

regulated seller or regulated person, provided the distributor confirms within 7 business days of the distribution that such regulated seller or regulated person is on the list referred to under section 310(e)(1)(B)(v).”

SEC. 5. NEGLIGENCE FAILURE TO SELF-CERTIFY AS REQUIRED.

Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)(10)) is amended by inserting before the semicolon the following: “or negligently to fail to self-certify as required under section 310 (21 U.S.C. 830)”.

SEC. 6. EFFECTIVE DATE AND REGULATIONS.

(a) **EFFECTIVE DATE.**—This Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) **REGULATIONS.**—In promulgating the regulations authorized by section 2, the Attorney General may issue regulations on an interim basis as necessary to ensure the implementation of this Act by the effective date.

The bill (S. 2071), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

RELATIVE TO THE DEATH OF REPRESENTATIVE TOM LANTOS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 446 submitted earlier today by Senators REID and MCCONNELL.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 446) relative to the death of Representative TOM LANTOS of California.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. I ask unanimous consent to have my name added as a cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, it was a great honor to serve in the U.S. House of Representatives before coming to the Senate and, during that time, to serve with TOM LANTOS of California. His was an extraordinary story of a man who survived the Holocaust and came to the U.S. Congress representing a district in the State of California, rising to the rank of chairman of the Foreign Affairs Committee.

He was as inspiring a speaker as one could ever hear on many topics but especially on the Holocaust and the impact it had on so many innocent people. He was, more than any other person, a leader in acknowledging the bravery and courage of Raoul Wallenberg and so many others who resisted the Holocaust and fought to save the poor victims, including many Jewish people.

TOM LANTOS and his wife Annette traveled across the world, speaking on behalf of the United States and developing strong personal relationships with many leaders overseas. He was truly a great representative of the U.S. House of Representatives and of the U.S. Government.

A few weeks ago, we were surprised to learn that he was suffering from cancer and announced he would not be running for reelection. I didn't realize at the time how grave his condition was. His passing over the weekend brings a reminder of his service to our country, his service to the State of California, and the loss which those of us who counted him as a friend will endure in these days of mourning.

I am happy to join as a cosponsor of this resolution in tribute to Congressman LANTOS.

I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 446) was agreed to, as follows:

S. RES. 446

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Tom Lantos, late a Representative from the State of California.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns or recesses today, it stand adjourned or recessed as a further mark of respect to the memory of the deceased Representative.

**ORDERS FOR TUESDAY,
FEBRUARY 12, 2008**

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m. Tuesday, February 12; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and that the Senate then resume consideration of S. 2248, the Foreign Intelligence Surveillance Act, as under the previous order; and that the Senate recess from 12:30 to 2:15 p.m. to allow for the weekly caucus luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DURBIN. Tomorrow, there will be no morning business. At approximately 10 a.m., the Senate will resume consideration of the FISA legislation and proceed to a series of votes on the remaining pending amendments to the bill.

ORDER FOR ADJOURNMENT

Mr. DURBIN. I ask unanimous consent that the Senate stand adjourned following the remarks of Senator SPECTER and Senator DODD, under the previous order, and the provisions of S.

Res. 446, as a further mark of respect to the memory of deceased U.S. Representative TOM LANTOS of California.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

FISA

AMENDMENT NO. 3927

Mr. SPECTER. Mr. President, I have sought recognition to comment on a pending amendment sponsored by Senator WHITEHOUSE and myself. I am delighted to see Senator WHITEHOUSE occupying the chair. I have a receptive, though a limited, audience.

I begin by thanking the Senate personnel for staying late. Monday is a day when I customarily travel the State—Scranton, Harrisburg—and arrive late in the day. I am pleased to see Senator DODD is also speaking so that my late arrival is not the sole cause. But we do have to work late because the majority leader has scheduled votes on these issues tomorrow. I wanted an opportunity to supplement earlier statements which I made on this issue because I believe it is an important issue on which the Senate needs to focus.

The legislation and oversight and judicial review since 9/11 have provided a historic confrontation among the three branches of Government on the basic doctrine of separation of powers. When I say it is historic, I do not believe that is an overstatement. There is no doubt that the events of 9/11 require a vigorous response by the United States to fight terrorism. The brutal, heinous murder of 3,000 Americans and the continuing threat of al-Qaida worldwide require that we fight terrorism with great vigor. At the same time, it is important that constitutional rights be maintained. The fact is that the Congress has been very ineffective in limiting the expansion of Executive power. Only the courts have been able to maintain a balance.

The specific issue involves the effort to give the telephone companies retroactive immunity and foreclose some 40 lawsuits in some Federal court which are pending at the present time. There is no doubt that the information reportedly obtained by the telephone companies for national security is vital and needs to be maintained. But there is a way to keep that information flowing and still maintain the constitutional balance by implementing the amendment which Senator WHITEHOUSE, the Presiding Officer, and I have introduced, the essence of which is to substitute the U.S. Government as the party defendant.

In that situation, the Government would have the identical defenses the telephone companies now have—no more, no less. For example, customarily the Federal Government has the defense of sovereign immunity. You can't sue the Federal Government unless the Government consents or unless the Congress of the United States says