Senate spy bill still shields telecoms

A revision is blocked; it omitted retroactive immunity for firms sued for cooperating with the government.

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WASHINGTON -- In a victory for the Bush administration, the Senate on Thursday blocked legislation that would have cleared the way for lawsuits against phone companies that have cooperated with a warrantless wiretapping program authorized by President Bush.

The vote moves the administration closer to its goal of providing retroactive immunity to telephone companies and Internet carriers that are facing multimillion-dollar lawsuits for giving U.S. spy agencies access to international calls and messages streaming across their networks.

The issue is being considered by the Senate this week as part of the latest effort to overhaul a 1978 law that governs U.S. intelligence agencies' ability to intercept electronic communications around the world. Congress passed a stopgap measure last summer that expires at the end of the month.

After the vote, Republicans and Democrats deadlocked over how to advance the broader surveillance bill.

They are expected to take it up again Monday, when the president is to give his State of the Union address.

The bill is designed to update surveillance laws to reflect the emergence of the Internet and other technologies.

At the same time, it is meant to impose controls on a controversial surveillance program launched by Bush in the aftermath of the Sept. 11 attacks that involved intercepting international calls and e-mails of U.S. residents without court warrants.

As part of that program, the Bush administration convinced AT&T, Sprint and other major telecommunications companies to allow U.S. spy agencies extensive access to the streams of data flowing across their networks.

Those companies now face lawsuits for cooperating with an espionage operation that even many members of Congress have called illegal.

On Thursday, the Senate voted 60 to 36 against an amendment that would have replaced the broader intelligence bill with new language that omitted legal protections for the phone companies.

The White House praised the vote, which effectively killed a rival bill that had been endorsed by the Senate Judiciary Committee.

The Bush administration is "very pleased" that the Senate voted against the committee measure, said White House spokesman Tony Fratto.
As a result, he said, the Senate can move forward with a measure that, "while not perfect, does substantially give the intelligence community the tools it needs to protect the country."

In coming days, lawmakers are expected to debate at least three other amendments dealing with immunity for the telecommunications companies.

But Thursday's vote was considered a clear signal that the White House is likely to prevail.

Critics have argued that Congress should not give retroactive immunity to companies that took part in a potentially illegal surveillance activity. Sen. Christopher J. Dodd (D-Conn.) said in a speech on the Senate floor that the companies involved "may have helped this administration break the law."

But most Republicans have backed the White House position, and key Democrats have argued that companies should not be punished for taking part in the program if they were led by Bush administration officials to believe that it was legal.

Senate Intelligence Committee Chairman John D. Rockefeller IV (D-W.Va.) said his panel voted for the immunity provision in part because the firms have a limited ability to defend themselves against lawsuits that hinge on what they were told in classified communications with the administration.

"At the end of the day, it was clear to us that the companies believed their cooperation was necessary, legal and would help stop future terrorist attacks," Rockefeller said.

"Whether you agree or not with the president's legal rationale is a separate issue."

The broader bill would allow the government to intercept international phone calls and e-mails -- including those crossing networks in the United States -- without a court warrant.

The House has passed a competing version of the bill that does not grant immunity to telecommunications companies, setting the stage for potentially difficult negotiations between the two chambers.

In a sign that the White House is seeking to build support in the House, the administration has agreed to a long-standing request by lawmakers for access to documents pertaining to the warrantless wiretapping program. Senators were given similar access last year.

"I have pushed for eight months to review this material," said House Intelligence Committee Chairman Silvestre Reyes (D-Texas).

"I don't know why the White House refused to give us access. Now we will be able to view documents used to set up the president's warrantless wiretapping program."

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