

2014 -- S 2897

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - MOBILE TELEPHONES

Introduced By: Senators Ruggerio, Jabour, Felag, Miller, and Goldin

Date Introduced: April 10, 2014

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

1           SECTION 1. Legislative findings. The General Assembly finds and declares all of the  
2 following:

3           (a) According to the Federal Communications Commission, one in three robberies in the  
4 United States involves the theft of a mobile communications device, making it the number one  
5 property crime in the country. Many of these robberies often turn violent with some resulting in  
6 the loss of life.

7           (b) Consumer Reports projects that 1.6 million Americans were victimized for their  
8 smartphones in 2012.

9           (c) According to the New York Times, 113 smartphones are lost or stolen every minute in  
10 the United States.

11           (d) According to the Office of the District Attorney for the City and County of San  
12 Francisco, in 2012, more than 50 percent of all robberies in San Francisco involved the theft of a  
13 mobile communications device. In New York City, the number was 20 percent, a 40 percent  
14 increase from the year before. Recently, a half a dozen teenagers beat a 36-year-old New York  
15 City man for his iPhone. In London, although crime overall is falling, offenses such as  
16 pickpocketing and bag snatches have risen by more than 15 percent this year. This is mainly  
17 driven by the theft of phones, with some 10,000 handsets stolen in the city every month.

18           (e) In November, 2013, Attorney General Peter Kilmartin signed on as a member of the  
19 nationwide initiative known as Secure Our Smartphones ("S.O.S") that encourages manufacturers

1 of smartphones to develop a technological means to protect smartphone users in their states by  
2 drying up secondary markets for stolen devices and eliminate the economic incentive for theft.

3 (f) According to press reports, the international trafficking of stolen smartphones by  
4 organized criminal organizations has grown exponentially in recent years because of how  
5 profitable the trade has become.

6 (g) Replacement of lost and stolen mobile communications devices was an estimated  
7 thirty billion dollar (\$30,000,000,000) business in 2012 according to studies conducted by mobile  
8 communications security experts. Additionally, industry publications indicate that the four largest  
9 providers of commercial mobile radio services made an estimated seven billion eight hundred  
10 million dollars (\$7,800,000,000) from theft and loss insurance products in 2013.

11 (h) Technological solutions that render stolen mobile communications devices useless  
12 already exist, but the industry has been slow to adopt them.

13 (i) In order to be effective, these technological solutions need to be ubiquitous, as thieves  
14 cannot distinguish between those mobile communications devices that have the solutions enabled  
15 and those that do not. As a result, the technological solution should be able to withstand a hard  
16 reset or operating system downgrade, and be enabled by default, with consumers being given the  
17 option to affirmatively elect to disable this protection.

18 (j) Manufactures of advanced mobile communications devices and commercial mobile  
19 radio service providers have a responsibility to ensure their customers are not targeted as a result  
20 of purchasing their products and services.

21 (k) It is the intent of the general assembly to require all smartphones and other advanced  
22 mobile communications devices offered for sale in Rhode Island to come with a technological  
23 solution enabled, in order to deter theft and protect consumers.

24 (l) It is the further intent of the general assembly to prohibit any term or condition in a  
25 service contract between a customer and a commercial mobile radio service provider that requires  
26 or encourages the customer to disable the technological solution that renders the customer's  
27 smartphone or other advanced communications device useless if stolen.

28 SECTION 2. Chapter 39-29 of the General Laws entitled "Wireless Telephone  
29 Regulatory Modernization Act" is hereby amended by adding thereto the following section:

30 **39-29-7. Sale of advanced mobile communication devices - Hard reset required. --**

31 (a) For purposes of this section, the following terms have the following meanings:

32 (1) "Advanced mobile communications device" means an electronic device that is  
33 regularly hand held when operated that enables the user to engage in voice communications using  
34 mobile telephony service, Voice over Internet Protocol, or Internet Protocol enabled service, as

1 those terms are defined in § 39-28-2, and to connect to the Internet, and includes what are  
2 commonly known as smartphones and tablets.

3 (2) "Commercial mobile radio service" means "commercial mobile service," as defined in  
4 subsection (d) of Section 332 of Title 47 of the United States Code and as further specified by the  
5 Federal Communications Commission in Parts 20, 22, 24, and 25 of Title 47 of the Code of  
6 Federal Regulations.

7 (3) "Essential features" of an advanced mobile communications device include the ability  
8 to use the device for voice communications and the ability to connect to the Internet, including  
9 the ability to access and use mobile software applications commonly known as "apps."

10 (4) "Hard reset" means the restoration of an advanced mobile communications device to  
11 the state it was in when it left the factory, and refers to any act of returning a device to that state,  
12 including processes commonly termed a factory reset or master reset.

13 (5) "Sold in Rhode Island" means that the advanced mobile communications device is  
14 sold at retail, and not for resale, from a location within the state, or the advanced mobile  
15 communications device is sold and shipped to an end-use consumer at an address within the state.

16 (b)(1) Any advanced mobile communications device that is sold in Rhode Island on or  
17 after January 1, 2015, shall include a technological solution that can render the essential features  
18 of the device inoperable when the device is not in the possession of the rightful owner. A  
19 technological solution may consist of software, hardware, or a combination of both software and  
20 hardware, but shall be able to withstand a hard reset. No advanced mobile communications device  
21 may be sold in Rhode Island without the technological solution enabled.

22 (2) The rightful owner of an advanced mobile communications device may affirmatively  
23 elect to disable the technological solution after sale; however, the physical acts necessary to  
24 disable the technological solution may only be performed by the end-use consumer or a person  
25 specifically selected by the end-use consumer to disable the technological solution and shall not  
26 be physically performed by any retail seller of the advanced mobile communications device.

27 (c) A provider of commercial mobile radio service shall not include a term or condition in  
28 a service contract with an end-use consumer with an address within the state that requires or  
29 encourages the consumer or rightful owner to disable the technological solution that renders the  
30 consumer's smartphone or other advanced communications device useless if stolen.

31 (d) A provider of commercial mobile radio service or a person or retail entity selling an  
32 advanced communications device that is sold in Rhode Island shall not charge any fee for making  
33 the technological solution available to the end-use consumer.

34 (e)(1) A person or retail entity selling an advanced communications device in Rhode

1 Island in violation of subsection (b) of this section shall be subject to a civil penalty of not less  
2 than five hundred dollars (\$500), nor more than two thousand five hundred dollars (\$2,500), per  
3 device sold in Rhode Island.

4 (2) A provider of commercial mobile radio service that includes a term or condition in a  
5 service contract with an end-use consumer with an address within the state in violation of  
6 subsection (c) of this section shall be subject to a civil penalty of not less than five hundred  
7 dollars (\$500), nor more than two thousand five hundred dollars (\$2,500), per service contract  
8 with an end-use consumer with an address within Rhode Island.

9 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would require that any advanced mobile communications device (smartphone)  
2 sold in Rhode Island on or after January 1, 2015, include a technological solution that can render  
3 the essential features of the device inoperable when the device is stolen.

4           This act would take effect upon passage.

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