

105TH CONGRESS
1ST SESSION

H. R. 2369

To amend the Communications Act of 1934 to strengthen and clarify prohibitions on electronic eavesdropping, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 1997

Mr. TAUZIN (for himself, Mr. MARKEY, Mr. OXLEY, Mr. GILLMOR, Ms. ESHOO, and Ms. MCCARTHY of Missouri) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend the Communications Act of 1934 to strengthen and clarify prohibitions on electronic eavesdropping, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wireless Privacy En-
5 hancement Act of 1997”.

6 **SEC. 2. COMMERCE IN ELECTRONIC EAVESDROPPING**
7 **DEVICES.**

8 (a) **PROHIBITION ON MODIFICATION.**—Section
9 302(b) of the Communications Act of 1934 (47 U.S.C.

1 302(b)) is amended by inserting before the period at the
2 end thereof the following: “, or to modify any such device,
3 equipment, or system in any manner that causes such de-
4 vice, equipment, or system to fail to comply with such reg-
5 ulations”.

6 (b) PROHIBITION ON COMMERCE IN SCANNING RE-
7 CEIVERS.—Section 302(d) of such Act (47 U.S.C. 302(d))
8 is amended to read as follows:

9 “(d) The Commission shall prescribe regulations de-
10 nying equipment authorization (under part 15 of title 47,
11 Code of Federal Regulations, or any other part of that
12 title) for any scanning receiver that is capable of—

13 “(1) receiving transmissions in the frequencies
14 allocated to any commercial mobile service (as de-
15 fined in section 332(d),

16 “(2) readily being altered to receive trans-
17 missions in such frequencies,

18 “(3) being equipped with decoders that convert
19 digital commercial mobile service transmissions to
20 analog voice audio, or

21 “(4) being equipped with devices that otherwise
22 decode encrypted radio transmissions for the pur-
23 poses of unauthorized interception.”.

24 (c) IMPLEMENTING REGULATIONS.—Within 90 days
25 after the date of enactment of this Act, the Federal Com-

1 munications Commission shall prescribe amendments to
2 its regulations for the purposes of implementing the
3 amendments made by this section. In prescribing such
4 amendments, and in response to subsequent changes in
5 technology or behavior, the Commission shall review and
6 revise its definition of the term “capable of readily being
7 altered” as necessary to prevent commerce in devices that
8 may be used unlawfully to intercept or divulge radio com-
9 munication.

10 **SEC. 3. UNAUTHORIZED INTERCEPTION OR PUBLICATION**
11 **OF COMMUNICATIONS.**

12 (a) AMENDMENTS.—Section 705 of the Communica-
13 tions Act of 1934 (47 U.S.C. 605) is amended—

14 (1) in the heading of such section, by inserting
15 **“INTERCEPTION OR”** after **“UNAUTHORIZED”**;

16 (2) in the second sentence of subsection (a), by
17 striking “and divulge” and inserting “or divulge”;

18 (3) in subsection (e)(1)—

19 (A) by striking “fined not more than
20 \$2,000 or”; and

21 (B) by inserting “or fined under title 18,
22 United States Code,” after “6 months,”; and

23 (4) in subsection (e)(3), by striking “any viola-
24 tion” and inserting “any receipt, interception, divul-

1 gence, publication, or utilization of any communica-
2 tion in violation”; and

3 (5) in subsection (e)(4), by striking “any other
4 activity prohibited by subsection (a)” and inserting
5 “any receipt, interception, divulgence, publication, or
6 utilization of any communication in violation of sub-
7 section (a)”.

8 (b) **RESPONSIBILITY FOR ENFORCEMENT.**—Notwith-
9 standing any other investigative or enforcement activities
10 of any other Federal agency, the Federal Communications
11 Commission shall investigate alleged violations of section
12 705 of the Communications Act of 1934 (47 U.S.C. 605)
13 and may proceed to initiate action under section 503 of
14 such Act (47 U.S.C. 503) to impose forfeiture penalties
15 with respect to such violation upon conclusion of the Com-
16 mission’s investigation.

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