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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- MOBILE DEVICE THEFT  
DETERRENCE ACT

Introduced By: Representatives Messier, Ferri, Fellela, Serpa, and Johnston

Date Introduced: May 01, 2014

Referred To: House Corporations

(by request)

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND  
2 CARRIERS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 31

4 MOBILE DEVICE THEFT DETERRENCE ACT

5 **39-31-1. Short title.** – This chapter shall be known and may be cited as "Mobile Device  
6 Theft Deterrence Act".

7 **39-31-2. Legislative findings.** -- The general assembly finds and declares that:

8 (1) According to the Federal Communications Commission, smartphone thefts now  
9 account for thirty percent (30%) to forty percent (40%) of robberies in many major cities across  
10 the country. Many of these robberies often turn violent with some resulting in the loss of life.

11 (2) Consumer Reports projects that 1.6 million Americans were victimized for their  
12 smartphones in 2012.

13 (3) According to the New York Times, one hundred thirteen (113) smartphones are lost  
14 or stolen every minute in the United States.

15 (4) According to press reports, the international trafficking of stolen smartphones by  
16 organized criminal organizations has grown exponentially in recent years because of how  
17 profitable the trade has become.

18 (5) Replacement of lost and stolen mobile communications devices was an estimated

1 thirty billion dollar (\$30,000,000,000) business in 2012 according to studies conducted by mobile  
2 communications security experts. Additionally, industry publications indicate that the four (4)  
3 largest providers of commercial mobile radio services made an estimated seven billion eight  
4 hundred million dollars (\$7,800,000,000) from theft and loss insurance products in 2013.

5 (6) Technological solutions that render stolen mobile communications devices useless  
6 already exist, but the industry has been slow to adopt them.

7 (7) In order to be effective, these technological solutions need to be ubiquitous, as thieves  
8 cannot distinguish between those mobile communications devices that have the solutions enabled  
9 and those that do not. As a result, the technological solution should be able to withstand a hard  
10 reset or operating system downgrade, and be enabled by default, with consumers being given the  
11 option to affirmatively elect to disable this protection.

12 (8) Manufacturers of advanced mobile communications devices and commercial mobile  
13 radio service providers have a responsibility to ensure their customers are not targeted as a result  
14 of purchasing their products and services.

15 (9) It is the intent of the general assembly to require all smartphones and other advanced  
16 mobile communications devices offered for sale in Rhode Island to come with a technological  
17 solution enabled, in order to deter theft and protect consumers.

18 **39-31-3. Definitions. --** As used in this chapter, the following words and terms shall have  
19 the following meanings unless the context shall clearly indicate another or different meaning or  
20 intent:

21 (1) "Advanced mobile communications device" means an electronic device that is  
22 regularly hand held when operated that enables the user to engage in voice communications using  
23 mobile telephony service, voice over internet protocol, or internet protocol enabled service, as  
24 those terms are defined in §§ 39-21.1-3 and 39-28-2, and to connect to the Internet, and includes  
25 what are commonly known as smartphones and tablets.

26 (2) "Commercial mobile radio service" means "commercial mobile service," as defined in  
27 subsection (d) of section 332 of title 47 of the United States Code and as further specified by the  
28 Federal Communications Commission in Parts 20, 22, 24, and 25 of title 47 of the code of Federal  
29 Regulations, and includes "mobile satellite telephone service" and "mobile telephony service," as  
30 those terms are defined in §§ 39-21.1-3 and 39-28-2.

31 (3) "Essential features" of an advanced mobile communications device means and  
32 includes the ability to use the device for voice communications and the ability to connect to the  
33 Internet, including the ability to access and use mobile software applications commonly known as  
34 "apps."

1 (4) "Hard reset" means the restoration of an advanced mobile communications device to  
2 the state it was in when it left the factory, and refers to any act of returning a device to that state,  
3 including processes commonly termed a factory reset or master reset.

4 (5) "Sold in Rhode Island" means that the advanced mobile communications device is  
5 sold at retail from a location within the state, or the advanced mobile communications device is  
6 sold and shipped to an end-use consumer at an address within the state. "Sold in Rhode Island"  
7 does not include a device that is resold in the state on the secondhand market or that is consigned  
8 and held as collateral on a loan.

9 **39-31-4. Theft deterrence. --** (a) Any advanced mobile communications device that is  
10 sold in Rhode Island on or after January 1, 2015, shall include a technological solution that can  
11 render the essential features of the device inoperable when the device is not in the possession of  
12 the rightful owner. The technological solution shall be reversible, so that if the rightful owner  
13 obtains possession of the device after the essential features of the device have been rendered  
14 inoperable, the operation of those essential features can be restored by the rightful owner or his or  
15 her authorized designee. A technological solution may consist of software, hardware, or a  
16 combination of both software and hardware, but shall be able to withstand a hard reset, and when  
17 enabled, shall prevent reactivation of the device on a wireless network except by the rightful  
18 owner or his or her authorized designee. No advanced mobile communications device may be  
19 sold in Rhode Island without the technological solution enabled.

20 (b) The "essential features" that are required to be rendered inoperable pursuant to this  
21 chapter do not include the ability of a device to access emergency services by a voice call or text  
22 to the numerals "911" and the ability of a device to receive wireless emergency alerts and  
23 warnings.

24 (c) The rightful owner of an advanced mobile communications device may affirmatively  
25 elect to disable the technological solution after sale; however, the physical acts necessary to  
26 disable the technological solution may only be performed by the end-use consumer or a person  
27 specifically selected by the end-use consumer to disable the technological solution and shall not  
28 be physically performed by any retail seller of the advanced mobile communications device.

29 (d) A person or retail entity selling an advanced communications device in Rhode Island  
30 in violation of subsection (b) of this section shall be subject to a civil penalty of not less than two  
31 hundred dollars (\$200), nor more than one thousand dollars (\$1,000), per device sold in Rhode  
32 Island.

33 (e) Nothing in this section requires a technological solution that is incompatible with, or  
34 renders it impossible to comply with, obligations under state and federal law and regulation

1 related to any of the following:

2 (1) The provision of emergency services through the 911 system, including text to 911,  
3 bounce-back messages, and location accuracy requirements.

4 (2) Participation in the wireless emergency alert system.

5 (3) Participation in state and local emergency alert and public safety warning systems.

6 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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RELATING TO PUBLIC UTILITIES AND CARRIERS -- MOBILE DEVICE THEFT  
DETERRENCE ACT

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1           This act would establish the Mobile Device Theft Deterrence Act which would require  
2   that any mobile communications device sold in Rhode Island include a technological solution that  
3   would render inoperable the essential features of the device, when the device is not in the  
4   possession of the rightful owner.

5           This act would take effect upon passage.

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