

**AMENDMENT TO THE SENATE AMENDMENT TO
H.R. 6172
OFFERED BY MS. GABBARD OF HAWAII**

Add at the end of amendment number 8 the following:

At the end of title IV, insert the following:

1 **SEC. 409. LIMITATION ON AUTHORITIES IN FOREIGN INTEL-**
2 **LIGENCE SURVEILLANCE ACT OF 1978.**

3 (a) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF
4 1978.—

5 (1) IN GENERAL.—The Foreign Intelligence
6 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)
7 is amended by adding at the end the following:

8 **“TITLE X—LIMITATIONS**

9 **“SEC. 1001. LIMITATIONS ON AUTHORITIES TO SURVEIL**
10 **UNITED STATES PERSONS AND ON USE OF IN-**
11 **FORMATION CONCERNING UNITED STATES**
12 **PERSONS.**

13 “(a) DEFINITIONS.—In this section:

14 “(1) PEN REGISTER AND TRAP AND TRACE DE-
15 VICE.—The terms ‘pen register’ and ‘trap and trace

1 device' have the meanings given such terms in sec-
2 tion 3127 of title 18, United States Code.

3 “(2) UNITED STATES PERSON.—The term
4 ‘United States person’ has the meaning given such
5 term in section 101.

6 “(b) LIMITATION ON AUTHORITIES.—Notwith-
7 standing any other provision of this Act, an officer of the
8 United States may not under this Act request an order
9 for, and the Foreign Intelligence Surveillance Court may
10 not under this Act order—

11 “(1) electronic surveillance of a United States
12 person;

13 “(2) a physical search of a premises, informa-
14 tion, material, or property used exclusively by, or
15 under the open and exclusive control of, a United
16 States person;

17 “(3) approval of the installation and use of a
18 pen register or trap and trace device to obtain infor-
19 mation concerning a United States person;

20 “(4) the production of tangible things (includ-
21 ing books, records, papers, documents, and other
22 items) concerning a United States person; or

23 “(5) the targeting of a United States person for
24 the acquisition of information.

1 “(c) LIMITATION ON USE OF INFORMATION CON-
2 CERNING UNITED STATES PERSONS.—

3 “(1) DEFINITION OF AGGRIEVED PERSON.—In
4 this subsection, the term ‘aggrieved person’ means a
5 person who is the target of any surveillance activity
6 under this Act or any other person whose commu-
7 nications or activities were subject to any surveil-
8 lance activity under this Act.

9 “(2) IN GENERAL.—Except as provided in para-
10 graph (3), any information concerning a United
11 States person acquired under this Act shall not be
12 used in evidence against that United States person
13 in any criminal, civil, or administrative proceeding or
14 as part of any criminal, civil, or administrative in-
15 vestigation.

16 “(3) USE BY AGGRIEVED PERSONS.—An ag-
17 grieved person who is a United States person may
18 use information concerning such person acquired
19 under this Act in a criminal, civil, or administrative
20 proceeding or as part of a criminal, civil, or adminis-
21 trative investigation.

22 “(d) WARRANTS.—An officer of the United States
23 seeking to conduct electronic surveillance, a physical
24 search, installation and use of a pen register or trap and
25 trace device, production of tangible things, or targeting

1 for acquisition of information with respect to a United
2 States person as described in subsection (b) may only con-
3 duct such activities pursuant to a warrant issued using
4 the procedures described in the Federal Rules of Criminal
5 Procedure by a Federal court other than the Foreign In-
6 telligence Surveillance Court.”.

7 (2) CLERICAL AMENDMENT.—The table of con-
8 tents preceding section 101 is amended by adding at
9 the end the following:

“TITLE IX—LIMITATIONS

“Sec. 1001. Limitations on authorities to surveil United States persons and on
use of information concerning United States persons.”.

10 (b) LIMITATION ON SURVEILLANCE UNDER EXECU-
11 TIVE ORDER 12333.—

12 (1) DEFINITIONS.—In this subsection:

13 (A) AGGRIEVED PERSON.—The term “ag-
14 grievied person” means a person who is the tar-
15 get of any surveillance activity under Executive
16 Order 12333 (50 U.S.C. 3001 note; relating to
17 United States intelligence activities) or any
18 other person whose communications or activities
19 were subject to any surveillance activity under
20 such Executive Order.

21 (B) PEN REGISTER; TRAP AND TRACE DE-
22 VICE; UNITED STATES PERSON.—The terms
23 “pen register”, “trap and trace device”, and

1 “United States person” have the meanings
2 given such terms in section 1001 of the Foreign
3 Intelligence Surveillance Act of 1978, as added
4 by subsection (a).

5 (2) LIMITATION.—Except as provided in para-
6 graph (3), any information concerning a United
7 States person acquired under Executive Order
8 12333 (50 U.S.C. 3001 note; relating to United
9 States intelligence activities) shall not be used in evi-
10 dence against that United States person in any
11 criminal, civil, or administrative proceeding or as
12 part of any criminal, civil, or administrative inves-
13 tigation.

14 (3) USE BY AGGRIEVED PERSONS.—An ag-
15 grieved person who is a United States person may
16 use information concerning such person acquired
17 under Executive Order 12333 in a criminal, civil, or
18 administrative proceeding or as part of a criminal,
19 civil, or administrative investigation.

