Bureau of Inves-  
20 tigation under this section, that the Federal Bureau of  
21 Investigation has sought or obtained the records re-  
22 quested.

23 “(c) As used in this chapter—

24 “(1) the term ‘common carrier’ means a loco-  
25 motive, a rail carrier, a bus carrying passengers, a

1 water common carrier, an air common carrier, or a  
2 private commercial interstate carrier for the delivery  
3 of packages and other objects;

4 “(2) the term ‘public accommodation facility’  
5 means any inn, hotel, motel or other establishment  
6 which provides lodging to transient guests;

7 “(3) the term ‘physical storage facility’ means  
8 any business or entity which provides space for the  
9 storage of goods or materials, or services related to  
10 the storage of goods or materials to the public or  
11 any segment thereof; and

12 “(4) the term ‘vehicle rental facility’ means any  
13 person or entity which provides vehicles for rent,  
14 lease, loan or other similar use, to the public or any  
15 segment thereof.”.

16 **SEC. 4. INTEGRITY OF WIRE INTERCEPTION PROCESS.**

17 Section 2515 of title 18, United States Code, is  
18 amended by adding at the end the following: “This section  
19 shall not apply to the disclosure by the United States in  
20 a criminal trial or hearing or before a grand jury of the  
21 contents of a wire or oral communication, or evidence de-  
22 rived therefrom, unless the violation of this chapter was  
23 with respect to an interception under section 2518(7) or  
24 involved bad faith by law enforcement.”.

1 **SEC. 5. AUTHORITY FOR WIRETAPS.**

2 Section 2516(1) of title 18, United States Code, is  
3 amended—

4 (1) by inserting “section 842 (relating to explo-  
5 sives violations)” after “section 224 (bribery in  
6 sporting contests)”;

7 (2) by striking “and” at the end of paragraph  
8 (n);

9 (3) by striking the period at the end of para-  
10 graph (o) and inserting “; and”; and

11 (4) by adding at the end the following:

12 “(p) any other felony under the laws of the  
13 United States if the Attorney General, the Deputy  
14 Attorney General, or the Assistant Attorney General  
15 for the Criminal Division (or an official acting in  
16 any such capacity) certifies to the court under seal  
17 that there is reason to believe the felony involves or  
18 may involve domestic terrorism or international ter-  
19 rorism (as those terms are defined in 18 U.S.C.  
20 2331).”.

21 **SEC. 6. TEMPORARY EMERGENCY WIRETAP AUTHORITY IN-**  
22 **VOLVING TERRORISTIC CRIMES.**

23 (a) EMERGENCY AUTHORITY.—Section  
24 2518(7)(a)(iii) of title 18, United States Code, is amended

1 by inserting “or domestic terrorism or international ter-  
2 rorism (as those terms are defined in section 2331 of this  
3 title)” after “organized crime”.

4 (b) DEFINITION OF DOMESTIC TERRORISM.—Section  
5 2331 of title 18, United States Code, is amended by in-  
6 serting the following after paragraph (4):

7 “(5) the term ‘domestic terrorism’ means any  
8 activities that involve violent acts or acts dangerous  
9 to human life that are a violation of the criminal  
10 laws of the United States or of any State and which  
11 appear to be intended to intimidate or coerce a civil-  
12 ian population or to influence the policy of a govern-  
13 ment by intimidation or coercion; or to affect the  
14 conduct of a government by assassination or kidnap-  
15 ping.”

16 **SEC. 7. EXPANDED AUTHORITY FOR MULTI-POINT WIRE-**  
17 **TAPS.**

18 Section 2518(11) of title 18, United States Code, is  
19 amended to read as follows:

20 “(11) The requirements of subsections (1)(b)(ii) and  
21 (3)(d) of this section relating to the specification of facili-  
22 ties from which or the place where the communication is  
23 to be intercepted do not apply if in the case of an applica-  
24 tion with respect to the interception of wire, oral or elec-  
25 tronic communications—

1           “(a) the application is by a Federal investiga-  
2           tive or law enforcement officer, and is approved by  
3           the Attorney General, the Deputy Attorney General,  
4           the Associate Attorney General, or an Assistant At-  
5           torney General (or an official acting in any such ca-  
6           pacity);

7           “(b) the application contains a full and com-  
8           plete statement as to why such specification is not  
9           practical and identifies the person committing the  
10          offense and whose communications are to be inter-  
11          cepted; and

12          “(c) the judge finds that such specification is  
13          not practical.”.

14 **SEC. 8. PERMISSION TO REQUEST MILITARY ASSISTANCE**  
15 **AND NEW OFFENSE WITH RESPECT TO OF-**  
16 **FENSES INVOLVING CHEMICAL AND BIOLOGI-**  
17 **CAL WEAPONS.**

18          (a) BIOLOGICAL WEAPONS.—Section 175 of title 18,  
19 United States Code, is amended by adding at the end the  
20 following:



1       “(c)(1) MILITARY ASSISTANCE.—Notwithstanding  
2 any other provision of law, the Attorney General may re-  
3 quest that the Secretary of Defense provide technical as-  
4 sistance in support of Department of Justice activities re-  
5 lating to the enforcement of this section in situations in-  
6 volving biological weapon emergencies. Department of De-  
7 fense resources, including civilian personnel and members  
8 of the uniformed services, may be used to provide such  
9 technical assistance if—

10           “(A) the Secretary of Defense and the Attorney  
11 General determine that an emergency situation in-  
12 volving biological weapons of mass destruction ex-  
13 ists; and

14           “(B) the Secretary of Defense determines that  
15 the provision of such assistance will not adversely af-  
16 fect the military preparedness of the United States.

17       “(2) As used in this subsection, ‘emergency situation’  
18 means a circumstance—

19           “(A) that poses a serious threat to the interests  
20 of the United States; and

21           “(B) in which—

22               “(i) enforcement of the law would be seri-  
23 ously impaired if the assistance were not pro-  
24 vided;

1           “(ii) military technical assistance and ex-  
2           pertise is needed to counter the threat posed by  
3           the biological agent involved; and

4           “(iii) civilian law enforcement expertise is  
5           not available to provide the required technical  
6           assistance.

7           “(3) As used in this subsection, ‘technical assistance’  
8           means the provision of equipment and technical expertise  
9           to law enforcement officials in the investigation of viola-  
10          tions of this section, such as technical assistance in con-  
11          ducting searches that seek evidence or instrumentalities  
12          of violations of this section, technical assistance in taking  
13          and collecting evidence related to violations of this section,  
14          and technical assistance in disarming and disabling indi-  
15          viduals in possession of contraband under this section. It  
16          does not include authority to apprehend or arrest.

17          “(4) The Secretary of Defense may require reim-  
18          bursement as a condition of assistance under this section.

19          “(5) The Attorney General may delegate the Attorney  
20          General’s function under this subsection only to a Deputy,  
21          Associate, or Assistant Attorney General.”.

22          (b) USE OF CHEMICAL WEAPONS.—Title 18, United  
23          States Code, is amended by inserting after section 2332d  
24          the following:

1 **“§ 2332e. Use of chemical weapons**

2 “(a) OFFENSE.—A person who without lawful au-  
3 thority uses, or attempts or conspires to use, a chemical  
4 weapon—

5 “(1) against a national of the United States  
6 while such national is outside of the United States;

7 “(2) against any person within the United  
8 States; or

9 “(3) against any property that is owned, leased  
10 or used by the United States or by any department  
11 or agency of the United States, whether the property  
12 is within or outside of the United States,

13 shall be imprisoned for any term of years or for life, and  
14 if death results, shall be punished by death or imprisoned  
15 for any term of years or for life.

16 “(b) DEFINITION.—For purposes of this section—

17 “(1) the term ‘national of the United States’  
18 has the meaning given in section 101(a)(22) of the  
19 Immigration and Nationality Act (8 U.S.C.  
20 1101(a)(22)); and

21 “(2) the term ‘chemical weapon’ means any  
22 weapon that is designed to cause death or serious  
23 bodily injury through the release, dissemination, or  
24 impact of toxic or poisonous chemicals or their pre-  
25 cursors.

1       “(c)(1) MILITARY ASSISTANCE.—Notwithstanding  
2 any other provision of law, the Attorney General may re-  
3 quest that the Secretary of Defense provide technical as-  
4 sistance in support of Department of Justice activities re-  
5 lating to the enforcement of this section in situations in-  
6 volving chemical weapon emergencies. Department of De-  
7 fense resources, including civilian personnel and members  
8 of the uniformed services, may be used to provide such  
9 technical assistance if—

10           “(A) the Secretary of Defense and the Attorney  
11 General determine that an emergency situation in-  
12 volving chemical weapons of mass destruction exists;  
13 and

14           “(B) the Secretary of Defense determines that  
15 the provision of such assistance will not adversely af-  
16 fect the military preparedness of the United States.

17       “(2) As used in this section, ‘emergency situation’  
18 means a circumstance—

19           “(A) that poses a serious threat to the interests  
20 of the United States; and

21           “(B) in which—

22                   “(i) enforcement of the law would be seri-  
23 ously impaired if the assistance were not pro-  
24 vided;

1           “(ii) military technical assistance and ex-  
2           pertise is needed to counter the threat posed by  
3           the chemical agent involved; and

4           “(iii) civilian law enforcement expertise is  
5           not available to provide the required technical  
6           assistance.

7           “(3) As used in this section, ‘technical assistance’  
8           means the provision of equipment and technical expertise  
9           to law enforcement officials in the investigation of viola-  
10          tions of this section, such as technical assistance in con-  
11          ducting searches that seek evidence or instrumentalities  
12          of violations of this section, technical assistance in taking  
13          and collecting evidence related to violations of this section,  
14          and technical assistance in disarming and disabling indi-  
15          viduals in possession of contraband under this section. It  
16          does not include authority to apprehend or arrest.

17          “(4) The Secretary of Defense may require reim-  
18          bursement as a condition of assistance under this section.

19          “(5) The Attorney General may delegate the Attorney  
20          General’s function under this subsection only to a Deputy,  
21          Associate, or Assistant Attorney General.”.

22          (c) CLERICAL AMENDMENT.—The table of chapters  
23          at the beginning of chapter 113B of title 18, United  
24          States Code, is amended by adding after the item relating  
25          to section 2332d the following:

“§ 2332e. Use of chemical weapons.”.

1       (d) CLARIFICATION OF LAWFUL AUTHORITY DE-  
2 FENSE.—Section 2332a(a) of title 18, United States  
3 Code, is amended by striking “A person who” and insert-  
4 ing “Whoever, without lawful authority,”.

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