

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

As Enrolled: H3/20/97 H4/1/97

A Bill

ACT 1310 OF 1997
SENATE BILL 711

5 By: Senators Bell and Harriman
6 By: Representative Beatty
7

For An Act To Be Entitled

9 "THE WIRELESS SERVICES THEFT PREVENTION LAW."

10

Subtitle

11

12 "THE WIRELESS SERVICES THEFT PREVENTION
13 LAW."

14

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

16

17 SECTION 1. Short title. This act may be cited as the Wireless Services
18 Theft Prevention Law.

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20 SECTION 2. Definitions. As used in this act, the following words and
21 phrases shall have the meanings given to them in this section:

22 (a) "Manufacture of a wireless device" means to produce, activate or
23 assemble a wireless device or to modify, alter, program, or reprogram a device
24 to be capable of acquiring or facilitating the acquisition of wireless service
25 without the consent of the wireless service provider.

26 (b) "Wireless device" means any type of instrument, device, machine, or
27 equipment that is capable of transmitting or receiving telephonic, electronic
28 or radio communications and that is capable, or has been altered, modified,
29 programmed, or reprogrammed alone or in conjunction with another access device
30 or other equipment so as to be capable of acquiring or facilitating the
31 acquisition of a wireless service without the consent of the wireless service
32 provider. The term includes, but is not limited to, phones altered to obtain
33 service without the consent of the wireless service provider, tumbler phones,
34 counterfeit or clone phones, tumbler microchips, counterfeit or clone
35 microchips, and other instruments capable of disguising their identity or
36 location or of gaining access to a communications system operated by a

1 wireless service provider.

2 (c) "Wireless service" includes, but is not limited to, any service
3 provided for a charge or compensation to facilitate the origination,
4 transmission, emission, or reception of signs, signals, data, writings, images
5 and sounds, or intelligence of any nature by telephone, including cellular,
6 personal communication services, wireless, radio, electromagnetic,
7 photoelectronic, or photo-optical system.

8 (d) "Wireless service provider" means a person or entity providing
9 commercial mobile services as defined in Section 3(6) of Act 77 of 1997.

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11 SECTION 3. Theft of wireless service.

12 (a) A person commits the offense of theft of wireless service if he or
13 she intentionally obtains wireless service by the use of an unlawful wireless
14 device or without the consent of the wireless service provider.

15 (b) Theft of wireless service is a Class A misdemeanor when the
16 aggregate value of service obtained is five hundred dollars (\$500.00) or less,
17 and a Class C felony when the aggregate value of service obtained is more than
18 five hundred dollars (\$500.00) but less than twenty-five hundred dollars
19 (\$2500.00). If the aggregate value of service is twenty-five hundred dollars
20 (\$2500.00) or more, or if the conviction is for a second or subsequent
21 offense, or if the person convicted of the offense has been previously
22 convicted of any similar crime in this or any other state or federal
23 jurisdiction, theft of wireless service is a Class B felony.

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25 SECTION 4. Facilitating theft of wireless service by manufacture,
26 distribution, or possession of devices for theft of wireless services.

27 (a) A person commits the offense of facilitating theft of wireless
28 service when he or she:

29 (1) makes, distributes, possesses, uses, assembles, modifies,
30 alters, programs, or reprograms a wireless device for the purpose of:

31 (i) commission of a theft of wireless service or to acquire
32 or facilitate the acquisition of wireless service without the consent of the
33 wireless service provider; or

34 (ii) concealing or assisting another to conceal from any
35 wireless service provider or from any lawful authority the existence or place
36 of origin or of destination of any wireless communication; or

1 (2) sells, possesses, distributes, gives, or otherwise transfers
2 to another or offers, promotes, or advertises for sale any wireless device or
3 any plans or instructions for making or assembling a wireless device, under
4 circumstances evidencing an intent to use or employ the wireless device, or to
5 allow it to be used or employed, for a purpose described in paragraph (1) or
6 knowing or having reason to believe that the wireless device is intended to be
7 so used, or that the aforesaid plans or instructions are intended to be used
8 for making or assembling a wireless device intended to be used in violation of
9 this act.

10 (b) Facilitating theft of wireless service is a Class A misdemeanor
11 when the aggregate value of service obtained is five hundred dollars (\$500.00)
12 or less and a Class C felony when the aggregate value of service obtained is
13 more than five hundred dollars (\$500.00) but less than twenty-five hundred
14 dollars (\$2500.00). If the aggregate value of service is twenty-five hundred
15 dollars (\$2500.00) or more, or if the conviction is for a second or subsequent
16 offense, or if the person convicted of the offense has been previously
17 convicted of any similar crime in this or any other state or federal
18 jurisdiction, facilitating theft of wireless service is a Class B felony.

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20 SECTION 5. Restitution. The court may, in addition to any other
21 sentence authorized by law, sentence a person convicted of violating this
22 article to make restitution in the manner prescribed in Arkansas Code 5-4-205.

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24 SECTION 6. Civil remedy. A wireless service provider aggrieved by a
25 violation of this act may, in a civil action in any court of competent
26 jurisdiction, obtain appropriate relief, including preliminary and other
27 equitable or declaratory relief, compensatory and punitive damages, reasonable
28 investigation expenses, costs of suit, and attorney fees.

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30 SECTION 7. The provisions of this act shall not be construed to
31 prohibit the possession or use of police scanners or emergency scanners
32 available to the general public.

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34 SECTION 8. All provisions of this act of a general and permanent nature
35 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
36 Revision Commission shall incorporate the same in the Code.

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SECTION 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 10. All laws and parts of laws in conflict with this act are hereby repealed.

/s/Sen. Bell et al

APPROVED:4-10-97