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”.

(Original Signature of Member)
SEC. 2. INTERCEPTION OF COMMUNICATIONS.

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

(1) by striking the period and inserting a semicolon; and

(2) by adding at the end the following:

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

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

(b) EXCEPTIONS TO PROHIBITIONS.—

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

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

“(A) the owner or operator of the protected computer expressly authorizes the interception of the computer trespasser’s communications on the protected computer;
“(B) the person acting under color of law is lawfully engaged in an ongoing investigation;

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

“(D) such interception does not acquire communications other than those transmitted to or from the computer trespasser.”.

(2) FOREIGN INTELLIGENCE EXCEPTION.—Section 2511(2)(f) of title 18, United States Code, is amended—

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

(B) by striking “wire and oral” and inserting “wire, oral, and electronic”.

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

“(i) Nothing in section 631 of the Communications Act of 1934 (47 U.S.C. 551) shall be construed to restrict voluntary or obligatory disclosures of information under this chapter, chapter 121, or chapter 206, except that
such disclosures shall not reveal customer cable television viewing activity.”.

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

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

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

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

(3) by striking “utilized in call processing.” and inserting “utilized in the processing and transmitting of wire and electronic communications.”.

(b) ISSUANCE OF ORDER.—

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

“(a) IN GENERAL.—

“(1) Upon an application made under section 3122(a)(1) of this title, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device if the court finds that the attorney for the Government has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation. Such order shall, upon service of such order, apply to any entity pro-
viding wire or electronic communication service in
the United States whose assistance may facilitate
the execution of the order.

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

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

(A) in subparagraph (A)—

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

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

(B) in subparagraph (C)—

(i) by striking “the number and,” and
inserting “the attributes of the commu-
ications to which the order applies, such
as the number or other identifier and,”;
(ii) by striking “physical” after “, if known,”;

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

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

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

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

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

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

(c) Emergency Pen Registers and Trap and Trace Devices.—Section 3125(a) of title 18, United States Code, is amended—

(1) by inserting “any United States Attorney, or any acting United States Attorney,” after “Deputy Assistant Attorney General,”; and

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

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

“(C) immediate threat to a national security interest; or

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

(d) DEFINITIONS.—

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

“(A) any district court of the United States (including a magistrate judge of such a court) or United States Court of Appeals having jurisdiction over the offense being investigated; or”.

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

“(3) the term ‘pen register’ means a device or process which records or decodes dialing, routing, addressing, and signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted, but such term does not include any device or process used by
a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device or process used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business;”.

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

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

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

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

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

(B) by adding at the end the following:

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