

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6351

To establish a voluntary framework through which commercial mobile service providers can elect to transmit emergency alerts to subscribers.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 5, 2006

Mr. BARTON of Texas introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Science and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish a voluntary framework through which commercial mobile service providers can elect to transmit emergency alerts to subscribers.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Warning, Alert, and  
5 Response Network Act”.

6 **SEC. 2. FEDERAL COMMUNICATIONS COMMISSION DUTIES.**

7 (a) **COMMERCIAL MOBILE SERVICE ALERT REGULA-**  
8 **TIONS.**—Within 180 days after the date on which the

1 Commercial Mobile Service Alert Advisory Committee, es-  
2 tablished pursuant to section 3(a), transmits recommenda-  
3 tions to the Federal Communications Commission, the  
4 Commission shall complete a proceeding to adopt relevant  
5 technical standards, protocols, procedures, and other tech-  
6 nical requirements based on the recommendations of such  
7 Advisory Committee necessary to enable commercial mo-  
8 bile service alerting capability for commercial mobile serv-  
9 ice providers that voluntarily elect to transmit emergency  
10 alerts. The Commission shall consult with the National In-  
11 stitute of Standards and Technology regarding the adop-  
12 tion of technical standards under this subsection.

13 (b) COMMERCIAL MOBILE SERVICE ELECTION.—

14 (1) AMENDMENT OF COMMERCIAL MOBILE  
15 SERVICE LICENSE.—Within 120 days after the date  
16 on which the Federal Communications Commission  
17 adopts relevant technical standards and other tech-  
18 nical requirements pursuant to subsection (a), the  
19 Commission shall complete a proceeding—

20 (A) to allow any licensee providing com-  
21 mercial mobile service (as defined in section  
22 332(d)(1) of the Communications Act of 1934  
23 (47 U.S.C. 332(d)(1))) to transmit emergency  
24 alerts to subscribers to, or users of, the com-  
25 mercial mobile service provided by such licensee;

1 (B) to require any licensee providing com-  
2 mercial mobile service that elects, in whole or in  
3 part, under paragraph (2) not to transmit  
4 emergency alerts to provide clear and con-  
5 spicuous notice at the point of sale of any de-  
6 vices with which its commercial mobile service  
7 is included, that it will not transmit such alerts  
8 via the service it provides for the device; and

9 (C) to require any licensee providing com-  
10 mercial mobile service that elects under para-  
11 graph (2) not to transmit emergency alerts to  
12 notify its existing subscribers of its election.

13 (2) ELECTION.—

14 (A) IN GENERAL.—Within 30 days after  
15 the Commission issues its order under para-  
16 graph (1), each licensee providing commercial  
17 mobile service shall file an election with the  
18 Commission with respect to whether or not it  
19 intends to transmit emergency alerts.

20 (B) TRANSMISSION STANDARDS; NOTIFICA-  
21 TION.—If a licensee providing commercial mo-  
22 bile service elects to transmit emergency alerts  
23 via its commercial mobile service, the licensee  
24 shall—

1 (i) notify the Commission of its elec-  
2 tion; and

3 (ii) agree to transmit such alerts in a  
4 manner consistent with the technical  
5 standards, protocols, procedures and other  
6 technical requirements implemented by the  
7 Commission.

8 (C) NO FEE FOR SERVICE.—A commercial  
9 mobile service licensee that elects to transmit  
10 emergency alerts may not impose a separate or  
11 additional charge for such transmission or ca-  
12 pability.

13 (D) WITHDRAWAL; LATE ELECTION.—The  
14 Commission shall establish a procedure—

15 (i) for a commercial mobile service li-  
16 censee that has elected to transmit emer-  
17 gency alerts to withdraw its election with-  
18 out regulatory penalty or forfeiture upon  
19 advance written notification of the with-  
20 drawal to its affected subscribers;

21 (ii) for a commercial mobile service li-  
22 censee to elect to transmit emergency  
23 alerts at a date later than provided in sub-  
24 paragraph (A); and

1 (iii) under which a subscriber may  
2 terminate a subscription to service pro-  
3 vided by a commercial mobile service li-  
4 censee that withdraws its election without  
5 penalty or early termination fee.

6 (E) CONSUMER CHOICE TECHNOLOGY.—

7 Any commercial mobile service licensee electing  
8 to transmit emergency alerts may offer sub-  
9 scribers the capability of preventing the sub-  
10 scriber's device from receiving such alerts, or  
11 classes of such alerts, other than an alert issued  
12 by the President. Within 2 years after the Com-  
13 mission completes the proceeding under para-  
14 graph (1), the Commission shall examine the  
15 issue of whether a commercial mobile service  
16 provider should continue to be permitted to  
17 offer its subscribers such capability. The Com-  
18 mission shall submit a report with its rec-  
19 ommendations to the Committee on Commerce,  
20 Science, and Transportation of the Senate and  
21 the Committee on Energy and Commerce of the  
22 House of Representatives.

23 (c) DIGITAL TELEVISION TRANSMISSION TOWERS  
24 RETRANSMISSION CAPABILITY.—Within 90 days after the  
25 date on which the Commission adopts relevant technical

1 standards based on recommendations of the Commercial  
2 Mobile Service Alert Advisory Committee, established pur-  
3 suant to section 3(a), the Commission shall complete a  
4 proceeding to require licensees and permittees of non-  
5 commercial educational broadcast stations or public  
6 broadcast stations (as those terms are defined in section  
7 397(6) of the Communications Act of 1934 (47 U.S.C.  
8 397(6))) to install necessary equipment and technologies  
9 on, or as part of, any broadcast television digital signal  
10 transmitter to enable the distribution of geographically  
11 targeted alerts by commercial mobile service providers  
12 that have elected to transmit emergency alerts under this  
13 section.

14 (d) FCC REGULATION OF COMPLIANCE.—The Fed-  
15 eral Communications Commission may enforce compliance  
16 with this Act but shall have no rulemaking authority  
17 under this Act, except as provided in subsections (a), (b),  
18 (c), and (f).

19 (e) LIMITATION OF LIABILITY.—

20 (1) IN GENERAL.—Any commercial mobile serv-  
21 ice provider (including its officers, directors, employ-  
22 ees, vendors, and agents) that transmits emergency  
23 alerts and meets its obligations under this Act shall  
24 not be liable to any subscriber to, or user of, such  
25 person’s service or equipment for—

1 (A) any act or omission related to or any  
2 harm resulting from the transmission of, or  
3 failure to transmit, an emergency alert; or

4 (B) the release to a government agency or  
5 entity, public safety, fire service, law enforce-  
6 ment official, emergency medical service, or  
7 emergency facility of subscriber information  
8 used in connection with delivering such an alert.

9 (2) ELECTION NOT TO TRANSMIT ALERTS.—

10 The election by a commercial mobile service provider  
11 under subsection (b)(2)(A) not to transmit emer-  
12 gency alerts, or to withdraw its election to transmit  
13 such alerts under subsection (b)(2)(D) shall not, by  
14 itself, provide a basis for liability against the pro-  
15 vider (including its officers, directors, employees,  
16 vendors, and agents).

17 (f) TESTING.—The Commission shall require by reg-  
18 ulation technical testing for commercial mobile service  
19 providers that elect to transmit emergency alerts and for  
20 the devices and equipment used by such providers for  
21 transmitting such alerts.

22 **SEC. 3. COMMERCIAL MOBILE SERVICE ALERT ADVISORY**  
23 **COMMITTEE.**

24 (a) ESTABLISHMENT.—Not later than 60 days after  
25 the date of enactment of this Act, the chairman of the

1 Federal Communications Commission shall establish an  
2 advisory committee, to be known as the Commercial Mo-  
3 bile Service Alert Advisory Committee (referred to in this  
4 section as the “Advisory Committee”).

5 (b) MEMBERSHIP.—The chairman of the Federal  
6 Communications Commission shall appoint the members  
7 of the Advisory Committee, as soon as practicable after  
8 the date of enactment of this Act, from the following  
9 groups:

10 (1) STATE AND LOCAL GOVERNMENT REP-  
11 RESENTATIVES.—Representatives of State and local  
12 governments and representatives of emergency re-  
13 sponse providers, selected from among individuals  
14 nominated by national organizations representing  
15 such governments and personnel.

16 (2) TRIBAL GOVERNMENTS.—Representatives  
17 from Federally recognized Indian tribes and Na-  
18 tional Indian organizations.

19 (3) SUBJECT MATTER EXPERTS.—Individuals  
20 who have the requisite technical knowledge and ex-  
21 pertise to serve on the Advisory Committee in the  
22 fulfillment of its duties, including representatives  
23 of—

24 (A) communications service providers;

1 (B) vendors, developers, and manufactur-  
2 ers of systems, facilities, equipment, and capa-  
3 bilities for the provision of communications  
4 services;

5 (C) third-party service bureaus;

6 (D) technical experts from the broad-  
7 casting industry;

8 (E) the national organization representing  
9 the licensees and permittees of noncommercial  
10 broadcast television stations;

11 (F) national organizations representing in-  
12 dividuals with special needs, including individ-  
13 uals with disabilities and the elderly; and

14 (G) other individuals with relevant tech-  
15 nical expertise.

16 (4) QUALIFIED REPRESENTATIVES OF OTHER  
17 STAKEHOLDERS AND INTERESTED PARTIES.—Quali-  
18 fied representatives of such other stakeholders and  
19 interested and affected parties as the chairman  
20 deems appropriate.

21 (c) DEVELOPMENT OF SYSTEM-CRITICAL REC-  
22 OMMENDATIONS.—Within 1 year after the date of enact-  
23 ment of this Act, the Advisory Committee shall develop  
24 and submit to the Federal Communications Commission  
25 recommendations—

1           (1) for protocols, technical capabilities, and  
2           technical procedures through which electing commer-  
3           cial mobile service providers receive, verify, and  
4           transmit alerts to subscribers;

5           (2) for the establishment of technical standards  
6           for priority transmission of alerts by electing com-  
7           mercial mobile service providers to subscribers;

8           (3) for relevant technical standards for devices  
9           and equipment and technologies used by electing  
10          commercial mobile service providers to transmit  
11          emergency alerts to subscribers;

12          (4) for the technical capability to transmit  
13          emergency alerts by electing commercial mobile pro-  
14          viders to subscribers in languages in addition to  
15          English, to the extent practicable and feasible;

16          (5) under which electing commercial mobile  
17          service providers may offer subscribers the capability  
18          of preventing the subscriber's device from receiving  
19          emergency alerts, or classes of such alerts, (other  
20          than an alert issued by the President), consistent  
21          with section 2(b)(2)(E);

22          (6) for a process under which commercial mo-  
23          bile service providers can elect to transmit emer-  
24          gency alerts if—

1 (A) not all of the devices or equipment  
2 used by such provider are capable of receiving  
3 such alerts; or

4 (B) the provider cannot offer such alerts  
5 throughout the entirety of its service area; and

6 (7) as otherwise necessary to enable electing  
7 commercial mobile service providers to transmit  
8 emergency alerts to subscribers.

9 (d) MEETINGS.—

10 (1) INITIAL MEETING.—The initial meeting of  
11 the Advisory Committee shall take place not later  
12 than 60 days after the date of the enactment of this  
13 Act.

14 (2) OTHER MEETINGS.—After the initial meet-  
15 ing, the Advisory Committee shall meet at the call  
16 of the chair.

17 (3) NOTICE; OPEN MEETINGS.—Any meetings  
18 held by the Advisory Committee shall be duly no-  
19 ticed at least 14 days in advance and shall be open  
20 to the public.

21 (e) RULES.—

22 (1) QUORUM.—One-third of the members of the  
23 Advisory Committee shall constitute a quorum for  
24 conducting business of the Advisory Committee.

1           (2) SUBCOMMITTEES.—To assist the Advisory  
2           Committee in carrying out its functions, the chair  
3           may establish appropriate subcommittees composed  
4           of members of the Advisory Committee and other  
5           subject matter experts as deemed necessary.

6           (3) ADDITIONAL RULES.—The Advisory Com-  
7           mittee may adopt other rules as needed.

8           (f) FEDERAL ADVISORY COMMITTEE ACT.—Neither  
9           the Federal Advisory Committee Act (5 U.S.C. App.) nor  
10          any rule, order, or regulation promulgated under that Act  
11          shall apply to the Commercial Mobile Service Alert Advi-  
12          sory Committee.

13          (g) CONSULTATION WITH NIST.—The Advisory  
14          Committee shall consult with the National Institute of  
15          Standards and Technology in its work on developing rec-  
16          ommendations under subsections (c)(2) and (c)(3).

17          **SEC. 4. RESEARCH AND DEVELOPMENT.**

18          (a) IN GENERAL.—The Undersecretary of Homeland  
19          Security for Science and Technology, in consultation with  
20          the director of the National Institute of Standards and  
21          Technology and the chairman of the Federal Communica-  
22          tions Commission, shall establish a research, development,  
23          testing, and evaluation program based on the rec-  
24          ommendations of the Commercial Mobile Service Alert Ad-  
25          visory Committee, established pursuant to section 3(a), to

1 support the development of technologies to increase the  
2 number of commercial mobile service devices that can re-  
3 ceive emergency alerts.

4 (b) FUNCTIONS.—The program established under  
5 subsection (a) shall—

6 (1) fund research, development, testing, and  
7 evaluation at academic institutions, private sector  
8 entities, government laboratories, and other appro-  
9 priate entities; and

10 (2) ensure that the program addresses, at a  
11 minimum—

12 (A) developing innovative technologies that  
13 will transmit geographically targeted emergency  
14 alerts to the public; and

15 (B) research on understanding and im-  
16 proving public response to warnings.

17 **SEC. 5. GRANT PROGRAM FOR REMOTE COMMUNITY ALERT**  
18 **SYSTEMS.**

19 (a) GRANT PROGRAM.—The Undersecretary of Com-  
20 merce for Oceans and Atmosphere, in consultation with  
21 the Secretary of Homeland Security, shall establish a pro-  
22 gram under which grants may be made to provide for out-  
23 door alerting technologies in remote communities effec-  
24 tively unserved by commercial mobile service (as deter-  
25 mined by the Federal Communications Commission within

1 180 days after the date of enactment of this Act) for the  
2 purpose of enabling residents of those communities to re-  
3 ceive emergency alerts.

4 (b) APPLICATIONS AND CONDITIONS.—In conducting  
5 the program, the Undersecretary—

6 (1) shall establish a notification and application  
7 procedure; and

8 (2) may establish such conditions, and require  
9 such assurances, as may be appropriate to ensure  
10 the efficiency and integrity of the grant program.

11 (c) SUNSET.—The Undersecretary may not make  
12 grants under subsection (a) more than 5 years after the  
13 date of enactment of this Act.

14 (d) LIMITATION.—The sum of the amounts awarded  
15 for all fiscal years as grants under this section may not  
16 exceed \$10,000,000.

17 **SEC. 6. FUNDING.**

18 (a) IN GENERAL.—In addition to any amounts pro-  
19 vided by appropriation Acts, funding for this Act shall be  
20 provided from the Digital Transition and Public Safety  
21 Fund in accordance with section 3010 of the Digital Tele-  
22 vision Transition and Public Safety Act of 2005 (47  
23 U.S.C. 309 note).

24 (b) COMPENSATION.—The Assistant Secretary of  
25 Commerce for Communications and Information shall

1 compensate any such broadcast station licensee or per-  
2 mittee for reasonable costs incurred in complying with the  
3 requirements imposed pursuant to section 2(c) from funds  
4 made available under this section. The Assistant Secretary  
5 shall ensure that sufficient funds are made available to  
6 effectuate geographically targeted alerts.

7       (c) CREDIT.—The Assistant Secretary of Commerce  
8 for Communications and Information, in consultation with  
9 the Undersecretary of Homeland Security for Science and  
10 Technology and the Undersecretary of Commerce for  
11 Oceans and Atmosphere, may borrow from the Treasury  
12 beginning on October 1, 2006, such sums as may be nec-  
13 essary, but not to exceed \$106,000,000, to implement this  
14 Act. The Assistant Secretary of Commerce for Commu-  
15 nications and Information shall ensure that the Under  
16 Secretary of Homeland Security for Science and Tech-  
17 nology and the Undersecretary of Commerce for Oceans  
18 and Atmosphere are provided adequate funds to carry out  
19 their responsibilities under sections 4 and 5 of this Act.  
20 The Treasury shall be reimbursed, without interest, from  
21 amounts in the Digital Television Transition and Public  
22 Safety Fund as funds are deposited into the Fund.

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