

WILLFUL OR MALICIOUS INTERFERENCE

The Committee accepts the Commission's assertions and evidence that a substantial increase in willful and malicious interference to radio communications in various radio services, particularly the Amateur, Maritime, and Citizens Band Radio Services, has occurred during the past several years. Therefore, H.R. 3265 includes a provision which prohibits intentional jamming, deliberate transmission on top of the transmissions of authorized operators already using specific frequencies in order to obstruct their communications, repeated interruptions, and the use and transmission of whistles, tapes, records, or other types of noisemaking devices to interfere with the communications or radio signals of other stations. As a result of limited Commission field investigative resources, local groups or radio users have attempted, in some cases, to retaliate against the offenders by causing interference to their communications. While such intentional and malicious interference to radio operations has primarily occurred in the radio services mentioned above, more isolated instances of deliberate and malicious interference to radio operations and signals in other services, including public safety, private land mobile, and cable television, also appear to be increasing. Additionally, Federal agencies that are not Commission licensees, such as the FAA and the Department of Defense, also have encountered willful and malicious interference to their communications and have requested Commission assistance.

Lacking any general statutory prohibition in the Communications Act of 1934 against willful or malicious interference, the Commission is forced to rely upon the more limited licensed operator provision of the Act concerning interference. These provisions authorize the Commission to suspend and revoke licenses in serious cases and to issue administrative monetary forfeitures in less serious instances. However, the length and complexity of these administrative proceedings and sanctions have not always provided an adequate and timely remedy for immediately ending specific instances of serious, malicious interference or stemming the overall increase of willful interference. Many times a perpetrator will continue to cause interference until actual suspension or revocation of his or her license or after the imposition of monetary forfeiture by the Commission. Moreover, since the stated maximum penalty is \$500 per day, the Commission argues that it is difficult to convince the U.S. Attorney's Office to expend their limited resources in pursuing such a prosecution.

The Committee finds that the provision in Section 8 will assist the Commission in curtailing willful and malicious interference by clearly making such activity a criminal offense subject to fines of up to \$10,000, or imprisonment for up to one year, or both, for a first offense, and the same fine limitation and up to two years imprisonment for repeated offenses. The Sentencing Reform Act of 1984 established alternative fine limits of up to \$100,000 for the first such misdemeanor offense and \$250,000 for a limits of up to \$100,000 for the first such misdemeanor offense and \$250,000 for a repeated or felony offense. The provision allows the Commission, in serious instances, to initially seek immediate criminal prosecution by the U.S. Attorney for such violations and to seize the offending radio equipment through

execution by U.S. Marshals of a properly executed search warrant. The Commission could thereby dispense with the necessity of first completing lengthy, complex, and costly administrative proceedings. The Committee finds that placement of the proposed general prohibition against intentional interference in the Act, in addition to elevating the gravity of such violations, will increase public awareness of the prohibition against this particularly disruptive type of violation. Moreover, this section will apply to willful or malicious interference with such government facilities. It would provide the Commission, when requested to do so by another Federal agency, with a stronger basis for investigating and seeking prosecution by the U.S. Attorney. The Committee believes this provision will not have a significant impact on present or projected FCC budgetary requirements.