



## **Bill would stop feds from mandating 'backdoor' to data**

Erin Kelly

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WASHINGTON — A bipartisan group of lawmakers is set to push for legislation that would bar federal agents from forcing tech companies to give them access to customers' emails, texts and photos.

"I think you have the right to go about your business without government — in a Big Brother way — listening to your phone calls or reading your emails," said Rep. Mark Pocan, D-Wis.

Pocan is sponsoring the Surveillance State Repeal Act with Rep. Thomas Massie, R-Ky. The bill includes a provision that the federal government cannot require electronics or software manufacturers to build in a mechanism to allow the government to bypass privacy technology.

The issue, which will come up this spring as part of the debate over whether to reauthorize the Patriot Act, underscores a growing struggle between federal law enforcement agencies and the tech industry over data encryption.

The bill's sponsors plan to push for the legislation after Congress returns from its two-week recess.

As consumers in the USA and overseas demand more privacy on their electronic devices, tech companies such as Apple and Google have strengthened their data encryption to protect personal information from cyber criminals and government surveillance. Privacy concerns have risen in the wake of the 2013 revelations by former National Security Agency contractor Edward Snowden that the NSA was collecting the phone data of millions of Americans.

Top officials at the FBI and the Department of Justice have responded angrily, saying encryption — especially encryption that can only be turned off by users — will hamper efforts to monitor criminal activity and catch bad guys. Federal law enforcement officials want tech companies to give them a "backdoor" into encrypted cellphones and other devices.

"The problem," Massie said, "is that if we put in backdoors for the convenience of the government, those backdoors can be exploited by hackers as well."

The tech industry says there is no way to create a secure backdoor that cannot be exploited by cyber criminals.

"We feel quite confident that it is not technologically possible to only allow good guys to get in," said Josh Kallmer, vice president for global policy at the Information Technology Industry Council. The council's members include Apple, Facebook, Google, Microsoft and Twitter.

Although there is currently no law forcing tech companies to build in ways for the government to bypass privacy technology on electronic communication, Pocan and Massie say there is heavy pressure on companies to do so.

FBI Director James Comey has publicly chastised tech companies for installing automatic encryption into their devices and has urged Congress to pass legislation that would prohibit it. Attorney General Eric Holder also has weighed in, saying that quick access to phone data can help law enforcement officers find victims snatched by kidnappers and child molesters.

"Encryption threatens to lead us all to a very, very dark place," Comey said during a public appearance at the Brookings Institution in October. "Have we become so mistrustful of government and law enforcement in particular that we are willing to let bad guys walk away, willing to leave victims in search of justice?"

In an age of increased privacy concerns, there is no way that Congress would pass a bill to give the government greater access to electronic communications, said Patrick Eddington, the Cato Institute's policy analyst for homeland security and civil liberties.

"If anyone tried to bring up a bill that would mandate backdoors, it would fail by probably 300 votes in the House of Representatives," he said.

Eddington said the idea that encryption alone is going to shut down law enforcement is "absurd."

"The mass surveillance that the NSA and FBI have developed didn't stop the underwear bomber, the Boston Marathon bomber or the shootings at Fort Hood," he said. Eddington and other critics of mass surveillance say law enforcement agencies achieve better results with targeted surveillance of suspected criminals carried out with warrants.

An amendment by Massie and Rep. Zoe Lofgren, D-Calif., to prevent the government from forcing tech companies to install backdoors passed the House last year by a vote of 293-123 as part of a spending bill for the Defense Department. However, the amendment was stripped out in the final bill negotiated between the House and Senate.

This year, Massie and Pocan have put the provision into legislation that would repeal the Patriot Act, which is set to expire, in part, on June 1. If their legislation proves too controversial to pass, Massie said he will try again to attach the anti-backdoor provision to another must-pass spending bill.

Justice Department spokesman Peter Carr said the agency has not yet taken a position on the Pocan-Massie legislation and declined comment.

"We're not giving up," Massie said. "People are fed up. They want their privacy back."