

Law – Codified at 47 U.S.C. § 1008

Communications Assistance for Law Enforcement Act of 1994
Pub. L. No. 103-414, 108 Stat. 4279

**One Hundred Third Congress
of the
United States of America**

AT THE SECOND SESSION

An Act

To amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for Law Enforcement purposes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

******* [additional sections not reprinted]**

SEC. 109. PAYMENT OF COSTS OF TELECOMMUNICATIONS CARRIERS TO COMPLY WITH CAPABILITY REQUIREMENTS.

(a) EQUIPMENT, FACILITIES, AND SERVICES DEPLOYED ON OR BEFORE JANUARY 1, 1995- The Attorney General may, subject to the availability of appropriations, agree to pay telecommunications carriers for all reasonable costs directly associated with the modifications performed by carriers in connection with equipment, facilities, and services installed or deployed on or before January 1, 1995, to establish the capabilities necessary to comply with section 103.

(b) EQUIPMENT, FACILITIES, AND SERVICES DEPLOYED AFTER JANUARY 1, 1995-

(1) DETERMINATIONS OF REASONABLY ACHIEVABLE- The Commission, on petition from a telecommunications carrier or any other interested person, and after notice to the Attorney General, shall determine whether compliance with the assistance capability requirements of section 103 is reasonably achievable with respect to any equipment, facility, or service installed or deployed after January 1, 1995. The Commission shall make such determination within 1 year after the date such petition is filed. In making such determination, the Commission shall determine whether compliance would impose significant difficulty or expense on the carrier or on the users of the carrier's systems and shall consider the following factors:

- (A) The effect on public safety and national security.
- (B) The effect on rates for basic residential telephone service.
- (C) The need to protect the privacy and security of communications not authorized to be intercepted.
- (D) The need to achieve the capability assistance requirements of section 103 by cost-effective methods.
- (E) The effect on the nature and cost of the equipment, facility, or service at issue.
- (F) The effect on the operation of the equipment, facility, or service at issue.

- (G) The policy of the United States to encourage the provision of new technologies and services to the public.
- (H) The financial resources of the telecommunications carrier.
- (I) The effect on competition in the provision of telecommunications services.
- (J) The extent to which the design and development of the equipment, facility, or service was initiated before January 1, 1995.
- (K) Such other factors as the Commission determines are appropriate.

(2) COMPENSATION- If compliance with the assistance capability requirements of section 103 is not reasonably achievable with respect to equipment, facilities, or services deployed after January 1, 1995--

- (A) the Attorney General, on application of a telecommunications carrier, may agree, subject to the availability of appropriations, to pay the telecommunications carrier for the additional reasonable costs of making compliance with such assistance capability requirements reasonably achievable; and
- (B) if the Attorney General does not agree to pay such costs, the telecommunications carrier shall be deemed to be in compliance with such capability requirements.

(c) ALLOCATION OF FUNDS FOR PAYMENT- The Attorney General shall allocate funds appropriated to carry out this title in accordance with Law Enforcement priorities determined by the Attorney General.

(d) FAILURE TO MAKE PAYMENT WITH RESPECT TO EQUIPMENT, FACILITIES, AND SERVICES DEPLOYED ON OR BEFORE JANUARY 1, 1995- If a carrier has requested payment in accordance with procedures promulgated pursuant to subsection (e), and the Attorney General has not agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring any equipment, facility, or service deployed on or before January 1, 1995, into compliance with the assistance capability requirements of section 103, such equipment, facility, or service shall be considered to be in compliance with the assistance capability requirements of section 103 until the equipment, facility, or service is replaced or significantly upgraded or otherwise undergoes major modification.

(e) COST CONTROL REGULATIONS-

(1) IN GENERAL- The Attorney General shall, after notice and comment, establish regulations necessary to effectuate timely and cost-efficient payment to telecommunications carriers under this title, under chapters 119 and 121 of title 18, United States Code, and under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

(2) CONTENTS OF REGULATIONS- The Attorney General, after consultation with the Commission, shall prescribe regulations for purposes of determining reasonable costs under this title. Such regulations shall seek to minimize the cost to the Federal Government and shall--

(A) permit recovery from the Federal Government of--

- (i) the direct costs of developing the modifications described in subsection (a), of providing the capabilities requested under subsection (b)(2), or of providing the capacities requested under section 104(e), but only to the extent that such costs have not been recovered from any other governmental or non-governmental entity;

- (ii) the costs of training personnel in the use of such capabilities or capacities; and
- (iii) the direct costs of deploying or installing such capabilities or capacities;

(B) in the case of any modification that may be used for any purpose other than lawfully authorized electronic surveillance by a Law Enforcement agency of a government, permit recovery of only the incremental cost of making the modification suitable for such Law Enforcement purposes; and

(C) maintain the confidentiality of trade secrets.

(3) SUBMISSION OF CLAIMS- Such regulations shall require any telecommunications carrier that the Attorney General has agreed to pay for modifications pursuant to this section and that has installed or deployed such modification to submit to the Attorney General a claim for payment that contains or is accompanied by such information as the Attorney General may require.

