

Amendment to HB 474-FN

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT regulating the use of a cell site simulator device.

4
5 Amend the bill by replacing all after the enacting clause with the following:

6
7 1 New Section; Cell Site Simulator Devices. Amend RSA 570-A by inserting after section 2 the
8 following new section:

9 570-A:2-a Cell Site Simulator Devices.

10 I. In this section:

11 (a) "Cell site simulator device" means a device that transmits or receives radio waves for
12 the purpose of conducting one or more of the following operations:

13 (1) Identifying, locating, or tracking the movements of a communications device.

14 (2) Intercepting, obtaining, accessing, or forwarding the communications, sorted
15 data, or metadata of a communications device.

16 (3) Affecting the hardware or software operations or functions of a communications

17 (4) Forcing transmissions from or connections to a communications device.

18 (5) Denying a communications device access to other communications devices,
19 communications protocols, or services.

20 (6) Spoofing or simulating a communications device, cell tower, cell site, or service
21 including, but not limited to, an international mobile subscriber identity catcher or other invasive
22 cell phone or telephone surveillance or eavesdropping device that mimics a cell phone tower and
23 sends out signals to cause cell phones in the area to transmit their locations, identifying
24 information, and communications content, or a passive interception device or digital analyzer that
25 does not send signals to a communications device under surveillance.

26 (b) A "cell site simulator device" shall not include any device used or installed by:

27 (1) An electric utility solely to the extent such device is used by that utility to
28 measure electrical usage or to operate the electric grid efficiently.

29 (2) A telecommunications company solely to the extent such device is used by that
30 company to operate its communications network efficiently.

31 (c) "Communications device" means a device that is capable of creating, receiving,

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1 accessing, or storing electronic communications, including but not limited to cellular telephones.

2 (d) "Metadata" means structured information that describes, explains, locates, or
3 otherwise makes it easier to retrieve, use, or manage an information resource.

4 II. No person shall use a cell site simulator device to locate or track the location of an
5 individual's communications device without:

6 (a) The individual's informed consent; or

7 (b) A warrant issued by a judge authorizing the use of a cell site simulator device, that
8 is based upon probable cause and that describes with particularity the person, place, or thing to be
9 searched or seized; or

10 (c) A judicially-recognized exception to the warrant requirement, for information to be
11 collected by a cell site simulator device.

12 III. A law enforcement agency authorized to use a cell site simulator device in accordance
13 with paragraph II shall:

14 (a) Permanently delete any information, data, or metadata collected from any party not
15 specified in the applicable court order as soon as reasonably possible and not later than the end of
16 the day on which it was obtained immediately following such collection, and shall not transmit, use,
17 or retain such information or metadata for any purpose.

18 (b) Delete any information, data, or metadata collected from the target specified in the
19 court order within 30 days if there is no longer reason to believe that such information or metadata
20 is evidence of a crime.

21 IV. Any person who violates any provision of this chapter shall be guilty of a class A
22 misdemeanor and, notwithstanding RSA 651:2, IV(a), may be fined up to \$10,000.

23 2 Effective Date. This act shall take effect January 1, 2018.

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AMENDED ANALYSIS

This bill limits the use of cell site simulator devices for the purposes of locating and tracking the movements of communications devices.