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[Report No. 111-79]

To amend the Communications Act of 1934 to permit targeted interference with mobile radio services within prison facilities.

IN THE SENATE OF THE UNITED STATES

JANUARY 15, 2009

Mrs. HUTCHISON (for herself, Mr. DEMINT, Mr. VITTER, Mr. WICKER, Mr. THUNE, Mr. COCHRAN, Ms. MIKULSKI, Mr. LIEBERMAN, Mr. BEGICH, Ms. KLOBUCHAR, Mrs. FEINSTEIN, Mr. CORNYN, Mr. PRYOR, and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER 24, 2009

Reported by Mr. ROCKEFELLER, with an amendment

[Strike all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Communications Act of 1934 to permit targeted interference with mobile radio services within prison facilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Safe Prisons Commu-
3 nications Act of 2009”.

4 **SEC. 2. INTERFERENCE PERMITTED WITHIN PRISONS.**

5 Section 333 of the Communications Act of 1934 (47
6 U.S.C. 333) is amended—

7 (1) by inserting “(a) IN GENERAL.—” before
8 “No person”; and

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

10 “(b) EXCEPTION FOR PRISONS.—

11 “(1) Waiver.—

12 “(A) IN GENERAL.—The Director of the
13 Federal Bureau of Prisons or the chief execu-
14 tive officer of a State (or his or her designee)
15 may, by petition, request that the Commission
16 grant a waiver of subsection (a) to permit the
17 installation of devices for the sole purpose of
18 preventing, jamming, or interfering with wire-
19 less communications within the geographic
20 boundaries of a specified prison, penitentiary,
21 or correctional facility under his or her jurisdic-
22 tion.

23 “(B) TERM.—A waiver granted under this
24 subsection shall be for a term not to exceed 10
25 years, but shall be renewable by petition.

1 “(C) FEE.—The Commission may not
2 charge a filing fee for a petition under this
3 paragraph.

4 “(2) NOTIFICATION; DATABASE.—

5 “(A) NOTIFICATION OF CARRIERS.—Upon
6 receipt of a petition under paragraph (1), the
7 Commission shall provide a copy of the petition
8 to each commercial mobile service provider serv-
9 ing the area that includes the prison, peniten-
10 tiary, or correctional facility to which the peti-
11 tion applies.

12 “(B) DATABASE.—The Commission shall
13 maintain an electronic database containing a
14 copy of each such petition received by it and the
15 disposition thereof. The Commission shall up-
16 date the database at least monthly and shall
17 make the database publicly available on the
18 Commission’s Internet website and publish a
19 copy of the database in the Federal Register at
20 least quarterly.

21 “(3) DISPOSITION OF PETITION.—In deter-
22 mining whether to grant a requested waiver, the
23 Commission shall consider, among other factors,
24 whether the grant of the waiver would interfere with
25 emergency or public safety communications. The

1 Commission shall act on a request under this sub-
 2 section within 60 calendar days after the date on
 3 which the Commission receives the petition.

4 “(4) TRANSFER PROHIBITED.—A prison, peni-
 5 tentiary, or correctional facility that receives a waiv-
 6 er pursuant to this subsection may not transfer the
 7 ownership or right to use any device authorized pur-
 8 suant to the waiver to any third party for use out-
 9 side the area of the prison, penitentiary, or correc-
 10 tional facility for which the waiver was granted.

11 “(5) LIMITATIONS ON USE.—Within 1 year
 12 after the date of enactment of the Safe Prisons
 13 Communications Act of 2009, the Commission shall
 14 adopt final regulations governing the use of devices
 15 authorized by a waiver under this subsection that, at
 16 a minimum, require that the prison, penitentiary, or
 17 correctional facility—

18 “(A) utilize a device—

19 “(i) authorized by the Commission;

20 and

21 “(ii) specifically approved by the Com-
 22 mission for the purpose described in para-
 23 graph (1);

24 “(B) operate the device at the lowest pos-
 25 sible transmission power necessary to prevent,

1 jam, or interfere with wireless communications
2 by inmates; and

3 “(C) operate the device in a manner that
4 does not interfere with wireless communications
5 that originate and terminate outside the area of
6 the prison, penitentiary, or correctional facility,
7 by operating the device on a directionalized
8 basis, by utilizing all other interference-limiting
9 capabilities available to the device, or otherwise.

10 “(6) SUSPENSION; REVOCATION.—

11 “(A) TERMINATION OR SUSPENSION OF
12 WAIVER.—

13 “(i) NOTICE FROM PROVIDER.—The
14 Commission shall suspend a waiver grant-
15 ed under this subsection with respect to a
16 prison, penitentiary, or correctional facility
17 upon receiving written notice from a com-
18 mercial mobile service provider, supported
19 by affidavit and such documentation as the
20 Commission may require, stating that use
21 of a device by or at such prison, peniten-
22 tiary, or correctional facility is interfering
23 with commercial mobile service provided by
24 that provider or is otherwise preventing or
25 jamming such communications (other than

1 within the confines of such prison, peniten-
2 tiary, or correctional facility). Within 90
3 days after receiving such a notice and doc-
4 umentation, the Commission shall conclude
5 an investigation to determine whether the
6 device authorized for use at the prison,
7 penitentiary, or correctional facility is
8 causing such interference and shall issue
9 an order reinstating, modifying, or termi-
10 nating the waiver based on its findings and
11 conclusions.

12 “(ii) NONCOMPLIANT USAGE.—If the
13 Commission has reason to believe that a
14 prison, penitentiary, or correctional facility
15 for which a waiver has been granted under
16 this subsection is not in compliance with
17 the regulations under this subsection, the
18 Commission shall suspend the waiver until
19 it can make a determination with respect
20 to such compliance after notice and an op-
21 portunity for a hearing.

22 “(B) REVOCATION.—The Commission may
23 revoke a waiver under this section for willful or
24 repeated violations, or failure to observe the re-
25 quirements, of the waiver or the regulations

1 promulgated by the Commission under this sub-
 2 section:

3 “(C) INTERIM USAGE.—If the Commission
 4 initiates a suspension or a revocation pro-
 5 ceeding under this paragraph, it may prohibit
 6 use of the device to which the waiver relates at
 7 the prison, penitentiary, or correctional facility
 8 for which the waiver was granted during the
 9 pendency of any such proceeding.”

10 **SEC. 3. DEVICE CERTIFICATION CRITERIA RULEMAKING.**

11 (a) IN GENERAL.—Not later than 180 days after the
 12 date of enactment of this Act, the Federal Communica-
 13 tions Commission shall adopt a final rule establishing cri-
 14 teria for certification for the manufacture, sale, importa-
 15 tion, and interstate shipment of devices that may be used
 16 pursuant to a waiver under section 333(b) of the Commu-
 17 nications Act of 1934 (47 U.S.C. 333(b)), notwithstanding
 18 section 302 of such Act (47 U.S.C. 302a). The regulations
 19 shall require, at a minimum, that any such device—

20 (1) operate at the lowest technically feasible
 21 transmission power that will permit prison, peniten-
 22 tiary, or correctional staff to prevent, jam, or inter-
 23 fere with wireless communications within the geo-
 24 graphic boundaries of a specified prison, peniten-
 25 tiary, or correctional facility;

1 *ize the supervisory authority of a correctional facility to*
 2 *operate a jamming system within the correctional facility*
 3 *to prevent, jam, or otherwise interfere with unauthorized*
 4 *wireless communications within the facility by individuals*
 5 *held in the facility. In order to obtain such authority, a*
 6 *supervisory authority shall file a notice of intent under sub-*
 7 *section (b), file a petition for such authority under sub-*
 8 *section (c), and comply with the requirements of this section*
 9 *and the regulations under this section.*

10 “(b) *NOTICE OF INTENT PROCEDURE.*—

11 “(1) *FILING WITH THE COMMISSION.*—*Not less*
 12 *than 30 days before filing a petition for authority to*
 13 *operate a jamming system under subsection (c), a cor-*
 14 *rectional facility supervisory authority shall file with*
 15 *the Commission a notice of intent to seek such author-*
 16 *ity. The notice shall identify the correctional facility*
 17 *to which the authority will relate and be in such*
 18 *form, and contain such information, as the Commis-*
 19 *sion may require.*

20 “(2) *NOTIFICATION OF PUBLIC SAFETY AGENCIES*
 21 *AND COMMERCIAL MOBILE SERVICE PROVIDERS.*—
 22 *Within 10 days after receiving a notice under para-*
 23 *graph (1), the Commission shall—*

24 “(A) *notify in writing each public safety*
 25 *agency and each commercial mobile service pro-*

1 *vider serving the area in which the correctional*
2 *facility to which the notice of intent relates is lo-*
3 *cated; and*

4 *“(B) provide the name and address of each*
5 *such agency and provider so notified by the*
6 *Commission to the supervisory authority that*
7 *filed the notice of intent.*

8 *“(3) CONSULTATION AND ACCESS.—Before filing*
9 *a petition for jamming authority under this section,*
10 *a supervisory authority—*

11 *“(A) shall consult with the public safety*
12 *agencies and commercial mobile service providers*
13 *identified by the Commission under paragraph*
14 *(2)(B), if such consultation is requested, to deter-*
15 *mine—*

16 *“(i) the types of equipment used by*
17 *those agencies and providers in the area in*
18 *which the correctional facility is located;*

19 *“(ii) the locations of towers and facili-*
20 *ties containing wireless transmission equip-*
21 *ment belonging to those agencies and pro-*
22 *viders in that area, to the extent those agen-*
23 *cies and providers voluntarily provide such*
24 *information; and*

1 “(iii) the frequencies used by those
2 agencies and providers in that area;

3 “(B) shall provide access, upon request and
4 in the discretion of the supervisory authority, by
5 those agencies and providers to the outer perim-
6 eter of the correctional facility for the purpose of
7 taking measurements and conducting testing to
8 determine signal strength and the potential for
9 interference with their transmissions or service;
10 and

11 “(C) may solicit recommendations from
12 those agencies and providers on the selection, in-
13 stallation, and configuration of a jamming sys-
14 tem and jamming devices.

15 “(4) *EXTENSION OF CONSULTATION PERIOD.*—
16 Upon good cause shown, the Commission may require
17 a supervisory authority that has filed a notice of in-
18 tent under this subsection to provide an additional
19 period of up to 15 days for the activities described in
20 paragraph (3) before submitting a petition for jam-
21 ming authority to the Commission.

22 “(c) *PETITION PROCEDURE.*—

23 “(1) *IN GENERAL.*—After completing the con-
24 sultation process provided under subsection (b)(3) (if
25 such consultation was requested), a supervisory au-

1 *thority may file a petition with the Commission re-*
2 *questing authority to install and operate a jamming*
3 *system within a correctional facility under the super-*
4 *visory authority's jurisdiction.*

5 *“(2) FEE.—The Commission may not charge a*
6 *filing fee for a petition under this section.*

7 *“(3) NOTIFICATION OF PUBLIC SAFETY AGENCIES*
8 *AND COMMERCIAL MOBILE SERVICE PROVIDERS.—*

9 *“(A) PUBLIC SAFETY AGENCIES.—Upon re-*
10 *ceipt of a petition under paragraph (1), the*
11 *Commission shall provide a copy of the petition*
12 *to each public safety agency serving the area that*
13 *includes the correctional facility to which the pe-*
14 *tion applies.*

15 *“(B) CMS PROVIDERS.—Upon receipt of a*
16 *petition under paragraph (1), the Commission*
17 *shall provide a copy of the petition to each com-*
18 *mercial mobile service provider serving the area*
19 *that includes the correctional facility to which*
20 *the petition applies.*

21 *“(C) CONTENT OF NOTICE.—The notice*
22 *shall include a detailed description of the jam-*
23 *ming system and a list of all jamming devices,*
24 *including make and model, that the supervisory*

1 *authority proposes to use at the correctional fa-*
2 *cility.*

3 “(4) *DISPOSITION OF PETITION.*—

4 “(A) *In general.*—*After the Commission has*
5 *promulgated final regulations under sections 3*
6 *and 4 of the Safe Prisons Communications Act*
7 *of 2009, the Commission shall act on a petition*
8 *under this subsection within 60 days after the*
9 *date on which the Commission receives a com-*
10 *plete petition.*

11 “(B) *DETERMINATION CONSIDERATIONS.*—
12 *In determining whether to grant requested jam-*
13 *ming authority, the Commission—*

14 “(i) *shall consider, among other factors*
15 *it deems appropriate, whether the proposed*
16 *jamming system would interfere with emer-*
17 *gency or public safety agency communica-*
18 *tions and the extent to which the proposed*
19 *jamming system may cause harmful inter-*
20 *ference to commercial mobile service com-*
21 *munications outside the boundaries of the*
22 *correctional facility;*

23 “(ii) *shall consider whether the facility*
24 *in question is located in an urban area (as*

1 *defined by the Commission for purposes of*
2 *this subsection); and*

3 *“(iii) shall address the potential inter-*
4 *ference with public safety agency commu-*
5 *nications and commercial mobile service (as*
6 *defined in section 332(d)(1)) in such area.*

7 *“(C) PUBLIC COMMENT.—Before making a*
8 *determination under this paragraph, the Com-*
9 *mission shall allow interested parties to submit*
10 *evidence for the record regarding the interference*
11 *potential of the jamming system a supervisory*
12 *authority proposes to use at the correctional fa-*
13 *cility.*

14 *“(5) POST-PETITION COORDINATION.—*

15 *“(A) FCC NOTIFICATION.—When the Com-*
16 *mission approves a petition under this section,*
17 *the Commission shall notify each public safety*
18 *agency or commercial mobile service provider*
19 *servicing the area in which the correctional facil-*
20 *ity to which the petition relates is located.*

21 *“(B) COORDINATION REQUEST.—When any*
22 *such agency or provider is notified by the Com-*
23 *mission under subparagraph (A), it shall imme-*
24 *diately notify the supervisory authority of the*
25 *correctional facility if it intends to participate*

1 *in the coordination under subparagraph (C) or*
2 *the examination under subparagraph (D).*

3 “(C) *INSTALLATION AND CONFIGURATION.*—
4 *During the 30-day period beginning on the date*
5 *on which the Commission approves a petition,*
6 *the correctional facility supervising authority*
7 *that filed the petition shall, upon request, coordi-*
8 *nate the installation and configuration of the*
9 *jamming system authorized by the Commission*
10 *with any public safety agency or commercial*
11 *mobile service provider serving the area in which*
12 *the correctional facility is located.*

13 “(D) *INSPECTION.*—*Except as provided in*
14 *subparagraph (E), before commencing the oper-*
15 *ation of a jamming system authorized by the*
16 *Commission, the correctional facility supervisory*
17 *authority that filed the petition shall, upon re-*
18 *quest, provide access to the correctional facility*
19 *to any such public safety agency or commercial*
20 *mobile service provider for the purpose of exam-*
21 *ining the installation or configuration of the*
22 *jamming system and jamming devices.*

23 “(E) *COMMENCEMENT OF OPERATIONS.*—
24 *Unless otherwise directed by the Commission, a*
25 *correctional facility supervisory authority au-*

1 *thorized by the Commission to operate a jam-*
2 *ming system may commence operation of the sys-*
3 *tem 30 days after the date on which the Commis-*
4 *sion approves the petition filed by that author-*
5 *ity.*

6 “(d) *TERMS OF AUTHORIZATION.*—

7 “(1) *TERM.*—*If the Commission grants a peti-*
8 *tion under this section, the authority granted pursu-*
9 *ant to that petition shall be in effect for a term speci-*
10 *fied by the Commission of not more than 5 years, but*
11 *shall be renewable by petition.*

12 “(2) *TERMINATION OR SUSPENSION OF AUTHOR-*
13 *ITY.*—

14 “(A) *NOTICE FROM PROVIDER.*—*The Com-*
15 *mission shall immediately suspend authorization*
16 *granted under this section with respect to a cor-*
17 *rectional facility upon receiving written notice*
18 *from a commercial mobile service provider, sup-*
19 *ported by affidavit and such documentation as*
20 *the Commission may require, stating that use of*
21 *a jamming device by or at such correctional fa-*
22 *ility is interfering with commercial mobile serv-*
23 *ice, or is otherwise preventing or jamming such*
24 *communications (other than within the correc-*
25 *tional facility).*

1 “(B) *BASIS FOR NOTICE.*—*In establishing*
2 *the requirements for the affidavit in subpara-*
3 *graph (A) and the necessary supporting docu-*
4 *mentation, the Commission shall require, at a*
5 *minimum, that the commercial mobile service*
6 *provider perform actual testing and measure-*
7 *ments in the area near the correctional facility*
8 *and submit the results to the Commission. Notice*
9 *pursuant to subparagraph (A) may not be predi-*
10 *cated exclusively on customer complaints or trou-*
11 *ble reports unsupported by relevant technical*
12 *analysis suggesting interference.*

13 “(C) *NOTICE FROM PUBLIC SAFETY LI-*
14 *CENSEE.*—*The Commission shall immediately*
15 *suspend an authorization granted under this sec-*
16 *tion with respect to a correctional facility upon*
17 *receiving written notice from a public safety*
18 *agency, supported by affidavit and such docu-*
19 *mentation as the Commission may require, stat-*
20 *ing that use of a device by or at such correc-*
21 *tional facility is interfering with public safety*
22 *agency communications systems or otherwise*
23 *preventing or jamming communications on that*
24 *system, and describing the nature of the inter-*
25 *ference.*

1 “(D) *DEADLINE FOR ACTION ON NOTICE.*—
2 *Within 90 days after receiving notice under sub-*
3 *paragraph (A) or subparagraph (C), the Com-*
4 *mission shall conclude an investigation to deter-*
5 *mine whether the jamming device authorized for*
6 *use at the correctional facility is causing such*
7 *interference and, based on its findings and con-*
8 *clusions, may issue an order reinstating, modi-*
9 *fying, or terminating the authorization.*

10 “(E) *NONCOMPLIANT USAGE.*—*If the Com-*
11 *mission has reason to believe that a correctional*
12 *facility for which an authorization has been*
13 *granted under this section is not in compliance*
14 *with the regulations under this section, the Com-*
15 *mission shall immediately suspend the author-*
16 *ization until it can make a determination with*
17 *respect to such compliance after notice and an*
18 *opportunity for a hearing.*

19 “(3) *REVOCAION.*—*The Commission may revoke*
20 *an authorization under this section for willful or re-*
21 *peated violations, or failure to observe the require-*
22 *ments, of the terms of the authorization or the regula-*
23 *tions promulgated by the Commission under this sec-*
24 *tion.*

1 “(4) *INTERIM USAGE.*—*If the Commission initi-*
2 *ates a suspension or a revocation proceeding under*
3 *this subsection, it shall prohibit use of an authorized*
4 *jamming system or device at the correctional facility*
5 *during the pendency of any such proceeding.*

6 “(e) *LIMITATIONS ON AUTHORIZATION.*—

7 “(1) *TRANSFER PROHIBITED.*—*A correctional fa-*
8 *cility supervisory authority authorized by the Com-*
9 *mission to operate a jamming system may not trans-*
10 *fer the ownership or right to use the jamming system*
11 *or associated jamming devices to any third party for*
12 *use inside or outside the area of the correctional facil-*
13 *ity for which the authorization was granted.*

14 “(2) *LOCATION; USE BY OTHER PARTIES.*—*The*
15 *Commission shall require any correctional facility su-*
16 *pervisory authority to prevent the use of an author-*
17 *ized jamming system (including any jamming device*
18 *used by the system)—*

19 “(A) *in any location other than the correc-*
20 *tional facility where use of the system is author-*
21 *ized; or*

22 “(B) *by any entity other than the correc-*
23 *tional facility where use of the jamming system*
24 *is authorized.*

1 “(3) *LIMITATIONS ON USE.—The Commission*
2 *shall require that any correctional facility super-*
3 *visory authority granted authority under this section*
4 *to operate a jamming system—*

5 “(A) *utilize only a jamming device—*

6 “(i) *authorized by the Commission;*

7 *and*

8 “(ii) *specifically approved by the Com-*
9 *mission for the purposes of this section;*

10 “(B) *operate the jamming device at the low-*
11 *est possible transmission power necessary to pre-*
12 *vent, jam, or interfere with wireless communica-*
13 *tions by within the facility by individuals held*
14 *in the facility;*

15 “(C) *operate the device on a directionalized*
16 *basis, and utilizing all other reasonable inter-*
17 *ference-limiting capabilities, in a manner that*
18 *does not interfere with public safety agency com-*
19 *munications or lawful commercial wireless com-*
20 *munications that originate and terminate inside*
21 *or outside the area of the correctional facility;*

22 “(D) *operate the jamming device only in the*
23 *frequencies necessary to prevent, jam, or interfere*
24 *with wireless communications within the correc-*
25 *tional facility;*

1 “(E) have a documented method of control-
2 ling custody of such devices and ensure that any
3 jamming device operated pursuant to the author-
4 ity is destroyed upon expiration of the authority,
5 or at such time as a jamming device is removed
6 from service for any other reason, including re-
7 placement by another device;

8 “(F) have a documented method of inspect-
9 ing the jamming system on a quarterly basis to
10 ensure proper functioning, and a documented
11 method to limit access to the system to personnel
12 specifically designated by the correctional facil-
13 ity;

14 “(G) install the jamming system in a secure
15 area that is inaccessible to individuals held in
16 the facility and connect the system to a perma-
17 nent power supply with back-up power sources;
18 and

19 “(H) have a documented method of sealing
20 or locking the jamming system so as to prevent
21 tampering.

22 “(4) *DESTRUCTION OF UNUSED OR EXPIRED*
23 *JAMMING DEVICES; NOTIFICATION OF ADDITIONAL*
24 *JAMMING DEVICE ACQUISITIONS.—Any correctional*

1 *facility supervisory authority authorized to operate a*
2 *jamming system shall—*

3 “(A) *destroy a jamming device within 60*
4 *days after the date on which such authorization*
5 *expires unless a petition is pending for renewal*
6 *of the authorization;*

7 “(B) *destroy any such jamming device that*
8 *is permanently removed from service;*

9 “(C) *certify such destruction to the Commis-*
10 *sion; and*

11 “(D) *notify the Commission upon the acqui-*
12 *sition of any jamming device that replaces a de-*
13 *stroyed device.*

14 “(f) *DATABASE.—The Commission shall maintain an*
15 *electronic database containing a copy of each notice of in-*
16 *tent and each petition received by it under this section and*
17 *the disposition thereof. The Commission shall update the*
18 *database at least monthly and, to the extent consistent with*
19 *public safety and welfare, shall make the contents of the*
20 *database available upon request to a commercial mobile*
21 *service provider or public safety agency.*

22 “(g) *DEFINITIONS.—In this section:*

23 “(1) *COMMERCIAL MOBILE SERVICE PROVIDER.—*
24 *The term ‘commercial mobile service provider’ means*

1 *a person providing commercial mobile service (as de-*
2 *defined in section 332(d)(1)).*

3 “(2) *CORRECTIONAL FACILITY.*—*In this sub-*
4 *section, the term ‘correctional facility’ means a jail,*
5 *prison, penitentiary, or other correctional facility.*

6 “(3) *JAMMING DEVICE.*—*The term ‘jamming de-*
7 *vice’ means a radio signal generating device used as*
8 *part of a jamming system designed to disrupt, pre-*
9 *vent, interfere with, or jam wireless communications.*

10 “(4) *JAMMING SYSTEM.*—*The term ‘jamming sys-*
11 *tem’ means a system of radio signal generating and*
12 *processing equipment and antennas designed to dis-*
13 *rupt, prevent, interfere with, or jam wireless commu-*
14 *nications within a correctional facility and includes*
15 *the components and functionality of the system, such*
16 *as antennas, cabling, and cable elements, the installa-*
17 *tion, interconnection, and operation of system ele-*
18 *ments, power levels, and radio frequencies carried on*
19 *the cables or fed into antennas, the radiation pattern*
20 *of such antennas, and the location and orientation of*
21 *the antennas.*

22 “(5) *PUBLIC SAFETY AGENCY.*—*The term ‘public*
23 *safety agency’ has the meaning given that term in*
24 *section 3006(j)(1) of the Digital Television Transition*
25 *and Public Safety Act of 2005 (47 U.S.C. 309 note).*

1 “(6) *SUPERVISORY AUTHORITY.*—*The term ‘sup-*
2 *ervisory authority’ means the Director of the Federal*
3 *Bureau of Prisons, the chief executive officer of a*
4 *State (or his or her designee), or the person in charge*
5 *of a county or local correctional facility not under the*
6 *authority of the chief executive officer of a State.’”.*

7 **SEC. 3. FCC RULEMAKING REQUIRED.**

8 *Within 180 days after the date of enactment of this*
9 *Act, the Federal Communications Commission shall initiate*
10 *a rulemaking proceeding and shall promulgate final regula-*
11 *tions governing the use of jamming systems in correctional*
12 *facilities under section 333A of the Communications Act of*
13 *1934 (47 U.S.C. 333A). In the proceeding, the Commission*
14 *shall—*

15 *(1) solicit and consider the recommendations of*
16 *the National Telecommunications and Information*
17 *Administration, as well as 1 or more entities with*
18 *relevant technical expertise in order to develop stand-*
19 *ards and processes for such jamming systems and*
20 *jamming devices (as such terms are defined in that*
21 *section); and*

22 *(2) consider all available technologies capable of*
23 *preventing the operation of unauthorized wireless*
24 *communications devices in correctional facilities, in-*

1 cluding those devices that may evade detection by the
2 supervisory authority of such a facility.

3 **SEC. 4. DEVICE CERTIFICATION CRITERIA RULEMAKING.**

4 (a) *IN GENERAL.*—Within 120 days after the date of
5 enactment of this Act, the Federal Communications Com-
6 mission shall adopt a final rule establishing criteria for cer-
7 tification for the manufacture, sale, importation, and inter-
8 state shipment of devices that may be used pursuant to au-
9 thorization under section 333A of the Communications Act
10 of 1934 (47 U.S.C. 333A), notwithstanding section 302 of
11 such Act (47 U.S.C. 302). In carrying out the requirements
12 of this subsection, the Commission shall consider whether
13 such devices can effectively prevent, jam, or interfere with
14 wireless communications within a correctional facility (as
15 defined in section 333A(g)(2) of that Act (47 U.S.C.
16 333A(g)(2))) without causing harmful interference with
17 commercial mobile services between points outside facility
18 boundaries, or public safety agency wireless communica-
19 tions services between points inside, pursuant to a public
20 safety agency responding to an incident in a correctional
21 facility, and outside facility boundaries. The regulations
22 shall require, at a minimum, that any such device—
23 (1) operate at the lowest technically feasible
24 transmission power that will permit correctional fa-
25 cility staff to prevent, jam, or interfere with wireless

1 *communications within the geographic boundaries of*
2 *a correctional facility by individuals held in the facil-*
3 *ity;*

4 (2) *be capable of directionalized operation and*
5 *limited to approved frequencies;*

6 (3) *comply with any other technical standards*
7 *deemed necessary or appropriate by the Commission*
8 *to ensure that the device does not create interference*
9 *to other than the targeted wireless communications;*

10 (4) *be marketed and sold only to correctional fa-*
11 *cility supervisory authority (as defined in section*
12 *333A(g) of the Communications Act of 1934 (47*
13 *U.S.C. 333A(g)) authorized by the Commission under*
14 *section 333A) of that Act (47 U.S.C. 333A) to possess*
15 *and operate such a device; and*

16 (5) *is capable of being shut off from jamming*
17 *public safety agency communications within and*
18 *around a correctional facility when a public safety*
19 *agency is responding to an incident at the facility,*
20 *such as a fire, explosion, medical emergency, or other-*
21 *wise.*

22 (b) *TECHNICIAN CREDENTIALING.*—*As part of the*
23 *rulemaking proceeding required by subsection (a), the Com-*
24 *mission shall seek public comment on whether to establish*
25 *minimum training, certification, and eligibility require-*

1 *ments for technicians qualified to work on jamming systems*
2 *installed and operated by a supervisory authority. The*
3 *Commission may establish such training, certification, and*
4 *eligibility criteria as part of the final rule adopted under*
5 *subsection (a).*

6 *(c) CERTIFICATION PROCESS.—The Commission shall*
7 *conduct field testing of proposed devices to determine wheth-*
8 *er they can operate without causing harmful interference*
9 *with commercial mobile service communications outside the*
10 *boundaries of such a correctional facility or public safety*
11 *agency wireless communications inside, pursuant to a pub-*
12 *lic safety entity responding to an incident in a correctional*
13 *facility, and outside the boundaries of such a correctional*
14 *facility. The Commission shall conduct such testing through*
15 *a public testing process and program. After the date on*
16 *which the final rule promulgated under subsection (a) is*
17 *published in the Federal Register, the Commission shall*
18 *grant or deny an application for certification of a device*
19 *described in subsection (a) within 120 calendar days of re-*
20 *ceiving an application therefor.*

21 *(d) LIST OF DEVICES.—The Commission shall main-*
22 *tain a list of all approved devices on its web site including*
23 *the make and model of each approved device and its tech-*
24 *nical specifications and operating parameters.*

Calendar No. 166

111TH CONGRESS
1ST Session

S. 251

[Report No. 111-79]

A BILL

To amend the Communications Act of 1934 to permit targeted interference with mobile radio services within prison facilities.

SEPTEMBER 24, 2009

Reported with an amendment