

114TH CONGRESS
2D SESSION

H. R. 5834

To amend the Communications Act of 1934 to prohibit mobile service providers from providing service on smart phones that have been reported stolen, to require smart phones to be equipped with anti-theft functionality and mobile device identification numbers, and to prohibit the alteration or removal of mobile device identification numbers of smart phones, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2016

Mr. ENGEL (for himself and Ms. NORTON) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Communications Act of 1934 to prohibit mobile service providers from providing service on smart phones that have been reported stolen, to require smart phones to be equipped with anti-theft functionality and mobile device identification numbers, and to prohibit the alteration or removal of mobile device identification numbers of smart phones, 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 “Cell Phone Theft Pre-
3 vention Act of 2016”.

4 **SEC. 2. SMART PHONE THEFT PREVENTION.**

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

8 **“SEC. 343. SMART PHONE THEFT PREVENTION.**

9 “(a) PROVISION OF SERVICE ON STOLEN SMART
10 PHONE.—

11 “(1) PROHIBITION.—A provider of commercial
12 mobile service or commercial mobile data service
13 may not knowingly provide service on a smart phone
14 that—

15 “(A) has been reported to such provider as
16 stolen by an authorized user of such phone; or

17 “(B) is listed as stolen on the Central
18 Equipment Identity Register.

19 “(2) REPORTING BY SERVICE PROVIDERS.—A
20 provider of commercial mobile service or commercial
21 mobile data service to which a smart phone is re-
22 ported stolen by an authorized user of such phone
23 as described in paragraph (1)(A) shall transmit to
24 the Central Equipment Identity Register a notifica-
25 tion that such phone has been reported stolen. Such

1 notification shall include such information as is re-
2 quired for the identification of such phone.

3 “(b) ANTI-THEFT FUNCTIONALITY; MOBILE DEVICE
4 IDENTIFICATION NUMBERS.—A person may not manufac-
5 ture for retail sale in the United States, or import into
6 the United States for retail sale in the United States, a
7 smart phone unless such phone is—

8 “(1) equipped with pre-loaded anti-theft
9 functionality at no additional cost to purchasers of
10 such phone, or capable of downloading anti-theft
11 functionality that is available at no additional cost
12 to purchasers of such phone; and

13 “(2) equipped with a mobile device identifica-
14 tion number.

15 “(c) ALTERATION OR REMOVAL OF MOBILE DEVICE
16 IDENTIFICATION NUMBER; PROHIBITION OF SALE OF
17 STOLEN SMART PHONES.—

18 “(1) PROHIBITION.—It shall be unlawful to—

19 “(A) knowingly remove, obliterate, tamper
20 with, or alter the mobile device identification
21 number of a smart phone;

22 “(B) knowingly use, produce, traffic in,
23 have control or custody of, or possess hardware
24 or software, knowing it has been configured to

1 engage in the conduct described in subpara-
2 graph (A); or

3 “(C) knowingly sell a smart phone for
4 which the mobile device identification number is
5 listed as stolen on the Central Equipment Iden-
6 tity Register.

7 “(2) PENALTY.—Any person who violates para-
8 graph (1) shall be fined under title 18, United
9 States Code, imprisoned not more than 5 years, or
10 both.

11 “(d) RULES OF CONSTRUCTION.—

12 “(1) ADDITIONAL TECHNOLOGIES OR SERV-
13 ICES.—Nothing in this section prohibits a provider
14 of commercial mobile service or commercial mobile
15 data service, device manufacturer, or operating sys-
16 tem provider from offering a technology or service in
17 addition to the anti-theft functionality required by
18 subsection (b)(1).

19 “(2) EMERGENCY COMMUNICATIONS.—Nothing
20 in this section requires the use of a technology that
21 is incompatible with, or renders it impossible to com-
22 ply with, Federal or State law with regard to—

23 “(A) the provision of emergency services
24 through the 9–1–1 system, including text-to-9–

1 1–1, bounce-back messages, and location accu-
2 racy requirements;

3 “(B) participation in the Wireless Emer-
4 gency Alerts system; or

5 “(C) participation in other Federal, State,
6 or local emergency alert and public safety warn-
7 ing systems.

8 “(3) NO PRIVATE RIGHT OF ACTION.—Nothing
9 in this section shall be construed to authorize any
10 private right of action to enforce any requirement of
11 this section or any regulation promulgated under
12 this section.

13 “(e) DEFINITIONS.—In this section:

14 “(1) ANTI-THEFT FUNCTIONALITY.—The term
15 ‘anti-theft functionality’ means, with respect to a
16 smart phone, a functionality provided by the manu-
17 facturer or operating system provider that—

18 “(A) once downloaded to the phone and
19 initiated—

20 “(i) has the capability, from a remote
21 location—

22 “(I) to render the essential fea-
23 tures of the phone inoperable to a per-
24 son who is not an authorized user;
25 and

1 “(II) to delete from the phone
2 the personal information of the au-
3 thorized users, except for any infor-
4 mation necessary to permit the capa-
5 bility described in subclause (I) to be
6 reversed as required by clause (ii);
7 and

8 “(ii) permits the capability described
9 in clause (i)(I) to be reversed if an author-
10 ized user of the phone obtains possession
11 of the phone after the essential features of
12 the phone have been rendered inoperable
13 by such capability; and

14 “(B) may be designed so as to allow an au-
15 thorized user to opt out of implementing the ca-
16 pability described in subparagraph (A)(i).

17 “(2) AUTHORIZED USER.—The term ‘author-
18 ized user’ means, with respect to a smart phone—

19 “(A) the person who holds the commercial
20 mobile service or commercial mobile data serv-
21 ice account for the phone;

22 “(B) if the phone is a phone for which par-
23 ticular amounts of service are purchased in ad-
24 vance, the person who owns the phone; or

1 “(C) any person who has been authorized
2 by a person described in subparagraph (A) or
3 (B) to use the phone.

4 “(3) CENTRAL EQUIPMENT IDENTITY REG-
5 ISTER.—The term ‘Central Equipment Identity Reg-
6 ister’ means the list of mobile device identification
7 numbers that are associated with mobile devices that
8 have been reported as lost, stolen, faulty, or other-
9 wise unsuitable for use, and that is a part of the
10 International Mobile Equipment Identity Database
11 maintained by the GSM Association, or any equiva-
12 lent or successor registry or database.

13 “(4) COMMERCIAL MOBILE DATA SERVICE.—
14 The term ‘commercial mobile data service’ has the
15 meaning given such term in section 6001 of the Mid-
16 dle Class Tax Relief and Job Creation Act of 2012
17 (47 U.S.C. 1401).

18 “(5) COMMERCIAL MOBILE SERVICE.—The term
19 ‘commercial mobile service’ has the meaning given
20 such term in section 332.

21 “(6) ESSENTIAL FEATURES.—The term ‘essen-
22 tial features’ means, with respect to a smart phone,
23 features that provide the capability for a user to use
24 the phone for voice communications, text messaging,
25 Internet browsing, and accessing and using software

1 applications. Such term does not include the features
2 that provide the capability to operate the anti-theft
3 functionality or to use the phone for emergency com-
4 munications.

5 “(7) MOBILE DEVICE IDENTIFICATION NUM-
6 BER.—The term ‘mobile device identification num-
7 ber’ means an international mobile equipment iden-
8 tity number, a mobile equipment identifier, an elec-
9 tronic serial number, or any other number or signal
10 that identifies a specific mobile device and has the
11 same function and purposes as an international mo-
12 bile equipment identity number or a mobile equip-
13 ment identifier.

14 “(8) SMART PHONE.—

15 “(A) IN GENERAL.—The term ‘smart
16 phone’ means a hand-held mobile device that—

17 “(i) possesses advanced computing ca-
18 pability;

19 “(ii) is designed to enable the user to
20 engage in voice communications using com-
21 mercial mobile service;

22 “(iii) is capable of operating on a
23 long-term evolution network or successor
24 wireless data network communication
25 standards; and

1 “(iv) may possess capabilities that in-
2 clude built-in applications, Internet access,
3 Internet browsing, digital voice service,
4 text messaging, and e-mail.

5 “(B) EXCLUSIONS.—Such term does not
6 include a phone that offers only a limited capa-
7 bility or set of capabilities (such as placing
8 voice calls and sending text messages), a laptop
9 computer, a tablet device, or a device that has
10 only electronic reading capability.”.

11 (b) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), section 343 of the Communications Act
14 of 1934, as added by subsection (a) of this section,
15 shall apply beginning on the date that is 2 years
16 after the date of the enactment of this Act.

17 (2) ANTI-THEFT FUNCTIONALITY; MOBILE DE-
18 VICE IDENTIFICATION NUMBERS.—Subsection (b) of
19 such section 343 shall apply with respect to a smart
20 phone that is manufactured on or after the date that
21 is 2 years after the date of the enactment of this
22 Act.

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