

113TH CONGRESS }
2d Session }

SENATE

{ REPORT
113-280 }

ENHANCE LABELING, ACCESSING, AND
BRANDING OF ELECTRONIC LICENSES ACT
OF 2014

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 2583



DECEMBER 1, 2014.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

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SECOND SESSION

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Mr. ROCKEFELLER, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 2583]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2583) to promote the non-exclusive use of electronic labeling for devices licensed by the Federal Communications Commission, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 2583, the Enhance Labeling, Accessing, and Branding of Electronic Licenses Act of 2014 (E-LABEL Act), as reported, is to promote the non-exclusive use of electronic labeling for certain radiofrequency devices licensed by the Federal Communications Commission (FCC).

BACKGROUND AND NEEDS

Under various sections of the Communications Act of 1934 (47 U.S.C. 151 et seq.), the FCC is responsible for authorizing the operation and sale of devices that emit radiofrequency energy (e.g., everything from smartphones to car door remote controls). This authorization process is one of the ways the FCC works to ensure that radiofrequency devices used in the United States operate effectively without creating harmful interference and otherwise comply with FCC rules.

Electronic devices that emit radiofrequency energy have the potential to cause interference to radio communications and therefore must meet appropriate technical standards in order to comply with the FCC's equipment authorization procedures. The FCC has several processes (certification, declarations of conformity, verification

by the FCC or a designated Telecommunications Certification Body) to assess and authorize these devices. Once a device has gone through the authorization process, FCC identification (FCC ID) numbers are generally assigned to that device to verify that an FCC grant of authorization has been obtained. Current FCC rules require manufacturers, with limited exceptions, to physically affix or etch a label with the FCC ID and other identifying information to the surface of these products.

Equipment makers have argued that providing the option to display the FCC ID and other information electronically could make the manufacturing process easier, while preserving access to this information for device users. Equipment manufacturers also suggest that electronic labeling is less expensive and potentially could help them lower the costs of devices to consumers. The FCC's Office of Engineering and Technology has acknowledged that certain devices have very small surface areas for an FCC ID label, or that when etched on the surface, the labeling may cause damage or require very expensive techniques.

On July 11, 2014, the FCC issued non-codified industry guidance about the use of electronic labeling for certain radiofrequency devices. The FCC's current labeling rules indicate that where it can be shown that a permanent label "is not desirable or feasible" an alternative method of labeling may be used with the FCC's approval. The FCC's new guidance describes and clarifies how devices with an integrated display screen can use electronic labeling as an alternative to a physical label or etching consistent with the exceptions already present in the FCC's labeling rules.

Even with this newly-issued guidance, there may still be uncertainty about the circumstances where it is appropriate for a manufacturer to use electronic labeling in place of a permanent label on the surface of a device. The FCC's recent action also does not make any changes to its underlying labeling rules. S. 2583 would address this uncertainty and promote electronic labeling opportunities by directing the FCC to issue rules or take other appropriate action to allow manufacturers the option to provide required information on an electronic device's display screen.

LEGISLATIVE HISTORY

On July 10, 2014, Senator Fischer introduced S. 2583, the E-LABEL Act. The bill is co-sponsored by Senator Rockefeller. The Committee held an Executive Session on September 17, 2014, during which S. 2583 was considered. The Committee, without objection, ordered S. 2583 reported favorably without amendment.

ESTIMATED COSTS

In compliance with subsection (a)(3) of paragraph 11 of rule XXVI of the Standing Rules of the Senate, the Committee states that, in its opinion, it was necessary to dispense with the requirements of paragraphs (1) and (2) of that subsection in order to expedite the business of the Senate.

REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

The bill, as reported, will direct the FCC to issue formal rules or take other appropriate action to allow for electronic labeling of radiofrequency devices with display. Because S. 2583 does not create any new programs, the legislation will have no additional regulatory impact, and will result in no additional reporting requirements. It will have no effect on the number of individuals or businesses regulated or on the personal privacy of such persons. For manufacturers of radiofrequency devices with display, however, the costs of compliance with regulations and the amount of paperwork required for such compliance may be reduced.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title.

The short title is the “Enhance Labeling, Accessing, and Branding of Electronic Licenses Act of 2014” or the “E-LABEL Act”.

Section 2. Findings.

This section would identify key findings of the bill concerning the history of FCC labeling rules, the challenges presented by the FCC’s current physical label and etching requirements, and the benefits of providing manufacturers with the option for electronic labeling of certain types of radio frequency devices.

Section 3. Authorization for Federal Communications Commission to allow electronic labeling.

This section would add a new section 720 to the Communications Act of 1934 that directs the FCC to promulgate regulations or take other appropriate action, as necessary, to allow manufacturers of radiofrequency devices with display the option to use electronic labeling in place of affixing physical labels to the equipment. The FCC would be required to take action within nine months of the date of enactment.

This section would define the terms “electronic labeling” and “radiofrequency device with display.” “Electronic labeling” would mean displaying required labeling and regulatory information electronically. “Radiofrequency device with display” would mean any equipment or device that is required under regulations of the FCC to be authorized by the FCC before the equipment or device may be marketed or sold within the United States; and has the capability to digitally display required labeling and regulatory information.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

TITLE VII. MISCELLANEOUS PROVISIONS

[47 U.S.C. 601 et seq.]

SEC. 720. OPTIONAL ELECTRONIC LABELING OF COMMUNICATIONS EQUIPMENT.

(a) *DEFINITIONS.—In this section—*

(1) the term “electronic labeling” means displaying required labeling and regulatory information electronically; and

(2) the term “radiofrequency device with display” means any equipment or device that—

(A) is required under regulations of the Commission to be authorized by the Commission before the equipment or device may be marketed or sold within the United States; and

(B) has the capability to digitally display required labeling and regulatory information.

(b) *REQUIREMENT TO PROMULGATE REGULATIONS FOR ELECTRONIC LABELING.—Not later than 9 months after the date of enactment of the Enhance Labeling, Accessing, and Branding of Electronic Licenses Act of 2014, the Commission shall promulgate regulations or take other appropriate action, as necessary, to allow manufacturers of radiofrequency devices with display the option to use electronic labeling for the equipment in place of affixing physical labels to the equipment.*