



AMENDMENT NO.

Calendar No.

Purpose: To limit retroactive immunity for providing assistance to the United States to instances in which a Federal court determines the assistance was provided in connection with an intelligence activity that was constitutional.

**IN THE SENATE OF THE UNITED STATES—110th Cong., 2d Sess.**

**H. R. 6304**

To amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, 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. SPECTER

Viz:

- 1 On page 90, strike lines 17 through 21 and insert
- 2 the following:
- 3 “(1) REVIEW OF CERTIFICATIONS.—
- 4 “(A) IN GENERAL.—Except as provided in
- 5 subparagraph (B), a certification under sub-
- 6 section (a) shall be given effect unless the court
- 7 finds that such certification is not supported by

1           substantial evidence provided to the court pur-  
2           suant to this section.

3           “(B) COVERED CIVIL ACTIONS.—In a cov-  
4           ered civil action relating to assistance alleged to  
5           have been provided in connection with an intel-  
6           ligence activity involving communications that  
7           was authorized by the President during the pe-  
8           riod beginning on September 11, 2001, and  
9           ending on January 17, 2007, a certification  
10          under subsection (a) shall be given effect unless  
11          the court—

12                   “(i) finds that such certification is not  
13                   supported by substantial evidence provided  
14                   to the court pursuant to this section; or

15                   “(ii) determines that the assistance  
16                   provided by the applicable electronic com-  
17                   munication service provider was provided  
18                   in connection with an intelligence activity  
19                   that violated the Constitution of the  
20                   United States.