

104TH CONGRESS
2D SESSION

H. R. 3409

To combat domestic terrorism.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 1996

Mr. SCHUMER (for himself and Mr. CONYERS) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To combat domestic terrorism.

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 “Effective Antiterrorism
5 Tools for Law Enforcement Act of 1996”.

6 **SEC. 2. PEN REGISTERS AND TRAP AND TRACE DEVICES IN**

7 **FOREIGN COUNTERINTELLIGENCE AND**
8 **COUNTERTERRORISM INVESTIGATIONS.**

9 (a) IN GENERAL.—Chapter 206, title 18, United
10 States Code, is amended—

11 (1) by redesignating section 3127 as section
12 3128; and

1 (2) by inserting after section 3126 the follow-
2 ing:

3 **“§ 3127. Pen register or a trap and trace device in**
4 **foreign counterintelligence and counter-**
5 **terrorism investigations**

6 “(a) Notwithstanding any other law, this chapter
7 shall be applicable to foreign counterintelligence and inter-
8 national terrorism investigations conducted by the Federal
9 Bureau of Investigation.

10 “(b) An application under this section for an order
11 or an extension of an order under section 3123 of this
12 title shall include—

13 “(1) the identity of the attorney for the Govern-
14 ment and the fact that the investigation is being
15 conducted by the Federal Bureau of Investigation;
16 and

17 “(2) a certification by the applicant that the in-
18 formation likely to be obtained is relevant to an on-
19 going foreign counterintelligence or international ter-
20 rorism investigation being conducted by the Federal
21 Bureau of Investigation.

22 “(c) All applications and orders under this section
23 shall be maintained by the Federal Bureau of Investiga-
24 tion.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 206 is amended—

3 (1) in the item relating to section 3127 by
4 striking “3127” and inserting “3128”; and

5 (2) by adding after the item relating to section
6 3126 the following:

“3127. Pen register or a trap and trace device in foreign counterintelligence and
counterterrorism investigations.”.

7 **SEC. 3. ACCESS TO RECORDS OF COMMON CARRIERS, PUB-**
8 **LIC ACCOMMODATION FACILITIES, PHYSICAL**
9 **STORAGE FACILITIES AND VEHICLE RENTAL**
10 **FACILITIES IN FOREIGN COUNTERINTEL-**
11 **LIGENCE AND COUNTERTERRORISM CASES.**

12 Title 18, United States Code, is amended by inserting
13 after chapter 121 the following:

14 **“CHAPTER 122—ACCESS TO CERTAIN RECORDS**
15 **“§ 2720. Access to records of common carriers, public**
16 **accommodation facilities, physical**
17 **storage facilities and vehicle rental**
18 **facilities in counterintelligence and**
19 **counterterrorism cases**

20 “(a) Any common carrier, public accommodation fa-
21 cility, physical storage facility or vehicle rental facility
22 shall comply with a request for records in its possession
23 made pursuant to this section by the Federal Bureau of
24 Investigation when the Director or designee (whose rank

1 shall be no lower than Assistant Special Agent in Charge)
2 certifies in writing to the common carrier, public accom-
3 modation facility, physical storage facility or vehicle rental
4 facility that such records are sought for foreign counter-
5 intelligence purposes and that there are specific and
6 articulable facts giving reason to believe that the person
7 to whom the records sought pertain, is a foreign power
8 or an agent of a foreign power as defined in section 101
9 of the Foreign Intelligence Surveillance Act (50 U.S.C.
10 1801).

11 “(b) No common carrier, public accommodation facil-
12 ity, physical storage facility or vehicle rental facility or any
13 officer, employee or agent of such common carrier, public
14 accommodation facility, physical storage facility or vehicle
15 rental facility shall disclose to any person, other than
16 those officers, agents or employees of the common carrier,
17 public accommodation facility, physical storage facility or
18 vehicle rental facility necessary to fulfill the requirement
19 to disclose the information to the Federal Bureau of Inves-
20 tigation under this section, that the Federal Bureau of
21 Investigation has sought or obtained the records re-
22 quested.

23 “(c) As used in this chapter—

24 “(1) the term ‘common carrier’ means a loco-
25 motive, a rail carrier, a bus carrying passengers, a

1 water common carrier, an air common carrier, or a
2 private commercial interstate carrier for the delivery
3 of packages and other objects;

4 “(2) the term ‘public accommodation facility’
5 means any inn, hotel, motel or other establishment
6 which provides lodging to transient guests;

7 “(3) the term ‘physical storage facility’ means
8 any business or entity which provides space for the
9 storage of goods or materials, or services related to
10 the storage of goods or materials to the public or
11 any segment thereof; and

12 “(4) the term ‘vehicle rental facility’ means any
13 person or entity which provides vehicles for rent,
14 lease, loan or other similar use, to the public or any
15 segment thereof.”.

16 **SEC. 4. INTEGRITY OF WIRE INTERCEPTION PROCESS.**

17 Section 2515 of title 18, United States Code, is
18 amended by adding at the end the following: “This section
19 shall not apply to the disclosure by the United States in
20 a criminal trial or hearing or before a grand jury of the
21 contents of a wire or oral communication, or evidence de-
22 rived therefrom, unless the violation of this chapter was
23 with respect to an interception under section 2518(7) or
24 involved bad faith by law enforcement.”.

1 **SEC. 5. AUTHORITY FOR WIRETAPS.**

2 Section 2516(1) of title 18, United States Code, is
3 amended—

4 (1) by inserting “section 842 (relating to explo-
5 sives violations)” after “section 224 (bribery in
6 sporting contests)”;

7 (2) by striking “and” at the end of paragraph
8 (n);

9 (3) by striking the period at the end of para-
10 graph (o) and inserting “; and”; and

11 (4) by adding at the end the following:

12 “(p) any other felony under the laws of the
13 United States if the Attorney General, the Deputy
14 Attorney General, or the Assistant Attorney General
15 for the Criminal Division (or an official acting in
16 any such capacity) certifies to the court under seal
17 that there is reason to believe the felony involves or
18 may involve domestic terrorism or international ter-
19 rorism (as those terms are defined in 18 U.S.C.
20 2331).”.

21 **SEC. 6. TEMPORARY EMERGENCY WIRETAP AUTHORITY IN-**
22 **VOLVING TERRORISTIC CRIMES.**

23 (a) **EMERGENCY AUTHORITY.**—Section
24 2518(7)(a)(iii) of title 18, United States Code, is amended
25 by inserting “or domestic terrorism or international ter-

1 rorism (as those terms are defined in section 2331 of this
2 title)” after “organized crime”.

3 (b) DEFINITION OF DOMESTIC TERRORISM.—Section
4 2331 of title 18, United States Code, is amended by in-
5 serting the following after paragraph (4):

6 “(5) the term ‘domestic terrorism’ means any
7 activities that involve violent acts or acts dangerous
8 to human life that are a violation of the criminal
9 laws of the United States or of any State and which
10 appear to be intended to intimidate or coerce a civil-
11 ian population or to influence the policy of a govern-
12 ment by intimidation or coercion; or to affect the
13 conduct of a government by assassination or kidnap-
14 ping.”

15 **SEC. 7. EXPANDED AUTHORITY FOR MULTI-POINT WIRE-**
16 **TAPS.**

17 Section 2518(11) of title 18, United States Code, is
18 amended to read as follows:

19 “(11) The requirements of subsections (1)(b)(ii) and
20 (3)(d) of this section relating to the specification of facili-
21 ties from which or the place where the communication is
22 to be intercepted do not apply if in the case of an applica-
23 tion with respect to the interception of wire, oral or elec-
24 tronic communications—

1 involving biological weapon emergencies. Department of De-
2 fense resources, including civilian personnel and members
3 of the uniformed services, may be used to provide such
4 technical assistance if—

5 “(A) the Secretary of Defense and the Attorney
6 General determine that an emergency situation in-
7 volving biological weapons of mass destruction ex-
8 ists; and

9 “(B) the Secretary of Defense determines that
10 the provision of such assistance will not adversely af-
11 fect the military preparedness of the United States.

12 “(2) As used in this subsection, ‘emergency situation’
13 means a circumstance—

14 “(A) that poses a serious threat to the interests
15 of the United States; and

16 “(B) in which—

17 “(i) enforcement of the law would be seri-
18 ously impaired if the assistance were not pro-
19 vided;

20 “(ii) military technical assistance and ex-
21 pertise is needed to counter the threat posed by
22 the biological agent involved; and

23 “(iii) civilian law enforcement expertise is
24 not available to provide the required technical
25 assistance.

1 “(3) As used in this subsection, ‘technical assistance’
2 means the provision of equipment and technical expertise
3 to law enforcement officials in the investigation of viola-
4 tions of this section, such as technical assistance in con-
5 ducting searches that seek evidence or instrumentalities
6 of violations of this section, technical assistance in taking
7 and collecting evidence related to violations of this section,
8 and technical assistance in disarming and disabling indi-
9 viduals in possession of contraband under this section. It
10 does not include authority to apprehend or arrest.

11 “(4) The Secretary of Defense may require reim-
12 bursement as a condition of assistance under this section.

13 “(5) The Attorney General may delegate the Attorney
14 General’s function under this subsection only to a Deputy,
15 Associate, or Assistant Attorney General.”.

16 (b) USE OF CHEMICAL WEAPONS.—Title 18, United
17 States Code, is amended by inserting after section 2332d
18 the following:

19 **“§ 2332e. Use of chemical weapons**

20 “(a) OFFENSE.—A person who without lawful au-
21 thority uses, or attempts or conspires to use, a chemical
22 weapon—

23 “(1) against a national of the United States
24 while such national is outside of the United States;

1 “(2) against any person within the United
2 States; or

3 “(3) against any property that is owned, leased
4 or used by the United States or by any department
5 or agency of the United States, whether the property
6 is within or outside of the United States,

7 shall be imprisoned for any term of years or for life, and
8 if death results, shall be punished by death or imprisoned
9 for any term of years or for life.

10 “(b) DEFINITION.—For purposes of this section—

11 “(1) the term ‘national of the United States’
12 has the meaning given in section 101(a)(22) of the
13 Immigration and Nationality Act (8 U.S.C.
14 1101(a)(22)); and

15 “(2) the term ‘chemical weapon’ means any
16 weapon that is designed to cause death or serious
17 bodily injury through the release, dissemination, or
18 impact of toxic or poisonous chemicals or their pre-
19 cursors.

20 “(c)(1) MILITARY ASSISTANCE.—Notwithstanding
21 any other provision of law, the Attorney General may re-
22 quest that the Secretary of Defense provide technical as-
23 sistance in support of Department of Justice activities re-
24 lating to the enforcement of this section in situations in-
25 volving chemical weapon emergencies. Department of De-

1 fense resources, including civilian personnel and members
2 of the uniformed services, may be used to provide such
3 technical assistance if—

4 “(A) the Secretary of Defense and the Attorney
5 General determine that an emergency situation in-
6 volving chemical weapons of mass destruction exists;
7 and

8 “(B) the Secretary of Defense determines that
9 the provision of such assistance will not adversely af-
10 fect the military preparedness of the United States.

11 “(2) As used in this section, ‘emergency situation’
12 means a circumstance—

13 “(A) that poses a serious threat to the interests
14 of the United States; and

15 “(B) in which—

16 “(i) enforcement of the law would be seri-
17 ously impaired if the assistance were not pro-
18 vided;

19 “(ii) military technical assistance and ex-
20 pertise is needed to counter the threat posed by
21 the chemical agent involved; and

22 “(iii) civilian law enforcement expertise is
23 not available to provide the required technical
24 assistance.

1 “(3) As used in this section, ‘technical assistance’
2 means the provision of equipment and technical expertise
3 to law enforcement officials in the investigation of viola-
4 tions of this section, such as technical assistance in con-
5 ducting searches that seek evidence or instrumentalities
6 of violations of this section, technical assistance in taking
7 and collecting evidence related to violations of this section,
8 and technical assistance in disarming and disabling indi-
9 viduals in possession of contraband under this section. It
10 does not include authority to apprehend or arrest.

11 “(4) The Secretary of Defense may require reim-
12 bursement as a condition of assistance under this section.

13 “(5) The Attorney General may delegate the Attorney
14 General’s function under this subsection only to a Deputy,
15 Associate, or Assistant Attorney General.”.

16 (c) CLERICAL AMENDMENT.—The table of chapters
17 at the beginning of chapter 113B of title 18, United
18 States Code, is amended by adding after the item relating
19 to section 2332d the following:

“§ 2332e. Use of chemical weapons.”.

20 (d) CLARIFICATION OF LAWFUL AUTHORITY DE-
21 FENSE.—Section 2332a(a) of title 18, United States
22 Code, is amended by striking “A person who” and insert-
23 ing “Whoever, without lawful authority,”.

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