

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide an exception for emergencies and 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. SESSIONS

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 EMERGENCY AND CONSEN-
6 SUAL DISCLOSURES 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 communica-
12 tion)—

13 “(i) with the lawful consent of—

14 “(I) the originator, addressee, or
15 intended recipient of the communica-
16 tion; or

17 “(II) the subscriber or customer
18 on whose behalf the provider stores,
19 holds, or maintains the communica-
20 tion; or

21 “(ii) if a representative of the govern-
22 mental entity reasonably certifies under
23 penalty of perjury that an emergency in-
24 volving the danger of death or serious

1 physical injury requires disclosure without
2 delay; and

3 “(B) a record or other information per-
4 taining to a subscriber or customer—

5 “(i) with the lawful consent of the
6 subscriber or customer to whom the record
7 or other information pertains; or

8 “(ii) if a representative of the govern-
9 mental entity reasonably certifies under
10 penalty of perjury that an emergency in-
11 volving the danger of death or serious
12 physical injury requires disclosure without
13 delay.

14 “(2) REQUIREMENTS FOR EMERGENCIES.—A
15 certification under paragraph (1) regarding an emer-
16 gency shall include—

17 “(A) a short statement of facts in support
18 of the emergency; and

19 “(B) an explanation of why the facts re-
20 quire disclosure without delay.

21 “(3) REQUIREMENTS FOR CONSENT.—

22 “(A) SPECIFICITY.—Any consent provided
23 under paragraph (1) shall be specific to a par-
24 ticular request by a governmental entity for the

1 disclosure of the wire or electronic communica-
2 tion or record or other information.

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