

[DISCUSSION DRAFT]

114TH CONGRESS
1ST SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. CHAFFETZ introduced the following bill; which was referred to the Committee on _____

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-Site Simulator Act
5 of 2015”.

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”.