

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To provide an exception for consensual disclosures of communications.

**IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.**

**S. 356**

To improve the provisions relating to the privacy of electronic communications.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. CORNYN

Viz:

1 In subsection (a)(1) of section 2703 of title 18,  
2 United States Code, as amended by the bill, strike “sub-  
3 sections (i) and (j)” and insert “subsections (i), (j), and  
4 (k)”.

5 In subsection (b)(1)(A) of section 2703 of title 18,  
6 United States Code, as amended by the bill, strike “sub-  
7 sections (i) and (j)” and insert “subsections (i), (j), and  
8 (k)”.

9 In subsection (c)(1) of section 2703 of title 18,  
10 United States Code, as amended by the bill, strike “sub-

1 sections (i) and (j)” and insert “subsections (i), (j), and  
2 (k)”.

3 In section 2703 of title 18, United States Code, as  
4 amended by the bill, add at the end the following:

5 “(k) EXCEPTIONS FOR CONSENSUAL DISCLOSURES  
6 OF COMMUNICATIONS.—

7 “(1) IN GENERAL.—A provider of electronic  
8 communication service or remote computing service  
9 shall disclose to a governmental entity—

10 “(A) a wire or electronic communication  
11 (including the contents of the communication)  
12 with the lawful consent of—

13 “(i) the originator, addressee, or in-  
14 tended recipient of the communication; or

15 “(ii) the subscriber or customer on  
16 whose behalf the provider stores, holds, or  
17 maintains the communication; and

18 “(B) a record or other information per-  
19 taining to a subscriber or customer with the  
20 lawful consent of the subscriber or customer to  
21 whom the record or other information pertains.

22 “(2) REQUIREMENTS FOR CONSENT.—

23 “(A) SPECIFICITY.—Any consent provided  
24 under paragraph (1) shall be specific to a par-

1            ticular request by a governmental entity for the  
2            disclosure of the wire or electronic communica-  
3            tion or record or other information.

4            “(B) PROCEDURES.—A provider of elec-  
5            tronic communication service or remote com-  
6            puting service may establish reasonable proce-  
7            dures to confirm consent by a subscriber or cus-  
8            tomer, including an acknowledgment of the con-  
9            sent through the subscriber or customer ac-  
10          count.”.