

115TH CONGRESS  
1ST SESSION

# H. R. 3341

To amend title 18, United States Code, to regulate the use of cell-site simulators, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2017

Mr. FARENTHOLD introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to regulate the use of cell-site simulators, 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 “Cell Location Privacy  
5       Act of 2017”.

6       **SEC. 2. PROHIBITION ON CELL-SITE SIMULATOR USE.**

7       (a) IN GENERAL.—Chapter 205 of title 18, United  
8       States Code, is amended by adding at the end the fol-  
9       lowing:

1 **“§ 3119. Cell-site simulators**

2 “(a) PROHIBITION OF USE.—Except as provided in  
3 subsection (d), anyone who knowingly uses a cell-site sim-  
4 ulator shall be punished as provided in subsection (b).

5 “(b) PENALTY.—The punishment for an offense  
6 under subsection (a) is a fine under this title or imprison-  
7 ment for not more than 10 years, or both.

8 “(c) PROHIBITION OF USE AS EVIDENCE.—No infor-  
9 mation acquired through the use of a cell-site simulator  
10 in violation of subsection (a), and no evidence derived  
11 therefrom, may be received in evidence in any trial, hear-  
12 ing, or other proceeding in or before any court, grand jury,  
13 department, officer, agency, regulatory body, legislative  
14 committee, or other authority of the United States, a  
15 State, or a political subdivision thereof.

16 “(d) EXCEPTIONS.—Subsection (a) does not apply to  
17 the following:

18 “(1) WARRANT.—Use of a cell-site simulator by  
19 a governmental entity under a warrant issued under  
20 the procedures described in the Federal Rules of  
21 Criminal Procedure (or, in the case of a State court,  
22 issued under State warrant procedures) by a court  
23 of competent jurisdiction.

24 “(2) FOREIGN INTELLIGENCE SURVEIL-  
25 LANCE.—Use of a cell-site simulator by a govern-  
26 mental entity to conduct electronic surveillance

1 under the Foreign Intelligence Service Act of 1978  
2 (50 U.S.C. 1801 et seq.).

3 “(3) EMERGENCY.—Subject to subsection (e),  
4 use of a cell-site simulator by a governmental entity,  
5 if—

6 “(A) such governmental entity reasonably  
7 determines an emergency exists that—

8 “(i) involves—

9 “(I) immediate danger of death  
10 or serious physical injury to any per-  
11 son;

12 “(II) conspiratorial activities  
13 threatening the national security in-  
14 terest; or

15 “(III) conspiratorial activities  
16 characteristic of organized crime; and

17 “(ii) requires use of a cell-site simu-  
18 lator before a warrant can, with due dili-  
19 gence, be obtained;

20 “(B) there are grounds upon which a war-  
21 rant could be entered to authorize such use;  
22 and

23 “(C) such governmental entity applies for  
24 a warrant approving such use not later than 48  
25 hours after such use begins.

1 “(e) TERMINATION OF EMERGENCY USE.—

2 “(1) IN GENERAL.—A governmental entity shall  
3 immediately terminate use of a cell-site simulator  
4 under subsection (d)(3) when the information sought  
5 is obtained or when the application for a warrant is  
6 denied, whichever is earlier.

7 “(2) PROHIBITION ON USE AS EVIDENCE.—If  
8 an application for a warrant under subsection (d)(3)  
9 is denied, any information or evidence derived from  
10 use of the cell-site simulator shall be subject to sub-  
11 section (c) and an inventory shall be served on each  
12 person named in the application.

13 “(f) DEFINITIONS.—As used in this section—

14 “(1) the terms defined in section 2711 have, re-  
15 spectively, the definitions given such terms in that  
16 section; and

17 “(2) the term ‘cell-site simulator’ means any  
18 device that simulates facilities for the provision of  
19 electronic communication service.”.

20 (b) CONFORMING AMENDMENTS.—Section 3127 of  
21 title 18, United States Code, is amended—

22 (1) in paragraph (3) by striking “but such term  
23 does not include any” and inserting “except such  
24 term does not include any cell-site simulator, as that  
25 term is defined in section 3119, or”; and

1           (2) in paragraph (4) by striking “of any com-  
2           munication” and inserting “of any communication,  
3           except such term does not include any cell-site simu-  
4           lator, as that term is defined in section 3119”.

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