

113TH CONGRESS
2D SESSION

S. 2032

To require mobile service providers and mobile device manufacturers to give consumers the ability to remotely delete data from mobile devices and render such devices inoperable.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2014

Ms. KLOBUCHAR (for herself, Ms. HIRONO, Ms. MIKULSKI, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require mobile service providers and mobile device manufacturers to give consumers the ability to remotely delete data from mobile devices and render such devices inoperable.

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 “Smartphone Theft Pre-
5 vention Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) mobile device theft costs consumers
2 \$30,000,000,000 each year, according to the Federal
3 Communications Commission;

4 (2) 1 in 3 robberies include the theft of a mo-
5 bile device;

6 (3) carriers, manufacturers, law enforcement,
7 and the Federal Communications Commission have
8 worked to address the growing trend of mobile de-
9 vice theft, but more remains to be done;

10 (4) consumers deserve to have the most secure
11 technology available to protect them and their infor-
12 mation;

13 (5) technological protections continue to de-
14 velop, evolve, and improve in ways that are good for
15 the economy and the consumers of the United
16 States, and for public safety in the United States;

17 (6) the wireless industry should work with law
18 enforcement to educate consumers about the security
19 tools that are available to them and how to keep
20 their data, their devices, and themselves safe; and

21 (7) because engineering and security needs
22 change rapidly, the mobile device industry, law en-
23 forcement, and consumer advocates are best suited
24 to proactively develop solutions to protect con-
25 sumers, drive innovation, and deter theft.

1 **SEC. 3. FUNCTION FOR STOLEN MOBILE DEVICES.**

2 (a) IN GENERAL.—Part I of title III of the Commu-
 3 nications Act of 1934 (47 U.S.C. 301 et seq.) is amended
 4 by adding at the end the following:

5 **“SEC. 343. FUNCTION FOR STOLEN MOBILE DEVICES.**

6 “(a) DEFINITIONS.—In this section—

7 “(1) the term ‘account holder’, with respect to
 8 a mobile device—

9 “(A) means the person who holds the ac-
 10 count through which commercial mobile service
 11 or commercial mobile data service is provided
 12 on the device; and

13 “(B) includes a person authorized by the
 14 person described in subparagraph (A) to take
 15 actions with respect to the device;

16 “(2) the term ‘commercial mobile data service’
 17 has the meaning given the term in section 6001 of
 18 the Middle Class Tax Relief and Job Creation Act
 19 of 2012 (47 U.S.C. 1401);

20 “(3) the term ‘commercial mobile service’ has
 21 the meaning given the term in section 332; and

22 “(4) the term ‘mobile device’ means a personal
 23 electronic device on which commercial mobile service
 24 or commercial mobile data service is provided.

25 “(b) REQUIREMENTS.—

1 “(1) FUNCTION.—A provider of commercial mo-
2 bile service or commercial mobile data service on a
3 mobile device shall make available on the device a
4 function that—

5 “(A) may only be used by the account
6 holder; and

7 “(B) includes the capability to remotely—

8 “(i) delete or render inaccessible from
9 the device all information relating to the
10 account holder that has been placed on the
11 device;

12 “(ii) render the device inoperable on
13 the network of any provider of commercial
14 mobile service or commercial mobile data
15 service globally, even if the device is turned
16 off or has the data storage medium re-
17 moved;

18 “(iii) prevent the device from being
19 reactivated or reprogrammed without a
20 passcode or similar authorization after the
21 device has been—

22 “(I) rendered inoperable as de-
23 scribed in clause (ii); or

24 “(II) subject to an unauthorized
25 factory reset; and

1 “(iv) reverse any action described in
2 clause (i), (ii), or (iii) if the device is recov-
3 ered by the account holder.

4 “(2) DEVICE STANDARDS.—A person may not
5 manufacture in the United States, or import into the
6 United States for sale or resale to the public, a mo-
7 bile device unless the device is configured in such a
8 manner that the provider of commercial mobile serv-
9 ice or commercial mobile data service on the device
10 may make available on the device the function re-
11 quired under subsection (1).

12 “(3) EXEMPTIONS FOR FUNCTIONALLY EQUIVA-
13 LENT TECHNOLOGY.—

14 “(A) MOBILE SERVICE PROVIDERS.—The
15 Commission may exempt a provider of commer-
16 cial mobile service or commercial mobile data
17 service on a mobile device from the requirement
18 under paragraph (1), with respect to that de-
19 vice, if the provider makes available on the de-
20 vice technology that accomplishes the functional
21 equivalent of the function required under para-
22 graph (1).

23 “(B) MANUFACTURERS AND IMPORTERS.—
24 The Commission may exempt a person from the
25 requirement under paragraph (2), with respect

1 to a mobile device that the person manufactures
2 in the United States or imports into the United
3 States for sale or resale to the public, if the de-
4 vice is configured in such a manner that the
5 provider of commercial mobile service or com-
6 mercial mobile data service on the device may
7 make available on the device technology that ac-
8 complishes the functional equivalent of the
9 function required under paragraph (1).

10 “(4) WAIVER FOR LOW-COST, VOICE-ONLY MO-
11 BILE DEVICES.—The Commission may waive the ap-
12 plicability of the requirements under paragraphs (1)
13 and (2) with respect to any low-cost mobile device
14 that—

15 “(A) is intended for primarily voice-only
16 mobile service; and

17 “(B) may have limited data consumption
18 functions focused on text messaging or short
19 message service.

20 “(c) NO FEE.—A provider of commercial mobile serv-
21 ice or commercial mobile data service on a mobile device
22 may not charge the account holder any fee for making the
23 function described in subsection (b)(1), or any equivalent
24 technology described in subsection (b)(3)(A), available to
25 the account holder.

1 “(d) FORFEITURE PENALTY.—

2 “(1) IN GENERAL.—Any person that is deter-
3 mined by the Commission, in accordance with para-
4 graphs (3) and (4) of section 503(b), to have vio-
5 lated subsection (b) or (c) of this section shall be lia-
6 ble to the United States for a forfeiture penalty, in
7 an amount to be determined by the Commission.

8 “(2) OTHER PENALTIES.—A forfeiture penalty
9 under this subsection shall be in addition to any
10 other penalty provided for in this Act.

11 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
12 tion shall be construed to prohibit a manufacturer of mo-
13 bile devices, or a provider of commercial mobile service or
14 commercial mobile data service, from taking actions not
15 described in this section to protect consumers from the
16 theft of mobile devices.”.

17 (b) APPLICABILITY OF FUNCTION REQUIREMENT.—

18 (1) DEFINITION.—In this subsection, the term
19 “mobile device” has the meaning given the term in
20 section 343 of the Communications Act of 1934, as
21 added by subsection (a).

22 (2) APPLICABILITY.—Except as provided in
23 paragraph (3), section 343 of the Communications
24 Act of 1934, as added by subsection (a), shall apply

1 with respect to any mobile device that, on or after
2 January 1, 2015, is—

3 (A) manufactured in the United States; or

4 (B) imported into the United States for
5 sale to the public.

6 (3) COMPLIANCE EXTENSIONS.—The Federal
7 Communications Commission may exempt a person
8 that is subject to any requirement under section
9 343(b) of the Communications Act of 1934, as
10 added by subsection (a), from that requirement for
11 a temporary period after the date described in para-
12 graph (2) of this subsection, upon a showing by the
13 person that the person requires more time to be able
14 to comply with the requirement.

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