

**Suspend the Rules and Pass the Bill, H.R. 1123, with an Amendment**

**(The amendment strikes all after the enacting clause and inserts a new text)**

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

# H. R. 1123

To promote consumer choice and wireless competition by permitting consumers to unlock mobile wireless devices, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2013

Mr. GOODLATTE (for himself, Mr. CONYERS, Mr. COBLE, Mr. WATT, Mr. POE of Texas, and Ms. DELBENE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To promote consumer choice and wireless competition by permitting consumers to unlock mobile wireless devices, and for other purposes.

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 “Unlocking Consumer  
5 Choice and Wireless Competition Act”.

1 **SEC. 2. REPEAL OF EXISTING RULE AND ADDITIONAL**  
2 **RULEMAKING BY LIBRARIAN OF CONGRESS.**

3 (a) REPEAL AND REPLACE.—As of the date of the  
4 enactment of this Act, paragraph (3) of section 201.40(b)  
5 of title 37, Code of Federal Regulations, as amended and  
6 revised by the Librarian of Congress on October 28, 2012,  
7 pursuant to the Librarian's authority under section  
8 1201(a) of title 17, United States Code, shall have no  
9 force and effect, and such paragraph shall read, and shall  
10 be in effect, as such paragraph was in effect on July 27,  
11 2010.

12 (b) RULEMAKING.—

13 (1) IN GENERAL.—The Librarian of Congress,  
14 upon the recommendation of the Register of Copy-  
15 rights, who shall consult with the Assistant Sec-  
16 retary for Communications and Information of the  
17 Department of Commerce and report and comment  
18 on his or her views in making such recommendation,  
19 shall determine, consistent with the requirements set  
20 forth under section 1201(a)(1) of title 17, United  
21 States Code, whether to extend the exemption for  
22 the class of works described in section 201.40(b)(3)  
23 of title 37, Code of Federal Regulations, as amended  
24 by subsection (a), to include any other category of  
25 wireless devices in addition to wireless telephone  
26 handsets.

1           (2) TIMING OF RULEMAKING.—(A) If this Act  
2 is enacted before June 1, 2014, the determination  
3 under paragraph (1) shall be made by not later than  
4 the end of the 9-month period beginning on the date  
5 of the enactment of this Act.

6           (B) If this Act is enacted on or after June 1,  
7 2014, the determination under paragraph (1) shall  
8 be made in the first rulemaking under section  
9 1201(a)(1)(C) of title 17, United States Code, that  
10 begins on or after the date of the enactment of this  
11 Act.

12       (c) UNLOCKING AT DIRECTION OF OWNER.—

13           (1) IN GENERAL.—Circumvention of a techno-  
14 logical measure that restricts wireless telephone  
15 handsets or other wireless devices from connecting  
16 to a wireless telecommunications network—

17           (A)(i) as authorized by paragraph (3) of  
18 section 201.40(b) of title 37, Code of Federal  
19 Regulations, as made effective by subsection  
20 (a), and

21           (ii) as may be extended to other wireless  
22 devices pursuant to a determination in the rule-  
23 making conducted under subsection (b), or

24           (B) as authorized by an exemption adopted  
25 by the Librarian of Congress pursuant to a de-

1           termination made on or after the date of enact-  
2           ment of this Act under section 1201(a)(1)(C) of  
3           title 17, United States Code,  
4           may be initiated by the owner of any such handset  
5           or other device, by another person at the direction  
6           of the owner, or by a provider of a commercial mo-  
7           bile radio service or a commercial mobile data serv-  
8           ice at the direction of such owner or other person,  
9           solely in order to enable such owner or a family  
10          member of such owner to connect to a wireless tele-  
11          communications network, when such connection is  
12          authorized by the operator of such network.

13           (2) NO BULK UNLOCKING.—Nothing in this  
14          subsection shall be construed to permit the  
15          unlocking of wireless handsets or other wireless de-  
16          vices, for the purpose of bulk resale, or to authorize  
17          the Librarian of Congress to authorize circumven-  
18          tion for such purpose under this Act, title 17,  
19          United States Code, or any other provision of law.

20           (d) RULE OF CONSTRUCTION.—Except as provided  
21          in subsection (c), nothing in this Act alters, or shall be  
22          construed to alter, the authority of the Librarian of Con-  
23          gress under section 1201(a)(1) of title 17, United States  
24          Code.

25           (e) DEFINITIONS.—In this Act:

1           (1) COMMERCIAL MOBILE DATA SERVICE; COM-  
2           MERCIAL MOBILE RADIO SERVICE.—The terms  
3           “commercial mobile data service” and “commercial  
4           mobile radio service” have the respective meanings  
5           given those terms in section 20.3 of title 47, Code  
6           of Federal Regulations, as in effect on the date of  
7           the enactment of this Act.

8           (2) WIRELESS TELECOMMUNICATIONS NET-  
9           WORK.—The term “wireless telecommunications net-  
10          work” means a network used to provide a commer-  
11          cial mobile radio service or a commercial mobile data  
12          service.

13          (3) WIRELESS TELEPHONE HANDSETS; WIRE-  
14          LESS DEVICES.—The terms “wireless telephone  
15          handset” and “wireless device” mean a handset or  
16          other device that operates on a wireless tele-  
17          communications network.