

109TH CONGRESS
2D SESSION

S. 2177

To make the sale or fraudulent transfer of telephone records a criminal offense.

IN THE SENATE OF THE UNITED STATES

JANUARY 18, 2006

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To make the sale or fraudulent transfer of telephone records a criminal offense.

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 “Phone Records Protec-
5 tion Act of 2006”.

6 **SEC. 2. PROHIBITION ON SALE OR TRANSFER OF TELE-**
7 **PHONE RECORDS.**

8 (a) IN GENERAL.—Title 18, United States Code, is
9 amended by inserting after chapter 123 the following new
10 chapter:

1 **“CHAPTER 124—TELEPHONE RECORDS**

“Sec.

“2801. Prohibition on sale or transfer of telephone records.

2 **“§ 2801. Prohibition on sale or transfer of telephone**
 3 **records**

4 “(a) CRIMINAL VIOLATION.—Whoever knowingly and
 5 intentionally sells or fraudulently transfers or uses, or at-
 6 tempts to sell or fraudulently transfer or use, the records
 7 of a customer of a telephone service provider shall be fined
 8 in accordance with this title, imprisoned for not more than
 9 10 years, or both.

10 “(b) NONAPPLICABILITY TO LAW ENFORCEMENT
 11 AGENCIES.—Subsection (a) shall not prevent any action
 12 by a law enforcement agency, or any officer, employee, or
 13 agent of such agency, to obtain the records of a customer
 14 of a telephone service provider in connection with the per-
 15 formance of the official duties of the agency.

16 “(c) EXCEPTION FOR LAW ENFORCEMENT RE-
 17 QUESTS.—A telephone service provider, or any employee
 18 thereof, shall not be in violation of subsection (a) if such
 19 provider, upon request, transfers or otherwise provides to
 20 a law enforcement agency, or any officer, employee, or
 21 agent of such agency the records of a customer of such
 22 provider.

23 “(d) DEFINITIONS.—In this section:

1 “(1) RECORDS OF A CUSTOMER.—The term
 2 ‘records of a customer’ means any data or informa-
 3 tion associated with an individual contained in a
 4 database, networked or integrated databases, or
 5 other data system of a telephone service provider.

6 “(2) TELEPHONE SERVICE.—The term ‘tele-
 7 phone service’—

8 “(A) has the same meaning given the term
 9 ‘telecommunications service’ in section 3 of the
 10 Communications Act of 1934 (47 U.S.C. 153);
 11 and

12 “(B) includes any form of wireless tele-
 13 phone service, including—

14 “(i) cellular telephone service;

15 “(ii) broadband Personal Communica-
 16 tion Service (‘PCS’) telephone service;

17 “(iii) Covered Specialized Mobile
 18 Radio (‘SMR’) service; and

19 “(iv) any successor service to such
 20 service (including so-called next generation
 21 or third generation service).

22 “(3) TELEPHONE SERVICE PROVIDER.—The
 23 term ‘telephone service provider’ has the same mean-
 24 ing given the term ‘telecommunications carrier’ in

1 section 3 of the Communications Act of 1934 (47
2 U.S.C. 153).”.

3 (b) AMENDMENT TO PART ANALYSIS.—The table of
4 chapters at the beginning of part I of title 18, United
5 States Code, is amended by inserting after the item relat-
6 ing to chapter 123 the following new item:

“124. Prohibition on sale of telephone records 2801”.

