S. 314

To protect the public from the misuse of the telecommunications network and telecommunications devices and facilities.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 1 (legislative day, JANUARY 30), 1995

Mr. EXON (for himself and Mr. Gorton) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To protect the public from the misuse of the telecommunications network and telecommunications devices and facilities.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the "Communications Decency Act of 1995".
SEC. 2. OBSCENE OR HARASSING USE OF TELECOMMUNICATIONS FACILITIES UNDER THE COMMUNICATIONS ACT OF 1934.

(a) Offenses.—Section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended—

(1) in subsection (a)(1)—

(A) by striking out “telephone” in the matter above subparagraph (A) and inserting “telecommunications device”;

(B) by striking out “makes any comment, request, suggestion, or proposal” in subparagraph (A) and inserting “makes, transmits, or otherwise makes available any comment, request, suggestion, proposal, image, or other communication”;

(C) by striking out subparagraph (B) and inserting the following:

“(B) makes a telephone call or utilizes a telecommunications device, whether or not conversation or communications ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number or who receives the communication;” and

(D) by striking out subparagraph (D) and inserting the following:
“(D) makes repeated telephone calls or repeatedly initiates communication with a telecommunications device, during which conversation or communication ensues, solely to harass any person at the called number or who receives the communication; or’’;

(2) in subsection (a)(2), by striking “telephone facility” and inserting “telecommunications facility”;

(3) in subsection (b)(1)—

(A) in subparagraph (A)—

(i) by striking “telephone” and inserting “telecommunications device”; and

(ii) inserting “or initiated the communication” and “placed the call”, and

(B) in subparagraph (B), by striking “telephone facility” and inserting “telecommunications facility”; and

(4) in subsection (b)(2)—

(A) in subparagraph (A)—

(i) by striking “by means of telephone, makes” and inserting “by means of telephone or telecommunications device, makes, knowingly transmits, or knowingly makes available”; and
(ii) by inserting “or initiated the communication” after “placed the call”; and

(B) in subparagraph (B), by striking “telephone facility” and inserting in lieu thereof “telecommunications facility”.

(b) Penalties.—Section 223 of such Act (47 U.S.C. 223) is amended—

(1) by striking out “$50,000” each place it appears and inserting “$100,000”; and

(2) by striking “six months” each place it appears and inserting “2 years”.

(c) Prohibition on Provision of Access.—Subsection (c)(1) of such section (47 U.S.C. 223(c)) is amended by striking “telephone” and inserting “telecommunications device.”

(d) Conforming Amendment.—The section heading for such section is amended to read as follows: “OBSCENE OR HARASSING UTILIZATION OF TELECOMMUNICATIONS DEVICES AND FACILITIES IN THE DISTRICT OF COLUMBIA OR IN INTERSTATE OR FOREIGN COMMUNICATIONS”.

SEC. 3. OBSCENE PROGRAMMING ON CABLE TELEVISION.

Section 639 of the Communications Act of 1934 (47 U.S.C. 559) is amended by striking “$10,000” and inserting “$100,000”.
SEC. 4. BROADCASTING OBSCENE LANGUAGE ON RADIO.

Section 1464 of title 18, United States Code, is amended by striking out "$10,000" and inserting "$100,000".

SEC. 5. INTERCEPTION AND DISCLOSURE OF ELECTRONIC COMMUNICATIONS.

Section 2511 of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “wire, oral, or electronic communication” each place it appears and inserting “wire, oral, electronic, or digital communication”, and

(B) in the matter designated as “(b)”, by striking “oral communication” in the matter above clause (i) and inserting “communication”;

and

(2) in paragraph (2)(a), by striking “wire or electronic communication service” each place it appears (other than in the second sentence) and inserting “wire, electronic, or digital communication service”.

SEC. 6. ADDITIONAL PROHIBITION ON BILLING FOR TOLL-FREE TELEPHONE CALLS.

Section 228(c)(6) of the Communications Act of 1934 (47 U.S.C. 228(c)(6)) is amended—
(1) by striking “or” at the end of subparagraph (C);

(2) by striking the period at the end of sub-
paragraph (D) and inserting a semicolon and “or”;

and

(3) by adding at the end thereof the following:

“(E) the calling party being assessed, by

virtue of being asked to connect or otherwise

transfer to a pay-per-call service, a charge for

the call.”.

SEC. 7. SCRAMBLING OF CABLE CHANNELS FOR
NONSUBSCRIBERS.

Part IV of title VI of the Communications Act of
1934 (47 U.S.C. 551 et seq.) is amended by adding at
the end the following:

“SEC. 640. SCRAMBLING OF CABLE CHANNELS FOR
NONSUBSCRIBERS.

“(a) REQUIREMENT.—In providing video program-
ing unsuitable for children to any subscriber through a
cable system, a cable operator shall fully scramble or oth-
erwise fully block the video and audio portion of each
channel carrying such programming so that one not a sub-
scriber does not receive it.

“(b) DEFINITION.—As used in this section, the term

‘scramble’ means to rearrange the content of the signal
of the programming so that the programming cannot be
received by persons unauthorized to receive the program-
ing.''.

SEC. 8. CABLE OPERATOR REFUSAL TO CARRY CERTAIN
PROGRAMS.

(a) Public, Educational, and Governmental
Channels.—Section 611(e) of the Communications Act
of 1934 (47 U.S.C. 531(e)) is amended by inserting before
the period the following: ‘‘, except a cable operator may
refuse to transmit any public access program or portion
of a public access program which contains obscenity, inde-
cency, or nudity’’.

(b) Cable Channels for Commercial Use.—Sec-
tion 612(c)(2) of the Communications Act of 1934 (47
U.S.C. 532(c)(2)) is amended by striking “an operator”
and inserting “a cable operator may refuse to transmit
any leased access program or portion of a leased access
program which contains obscenity, indecency, or nudity.