

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require transparency for outside counsel retained
by State attorneys general.

IN THE SENATE OF THE UNITED STATES—Judiciary, 2d Sess.

S. 1223

To address voluntary location tracking of electronic
communications devices, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

1 At the appropriate place insert the following:
2 **SEC. ____ . SUNSHINE AND TRANSPARENCY IN THE USE OF**
3 **PRIVATE COUNSEL BY STATE ATTORNEYS**
4 **GENERAL IN ACTIONS TO ENFORCE FEDERAL**
5 **LAW.**

6 (a) IN GENERAL.—Chapter 111 of title 28, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

1 **“§ 1660. Requirements concerning the use of private**
2 **counsel by State Attorneys General in ac-**
3 **tions to enforce Federal law**

4 “(a)(1) In any action brought by the Attorney Gen-
5 eral or equivalent chief legal officer of any State of the
6 United States to enforce any requirement or penalty pro-
7 vided by the laws of the United States, including any ac-
8 tion brought under the authority provided in the provi-
9 sions referred to in paragraph (2), in which the action is
10 brought pursuant to the authority of the Attorney General
11 or equivalent chief legal officer in his official capacity and
12 the Attorney General or equivalent chief legal officer is
13 represented in the action by private counsel, the Attorney
14 General or equivalent chief legal officer shall, not less than
15 30 days from the commencement of the action, file with
16 the court a document setting out—

17 “(A) the legal authority of the Attorney General
18 or equivalent chief legal officer of the State to asso-
19 ciate private counsel for the purposes of the litiga-
20 tion;

21 “(B) the terms of any agreement under which
22 the private counsel has agreed to represent the At-
23 torney General or equivalent chief legal officer of the
24 State;

1 “(C) the process by which the private counsel
2 was chosen to represent the Attorney General or
3 equivalent chief legal officer of the State; and

4 “(D) the party to be held responsible for any
5 attorneys’ fees or other costs that the court may
6 award against the Attorney General or equivalent
7 chief legal officer of the State.

8 “(2) PROVISIONS REFERRED TO.—The provisions re-
9 ferred to in this paragraph are—

10 “(A) section 248 of title 18;

11 “(B) section 5 of the Flammable Fabrics Act (
12 15 U.S.C. 1194);

13 “(C) section 24 of the Consumer Product Safe-
14 ty Act (15 U.S.C. 2073);

15 “(D) section 5(d) of the Federal Hazardous
16 Substances Labeling Act (15 U.S.C. 1264(d));

17 “(E) section 410(c)(1) of the Credit Repair Or-
18 ganizations Act (15 U.S.C. 1679h(e)(i));

19 “(F) section 621 (c) of the Fair Credit Report-
20 ing Act (15 U.S.C. 1681s(e));

21 “(G) section 202 of the Telephone Disclosure
22 and Dispute Resolution Act (15 U.S.C. 5712);

23 “(H) section 4 of the Telemarketing and Con-
24 sumer Fraud and Abuse Prevention Act (15 U.S.C.
25 6103);

1 “(I) section 227(f) of the Communications Act
2 of 1934 (47 U.S.C. 227(f));

3 “(J) section 18(c) of the Professional Boxing
4 Safety Act of 1996 (15 U.S.C. 6309(c));

5 “(K) section 5 of the Sports Agent Responsi-
6 bility and Trust Act (15 U.S.C. 7804);

7 “(L) section 1305 of the Children’s Online Pri-
8 vacy Protection Act of 1998 (15 U.S.C. 6504);

9 “(M) section 7(f) of the Controlling the Assault
10 of Non-Solicited Pornography and Marketing Act of
11 2003 (or the CAN-SPAM Act of 2003) (15 U.S.C.
12 7706(f);

13 “(N) section 4C of the Clayton Act (15 U.S.C.
14 15c);

15 “(O) section 107(a) of the Americans with Dis-
16 abilities Act of 1990 (42 U.S.C. 12117(a));

17 “(P) section 813 of the Fair Housing Act (42
18 U.S.C. 3613); and

19 “(Q) section 706 of the Civil Rights Act of
20 1964 (42 U.S.C. 2000e-5).”.

21 (b) TECHNICAL AND CONFORMING AMENDMENT.—
22 The table of sections for chapter 111 of title 28, United
23 States Code, is amended by inserting after the item relat-
24 ing to section 1659 the following:

“1660. Requirements concerning the use of private counsel by State Attorneys
General in actions to enforce Federal law.”.