Wireless Communications and Public Safety Act of 1999

Purpose and Summary

The purpose of H.R. 438, the Wireless Communications and Public Safety Act of 1999, is to promote and enhance public safety through the use of wireless communications services. The bill does so by requiring that the Federal Communications Commission (FCC or the Commission) designate '911' as the universal emergency telephone number for both wireline and wireless telephone calls. H.R. 438 also requires the FCC to provide support to the States in the development of State-wide coordinated plans for the deployment of end-to-end communications infrastructure for emergency services, and provides incentives for greater deployment and use of wireless telecommunications services.

To encourage the rapid deployment of wireless telecommunications facilities, the bill provides the same degree of protection from liability for emergency telephone and other services to wireless carriers in each State as provided in that State to a wireline carrier. Currently, in many areas across the country, there are 'holes' or 'dead zones' in the wireless network where a wireless call cannot be transmitted due to the absence of a nearby cellular or personal communications services (PCS) antenna. The extension of protection from liability to wireless carriers, of the same degree enjoyed in a particular State by a wireline carrier, will facilitate filling in these dead zones and the provision of emergency wireless services, thereby enhancing public safety. The bill also encourages the provision and use of wireless services by providing protection to users' location information by specifying the conditions under which such information may be disclosed to third parties.

Background and Need for Legislation

In 1997, nearly 42,000 people were killed in the 6.8 million motor vehicle crashes reported to police. In addition, those crashes resulted in nearly 34 million injuries. And while deaths from motor vehicle crashes have been declining in recent years, deaths at the scene prior to receiving emergency medical care have doubled in the past 20 years, totaling more than 20,000 per year. For 40 percent of crash fatalities, the response time for emergency personnel is 20 minutes or more. In urban areas, response times for fatal crashes is often as much as 30 minutes; in rural areas it can be as long as 50 minutes. Among the most commonly used methods for requesting emergency assistance is the use of the 911 service, which permits callers to dial the digits 911 to reach public safety personnel.

The traveling public has responded in a variety of ways to these realities. They are driving safer cars and are exercising better judgment in their driving behavior. Another way in which they are providing themselves with an extra measure of security is through the use of wireless phones.

Today, approximately 68 million Americans subscribe to cellular or other personal wireless services, with millions of new subscribers added each year. As a result of this increase, there are now 36 million calls to 911 placed on wireless phones annually, or 98,000 a day. The call volume has increased from 30 million in 1997, or 84,000 a day. This volume is expected to increase 20 percent annually. Consumers are using these phones to call for help when they need it, to report other drivers' accidents or injuries, and to report erratic or aggressive drivers to authorities before those drivers have an opportunity to injure others.

While wireless phones have enabled people to save countless lives, it is clear that improvements need to be made to the wireless network if emergency personnel are to improve response times and ultimately reduce fatalities on our nation's highways. The first of these improvements is that the wireless network must be as seamless as possible. A wireless telephone is worthless unless the call goes through.

Despite a 1995 Presidential memorandum directing Federal agencies to facilitate the placement of wireless antennas on Federal property and section 704(c) of the Telecommunications Act of 1996 (47 U.S.C. 332 note), which directs Federal agencies to make property available for the placement of wireless antennas, Federal agencies generally have been reluctant to facilitate the placement of antennas on property under their control. According to testimony received by the Committee, only the Postal Service and, to a lesser extent, the General Services Administration (GSA) have engaged in any kind of concerted effort to make their properties available for antenna siting. The Committee believes the Administration must expeditiously address this failure by numerous agencies to comply with the President's 1995 memorandum and provisions in the 1996 Telecommunications Act.

While the siting of antennas on Federal property will not patch every hole in the wireless network, it will provide coverage to areas where there are few other alternatives. Further, it permits the Federal government to lead by example, demonstrating to localities and others the need for a seamless and ubiquitous wireless network to improve public safety. The Committee,

therefore, notes with encouragement the National Park Service (NPS) memorandum, included in this report, in which NPS commits to facilitating and expediting the leasing of Federal property under its control to site wireless telecommunications antennae.

If the first issue is ensuring that the call goes through, then the second issue is ensuring that the public knows whom to call. In most areas of the country, 911 is the number to call from a wireless phone when requesting emergency assistance or reporting a crime. However, in many States 911 is not the emergency number to call over a wireless phone. These can range from #77 for the Pennsylvania State Police, to *MSP...
for the Massachusetts State Police, to the regular seven digit phone number of the local police or sheriff's department. Unfortunately, it is often impossible for travelers to know the correct number to call.

This problem is best illustrated in testimony by Representative Pat Danner from the Committee's March 24, 1998 oversight hearing:

Last year, on Thanksgiving Day, a couple from Lenexa, Kansas was driving on U.S. 71 in Southwestern Missouri. This couple, Greg and Luann Bertaux, observed a minivan weaving through traffic, driving at an erratic speed, and crossing both the road's shoulder and its center line. Using a cellular phone, Luann tried to reach assistance. However, because she was unaware that the cellular emergency number in Missouri is *55, she was unable to reach assistance quickly.

After attempting several different numbers (911, information for the local police, but since they were from out of State, they weren't sure of their location, etc.), she was finally able to reach an operator who connected her to a local police station. However, by that time, it was too late. As the police were beginning to erect a roadblock, the minivan collided with an oncoming vehicle, resulting in the death of three people, including a two year old child and his 22 year old mother. This tragic accident might have been avoided if Mrs. Bertaux had been able to reach authorities on her first attempt.

It is troubling that this tragic situation could occur almost anywhere in the nation. In fact, if a motorist were to travel from the 6th Congressional District of Missouri to Washington, D.C. on I-70, the traveler would have to know to dial *55 in Missouri, *999 in Illinois, 911 in Indiana, *DUI in Ohio, 911 in Pennsylvania, and *77 in Maryland. In other words, the 6 States between Kansas City and Washington, D.C. have 5 different cellular assistance numbers. Further, in the United States as a whole, there are as many as 15 cellular assistance numbers. Some States actually have two cellular emergency numbers: in Kansas, for instance, a motorist on the Kansas Turnpike would dial *KTA, but would have to dial *47 from all other roadways. The system simply should not be so convoluted. (Serial No. 105-74, p. 5).

While it is important to improve coverage of 911 service to households and businesses served by traditional wireline service, it is that much more important that when travelers or mobile users away from the safety of their homes are in danger, or need to report dangerous or illegal behavior, they will be able to do so. The best way to accomplish that goal is through the establishment of a single emergency number for both wireless and wireline coverage. H.R. 438 does so by directing the FCC to use its existing and exclusive numbering authority to designate 911 as the nationwide emergency number.

Lastly, it is also important that when a public safety answering point (PSAP) answers an emergency call, it can readily determine the location of the caller. This is a relatively simple accomplishment with wireline phones since the phones are at a fixed location. However, the location of a cellular or other personal wireless user is not typically known to the PSAP answering an emergency call. In addition, a mobile phone user is not always aware of his or her precise location when calling from the scene of an accident or other emergency and may, therefore, be incapable of telling the PSAP where to direct the desired help. In some instances, a user that has sustained a serious injury may be unable to communicate any useful location information.

Reacting to this problem, the Commission in 1997 required that wireless carriers enhance emergency telephone service by providing the PSAP, upon the PSAP's request, with each emergency call, number and cell-site information by April 1, 1998, and location information by October 1, 2001. However, because many PSAPs lack sufficient funds to install the equipment necessary to receive the enhanced information, they currently do not request number and cell-site information. The same lack of ability to receive location information is expected to occur by the 2001 deadline, if PSAPs do not obtain the funds for upgrades or engage in State-wide coordination for deploying end-to-end communications infrastructure for emergency services.

The implementation of this important FCC Enhanced 911 Order (E911) and the broader goals described by the findings of this legislation require significant cooperation amongst the stakeholder parties, and significant leadership by all levels of government, both Federal, State and local. A central purpose of the legislation is to encourage that cooperation and leadership. The Committee recognizes that most of the key decisions in this area will not be made by the Federal government; they will be made in the private sector, and by State and local governments. Moreover, this legislation is only one part of the solution.

One section of the legislation directs the FCC to play a much more assertive role in encouraging and assisting the States to deploy these advanced safety systems. Since the Commission's 1996 E911 Order, reaffirmed at the end of 1997, implementation has lagged. For instance, only 6-7 percent of the country is now served by systems operating under the requirement, that was supposed to be met in April 1998, for automatic number identification to be forwarded upon PSAP request. The Committee's strong intent is that the Commission must lead, identifying and seeking solutions to overcome barriers for the implementation of end-to-end emergency communications systems.

There is a wide variation in State and local emergency communications systems in the United States. Most do not have the software or equipment to accept wireless enhanced 911 data, much less sophisticated automatic crash triage information, and coordinated networks with emergency medical facilities. The purpose of the legislation is to encourage investment in emergency communications systems and other public safety initiatives, so that emergency organizations of States and localities are equipped with 21st Century technology to address the public safety challenges they currently face.

The Committee recognizes that many States currently administer effective 911 systems. The Committee also recognizes that most of the actual implementation of E911 systems will be at the local level. So the Committee supports a careful balance between the need for Federal and State leadership and the responsibilities of local jurisdictions and others to provide 911 dispatching and emergency services. It is, therefore, not the intent of the Committee that any State 911 laws be superseded. Rather, the legislation is intended to encourage the Commission and the States to develop and implement coordinated State plans to upgrade 911 systems—and to do so with all the affected parties involved in the process.

The physics and market structure of commercial wireless telecommunications, and the nature of emergency medical services mean, as a practical matter, that the end-to-end emergency communications systems contemplated by the legislation cannot be entirely developed in many
or most cases on a city by city, or county by county basis, although local government will play a central planning and implementation role. With wireless carrier service areas spanning multiple jurisdictions (and even multiple States), with trauma and other emergency medical services often serving multiple jurisdictions, and with 15,000 PSAPs, there clearly needs to be coordinated, State-wide efforts to rationalize and advance emergency networks, procedures, and policies. This is true for E911, as well as for follow-on technologies such as Automatic Crash Notification, intelligent transportation systems, and similar efforts.

The legislation requires the Commission to encourage and assist the States in developing and implementing end-to-end systems, and to consult with key State officials (the heads of the lead agencies affected, e.g., State public safety, State EMS, and the like), key local officials (e.g., heads of 911 agencies), and a variety of other stakeholders ranging from medical professionals to transportation officials to automobile consumer groups. The Committee believes that the best way to enhance public safety by deploying these new technologies is to involve all the key stakeholders in overall planning and keep them involved as the technologies are implemented. Synergies resulting in enhanced public safety may be achieved by integrating the planning of wireless emergency communications with technologies for highway congestion and traffic management. Integrating intelligent transportation technologies and emergency communications should reduce the costs of both in saving lives, reducing injuries, and improving the efficiency of our nation’s highways.

The Committee believes strongly that the construction and operation of seamless, ubiquitous, reliable wireless systems serve the public interest by enhancing public safety, improving the usefulness of communications services, and facilitating interstate commerce. Consistent with the purpose of the bill, the Committee expects the FCC and other government entities to encourage and facilitate the deployment of a seamless, reliable end-to-end wireless infrastructure. Ultimately, the key to improving the value of the wireless phone as a life-saving safety device is ensuring that the proper emergency personnel receive the information necessary to perform their duties. This legislation will leverages Federal, State, local, and private resources to accomplish these goals.
AMENDMENT

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Wireless Communications and Public Safety Act of 1999'.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS- The Congress finds that--

(1) the establishment and maintenance of an end-to-end emergency communications infrastructure among members of the public, local public safety, fire service, and law enforcement officials, emergency dispatch providers, and hospital emergency and trauma care facilities will reduce response times for the delivery of emergency care, assist in delivering appropriate care, and thereby prevent fatalities, substantially reduce the severity and extent of injuries, reduce time lost from work, and save thousands of lives and billions of dollars in health care costs;

(2) the rapid, efficient deployment of emergency telecommunications service requires statewide coordination of the efforts of local public safety, fire service, and law enforcement officials, and emergency dispatch providers, and the designation of 911 as the number to call in emergencies throughout the Nation;

(3) improved public safety remains an important public health objective of Federal, State, and local governments and substantially facilitates interstate and foreign commerce;

(4) the benefits of wireless communications in emergencies will be enhanced by the development of state-wide plans to coordinate the efforts of local public safety, fire service, and law enforcement officials, emergency dispatch providers, emergency medical service providers on end-to-end emergency communications infrastructures; and

(5) the construction and operation of seamless, ubiquitous, and reliable wireless telecommunications systems promote public safety and provide immediate and critical communications links among members of the public, emergency medical service providers and emergency dispatch providers, public safety, fire service and law enforcement officials, and hospital emergency and trauma care facilities.

(b) PURPOSE- The purpose of this Act is to encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation's public safety and other communications needs.

SEC. 3. UNIVERSAL EMERGENCY TELEPHONE NUMBER.

(a) ESTABLISHMENT OF UNIVERSAL SERVICE EMERGENCY TELEPHONE NUMBER- Section 251(e) of the Communications Act of 1934 (47 U.S.C. 251(e)) is amended by adding at the end the following new paragraph:

'(3) UNIVERSAL EMERGENCY TELEPHONE NUMBER- The Commission and any agency or entity to which the Commission has delegated authority under this subsection shall designate 911 as the universal emergency telephone number within the United States for reporting an emergency to appropriate authorities and requesting assistance. Such designation shall apply to both wireline and wireless telephone service. In making such designation, the Commission (and any such agency or entity) shall provide appropriate transition periods for areas in which 911 is not in use as an emergency telephone number on the date of enactment of the Wireless Communications and Public Safety Act of 1999.';

(b) TECHNICAL SUPPORT- The Federal Communications Commission shall provide technical support to States to support and encourage the development of statewide plans for the deployment and functioning of a comprehensive end-to-end emergency communications infrastructure, including enhanced wireless 911 service, on a coordinated statewide basis. In supporting and encouraging such deployment and functioning, the Commission shall consult and cooperate with State and local officials responsible for emergency services and public safety, the
telecommunications industry (specifically including the cellular and other wireless telecommunications service providers), the motor vehicle manufacturing industry, emergency medical service providers and emergency dispatch providers, special 911 districts, public safety, fire service and law enforcement officials, consumer groups, and hospital emergency and trauma care personnel (including emergency physicians, trauma surgeons, and nurses).

SEC. 4. PARITY OF PROTECTION FOR PROVISION OR USE OF WIRELESS SERVICE.

(a) PROVIDER PARITY- A wireless carrier, and its officers, directors, employees, vendors, and agents, shall have immunity or other protection from liability of a scope and extent that is not less than the scope and extent of immunity or other protection from liability in a particular jurisdiction that a local exchange company, and its officers, directors, employees, vendors, or agents, have under Federal and State law applicable in such jurisdiction with respect to wireline services, including in connection with an act or omission involving--

(1) development, design, installation, operation, maintenance, performance, or provision of wireless service;

(2) transmission errors, failures, network outages, or other technical difficulties that may arise in the course of transmitting or handling emergency calls or providing emergency services (including wireless 911 service); and

(3) release to a PSAP, emergency medical service provider or emergency dispatch provider, public safety, fire service or law enforcement official, or hospital emergency or trauma care facility of subscriber information related to emergency calls or emergency services involving use of wireless services.

(b) USER PARITY- A person using wireless 911 service shall have immunity or other protection from liability in a particular jurisdiction of a scope and extent that is not less than the scope and extent of immunity or other protection from liability under Federal or State law applicable in such jurisdiction to similar circumstances of a person using 911 service that is not wireless.

(c) EXCEPTION FOR STATE LEGISLATIVE ACTION- The immunity or other protection from liability required by subsection (a)(1) shall not apply in any State that, prior to the expiration of 2 years after the date of enactment of this Act, enacts a statute that specifically refers to this section and establishes a different standard of immunity or other protection from liability with respect to an act or omission involving development, design, installation, operation, maintenance, performance, or provision of wireless service (other than wireless 911 service). The enactment of such a State statute shall not affect the immunity or other protection from liability required by such subsection (a)(1) with respect to acts or omissions occurring before the date of enactment of such State statute.