

115TH CONGRESS
2D SESSION

H. R. 5204

To amend title 18, United States Code, to penalize false communications to cause an emergency response, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2018

Mr. ESTES of Kansas introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to penalize false communications to cause an emergency response, and for other 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 “Preventing Swatting
5 and Protecting our Communities Act of 2018” or as the
6 “Andrew T. Finch Memorial Act of 2018”.

7 **SEC. 2. FALSE COMMUNICATIONS TO CAUSE AN EMER-**
8 **GENCY RESPONSE.**

9 Section 1038 of title 18, United States Code, is
10 amended—

1 (1) in subsection (a)(1), to read as follows:

2 “(1) IN GENERAL.—Whoever engages in any
3 conduct with intent to convey false or misleading in-
4 formation—

5 “(A) under circumstances where such in-
6 formation may reasonably be believed and
7 where such information indicates that an activ-
8 ity has taken, is taking, or will take place that
9 would constitute a violation of chapter 2, 10,
10 11B, 39, 40, 44, 111, or 113B of this title, sec-
11 tion 236 of the Atomic Energy Act of 1954 (42
12 U.S.C. 2284), or section 46502, the second sen-
13 tence of section 46504, section 46505(b)(3) or
14 (c), section 46506 if homicide or attempted
15 homicide is involved, or section 60123(b) of title
16 49; or

17 “(B) using the mail or any facility or
18 means of interstate or foreign commerce, under
19 circumstances where such information may rea-
20 sonably be expected to cause an emergency re-
21 sponse and the information indicates that con-
22 duct has taken, is taking, or will take place that
23 constitutes a crime under State or Federal law
24 or endangers public health or safety or the
25 health or safety of any person,

1 shall be fined under this title or imprisoned not
2 more than 5 years, or both. If serious bodily injury
3 results, the defendant shall be fined under this title
4 or imprisoned not more than 20 years, or both, and
5 if death results, the defendant shall be fined under
6 this title or imprisoned for any number of years up
7 to life, or both.”;

8 (2) in subsection (b), to read as follows:

9 “(b) CIVIL ACTION.—Whoever engages in any con-
10 duct with intent to convey false or misleading informa-
11 tion—

12 “(1) under circumstances where such informa-
13 tion may reasonably be believed and where such in-
14 formation indicates that an activity has taken, is
15 taking, or will take place that would constitute a vio-
16 lation of chapter 2, 10, 11B, 39, 40, 44, 111, or
17 113B of this title, section 236 of the Atomic Energy
18 Act of 1954 (42 U.S.C. 2284), or section 46502, the
19 second sentence of section 46504, section 46505
20 (b)(3) or (c), section 46506 if homicide or attempted
21 homicide is involved, or section 60123(b) of title 49;
22 or

23 “(2) using the mail or any facility or means of
24 interstate or foreign commerce, under circumstances
25 where such information may reasonably be expected

1 to cause an emergency response and the information
2 indicates that conduct has taken, is taking, or will
3 take place that constitutes a crime under State or
4 Federal law or endangers public health or safety or
5 the health or safety of any person,

6 is liable in a civil action to any party incurring expenses
7 incident to any emergency or investigative response to that
8 conduct, for those expenses.”; and

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

10 “(e) DEFINITION.—In this section, the term ‘emer-
11 gency response’ means any deployment of personnel or
12 equipment, order or advice to evacuate, or issuance of a
13 warning to the public or a threatened person, organiza-
14 tion, or establishment, by an agency of the United States
15 or a State charged with public safety functions, including
16 any agency charged with detecting, preventing, or inves-
17 tigating crimes or with fire or rescue functions, or by a
18 private not-for-profit organization that provides fire or
19 rescue functions.”.

○