

SIXTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Second Regular Session )



'14 JUN 18 P2:38

SENATE  
S. No. **2285**

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Introduced by Senator Miriam Defensor Santiago

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AN ACT  
REQUIRING MOBILE SERVICES PROVIDERS AND MOBILE DEVICE  
MANUFACTURERS TO GIVE CONSUMERS THE ABILITY TO  
REMOTELY DELETE DATA FROM MOBILE DEVICES AND  
RENDER SUCH DEVICES INOPERABLE

EXPLANATORY NOTE

According to some news reports, people are getting seriously injured or even killed, for their mobile phones and other gadgets.

The 2012 Annual Report of the National Telecommunications Commission states that the bulk of complaints received by its One Stop Public Assistance or OSPAC is comprised of lost or stolen mobile phones, and the complaints allegedly increased by an average of 7% annually from 2005 to 2009. The report provides that there was an increase of 23% in 2012 compared to 2011.

Hence, the mobile services providers and mobile device manufacturers should be required to provide safeguards in order to provide the consumers the most secure technology available to protect them and their personal data; and consequently, in order to deter the rampant theft of mobile devices in the country.

This bill seeks to require mobile devices sold and imported in the Philippines to include **free kill switch technology** that would let owners remotely delete their personal

data, render the devices inoperable to anyone but the owner, and prevent it from being activated by anyone other than the owner.<sup>1</sup>

*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO  
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<sup>1</sup> This bill was originally filed by Senators Klobuchar, Hirono, Mikulski, and Blumenthal in the U.S. Senate (S. 2032; 113<sup>th</sup> Congress, Second Session).

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SENATE  
S. No. 2285

RECEIVED BY: fi

Introduced by Senator Miriam Defensor Santiago

*Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:*

1 AN ACT  
2 REQUIRING MOBILE SERVICES PROVIDERS AND MOBILE DEVICE  
3 MANUFACTURERS TO GIVE CONSUMERS THE ABILITY TO  
4 REMOTELY DELETE DATA FROM MOBILE DEVICES AND  
5 RENDER SUCH DEVICES INOPERABLE

6 SECTION 1. *Short Title.* – This Act shall be known as the “Smartphone Theft  
7 Prevention Act.”

8 SECTION 2. *Function for Stolen Mobile Devices.* –

9 (a) *Definitions.* – In this Act, the term:

10 (1) “Account holder,” with respect to a mobile device –

11 (A) means the person who holds the account through which  
12 commercial mobile service or commercial mobile data service is provided  
13 on the device; and

14 (B) includes a person authorized by the person described in  
15 subparagraph (A) to take actions with respect to the device;

16 (2) “Commercial mobile data service” means any mobile service that is:

17 (A) a data service;

18 (B) provided for profit; and

1 (C) available to the public or such classes of eligible users as to be  
2 effectively available to a substantial portion of the public, as specified by  
3 regulation by the Commission;

4 (3) “Commercial mobile service” means any mobile service that is provided  
5 for profit and makes interconnected service available –

6 (A) to the public or

7 (B) to such classes of eligible users as to be effectively available to a  
8 substantial portion of the public, as specified by regulation by the  
9 Commission;

10 (4) “Commission” means National Telecommunications Commission; and

11 (5) “Mobile device” means a personal electronic device on which  
12 commercial mobile service or commercial mobile data service is provided.

13 (b) *Requirements.* –

14 (1) *Function.* – A provider of commercial mobile service or commercial  
15 mobile data service on a mobile device shall make available on the device a  
16 function that:

17 (A) may only be used by the account holder; and

18 (B) includes the capability to remotely –

19 (i) delete or render inaccessible from the device all  
20 information relating to the account holder that has been placed on  
21 the device;

22 (ii) render the device inoperable on the network of any  
23 provider of commercial mobile service or commercial mobile data  
24 service globally, even if the device is turned off or has the data  
25 storage medium removed;

1 (iii) prevent the device from being reactivated or  
2 reprogrammed without a passcode or similar authorization after the  
3 device has been:

4 (I) rendered inoperable as described in clause (ii); or

5 (II) subject to an unauthorized factory reset; and

6 (iv) reverse any action described in clause (i), (ii), or (iii) if  
7 the device is recovered by the account holder.

8 (2) *Device Standards.* – A person may not manufacture in the Philippines,  
9 or import into the Philippines for sale or resale to the public, a mobile device  
10 unless the device is configured in such a manner that the provider of commercial  
11 mobile service or commercial mobile data service on the device may make  
12 available on the device the function required under subsection (1).

13 (3) *Exemptions for Functionally Equivalent Technology.* –

14 (A) *Mobile Service Providers.* – The Commission may exempt a  
15 provider of commercial mobile service or commercial mobile data service  
16 on a mobile device from the requirement under paragraph (1), with respect  
17 to that device, if the provider makes available on the device technology that  
18 accomplishes the functional equivalent of the function required under  
19 paragraph (1).

20 (B) *Manufacturers and Importers.* – The Commission may exempt a person  
21 from the requirement under paragraph (2), with respect a mobile device that the  
22 person manufactures in the Philippines or imports into the Philippines for sale or  
23 resale to the public, if the device is configured in such a manner that the provider  
24 of commercial mobile service or commercial mobile data service on the device  
25 may make available on the device technology that accomplishes the functional  
26 equivalent of the function required under paragraph (1).

1           (4) *Waiver for Low-Cost, Voice-Only Mobile Devices.* – The Commission  
2           may waive the applicability of the requirements under paragraphs (1) and (2) with  
3           respect to any low-cost mobile device that:

4                       (A) is intended for primarily voice-only mobile service; and

5                       (B) may have limited data consumption functions focused on text  
6           messaging or short message service.

7           (c) *No Fee.* – A provider of commercial mobile service or commercial mobile data  
8           service on a mobile device may not charge the account holder any fee for making the  
9           function described in subsection (b)(1), or any equivalent technology described in  
10          subsection (b)(3)(A), available to the account holder.

11          (d) *Forfeiture Penalty.* – Any person that is determined by the Commission to  
12          have violated subsection (b) or (c) of this section shall be liable to the Philippines for a  
13          forfeiture penalty, in an amount to be determined by the Commission.

14          (e) *Rule of Construction.* – Nothing in this Act shall be construed to prohibit a  
15          manufacturer of mobile devices, or a provider of commercial mobile service or  
16          commercial mobile data service, from taking actions not described in this Act to protect  
17          consumers from the theft of mobile devices.

18          SECTION 3. *Applicability of Function Requirement.* –

19          (1) *Applicability.* – The provisions of this Act shall apply with respect to any  
20          mobile device that, on or after 1 January 1 2015, is –

21                       (A) manufactured in the Philippines; or

22                       (B) imported into the Philippines for sale to the public.

23          (2) *Compliance Extensions.* – The Commission may exempt a person that is  
24          subject to any requirement under Section 2, from that requirement for a temporary period  
25          after the date described in this section, upon a showing by the person that the person  
26          requires more time to be able to comply with the requirement.

1           SECTION 4. *Separability Clause.* – If any provision or part hereof, is held invalid  
2 or unconstitutional, the remainder of the law or the provision not otherwise affected shall  
3 remain valid and subsisting.

4           SECTION 5. *Repealing Clause.* – Any law, presidential decree or issuance,  
5 executive order, letter of instruction, administrative order, rule or regulation contrary to  
6 or is inconsistent with the provision of this Act is hereby repealed, modified, or amended  
7 accordingly.

8           SECTION 6. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after  
9 its publication in at least two (2) newspapers of general circulation.

Approved,

/fldp11june2014