

AMENDMENT NO. _____ Calendar No. _____

Purpose: To clarify the prohibition on acquisition of or searching contents of communications of United States persons.

IN THE SENATE OF THE UNITED STATES—112th Cong., 2d Sess.

S. 3276

To extend certain amendments made by the FISA Amendments Act of 2008, 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 Mr. LEE

Viz:

1 At the appropriate place, insert the following:

2 **SEC. ____ . CLARIFICATION ON PROHIBITION ON ACQUISITION OF OR SEARCHING CONTENTS OF COMMUNICATIONS OF UNITED STATES PERSONS.**

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4
5 Section 702(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(b)) is amended—

6
7 (1) in subsection (b), by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and adjusting the margin accordingly;

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1 (2) by striking “An acquisition” and inserting
2 the following:

3 “(1) IN GENERAL.—An acquisition”; and

4 (3) by adding at the end the following:

5 “(2) CLARIFICATION ON PROHIBITION ON AC-
6 QUISITION OF OR SEARCHING CONTENTS OF COMMU-
7 NICATIONS OF UNITED STATES PERSONS.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), nothing in this section may
10 be construed to permit—

11 “(i) the intentional acquisition of the
12 contents of communications of a particular
13 United States person; or

14 “(ii) the searching of the contents of
15 communications acquired under this sec-
16 tion in an effort to find communications of
17 a particular United States person.

18 “(B) CONCURRENT AUTHORIZATION AND
19 EXCEPTION FOR EMERGENCY SITUATIONS.—
20 Subparagraph (A) does not apply to a search of
21 communications related to a particular United
22 States person if—

23 “(i) such United States person is the
24 subject of an order or emergency author-
25 ization authorizing electronic surveillance

1 or physical search under section 105, 304,
2 703, or 704, or title 18, United States
3 Code, for the effective period of that order;

4 “(ii) the entity carrying out the
5 search has a reasonable belief that the life
6 or safety of such United States person is
7 threatened and the information is sought
8 for the purpose of assisting that person; or

9 “(iii) such United States person has
10 consented to the search.”.