

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

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.

#### Statutory Notes and Related Subsidiaries

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### § 1813. Procedures for the retention of incidentally acquired communications

#### (a) Definitions

In this section:

##### (1) Covered communication

The term “covered communication” means any nonpublic telephone or electronic communication acquired without the consent of a person who is a party to the communication, including communications in electronic storage.

##### (2) Head of an element of the intelligence community

The term “head of an element of the intelligence community” means, as appropriate—

(A) the head of an element of the intelligence community; or

(B) the head of the department or agency containing such element.

##### (3) United States person

The term “United States person” has the meaning given that term in section 1801 of this title.

#### (b) Procedures for covered communications

##### (1) Requirement to adopt

Not later than 2 years after December 19, 2014, each head of an element of the intelligence community shall adopt procedures approved by the Attorney General for such element that ensure compliance with the requirements of paragraph (3).

##### (2) Coordination and approval

The procedures required by paragraph (1) shall be—

(A) prepared in coordination with the Director of National Intelligence; and

(B) approved by the Attorney General prior to issuance.

##### (3) Procedures

###### (A) Application

The procedures required by paragraph (1) shall apply to any intelligence collection activity not otherwise authorized by court order (including an order or certification issued by a court established under subsection (a) or (b) of section 1803 of this title), subpoena, or similar legal process that is reasonably anticipated to result in the acquisition of a covered communication to or from a United States person and shall permit the acquisition, retention, and dissemi-

nation of covered communications subject to the limitation in subparagraph (B).

#### (B) Limitation on retention

A covered communication shall not be retained in excess of 5 years, unless—

(i) the communication has been affirmatively determined, in whole or in part, to constitute foreign intelligence or counterintelligence or is necessary to understand or assess foreign intelligence or counterintelligence;

(ii) the communication is reasonably believed to constitute evidence of a crime and is retained by a law enforcement agency;

(iii) the communication is enciphered or reasonably believed to have a secret meaning;

(iv) all parties to the communication are reasonably believed to be non-United States persons;

(v) retention is necessary to protect against an imminent threat to human life, in which case both the nature of the threat and the information to be retained shall be reported to the congressional intelligence committees not later than 30 days after the date such retention is extended under this clause;

(vi) retention is necessary for technical assurance or compliance purposes, including a court order or discovery obligation, in which case access to information retained for technical assurance or compliance purposes shall be reported to the congressional intelligence committees on an annual basis; or

(vii) retention for a period in excess of 5 years is approved by the head of the element of the intelligence community responsible for such retention, based on a determination that retention is necessary to protect the national security of the United States, in which case the head of such element shall provide to the congressional intelligence committees a written certification describing—

(I) the reasons extended retention is necessary to protect the national security of the United States;

(II) the duration for which the head of the element is authorizing retention;

(III) the particular information to be retained; and

(IV) the measures the element of the intelligence community is taking to protect the privacy interests of United States persons or persons located inside the United States.

(Pub. L. 113-293, title III, § 309, Dec. 19, 2014, 128 Stat. 3998.)

#### Editorial Notes

##### CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 2015, and not as part of the Foreign Intelligence Surveillance Act of 1978 which comprises this chapter.