

114TH CONGRESS
1ST SESSION

H. R. 2233

To amend the Foreign Intelligence Surveillance Act of 1978 to clarify the prohibition on warrantless searching of collections of communications for United States persons, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 5, 2015

Mr. POE of Texas (for himself, Ms. LOFGREN, and Mr. MASSIE) introduced the following bill; which was referred to the Select Committee on Intelligence (Permanent Select), and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Foreign Intelligence Surveillance Act of 1978 to clarify the prohibition on warrantless searching of collections of communications for United States persons, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “End Warrantless Sur-
5 veillance of Americans Act”.

1 **SEC. 2. CLARIFICATION ON PROHIBITION ON**
2 **WARRANTLESS SEARCHING OF COLLECTIONS**
3 **OF COMMUNICATIONS FOR THE COMMUNICA-**
4 **TIONS OF UNITED STATES PERSONS.**

5 Section 702(b) of the Foreign Intelligence Surveil-
6 lance Act of 1978 (50 U.S.C. 1881a(b)) is amended—

7 (1) by redesignating paragraphs (1) through
8 (5) as subparagraphs (A) through (E), respectively,
9 and indenting such subparagraphs, as so redesign-
10 ated, an additional two ems from the left margin;

11 (2) by striking “the purpose” and inserting “a
12 purpose”;

13 (3) by striking “an acquisition” and inserting
14 the following: “(1) IN GENERAL.—In acquisition”;
15 and

16 (4) by adding at the end the following new
17 paragraph:

18 “(2) CLARIFICATION ON PROHIBITION ON
19 SEARCHING OF COLLECTIONS OF COMMUNICATIONS
20 OF UNITED STATES PERSONS.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), no officer or employee of the
23 United States may conduct a search of a collec-
24 tion of communications acquired under this sec-
25 tion in an effort to find communications of a

1 particular United States person (other than a
2 corporation).

3 “(B) CONCURRENT AUTHORIZATION AND
4 EXCEPTION FOR EMERGENCY SITUATIONS.—
5 Subparagraph (A) shall not apply to a search
6 for communications related to a particular
7 United States person if—

8 “(i) such United States person is the
9 subject of an order or emergency author-
10 ization authorizing electronic surveillance
11 or physical search under section 105, 304,
12 703, 704, or 705, or title 18, United
13 States Code, for the effective period of that
14 order;

15 “(ii) the entity carrying out the
16 search has a reasonable belief that the life
17 or safety of such United States person is
18 threatened and the information is sought
19 for the purpose of assisting that person; or

20 “(iii) such United States person has
21 consented to the search.”.

1 **SEC. 3. PROHIBITION ON WARRANTLESS SEARCHING OF**
2 **COLLECTIONS OF COMMUNICATIONS COL-**
3 **LECTED UNDER EXECUTIVE ORDER FOR THE**
4 **COMMUNICATIONS OF UNITED STATES PER-**
5 **SONS.**

6 (a) IN GENERAL.—Section 309 of the Intelligence
7 Authorization Act for Fiscal Year 2015 is amended by
8 adding at the end the following new subparagraph:

9 “(C) CLARIFICATION ON PROHIBITION ON
10 SEARCHING OF COLLECTIONS OF COMMUNICA-
11 TIONS OF UNITED STATES PERSONS.—

12 “(i) IN GENERAL.—Except as pro-
13 vided in clause (ii), no officer or employee
14 of the United States may conduct a search
15 of retained covered communications for a
16 particular United States person (other
17 than a corporation).

18 “(ii) EXCEPTION FOR EMERGENCY
19 SITUATIONS.—Clause (i) shall not apply to
20 a search for communications related to a
21 particular United States person if—

22 “(I) such United States person is
23 the subject of an order or emergency
24 authorization authorizing electronic
25 surveillance or physical search under
26 section 105, 304, 703, 704, or 705, or

1 title 18, United States Code, for the
2 effective period of that order;

3 “(II) the entity carrying out the
4 search has a reasonable belief that the
5 life or safety of such United States
6 person is threatened and the informa-
7 tion is sought for the purpose of as-
8 sisting that person; or

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

11 (b) CONFORMING AMENDMENTS.—Section
12 309(b)(3)(A) is amended by striking “subparagraph (B).”
13 and inserting “subparagraphs (B) and (C).”.

14 **SEC. 4. PROHIBITION ON DATA SECURITY VULNERABILITY**
15 **MANDATES.**

16 (a) IN GENERAL.—Except as provided in subsection
17 (b), no agency may mandate or request that a manufac-
18 turer, developer, or seller of covered products design or
19 alter the security functions in its product or service to
20 allow the surveillance of any user of such product or serv-
21 ice, or to allow the physical search of such product, by
22 any agency.

23 (b) EXCEPTION.—Subsection (a) shall not apply to
24 mandates authorized under the Communications Assist-
25 ance for Law Enforcement Act (47 U.S.C. 1001 et seq.).

1 (c) DEFINITIONS.—In this section—

2 (1) the term “agency” has the meaning given
3 the term in section 3502 of title 44, United States
4 Code; and

5 (2) the term “covered product” means any com-
6 puter hardware, computer software, or electronic de-
7 vice that is made available to the general public.

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