

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

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

## A Bill

SENATE BILL 711

4  
5 By: Senators Bell and Harriman  
6 By: Representative Beatty

### For An Act To Be Entitled

"THE WIRELESS SERVICES THEFT PREVENTION LAW."

#### Subtitle

"THE WIRELESS SERVICES THEFT PREVENTION  
LAW."

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

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

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*