

105TH CONGRESS
2D SESSION

H. R. 3224

To amend title 18, United States Code, to provide protection from personal intrusion for commercial purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 1998

Mr. GALLEGLY (for himself, Mr. COBLE, Mr. BERMAN, and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide protection from personal intrusion for commercial purposes.

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 “Privacy Protection Act
5 of 1998”.

6 **SEC. 2. PROTECTION FROM PERSONAL INTRUSION FOR**
7 **COMMERCIAL PURPOSES.**

8 (a) IN GENERAL.—Chapter 89 of title 18, United
9 States Code, is amended by adding at the end the follow-
10 ing:

1 **“§ 1822. Harassment**

2 “(a) Whoever persistently follows or chases any indi-
3 vidual in the United States for the purpose of obtaining
4 a visual image, sound recording, or other physical impres-
5 sion of that or another individual, shall be punished as
6 provided in subsection (b), if—

7 “(1) the image, recording, or impression was in-
8 tended to be, or was in fact, sold, published, or
9 transmitted in interstate or foreign commerce, or the
10 person attempted to capture such image, recording,
11 or impression moved in interstate of foreign com-
12 merce in order to capture such image, recording, or
13 impression.

14 “(2) the individual has a reasonable expectation
15 of privacy from such intrusions and has taken rea-
16 sonable steps to ensure that privacy;

17 “(3) the individual has a reasonable fear that
18 death or bodily injury will result from that following
19 or chasing; and

20 “(4) the obtaining of the image, recording, or
21 other impression is for commercial purposes.

22 “(b) The punishment for an offense under this sec-
23 tion is—

24 “(1) if death is caused by the offense, the pun-
25 ishment provided under section 1111 or 1112 for a
26 like offense under that section;

1 “(2) if serious bodily injury is caused by the of-
2 fense, the punishment provided in section 113 for a
3 like offense under that section; and

4 “(3) in any other case, a fine under this title
5 or imprisonment for not more than 1 year, or both.

6 “(c)(1) A person who is subjected to a violation of
7 subsection (a) may, in a civil action against the person
8 engaging in that violation, obtain any appropriate relief.

9 “(2) In any civil action under this section, the court
10 shall allow the prevailing party a reasonable attorney’s fee
11 and other reasonable litigation costs as part of the costs.

12 “(d) It is not a defense to a prosecution or civil action
13 under this section that—

14 “(1) no image or recording was captured; or

15 “(2) no image or recording was sold.

16 “(e) Nothing in this section may be construed to
17 make the sale, transmission, publication, broadcast, or use
18 of any visual image, sound recording, or other physical im-
19 pression in any otherwise lawful manner by any person
20 subject to criminal charge or civil liability.

21 “(f) Only a person physically present at the time of,
22 and engaging or assisting another in engaging in, the fol-
23 lowing or chasing that constitutes a violation of this sec-
24 tion is subject to a Federal criminal charge or civil liability
25 under this section, or section 2, 3, 4, or 371 of this title,

1 based on a violation of this section. A person shall not
2 be subject to such charge or liability by reason of the con-
3 duct of an agent, employee, or contractor of that person
4 or because any visual image, sound recording, or other
5 physical impression captured in violation of this section
6 was solicited, bought, used, or sold by that person.

7 “(g) The prohibitions of this section do not apply
8 with respect to official law enforcement activities.

9 “(h) Nothing in this section shall be taken to preempt
10 any right or remedy otherwise available under Federal,
11 State, or local law.

12 “(i) As used in this section—

13 “(1) the term ‘for commercial purposes’ means
14 with the expectation of financial gain or other con-
15 sideration from the sale or other transfer of the vis-
16 ual image, sound recording, or other physical im-
17 pression; and

18 “(2) the term ‘State’ includes the District of
19 Columbia and each other commonwealth, territory,
20 or possession of the United States.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of chapter 89 of title 18, United States
23 Code, is amended by adding at the end the following new
24 item:

“1822. Harassment.”.