AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

106TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPT. 106–25

WIRELESS COMMUNICATIONS AND PUBLIC SAFETY ACT OF 1999

FEBRUARY 23, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BLILEY, from the Committee on Commerce, submitted the following

REPORT

[To accompany H.R. 438]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (H.R. 438) to promote and enhance public safety through use of 911 as the universal emergency assistance number, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Amendment	2
Purpose and Summary	4
Background and Need for Legislation	5
Hearings	9
Committee Consideration	9
Roll Call Votes	9
Committee Oversight Findings	10
Committee on Government Reform Oversight Findings	10
New Budget Authority, Entitlement Authority, and Tax Expenditures	10
Committee Cost Estimate	10
Congressional Budget Office Estimate	10
Federal Mandates Statement	12
Advisory Committee Statement	12
Constitutional Authority Statement	12
Applicability to Legislative Branch	12
Section-by-Section Analysis of the Legislation	13
Changes in Existing Law Made by the Bill, as Reported	16
Appendix	19

69–006

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 in 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.

SEC. 5. AUTHORITY TO PROVIDE CUSTOMER INFORMATION.

Section 222 of the Communications Act of 1934 (47 U.S.C. 222) is amended—

(1) in subsection (d)—

(A) by striking "or" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting a semicolon;

(C) by adding at the end the following new paragraphs:

"(4) to provide call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d))—

"(A) to a public safety answering point, emergency medical service provider or emergency dispatch provider, public safety, fire service, or law enforcement official, or hospital emergency or trauma care facility, in order to respond to the user's call for emergency services;

"(B) to inform the user's legal guardian or members of the user's immediate family of the user's location in an emergency situation that involves the risk of death or serious physical harm; or

"(C) to providers of information or database management services solely for purposes of assisting in the delivery of emergency services in response to an emergency; or

"(5) to transmit automatic crash notification information as part of the operation of an automatic crash notification system.";

(2) by redesignating subsection (f) as subsection (h) and by inserting before such subsection the following new subsections:

"(f) AUTHORITY TO USE WIRELESS LOCATION INFORMATION.—For purposes of subsection (c)(1), without the express prior authorization of the customer, a customer shall not be considered to have approved the use or disclosure of or access to—

"(1) call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d)), other than in accordance with subsection (d)(4); or

"(2) automatic crash notification information to any person other than for use in the operation of an automatic crash notification system.

"(g) SUBSCRIBER LISTED AND UNLISTED INFORMATION FOR EMERGENCY SERVICES.—Notwithstanding subsections (b), (c), and (d), a telecommunications carrier that pro-

vides telephone exchange service shall provide information described in subsection (h)(3)(A) (including information pertaining to subscribers whose information is unlisted or unpublished) that is in its possession or control (including information pertaining to subscribers of other carriers) on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions to providers of emergency services, and providers of emergency support services, solely for purposes of delivering or assisting in the delivery of emergency services.";

(3) in subsection (h)(1)(A) (as redesignated by paragraph (2)), by inserting "location," after "destination,"; and

(4) in such subsection (h), by adding at the end the following new paragraphs:

"(4) PUBLIC SAFETY ANSWERING POINT.—The term 'public safety answering point' means a facility that has been designated to receive emergency calls and route them to emergency service personnel.

"(5) EMERGENCY SERVICES.—The term 'emergency services' means 911 emergency services and emergency notification services.

"(6) EMERGENCY NOTIFICATION SERVICES.—The term 'emergency notification services' means services that notify the public of an emergency.

"(7) EMERGENCY SUPPORT SERVICES.—The term 'emergency support services' means information or data base management services used in support of emergency services.".

SEC. 6. DEFINITIONS.

As used in this Act:

(1) The term "State" means any of the several States, the District of Columbia, or any territory or possession of the United States.

(2) The term "public safety answering point" or "PSAP" means a facility that has been designated to receive emergency calls and route them to emergency service personnel.

(3) The term "wireless carrier" means a provider of commercial mobile services or any other radio communications service that the Federal Communications Commission requires to provide wireless emergency service.

(4) The term "enhanced wireless 911 service" means any enhanced 911 service so designated by the Federal Communications Commission in the proceeding entitled "Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems" (CC Docket No. 94–102; RM–8143), or any successor proceeding.

(5) The term "wireless 911 service" means any 911 service provided by a wireless carrier, including enhanced wireless 911 service.

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 3.4 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 wireline 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 leverage Federal, State, local, and private resources to accomplish these goals.

HEARINGS

The Subcommittee on Telecommunications, Trade, and Consumer Protection held a legislative hearing on H.R. 438 on February 3, 1999. The Subcommittee received testimony from: Mr. Thomas Sugrue, Wireless Telecommunications Bureau Chief, Federal Communications Commission; Captain Joe Hanna, Richardson Texas Police Department on behalf of the Association of Public-Safety Communications Officials, International Inc.; Ms. Maureen Finnerty, Associate Director, Parks Operations and Education, Department of the Interior; Mr. Thomas E. Wheeler, President and CEO, Cellular Telecommunications Industry Association; Mr. James X. Dempsey, Senior Staff Counsel, Center for Democracy and Technology; and, Mr. Michael Amarosa, Vice President, Public Affairs, TruePosition, Inc.

COMMITTEE CONSIDERATION

On February 10, 1999, the Subcommittee on Telecommunications, Trade, and Consumer Protection met in open markup session and approved H.R. 438, the Wireless Communications and Public Safety Act of 1999, for Full Committee consideration, amended, by a voice vote.

On February 11, 1999, the Committee met in open markup session and ordered H.R. 438 reported to the House, as amended, by a voice vote, a quorum being present.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the Rules of the House requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. There were no recorded votes taken in connection with ordering H.R. 438 reported. A motion by Mr. Bliley to order H.R. 438 reported to the House, as amended, was agreed to by a voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a legislative hearing and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM OVERSIGHT FINDINGS

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee concurs with the finding of the Congressional Budget Office that H.R. 438, the Wireless Communications and Public Safety Act of 1999, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 23, 1999.

Hon. TOM BLILEY,
Chairman, Committee on Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 438, the Wireless Communications and Public Safety Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kim Cawley (for federal costs), Lisa Cash Driskill (for the state and local impact), and Lesley Frymier (for the private-sector impact).

Sincerely,

ROBERT A. SUNSHINE
(For Dan L. Crippen, Director).

Enclosure.

H.R. 438—Wireless Communications and Public Safety Act of 1999

Summary: H.R. 438 would require the Federal Communications Commission (FCC) to designate 911 as the universal emergency

telephone number for wireline and wireless service within the United States for reporting an emergency to appropriate authorities and requesting assistance. The bill also would provide protection for wireless carriers and persons using wireless 911 services from liability associated with transmission errors or other technical failures. Under the bill, such liability protection would be no less than that provided in federal and state law for wireline 911 services and users.

CBO estimates that enacting H.R. 438 would have no significant effect on the federal budget. H.R. 438 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs would not be significant and would not exceed the threshold established by that act ($50 million in 1996, adjusted annually for inflation). H.R. 438 would impose a new private-sector mandate on telecommunications carriers that provide telephone exchange service. CBO estimates that the direct cost of the new private-sector mandate would fall well below the statutory threshold as defined in UMRA ($100 million in 1996, adjusted annually for inflation).

Estimated cost to federal government: Based on information from the FCC, CBO estimates that promulgating regulations to implement this bill would cost less than $500,000, assuming the availability of appropriated funds. Furthermore, under current law the FCC is authorized to collect fees from the telecommunications industry sufficient to offset the cost of its regulatory program. Therefore, CBO estimates the net budgetary effect of H.R. 438 would be negligible.

Pay-as-you-go considerations: None.

Estimated impact on state, local & tribal governments—Mandates: H.R. 438 contains intergovernmental mandates as defined in UMRA, but CBO estimates that they would impose no costs on state and local governments. The bill would preempt state laws to provide users of wireless 911 services and wireless companies protection from liability that is not less than that provided to users of 911 wireline service and wireline companies. States would have the ability to enact legislation that could alter some aspects of the parity of protection afforded to wireless companies, if they did so within two years of the passage of this bill. The bill would prevent states from applying a higher standard of liability to wireless 911 services than is applied to wireline 911 services.

Information from industry sources and associations of state and local governments indicates that many states currently have no wireless liability laws, and in states that do, they are modeled after and in no case exceed the standards applied to wireline communication companies. Because states would not be required to pass legislation for these liability protections to apply, CBO estimates that no costs would be associated with the mandates.

Other Impacts. Section 3 would direct the FCC to designate 911 as the universal emergency telephone number. Currently, 911 emergency systems are designated at the local level, and many jurisdictions use numbers other than 911 for emergency wireless service (for instance, "*55" or "#77"). Because the FCC's authority over 911 service is limited to private carriers, not state and local governments, CBO believes that it is unlikely that this section

would impose an intergovernmental mandate requiring state and local governments to change their emergency numbering systems.

Estimated impact on the private sector: H.R. 438 would impose a new private-sector mandate on telecommunications carriers that provide exchange service. Those companies would be required to provide subscriber information (including unlisted and unpublished information) to providers of 911 emergency services and emergency notification services and to providers of information or database management services used in support of certain emergency services.

According to the FCC, this new mandate would apply to local phone companies and some wireless carriers. Under current law, local phone companies are already required to provide published (but not unlisted or unpublished) subscriber information to any person, upon request, for the purpose of publishing directories. According to industry sources, many carriers voluntarily provide this information to 911 providers as well. In addition, based on information from the Cellular Telephone Industry Association, CBO does not expect the mandate to impose significant costs on the wireless industry. Therefore, CBO estimates that the direct costs of complying with the new private-sector mandate would fall well below the statutory threshold established in UMRA ($100 million in 1996, adjusted annually for inflation).

Estimate prepared by: Federal Costs: Kim Cawlay. Impact on State, Local, and Tribal Governments: Lisa Cash Driskill. Impact on the Private Sector: Lesley Frymier.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 designates the short title of the bill as the "Wireless Communications and Public Safety Act of 1999."

Section 2. Findings and purpose

Section 2 contains the findings and purpose of H.R. 438. The findings include, inter alia, that an end-to-end communications infrastructure will reduce response times for the delivery of emergency care, thereby preventing fatalities and reducing the severity of injuries, among other benefits. The section also finds that Statewide coordination among all interested parties is required for the rapid and efficient deployment of emergency services. The Committee intends for purposes of this section that "emergency safety" and "public safety" officials include all those parties engaged in the provision of emergency or safety services, including governmental and non-governmental emergency dispatch and road service providers, such as the American Automobile Association. The Committee notes that the broader the coordination by interested parties, the more rapid the establishment of an end-to-end system to deliver emergency service and care will be.

Section 3. Universal emergency telephone number

Section 3 amends subsection 251(e) of the Communications Act of 1934 by adding a paragraph requiring the FCC to use its existing and exclusive numbering authority to designate 911 as the universal emergency telephone number for both wireless and wireline telecommunications services. In implementing this provision, the FCC shall require wireless and wireline carriers to offer 911 to their subscribers as the number to call in an emergency. Nothing in this section is intended to impose an obligation on States or localities. Given that many PSAPs do not currently use 911 as the emergency wireless number, the FCC may choose to determine that a requirement on the carriers to offer 911 service, regardless of whether the PSAP has already converted to 911, would serve the public interest. Such a rule would thereby permit a user in any location in the United States to dial 911 on a wireline or wireless phone where service is available, and be connected to the local PSAP.

The Committee notes that an expeditious implementation of this section will serve the public's interest in increased public safety by minimizing subscriber confusion over the appropriate number to call in an emergency. However, the legislation allows for a reasonable transition period for those areas where 911 is not currently the emergency number, in order to provide wireline and wireless telecommunications carriers the necessary time to implement the technical modifications to their networks, to permit translation of 911 at the appropriate network points into the emergency number in use by the PSAPs in a particular jurisdiction. Section 3, therefore, requires the FCC to provide appropriate transition periods for areas in which 911 is not in use upon enactment. The Committee intends that these transition periods should be determined by service area-specific circumstances and capabilities, rather than a sin-

gle period applied to all regions. The Committee notes that the goals of the overall legislation in enhancing public safety communications require the close cooperation of all key stakeholder groups.

The Committee urges interested parties to use these transition periods to convert to 911 as expeditiously as possible. The Committee expects that the implementation of 911 as the universal emergency number will be a cooperative effort among the FCC, carriers, PSAPs, and State and local governments. States retain their existing authority to establish appropriate mechanisms for the recovery of implementation costs. However, the Committee urges States to use their cost-recovery mechanisms to fund transition to 911, where necessary, as well as to offset costs of providing enhanced emergency services.

In designating 911 as the universal emergency telephone number, the Committee does not intend that this provision govern emergency calls initiated from private business exchanges (PBXs) or other similarly situated private telephone systems. Making PBX equipment compatible with 911 emergency calling systems is a difficult task. In particular, many current PBXs require that to obtain an outside line the user must first dial "9." Thus, users of PBX systems may be required to dial "9–9–1–1" to connect with public safety officials in emergency situations. By including this provision, the Committee does not intend to alter this situation.

However, the Committee is aware that the Commission has before it a notice of proposed rulemaking addressing this situation and others relating to PBX compatibility with 911 calling systems. This provision is not intended to affect that decision in any way and the Committee expects that the Commission will proceed in a manner that serves the public interest.

Subsection 3(b) requires the FCC to support the States in the development of coordinated, State-wide plans for the deployment of end-to-end communications infrastructure. By end-to-end communications infrastructure, the Committee means the integration of wireless telecommunications services, intelligent highway systems including automatic crash notification technology, and PSAP services. The Commission is required to consult with State and local officials and industry representatives and medical professionals. The parties listed represent the key stakeholders in such an infrastructure, but the list should not be viewed as necessarily exclusive, should other interested parties wish to be included in such a process.

Section 4. Parity of protection for provision or use of wireless services

Section 4 is intended to provide wireless carriers with the same degree of liability protection as enjoyed by wireline carriers in their provision of telecommunications services. The Committee received testimony regarding wireless carriers' concerns about liability arising from the provision of 911 services. The Committee recognizes that wireline carriers derive their protection from liability from a variety of sources—including statutes, court decisions, and limitations contained in the wireless tariffs they file. Subsection 4(a) provides States two years to enact liability statutes governing the pro-

vision of wireless services. If such State statutes are not enacted, subsection 4(c) will continue to provide wireless carriers the highest degree of protection from liability that any wireline carrier has in any State under Federal and State law, without any need for wireless carriers to file tariffs or to obtain a judicial ruling or the passage of a new State statute. Activities provided such protection include a wireless provider's development, design, installation, operation, maintenance, performance, or provision of wireless service. This section will permit wireless carriers to offer and assess charges for commercial mobile radio services, including roaming and new services such as calling party pays, without the risk of disproportionate liability within a State.

Subsection 4(a) provides liability protection for wireless emergency calls upon enactment, on a State-by-State parity basis. Protected emergency activities include transmission errors, failures, network outages, or other technical difficulties arising in the transmission of emergency calls; and release to a PSAP, emergency medical or trauma center personnel, or dispatch providers or other public safety personnel of subscriber information.

Subsection 4(b) provides that a wireless user using wireless 911 shall have the same protection from liability that a user of wireline 911 has in a particular jurisdiction.

Section 5. Authority to provide location information

Section 5 amends Section 222 of the Communications Act of 1934 to permit carriers to provide call location information concerning a user of a commercial mobile service to emergency dispatch providers and emergency service personnel to respond to the user's emergency call or to the user's immediate family in a life-threatening situation. Section 5 also permits carriers to provide call location information to transmit crash information through a motor vehicle's automatic crash notification system or to providers of information or database management service providers, to support the delivery of an emergency service. Section 5 requires the customer's express prior authorization for disclosure to any other person.

Section 222 is amended to expressly include location information in that section's definition of "customer proprietary network information" and to require user's express prior authorization before location information can be used for commercial purposes. Section 5 further amends Section 222 by requiring telephone exchange carriers to provide subscriber information to providers of emergency services and to information or database management services, for purposes of delivering, or assisting in the delivery, of emergency services. Such a carrier would have to provide subscriber telephone numbers and addresses (including information pertaining to subscribers whose information is unlisted or unpublished) that is in its possession or control (including information pertaining to subscribers of other carriers) on a timely and unbundled basis, under nondiscriminatory terms, to providers of emergency services, or information or database management services providers.

New section 222(f) requires a carrier to provide the required subscriber information on a timely and unbundled basis, on nondiscriminatory and reasonable rates, terms, and conditions. The Committee notes that this information is available in electronic

form, and thus it can and should be provided almost instantaneously in order to satisfy the "timely" requirement. In the case of emergency services and emergency support services, lives may be at stake if entities cannot obtain updated information on a near-real time basis. The "unbundled" requirement means, for instance, that the subject information must be made available separate from customer proprietary network information except as may otherwise be permitted under section 222. The Committee stresses that carriers must provide the subject information on reasonable and non-discriminatory terms. This imposes an affirmative duty on carriers to provide the information, and requires them to make the information available to requesting entities on terms at least as favorable as they provide it to themselves or their own affiliates. Finally, the Committee believes that a "reasonable" rate for purposes of this section should be cost-based, and that this cost should be minimal in view of the fact that carriers already collect the required information.

Section 6. Definitions

Section 6 defines "public safety answering point," "wireless carrier," "enhanced wireless 911 service," "wireless 911 service," and other terms.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

* * * * * * *

TITLE II—COMMON CARRIERS

PART I—COMMON CARRIER REGULATION

* * * * * * *

SEC. 222. PRIVACY OF CUSTOMER INFORMATION.

(a) * * *

* * * * * * *

(d) EXCEPTIONS.—Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers, either directly or indirectly through its agents—

(1) * * *

(2) to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services; **[**or**]**

(3) to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call,

if such call was initiated by the customer and the customer approves of the use of such information to provide such service[.]*;*

(4) to provide call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d))—

(A) to a public safety answering point, emergency medical service provider or emergency dispatch provider, public safety, fire service, or law enforcement official, or hospital emergency or trauma care facility, in order to respond to the user's call for emergency services;

(B) to inform the user's legal guardian or members of the user's immediate family of the user's location in an emergency situation that involves the risk of death or serious physical harm; or

(C) to providers of information or database management services solely for purposes of assisting in the delivery of emergency services in response to an emergency; or

(5) to transmit automatic crash notification information as part of the operation of an automatic crash notification system.

* * * * * * *

(f) AUTHORITY TO USE WIRELESS LOCATION INFORMATION.—For purposes of subsection (c)(1), without the express prior authorization of the customer, a customer shall not be considered to have approved the use or disclosure of or access to—

(1) call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d)), other than in accordance with subsection (d)(4); or

(2) automatic crash notification information to any person other than for use in the operation of an automatic crash notification system.

(g) SUBSCRIBER LISTED AND UNLISTED INFORMATION FOR EMERGENCY SERVICES.—Notwithstanding subsections (b), (c), and (d), a telecommunications carrier that provides telephone exchange service shall provide information described in subsection (h)(3)(A) (including information pertaining to subscribers whose information is unlisted or unpublished) that is in its possession or control (including information pertaining to subscribers of other carriers) on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions to providers of emergency services, and providers of emergency support services, solely for purposes of delivering or assisting in the delivery of emergency services.

[(f)] *(h)* DEFINITIONS.—As used in this section:

(1) CUSTOMER PROPRIETARY NETWORK INFORMATION.—The term "customer proprietary network information" means—

(A) information that relates to the quantity, technical configuration, type, destination, *location,* and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and

* * * * * * *

(4) PUBLIC SAFETY ANSWERING POINT.—The term "public safety answering point" means a facility that has been designated to receive emergency calls and route them to emergency service personnel.

(5) EMERGENCY SERVICES.—The term "emergency services" means 911 emergency services and emergency notification services.

(6) EMERGENCY NOTIFICATION SERVICES.—The term "emergency notification services" means services that notify the public of an emergency.

(7) EMERGENCY SUPPORT SERVICES.—The term "emergency support services" means information or data base management services used in support of emergency services.

* * * * * * *

PART II—DEVELOPMENT OF COMPETITIVE MARKETS

SEC. 251. INTERCONNECTION.

(a) * * *

* * * * * * *

(e) NUMBERING ADMINISTRATION.—

(1) * * *

* * * * * * *

(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.

* * * * * * *

APPENDIX

DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Washington, DC.

Hon. TOM BLILEY,
Chairman, Committee on Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In connection with H.R. 438, the Wireless Communications and Public Safety Act of 1999 (Act), which is scheduled to be marked up by your committee on February 10, 1999, I am pleased to enclose a National Park Service (NPS) Memorandum which clarifies certain issues concerning NPS compliance with the Telecommunications Act of 1996 (47 U.S.C. 332) on processing applications to site wireless telecommunication antennae on NPS lands.

I will summarize the contents of the Memorandum:

Parks will encourage meetings with telecommunication antenna applicants, as necessary, at any time during the application process, particularly in cases when a Park is considering denying an application.

In reviewing such applications, Parks will consider the safety of the visiting public as a factor.

The NPS, with the assistance of the Bureau of Land Management, the Fish and Wildlife Service, and the industry, will develop a Service-wide fee schedule for permit fees that will not exceed fair market value.

Parks will conduct the review processes required under the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA) in an expeditious manner consistent with all applicable laws.

When an Environmental Assessment is sufficient to satisfy NEPA compliance Parks should seek, to the extent possible, to complete compliance within 120 days of receipt of an application. Should delays occur or be expected to occur, the Park should inform the applicant of the probable delay and discuss the expected time schedule occasioned by the delay.

In circumstances when an environmental impact statement is required, to the extent possible, the resulting Record of Decision should be issued within 12 to 18 months of receipt of the initial application. Should delays occur or be expected to occur, the Park should inform the applicant of the probable delay and discuss the expected time schedule occasioned by the delay.

The NPS will develop and conduct in the near future additional training on implementing the Telecommunications Act of 1996,

NPS telecommunications siting process policy, and related environmental impact analysis.

We believe the points raised in the Memorandum demonstrate our commitment to processing telecommunication antenna applications as expeditiously as possible, consistent with applicable laws and in accordance with the mission of the NPS. We are particularly pleased by your committee's willingness to work with the Department in addressing our concerns by removing the section of the Act which addressed the processing of antenna applications on federal lands.

Sincerely,

ROBERT STANTON,
Director.

Enclosure.

MEMORANDUM

To: Directorate, Field Directorate, Regional Associate Directors for Operations, Park Superintendents.
From: Deputy Director.
Subject: Clarification of Director's Order 53A—Telecommunication Antenna Sites.

Since Director's Order 53A was finalized and distributed to the field, some misunderstandings about parts of it have arisen. This directive is intended to clarify the misunderstandings.

It is the policy and intent of the National Park Service (NPS) to comply with the Telecommunications Act of 1996 (47 U.S.C. 332) in all aspects including but not limited to the following:

Parks will encourage meetings with telecommunication antenna applicants at any time during the decision making process as necessary, particularly if the park is considering denying the application. In such instances, the applicant will be given an opportunity to discuss the pending application and the park's concerns before a final decision is made.

Parks will consider the safety of the visiting public as a factor when reviewing telecommunication antenna applications. Public safety, in this context, refers to telephonic access to emergency law enforcement and public safety services;

With the help of park and regional personnel as well as Bureau of Land Management, Fish and Wildlife Service and the industry, we will develop a Servicewide fee schedule that will not exceed fair market value;

The National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA) review processes will be conducted expeditiously and consistent with all applicable statutes.

To the extent possible, where an environmental assessment may be sufficient to satisfy NEPA compliance, parks should seek to complete the environmental review process within 120 days of receipt of an application. Should delays occur or be expected to occur, the park should inform the applicant of the probable delay and discuss an expected time schedule;

The NPS will, in the very near future, develop and conduct additional training on implementing the Telecommunications Act of 1996, NPS telecommunication siting process policy, and related en-

vironmental impact analysis. We expect to conduct three sessions—one in the east, one mid-continent, and one in the west. Each regional director should ensure that the region's telecommunications or special park uses coordinator and regional environmental coordinator attend one of the sessions. Superintendents of parks, which have or expect to have telecommunications antenna siting applications should also attend.

Should you have questions or need assistance in dealing with these issues, please feel free to contact Dick Young or Chris Andress in WASO, Ranger Activities. For NEPA related questions, please contact Jacob J. Hoogland or Sarah Bransom in the Environmental Quality Division.

○