

Intelligence and the Senate Select Committee on Intelligence shall report respectively to the House of Representatives and the Senate, concerning the implementation of this chapter. Said reports shall include but not be limited to an analysis and recommendations concerning whether this chapter should be (1) amended, (2) repealed, or (3) permitted to continue in effect without amendment.

(Pub. L. 95-511, title I, § 108, Oct. 25, 1978, 92 Stat. 1795; Pub. L. 106-567, title VI, § 604(a), Dec. 27, 2000, 114 Stat. 2853; Pub. L. 109-177, title I, § 108(c), Mar. 9, 2006, 120 Stat. 204; Pub. L. 110-261, title I, § 105(b), July 10, 2008, 122 Stat. 2462; Pub. L. 114-23, title VI, § 605(a), title VII, § 701(c), June 2, 2015, 129 Stat. 297, 299.)

Editorial Notes

REFERENCES IN TEXT

Section 301, referred to in subsec. (a)(2)(D), means section 301 of Pub. L. 95-511, which is classified to section 1821 of this title, relates to definitions for terms used in subchapter II of this chapter, and does not contain a subsec. (e). Section 304(e) of Pub. L. 95-511, which is classified to section 1824(e) of this title, relates to authorizations and orders for emergency physical searches.

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, known as the Foreign Intelligence Surveillance Act of 1978, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-23, § 605(a), substituted “the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate” for “the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence, and the Committee on the Judiciary of the Senate.”.

Subsec. (a)(2)(D). Pub. L. 114-23, § 701(c), added subpar. (D).

2008—Subsec. (a)(2)(C). Pub. L. 110-261 substituted “1805(e)” for “1805(f)”.

2006—Subsec. (a)(1). Pub. L. 109-177, § 108(c)(1), inserted “, and the Committee on the Judiciary of the Senate,” after “Senate Select Committee on Intelligence”.

Subsec. (a)(2). Pub. L. 109-177, § 108(c)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Each report under the first sentence of paragraph (1) shall include a description of—

“(A) each criminal case in which information acquired under this chapter has been passed for law enforcement purposes during the period covered by such report; and

“(B) each criminal case in which information acquired under this chapter has been authorized for use at trial during such reporting period.”

2000—Subsec. (a). Pub. L. 106-567 designated existing provisions as par. (1) and added par. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-261 effective July 10, 2008, except as provided in section 404 of Pub. L. 110-261, set out as a Transition Procedures note under section 1801 of this title, see section 402 of Pub. L. 110-261, set out as an Effective Date of 2008 Amendment note under section 1801 of this title.

§ 1809. Criminal sanctions

(a) Prohibited activities

A person is guilty of an offense if he—

(1) intentionally engages in electronic surveillance under color of law except as authorized by this chapter, chapter 119, 121, or 206 of title 18, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 1812 of this title;

(2) intentionally discloses or uses information obtained under color of law by electronic surveillance, knowing or having reason to know that the information was obtained through electronic surveillance not authorized by this chapter, chapter 119, 121, or 206 of title 18, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 1812 of this title; or

(3) knowingly and willfully communicates, furnishes, transmits, or otherwise makes available to an unauthorized person, or publishes, or uses in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States an application, in whole or in part, for an order for electronic surveillance under this chapter.

(b) Defense

It is a defense to a prosecution under paragraph (1) or (2) of subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) Penalty

A person guilty of an offense in this section shall be fined under title 18, imprisoned for not more than 10 years, or both.

(d) Federal jurisdiction

There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

(Pub. L. 95-511, title I, § 109, Oct. 25, 1978, 92 Stat. 1796; Pub. L. 110-261, title I, § 102(b), July 10, 2008, 122 Stat. 2459; Pub. L. 111-259, title VIII, § 801(3), Oct. 7, 2010, 124 Stat. 2746; Pub. L. 118-49, § 13(a), (b), Apr. 20, 2024, 138 Stat. 881.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, known as the Foreign Intelligence Surveillance Act of 1978, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118-49, § 13(a)(1)(A), struck out “intentionally” after “if he” in introductory provisions.

Subsec. (a)(1). Pub. L. 118-49, § 13(a)(1)(B)(ii), which directed the substitution of a semicolon for “; or”, could not be executed because the word “or” did not appear.

Pub. L. 118–49, §13(a)(1)(B)(i), inserted “intentionally” before “engages in”.

Subsec. (a)(2). Pub. L. 118–49, §13(a)(1)(C)(i), which directed the substitution of “intentionally discloses” for “disclose”, was executed by making the substitution for “discloses” to reflect the probable intent of Congress.

Subsec. (a)(3). Pub. L. 118–49, §13(a)(1)(C)(ii), (D), added par. (3).

Subsec. (b). Pub. L. 118–49, §13(a)(2), substituted “under paragraph (1) or (2) of subsection (a)” for “under subsection (a)”.

Subsec. (c). Pub. L. 118–49, §13(b), amended subsec. (c) generally. Prior to amendment, text read as follows: “An offense described in this section is punishable by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.”

2010—Subsec. (a)(1). Pub. L. 111–259, §801(3)(A), substituted “section 1812 of this title;” for “section 1812 of this title.”.

Subsec. (a)(2). Pub. L. 111–259, §801(3)(B), substituted “title.” for “title..”

2008—Subsec. (a). Pub. L. 110–261 substituted “authorized by this chapter, chapter 119, 121, or 206 of title 18, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 1812 of this title.” for “authorized by statute” in pars. (1) and (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–261 effective July 10, 2008, except as provided in section 404 of Pub. L. 110–261, set out as a Transition Procedures note under section 1801 of this title, see section 402 of Pub. L. 110–261, set out as an Effective Date of 2008 Amendment note under section 1801 of this title.

§ 1810. Civil liability

An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 1801(a) or (b)(1)(A) of this title, respectively, who has been subjected to an electronic surveillance or about whom information obtained by electronic surveillance of such person has been disclosed or used in violation of section 1809 of this title shall have a cause of action against any person who committed such violation and shall be entitled to recover—

(a) actual damages, but not less than liquidated damages equal to the greater of—

(1) if the aggrieved person is a United States person, \$10,000 or \$1,000 per day for each day of violation; or

(2) for any other aggrieved person, \$1,000 or \$100 per day for each day of violation;

(b) punitive damages; and

(c) reasonable attorney’s fees and other investigation and litigation costs reasonably incurred.

(Pub. L. 95–511, title I, §110, Oct. 25, 1978, 92 Stat. 1796; Pub. L. 118–49, §15(a), Apr. 20, 2024, 138 Stat. 882.)

Editorial Notes

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–49 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “actual damages, but not less than liquidated damages of \$1,000 or \$100 per day for each day of violation, whichever is greater;”.

§ 1810a. Reporting requirements for civil actions

(a) Report to Congress

If a court finds that a person has violated this chapter in a civil action under section 1810 of this title, the head of the agency that employs that person shall report to Congress on the administrative action taken against that person pursuant to section 1803(m) of this title or any other provision of law.

(b) Report to Foreign Intelligence Surveillance Court

If a court finds that a person has violated this chapter in a civil action under section 1810 of this title, the head of the agency that employs that person shall report the name of such person to the Foreign Intelligence Surveillance Court. The Foreign Intelligence Surveillance Court shall maintain a list of each person about whom it received a report under this subsection.

(Pub. L. 95–511, title I, §110A, as added Pub. L. 118–49, §15(b), Apr. 20, 2024, 138 Stat. 883.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 95–511, Oct. 25, 1978, 92 Stat. 1783, known as the Foreign Intelligence Surveillance Act of 1978, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

§ 1811. Authorization during time of war

Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this subchapter to acquire foreign intelligence information for a period not to exceed fifteen calendar days following a declaration of war by the Congress.

(Pub. L. 95–511, title I, §111, Oct. 25, 1978, 92 Stat. 1796.)

§ 1812. Statement of exclusive means by which electronic surveillance and interception of certain communications may be conducted

(a) Except as provided in subsection (b), the procedures of chapters 119, 121, and 206 of title 18 and this chapter shall be the exclusive means by which electronic surveillance and the interception of domestic wire, oral, or electronic communications may be conducted.

(b) Only an express statutory authorization for electronic surveillance or the interception of domestic wire, oral, or electronic communications, other than as an amendment to this chapter or chapters 119, 121, or 206 of title 18 shall constitute an additional exclusive means for the purpose of subsection (a).

(Pub. L. 95–511, title I, §112, as added Pub. L. 110–261, title I, §102(a), July 10, 2008, 122 Stat. 2459.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 95–511, Oct. 25, 1978, 92