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2D SESSION

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To require mobile service providers and mobile device manufacturers to give consumers the ability to remotely delete data from mobile devices and render such devices inoperable.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2014

Ms. KLOBUCHAR (for herself, Ms. HIRONO, Ms. MIKULSKI, and Mr. BLUMENTHAL) 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 require mobile service providers and mobile device manufacturers to give consumers the ability to remotely delete data from mobile devices and render such devices inoperable.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Smartphone Theft Prevention Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) mobile device theft costs consumers $30,000,000,000 each year, according to the Federal Communications Commission;

(2) 1 in 3 robberies include the theft of a mobile device;

(3) carriers, manufacturers, law enforcement, and the Federal Communications Commission have worked to address the growing trend of mobile device theft, but more remains to be done;

(4) consumers deserve to have the most secure technology available to protect them and their information;

(5) technological protections continue to develop, evolve, and improve in ways that are good for the economy and the consumers of the United States, and for public safety in the United States;

(6) the wireless industry should work with law enforcement to educate consumers about the security tools that are available to them and how to keep their data, their devices, and themselves safe; and

(7) because engineering and security needs change rapidly, the mobile device industry, law enforcement, and consumer advocates are best suited to proactively develop solutions to protect consumers, drive innovation, and deter theft.

SEC. 3. FUNCTION FOR STOLEN MOBILE DEVICES.

(a) IN GENERAL.—Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end the following:

"SEC. 343. FUNCTION FOR STOLEN MOBILE DEVICES.

"(a) DEFINITIONS.—In this section—

"(1) the term 'account holder', with respect to a mobile device—

"(A) means the person who holds the account through which commercial mobile service or commercial mobile data service is provided on the device; and

"(B) includes a person authorized by the person described in subparagraph (A) to take actions with respect to the device;

"(2) the term 'commercial mobile data service' has the meaning given the term in section 6001 of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. 1401);

"(3) the term 'commercial mobile service' has the meaning given the term in section 332; and

"(4) the term 'mobile device' means a personal electronic device on which commercial mobile service or commercial mobile data service is provided.

"(b) REQUIREMENTS.—

"(1) FUNCTION.—A provider of commercial mobile service or commercial mobile data service on a mobile device shall make available on the device a function that—

"(A) may only be used by the account holder; and

"(B) includes the capability to remotely—

"(i) delete or render inaccessible from the device all information relating to the account holder that has been placed on the device;

"(ii) render the device inoperable on the network of any provider of commercial mobile service or commercial mobile data service globally, even if the device is turned off or has the data storage medium removed;

"(iii) prevent the device from being reactivated or reprogrammed without a passcode or similar authorization after the device has been—

"(I) rendered inoperable as described in clause (ii); or

"(II) subject to an unauthorized factory reset; and

"(iv) reverse any action described in clause (i), (ii), or (iii) if the device is recovered by the account holder.

"(2) DEVICE STANDARDS.—A person may not manufacture in the United States, or import into the United States for sale or resale to the public, a mobile device unless the device is configured in such a manner that the provider of commercial mobile service or commercial mobile data service on the device may make available on the device the function required under subsection (1).

"(3) EXEMPTIONS FOR FUNCTIONALLY EQUIVALENT TECHNOLOGY.—

"(A) MOBILE SERVICE PROVIDERS.—The Commission may exempt a provider of commercial mobile service or commercial mobile data service on a mobile device from the requirement under paragraph (1), with respect to that device, if the provider makes available on the device technology that accomplishes the functional equivalent of the function required under paragraph (1).

"(B) MANUFACTURERS AND IMPORTERS.—The Commission may exempt a person from the requirement under paragraph (2), with respect

to a mobile device that the person manufactures in the United States or imports into the United States for sale or resale to the public, if the device is configured in such a manner that the provider of commercial mobile service or commercial mobile data service on the device may make available on the device technology that accomplishes the functional equivalent of the function required under paragraph (1).

"(4) WAIVER FOR LOW-COST, VOICE-ONLY MOBILE DEVICES.—The Commission may waive the applicability of the requirements under paragraphs (1) and (2) with respect to any low-cost mobile device that—

"(A) is intended for primarily voice-only mobile service; and

"(B) may have limited data consumption functions focused on text messaging or short message service.

"(c) NO FEE.—A provider of commercial mobile service or commercial mobile data service on a mobile device may not charge the account holder any fee for making the function described in subsection (b)(1), or any equivalent technology described in subsection (b)(3)(A), available to the account holder.

"(d) FORFEITURE PENALTY.—

"(1) IN GENERAL.—Any person that is determined by the Commission, in accordance with paragraphs (3) and (4) of section 503(b), to have violated subsection (b) or (c) of this section shall be liable to the United States for a forfeiture penalty, in an amount to be determined by the Commission.

"(2) OTHER PENALTIES.—A forfeiture penalty under this subsection shall be in addition to any other penalty provided for in this Act.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a manufacturer of mobile devices, or a provider of commercial mobile service or commercial mobile data service, from taking actions not described in this section to protect consumers from the theft of mobile devices.".

(b) APPLICABILITY OF FUNCTION REQUIREMENT.—

(1) DEFINITION.—In this subsection, the term "mobile device" has the meaning given the term in section 343 of the Communications Act of 1934, as added by subsection (a).

(2) APPLICABILITY.—Except as provided in paragraph (3), section 343 of the Communications Act of 1934, as added by subsection (a), shall apply

with respect to any mobile device that, on or after January 1, 2015, is—

(A) manufactured in the United States; or

(B) imported into the United States for sale to the public.

(3) COMPLIANCE EXTENSIONS.—The Federal Communications Commission may exempt a person that is subject to any requirement under section 343(b) of the Communications Act of 1934, as added by subsection (a), from that requirement for a temporary period after the date described in paragraph (2) of this subsection, upon a showing by the person that the person requires more time to be able to comply with the requirement.

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