

105TH CONGRESS  
1ST SESSION

# S. 493

To amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia.

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IN THE SENATE OF THE UNITED STATES

MARCH 20, 1997

Mr. KYL (for himself and Mr. GORTON) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia.

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 “Cellular Telephone  
5 Protection Act”.

6 **SEC. 2. FRAUD AND RELATED ACTIVITY IN CONNECTION**  
7 **WITH COUNTERFEIT ACCESS DEVICES.**

8 (a) UNLAWFUL ACTS.—Section 1029(a) of title 18,  
9 United States Code, is amended—

1           (1) in paragraph (7), by striking “use of” and  
2 inserting “access to”;

3           (2) by redesignating paragraph (9) as para-  
4 graph (10); and

5           (3) by striking paragraph (8) and inserting the  
6 following:

7           “(8) knowingly and with intent to defraud uses,  
8 produces, traffics in, has control or custody of, or  
9 possesses a scanning receiver;

10           “(9) knowingly uses, produces, traffics in, has  
11 control or custody of, or possesses hardware or soft-  
12 ware that may be used for—

13           “(A) modifying or copying an electronic se-  
14 rial number; or

15           “(B) altering or modifying a telecommuni-  
16 cations instrument so that the instrument may  
17 be used to obtain unauthorized access to tele-  
18 communications services; or”.

19           (b) PENALTIES.—Section 1029(c) of title 18, United  
20 States Code, is amended to read as follows:

21           “(c) PENALTIES.—The punishment for an offense  
22 under subsection (a) or (b)(1) is—

23           “(1) in the case of an offense that does not  
24 occur after a conviction for another offense under  
25 subsection (a) or (b)(1), or an attempt to commit an

1 offense punishable under subsection (a) or (b)(1), a  
2 fine under this title or twice the value obtained by  
3 the offense, whichever is greater, imprisonment for  
4 not more than 15 years, or both; and

5 “(2) in the case of an offense that occurs after  
6 a conviction for another offense under subsection (a)  
7 or (b)(1), or an attempt to commit an offense pun-  
8 ishable under subsection (a) or (b)(1), a fine under  
9 this title or twice the value obtained by the offense,  
10 whichever is greater, imprisonment for not more  
11 than 20 years, or both.”.

12 (c) DEFINITION OF SCANNING RECEIVER.—Section  
13 1029(e)(8) of title 18, United States Code, is amended  
14 by inserting before the period at the end the following:  
15 “or any electronic serial number, mobile identification  
16 number, personal identification number, or other identifier  
17 of any telecommunications service, equipment, or instru-  
18 ment”.

19 (d) EXCEPTION FOR CERTAIN TELECOMMUNI-  
20 CATIONS SERVICES PROVIDERS.—Section 1029 of title 18,  
21 United States Code, is amended by adding at the end the  
22 following:

23 “(g) EXCEPTION FOR CERTAIN TELECOMMUNI-  
24 CATIONS SERVICES PROVIDERS.—

1           “(1) DEFINITIONS.—In this subsection, the  
2 term ‘telecommunications carrier’ has the same  
3 meaning as in section 3 of the Communications Act  
4 of 1934 (47 U.S.C. 153).

5           “(2) PERMISSIBLE ACTIVITIES.—This section  
6 does not prohibit any telecommunications carrier, or  
7 an officer, agent, or employee of, or a person under  
8 contract with a telecommunications carrier, engaged  
9 in protecting any property or legal right of the tele-  
10 communications carrier, from sending through the  
11 mail, sending or carrying in interstate or foreign  
12 commerce, having control or custody of, or possess-  
13 ing, manufacturing, assembling, or producing any  
14 otherwise unlawful—

15                   “(A) device-making equipment, scanning  
16 receiver, or access device; or

17                   “(B) hardware or software used for—

18                           “(i) modifying or altering an elec-  
19 tronic serial number; or

20                           “(ii) altering or modifying a tele-  
21 communications instrument so that the in-  
22 strument may be used to obtain unauthor-  
23 ized access to telecommunications serv-  
24 ices.”.

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