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H.R. 560, Safe Prisons Communications Act of 2009

Background

H.R. 560, the Safe Prisons Communications Act of 2009, was introduced on January 15, 2009 by Rep. Kevin Brady of Texas and immediately referred to the House Committee on Energy and Commerce and the House Committee on the Judiciary. Senator Kay Bailey Hutchison, also of Texas, introduced a companion bill in the Senate which was referred to the Senate Committee on Commerce, Science, and Transportation. The bill will amend the Communications Act of 1934 to permit targeted interference with mobile radio services within prison facilities.

Equipment that can jam cell phones and other wireless devices is becoming an increasingly common law enforcement tool. Jamming devices can foil remote-controlled bombs, disrupt illegal communications, prevent suspects from erasing evidence, and assist other crime-fighting efforts. However, jamming devices and their use are strictly illegal for any citizen or agency, except federal officials who must receive a legal waiver.

Currently, state and local agencies are facing a surging growth of smuggled cell phones in prisons. In some states, the number of cell phones confiscated has doubled while prisoners have used the phones to threaten public officials, coordinate gang activities from behind bars, or steal credit card information and engage in identity theft. Cell jamming technologies can stop these dangerous phone calls and deter further cell phone smuggling into prisons.

Waiver for Jamming Devices within Prisons

H.R. 560 amends Section 333 of the Communications Act of 1943 (47 U.S.C. 333) and adds a waiver provision, allowing the installation of jamming devices in a prison (or other correctional facility) for 10 years. The Director of the Federal Bureau of Prisons or the Governor must petition the Federal Communications Commission (FCC) for this waiver or its renewal after 10 years. The FCC will not charge a fee for this petition. The FCC must provide copies of received petitions to commercial mobile service providers in the relevant area and maintain a public database record of received petitions. Once a waiver is granted to a particular prison facility, it is not transferable to any other facility.

FCC Waiver Considerations

In determining whether to grant a requested waiver, the FCC must consider whether the waiver would interfere with emergency or public safety communications and act on the petition request within 60 days. The FCC must suspend a waiver granted if a written notice from a commercial mobile service provider (with supporting documentation) states that the use of a jamming device at the prison facility is interfering with other outside communications. The FCC must investigate such notices and documentation within 90 days. The FCC must suspend a waiver if the prison facility is not in compliance with regulations until a hearing is completed and a determination of compliance is made.

FCC Regulations

The language requires that within one year of enactment the FCC must adopt final regulations that:

- Require a prison with a waiver utilize authorized FCC jamming devices
- Require a prison using an authorized device operate the device at the lowest possible transmission power for the prison facility
- Require a prison using an authorized device operate the device in a manner that does not interfere with wireless communications from outside the prison facility
- establishing criteria for certification of devices that may be used for the purpose of this Act
 - such device must operate at the lowest feasible transmission power
 - be capable of directionalized operation
 - comply with other technical standards established by the FCC

Relevant articles:

<http://www.washingtonpost.com/wp-dyn/content/article/2009/01/31/AR2009013101548.html>

<http://www.msnbc.msn.com/id/12498707/>

<http://arstechnica.com/tech-policy/news/2009/02/fcc-nixes-dc-prison-cell-phone-jamming-demo.ars>

<http://www.statesman.com/news/content/region/legislature/stories/02/15/0215cellphones.html>

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