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[Press Release]

Senate Passes Hutchison Bill to Prevent Inmates from Using Smuggled Cell Phones - Bill will Allow Prisons to Employ Cell Jamming Technology

WASHINGTON, D.C. – Today, Hutchison-backed legislation allowing prisons to block calls from contraband cellular phones has unanimously passed the Senate. Sen. Kay Bailey Hutchison (R-Texas), Ranking Member on the Senate Commerce, Science, and Transportation Committee, introduced the legislation to prevent prison inmates from using smuggled cellular phones by allowing states to petition to operate wireless jamming devices in particular correctional facilities. The bill will now move to the House of Representatives for consideration.

“This legislation will disconnect the communications networks that prisoners and criminal enterprises have patched together using smuggled cell phones,” said Senator Hutchison. “With innocent lives on the line, Congress has a responsibility to give the nation’s law enforcement community the tools necessary to effectively fight this growing problem. By adding cell jamming technology to the tools our corrections professionals can deploy, we can prevent criminals from terrorizing Americans from behind bars – even when phones evade detection and discovery and fall into convicts’ hands. I urge my colleagues in the House to swiftly pass this legislation.”

Last year, a death row inmate used a smuggled cell phone to harass and make threats against Texas State Senator John Whitmire. When officers discovered the cell phone that was used to terrorize Sen. Whitmire and his family, they also uncovered eleven additional phones belonging to other death row inmates in the same facility.

Cell phones are being smuggled into prisons nationwide. In 2008, corrections systems across the country reported large numbers of confiscated phones. California reported nearly 3,000 phones found with inmates, while Mississippi had nearly 2,000, while the Federal Bureau of Prisons reported they confiscated more than 1,600 phones.

The Safe Prisons Communications Act of 2009 (S. 251), is cosponsored by Senators Barbara Mikulski (D-Md.), Diane Feinstein (D-Calif.), Joe Lieberman (I-Conn.), Mark Pryor (D-Ark.), Amy Klobuchar (D-Minn.), Mark Begich (D-Alaska), John Thune (R-S.D.), Roger Wicker (R-Miss.), Thad Cochran (R-Miss.), Jon Cornyn (R-Texas), David Vitter (R-La.), Lisa Murkowski (R-Alaska) and Jim DeMint (R-S.C.).

The legislation has gained the support of Maryland Governor Martin O’Malley and nineteen other governors, the Texas Department of Criminal Justice, the South Carolina Department of Corrections, the Washington, D.C. Department of Corrections, the Association of State Correctional Administrators, the American Jail Association, the American Correctional Association, the National Sheriffs Association, the American Federation of State, the County and Municipal Employees, AFL-CIO, the Fraternal Order of Police, the National Governors Association, and the Council of State Governments.

Below is a summary of the key points in S. 251 - the Safe Prisons Communications Act:

- The Federal Communications Commission (FCC) must conduct a rulemaking regarding the potential use of wireless jamming equipment in correctional facilities. As part of this rulemaking the Commission must solicit and consider the input of the National Telecommunications and Information Administration and one or more outside technical bodies with expertise in standards setting. The Commission must also consider all available technologies capable of preventing the use of unauthorized wireless communications in correctional facilities.

- In addition to this rulemaking, the Commission must also establish rules and criteria for the approval of jamming systems and devices before accepting petitions for a waiver of the prohibition on devices that cause intentional interference with wireless communications.
- Requires the FCC to conduct field testing of all devices submitted for approval and that approved devices operate at the lowest possible power output necessary to facilitate jamming and operate on a directionalized basis to limit the chance for interference. The measure also provides that devices and systems approved by the Commission may only be sold, marketed, or operated by approved correctional facilities.
- Prior to filing a petition for a waiver, a correctional facility will provide a notice of intent to the Commission (which will notify public safety and commercial wireless providers in an area). This will begin a limited coordination period during which the facility and public safety/commercial wireless entities may consult on wireless use in the areas adjacent to the facility and on the selection and proposed configuration of jamming systems and devices to minimize anticipated interference.
- At the conclusion of this short consultation process, the correctional facility may file its waiver request with the Commission. Following approval of a waiver, a correctional facility may install and configure the jamming system and associated devices. However, prior to powering on the devices there is a second brief coordination period to allow public safety entities in particular the opportunity to inspect the installation to guarantee that the system was configured and installed in a manner that avoids anticipated interference. This approach will ensure that jammers are not installed improperly and cause otherwise avoidable interference. The bill also coordinates other aspects of the procedure with changes to the timelines to make sure that these new requirements do not needlessly delay the availability of jamming technology.
- Finally, the bill requires post-installation and operation safeguards for the shutdown of a jamming system if there is actual interference that was not anticipated in the device approval or coordination processes. Additionally, each correctional facility approved to operate a jamming system must have a documented procedure to shut down the systems and devices in any circumstance where a public safety entity is responding to an incident at the prison (fires, riots, etc.) to make sure there is no potential interference with public safety radios.