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(Original Signature of Member)

107TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

M. introduced the following bill; which was referred to the Committee on

A BILL

To amend title 18, United States Code, with respect to the interception of communications, 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 “Public Safety and
5 Cyber Security Enhancement Act of 2001”.



1 **SEC. 2. INTERCEPTION OF COMMUNICATIONS.**

2 (a) DEFINITIONS.—Section 2510(18) of title 18,
3 United States Code, is amended—

4 (1) by striking the period and inserting a semi-
5 colon; and

6 (2) by adding at the end the following:

7 “(19) ‘protected computer’ has the meaning set
8 forth in section 1030 of this title; and

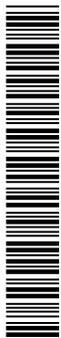
9 “(20) ‘computer trespasser’ means a person
10 who is accessing a protected computer without au-
11 thorization and thus has no reasonable expectation
12 of privacy in any communication transmitted to,
13 through, or from the protected computer.”.

14 (b) EXCEPTIONS TO PROHIBITIONS.—

15 (1) ADDITIONAL EXCEPTION.—Section
16 2511(2)(a) of title 18, United States Code, is
17 amended by adding at the end the following:

18 “(iii) It shall not be unlawful under this chapter for
19 a person acting under color of law to intercept the wire
20 or electronic communications of a computer trespasser,
21 provided that—

22 “(A) the owner or operator of the protected
23 computer expressly authorizes the interception of the
24 computer trespasser’s communications on the pro-
25 tected computer;



1 “(B) the person acting under color of law is
2 lawfully engaged in an ongoing investigation;

3 “(C) the person acting under color of law has
4 reasonable grounds to believe that the contents of
5 the computer trespasser’s communications will be
6 relevant to the ongoing investigation; and

7 “(D) such interception does not acquire com-
8 munications other than those transmitted to or from
9 the computer trespasser.”.

10 (2) FOREIGN INTELLIGENCE EXCEPTION.—Sec-
11 tion 2511(2)(f) of title 18, United States Code, is
12 amended—

13 (A) by striking “this chapter or chapter
14 121” and inserting “this chapter, chapter 121,
15 or chapter 206”; and

16 (B) by striking “wire and oral” and insert-
17 ing “wire, oral, and electronic”.

18 (3) RELATION TO OTHER LAW.—Section
19 2511(2) of title 18, United States Code, is amended
20 by adding at the end the following:

21 “(i) Nothing in section 631 of the Communications
22 Act of 1934 (47 U.S.C. 551) shall be construed to restrict
23 voluntary or obligatory disclosures of information under
24 this chapter, chapter 121, or chapter 206, except that



1 such disclosures shall not reveal customer cable television
2 viewing activity.”.

3 **SEC. 3. PEN REGISTERS AND TRAP AND TRACE DEVICES.**

4 (a) PROHIBITION.—Section 3121(c) of title 18,
5 United States Code, is amended—

6 (1) by inserting “or trap and trace device”
7 after “use a pen register”;

8 (2) by inserting “, routing, addressing,” after
9 “to the dialing”; and

10 (3) by striking “utilized in call processing.” and
11 inserting “utilized in the processing and transmit-
12 ting of wire and electronic communications.”.

13 (b) ISSUANCE OF ORDER.—

14 (1) Section 3123(a) of title 18, United States
15 Code, is amended to read as follows:

16 “(a) IN GENERAL.—

17 “(1) Upon an application made under section
18 3122(a)(1) of this title, the court shall enter an ex
19 parte order authorizing the installation and use of a
20 pen register or a trap and trace device if the court
21 finds that the attorney for the Government has cer-
22 tified to the court that the information likely to be
23 obtained by such installation and use is relevant to
24 an ongoing criminal investigation. Such order shall,
25 upon service of such order, apply to any entity pro-



1 viding wire or electronic communication service in
2 the United States whose assistance may facilitate
3 the execution of the order.

4 “(2) Upon an application made under section
5 3122(a)(2) of this title, the court shall enter an ex
6 parte order authorizing the installation and use of a
7 pen register or a trap and trace device within the ju-
8 risdiction of the court if the court finds that the
9 State law enforcement or investigative officer has
10 certified to the court that the information likely to
11 be obtained by such installation and use is relevant
12 to an ongoing criminal investigation.”.

13 (2) Section 3123(b)(1) of title 18, United
14 States Code, is amended—

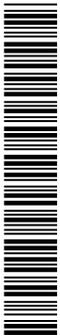
15 (A) in subparagraph (A)—

16 (i) by inserting “or other facility”
17 after “telephone line”; and

18 (ii) by inserting “or applied” before
19 the semicolon; and

20 (B) in subparagraph (C)—

21 (i) by striking “the number and,” and
22 inserting “the attributes of the commu-
23 nications to which the order applies, such
24 as the number or other identifier and,”;



1 (ii) by striking “physical” after “, if
2 known,”;

3 (iii) by inserting “or other facility”
4 after “the telephone line”;

5 (iv) by inserting “or applied” after
6 “device is to be attached”; and

7 (v) by striking “and, in the case of a
8 trap and trace device,” and inserting “,
9 and in the case of a trap and trace device
10 authorized under paragraph (a)(2) of this
11 section,”.

12 (3) Section 3123(d)(2) of title 18, United
13 States Code, is amended—

14 (A) by inserting “or other facility” after
15 “or leasing the line”; and

16 (B) by striking “attached, or who has been
17 ordered by the court” and inserting “attached
18 or applied, or who is obligated by the order”.

19 (c) EMERGENCY PEN REGISTERS AND TRAP AND
20 TRACE DEVICES.—Section 3125(a) of title 18, United
21 States Code, is amended—

22 (1) by inserting “any United States Attorney,
23 or any acting United States Attorney,” after “Dep-
24 uty Assistant Attorney General,”; and

25 (2) in paragraph (1)—



1 (A) in subparagraph (B), by striking the
2 comma and inserting a semicolon; and

3 (B) inserting after subparagraph (B) the
4 following:

5 “(C) immediate threat to a national secu-
6 rity interest; or

7 “(D) an ongoing attack on a protected
8 computer that constitutes a crime punishable by
9 a term of imprisonment greater than one
10 year.”.

11 (d) DEFINITIONS.—

12 (1) Section 3127(2)(A) of title 18, United
13 States Code, is amended to read as follows:

14 “(A) any district court of the United State
15 (including a magistrate judge of such a court)
16 or United States Court of Appeals having juris-
17 diction over the offense being investigated; or”.

18 (2) Section 3127(3) of title 18, United States
19 Code, is amended to read as follows:

20 “(3) the term ‘pen register’ means a device or
21 process which records or decodes dialing, routing,
22 addressing, and signaling information transmitted
23 by an instrument or facility from which a wire or
24 electronic communication is transmitted, but such
25 term does not include any device or process used by



1 a provider or customer of a wire or electronic com-
2 munication service for billing, or recording as an in-
3 cident to billing, for communications services pro-
4 vided by such provider or any device or process used
5 by a provider or customer of a wire communication
6 service for cost accounting or other like purposes in
7 the ordinary course of its business;”.

8 (3) Section 3127(4) of title 18, United States Code,
9 is amended—

10 (A) by inserting “or process” after “means a
11 device”; and

12 (B) by striking “of an instrument or device”
13 and all that follows through the semicolon and in-
14 sserting “or other dialing, routing, addressing, and
15 signaling information relevant to identifying the
16 source or a wire or electronic communication;”.

17 (4) Section 3127 of title 18, United States Code, is
18 amended—

19 (A) by striking the period in paragraph (6) and
20 inserting “; and”; and

21 (B) by adding at the end the following:

22 “(7) the term ‘protected computer’ has the
23 meaning set forth in section 1030 of this title.”.

