

As a general rule, conduct which is illegal under section 705 of the Communications Act would also be illegal under this bill. These supplemental sanctions are particularly important where an unauthorized interception is made for direct or indirect financial gain. This bill is designed to help put an end to such conduct.

The exception to the general rule is that we do not provide liability for the noncommercial private viewing of unscrambled network feeds to affiliated stations by the owners of home satellite dishes. Accountability for that conduct will be determined solely under section 705 of the Communications Act. The private viewing of any other video transmissions not otherwise excepted by section 705(b) could be subject to action under both the Communications Act and this legislation.

Mr. DANFORTH. So although the proposed legislation which amends title 18 of the United States Code replaces, for specified conduct, the penalty structure of the Electronic Communications Privacy Act as introduced, and substitutes a scheme of public and private remedies under title 18, am I correct that conduct prohibited by the Communications Act will continue to be governed by that Act?

Mr. MATHIAS. That is correct. Conduct which is not prohibited by the Electronic Communications Privacy Act, but which is prohibited by the Communications Act, still will be subject to the full range of remedies and penalties under the Communications Act.

Mr. DANFORTH. I thank the distinguished Senator for this clarification.

Mr. DOLE. Mr. President, has the Leahy substitute been adopted?

The PRESIDING OFFICER. No, it has not. Is there further debate?

If not the question is on agreeing to the amendment.

The amendment (No. 3107) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed for a third reading and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 4952), as amended, was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. MATHIAS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REFERRAL OF S. 2575

Mr. DOLE. Mr. President, I ask unanimous consent that once the Judiciary Committee reports S. 2575, Electronic Communication Privacy Act, it be referred to the Commerce Committee for a period of 24 hours and at the end of that time, the committee be discharged, and the bill be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I further ask unanimous consent that if a conference on S. 2575, or the companion, H.R. 4952, is necessary, that two members of the Commerce Committee be included as Senate appointed conferees, for consideration of those matters that fall under the Commerce Committee jurisdiction.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPUTER FRAUD AND ABUSE ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar 883, S. 2281, the Computer Fraud and Abuse Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2281) to amend title XVIII, United States Code, to provide additional penalties for fraud and related activities in connection with access devices and computers and further purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments as follows:

(The parts of the bill intended to be stricken are shown in bold-faced brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 2281

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 "Computer Fraud and Abuse Act of 1986".

SEC. 2. SECTION 1030 AMENDMENTS.

(a) MODIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.—Section 1030(a)(2) of title 18, United States Code, is amended—

(1) by striking out "knowingly" and inserting "intentionally" in lieu thereof; and

(2) by striking out "as such terms are defined in the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.)."

(b) MODIFICATION OF EXISTING GOVERNMENT COMPUTERS OFFENSE.—Section 1030(a)(3) of title 18, United States Code, is amended to read as follows—

[(1) by striking out "knowingly" and inserting "intentionally" in lieu thereof;

[(2) by striking out ", or having accessed" and all that follows through "prevents authorized use of, such computer";

[(3) by striking out "It is not an offense" and all that follows through "use of the computer."; and

[(4) by striking out "if such computer is operated for or on behalf of the Government of the United States and such conduct affects such operation" and inserting in lieu thereof "if such computer is exclusively for the use of the Government of the United States or, in the case of a computer not exclusively for such use, if such computer is used by or for the Government of the United States and such conduct affects such use".]

["(3) intentionally, without authorization to access any computer of a department or agency of the United States, accesses such a computer of that department or agency that is exclusively for the use of the Government of the United States or, in the case of a computer not exclusively for such use, is used by or for the Government of the United States and such conduct affects the use of the Government's operation of such computer.".

(c) MODIFICATION OF AUTHORIZED ACCESS ASPECT OF OFFENSES.—Paragraphs (1) and (2) of section 1030(a) of title 18, United States Code, are each amended by striking out ", or having accessed" and all that follows through "does not extend" and inserting "or exceeds authorized access" in lieu thereof.

(d) NEW OFFENSES.—Section 1030(a) of title 18, United States Code, is amended by inserting after paragraph (3) the following:

"(4) knowingly and with intent to defraud, accesses a Federal interest computer without authorization, or exceeds authorized access, and by means of such conduct furthers the intended fraud and obtains anything of value, unless the object of the fraud and the thing obtained consists only of the use of the computer;

["(5) intentionally accesses a Federal interest computer without authorization, and by means of one or more instances of such conduct alters information in that computer, or prevents authorized use of that computer, and thereby causes loss to another of a value aggregating \$1,000 or more during any one year period; or]

["(5) intentionally accesses a Federal interest computer without authorization, and by means of one or more instances of such conduct alters, damages, or destroys information in any such Federal interest computer, or prevents authorized use of any such computer or information, and thereby—

["(A) causes loss to one or more others of a value aggregating \$1,000 or more during any one year period; or

["(B) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

["(6) knowingly and with intent to defraud traffics (as defined in section 1029) in any password or similar information through which a computer may be accessed without authorization, if—

["(A) such trafficking affects interstate or foreign commerce; or

["(B) such computer is used by or for the Government of the United States;".

(e) ELIMINATION OF SECTION SPECIFIC CONSPIRACY OFFENSE.—Section 1030(b) of title 18, United States Code, is amended—

(1) by striking out "(1)"; and

(2) by striking out paragraph (2).

(f) PENALTY AMENDMENTS.—Section 1030 of title 18, United States Code, is amended—