

104TH CONGRESS  
1ST SESSION

# S. 314

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

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## 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

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## A BILL

To protect the public from the misuse of the telecommuni-  
cations network and telecommunications devices and fa-  
cilities.

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 “Communications De-  
5       cency Act of 1995”.

1 **SEC. 2. OBSCENE OR HARASSING USE OF TELECOMMUNI-**  
2 **CATIONS FACILITIES UNDER THE COMMU-**  
3 **NICATIONS ACT OF 1934.**

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

6 (1) in subsection (a)(1)—

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

10 (B) by striking out “makes any comment,  
11 request, suggestion, or proposal” in subpara-  
12 graph (A) and inserting “makes, transmits, or  
13 otherwise makes available any comment, re-  
14 quest, suggestion, proposal, image, or other  
15 communication”;

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

18 “(B) makes a telephone call or utilizes a  
19 telecommunications device, whether or not con-  
20 versation or communications ensues, without  
21 disclosing his identity and with intent to annoy,  
22 abuse, threaten, or harass any person at the  
23 called number or who receives the communica-  
24 tion;” and

25 (D) by striking out subparagraph (D) and  
26 inserting the following:

1 “(D) makes repeated telephone calls or re-  
2 peatedly initiates communication with a tele-  
3 communications device, during which conversa-  
4 tion or communication ensues, solely to harass  
5 any person at the called number or who receives  
6 the communication; or”;

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

9 (3) in subsection (b)(1)—

10 (A) in subparagraph (A)—

11 (i) by striking “telephone” and insert-  
12 ing “telecommunications device”; and

13 (ii) inserting “or initiated the commu-  
14 nication” and “placed the call”, and

15 (B) in subparagraph (B), by striking “tele-  
16 phone facility” and inserting “telecommuni-  
17 cations facility”; and

18 (4) in subsection (b)(2)—

19 (A) in subparagraph (A)—

20 (i) by striking “by means of tele-  
21 phone, makes” and inserting “by means of  
22 telephone or telecommunications device,  
23 makes, knowingly transmits, or knowingly  
24 makes available”; and

1 (ii) by inserting “or initiated the com-  
2 munication” after “placed the call”; and

3 (B) in subparagraph (B), by striking “tele-  
4 phone facility” and inserting in lieu thereof  
5 “telecommunications facility”.

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

8 (1) by striking out “\$50,000” each place it ap-  
9 pears and inserting “\$100,000”; and

10 (2) by striking “six months” each place it ap-  
11 pears and inserting “2 years”.

12 (c) PROHIBITION ON PROVISION OF ACCESS.—Sub-  
13 section (c)(1) of such section (47 U.S.C. 223(c)) is amend-  
14 ed by striking “telephone” and inserting “telecommuni-  
15 cations device.”

16 (d) CONFORMING AMENDMENT.—The section head-  
17 ing for such section is amended to read as follows: “**OB-**  
18 **SCENE OR HARASSING UTILIZATION OF TELE-**  
19 **COMMUNICATIONS DEVICES AND FACILITIES IN THE**  
20 **DISTRICT OF COLUMBIA OR IN INTERSTATE OR**  
21 **FOREIGN COMMUNICATIONS”**’.

22 **SEC. 3. OBSCENE PROGRAMMING ON CABLE TELEVISION.**

23 Section 639 of the Communications Act of 1934 (47  
24 U.S.C. 559) is amended by striking “\$10,000” and insert-  
25 ing “\$100,000”.

1 **SEC. 4. BROADCASTING OBSCENE LANGUAGE ON RADIO.**

2 Section 1464 of title 18, United States Code, is  
3 amended by striking out “\$10,000” and inserting  
4 “\$100,000”.

5 **SEC. 5. INTERCEPTION AND DISCLOSURE OF ELECTRONIC**  
6 **COMMUNICATIONS.**

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

9 (1) in paragraph (1)—

10 (A) by striking “wire, oral, or electronic  
11 communication” each place it appears and in-  
12 serting “wire, oral, electronic, or digital commu-  
13 nication”, and

14 (B) in the matter designated as “(b)”, by  
15 striking “oral communication” in the matter  
16 above clause (i) and inserting “communica-  
17 tion”; and

18 (2) in paragraph (2)(a), by striking “wire or  
19 electronic communication service” each place it ap-  
20 pears (other than in the second sentence) and insert-  
21 ing “wire, electronic, or digital communication serv-  
22 ice”.

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

25 Section 228(c)(6) of the Communications Act of 1934  
26 (47 U.S.C. 228(c)(6)) is amended—

1 (1) by striking “or” at the end of subparagraph  
2 (C);

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

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

7 “(E) the calling party being assessed, by  
8 virtue of being asked to connect or otherwise  
9 transfer to a pay-per-call service, a charge for  
10 the call.”.

11 **SEC. 7. SCRAMBLING OF CABLE CHANNELS FOR**  
12 **NONSUBSCRIBERS.**

13 Part IV of title VI of the Communications Act of  
14 1934 (47 U.S.C. 551 et seq.) is amended by adding at  
15 the end the following:

16 **“SEC. 640. SCRAMBLING OF CABLE CHANNELS FOR**  
17 **NONSUBSCRIBERS.**

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

24 “(b) DEFINITION.—As used in this section, the term  
25 ‘scramble’ means to rearrange the content of the signal

1 of the programming so that the programming cannot be  
2 received by persons unauthorized to receive the program-  
3 ming.”.

4 **SEC. 8. CABLE OPERATOR REFUSAL TO CARRY CERTAIN**  
5 **PROGRAMS.**

6 (a) PUBLIC, EDUCATIONAL, AND GOVERNMENTAL  
7 CHANNELS.—Section 611(e) of the Communications Act  
8 of 1934 (47 U.S.C. 531(e)) is amended by inserting before  
9 the period the following: “, except a cable operator may  
10 refuse to transmit any public access program or portion  
11 of a public access program which contains obscenity, inde-  
12 cency, or nudity”.

13 (b) CABLE CHANNELS FOR COMMERCIAL USE.—Sec-  
14 tion 612(c)(2) of the Communications Act of 1934 (47  
15 U.S.C. 532(c)(2)) is amended by striking “an operator”  
16 and inserting “a cable operator may refuse to transmit  
17 any leased access program or portion of a leased access  
18 program which contains obscenity, indecency, or nudity.

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