Senate Authorizes Broad Expansion Of Surveillance Act

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The Senate yesterday approved a sweeping measure that would expand the government's clandestine surveillance powers, delivering a key victory to the White House by approving immunity from lawsuits for telecommunications companies that cooperated with intelligence agencies in domestic spying after the Sept. 11, 2001, attacks.

On a 68 to 29 vote, the Senate approved the reauthorization of a law that would give the government greater powers to eavesdrop in terrorism and intelligence cases without obtaining warrants from a secret court.

The Senate's action, days before a temporary surveillance law expires Friday, sets up a clash with House Democrats, who have previously approved legislation that does not contain immunity for the telecommunications industry. The chambers have been locked in a standoff over the immunity provision since the House vote Nov. 15, with President Bush demanding the protection for the industry.

White House spokesman Tony Fratto said the president "will not sign another extension" of the temporary law, a decision that could force congressional leaders to reconcile their differences this week.

"The House is risking national security by delaying action," Fratto said. "It's increasingly clear Congress will not act until it has to, and a second extension will only lead to a third."

But House leaders vowed again yesterday to oppose the telecom immunity provision until the White House releases more information about the controversial warrantless surveillance program it initiated shortly after the terrorist attacks.

Bush applauded the Senate bill and warned House Democrats to put aside "narrow partisan concerns" on the immunity issue and approve the Senate's version.

"This good bill passed by the Senate provides a long-term foundation for our intelligence community to monitor the communications of foreign terrorists in ways that are timely and effective and that also protect the liberties of Americans," Bush said.

The House and Senate bills both include major revisions to the 30-year-old Foreign Intelligence Surveillance Act, which established a secret court to issue warrants for domestic spying on suspects in terrorism and intelligence cases. The National Security Agency, however, secretly bypassed the court for
years as it obtained information from telecommunication companies, until media reports revealed the arrangement.

The most important change approved by the Senate yesterday would make permanent a law approved last August that expanded the government's authority to intercept -- without a court order -- the phone calls and e-mails of people in the United States communicating with others overseas. U.S. intelligence agencies previously had broad leeway to monitor the communications of foreign terrorism suspects but needed warrants to monitor calls intercepted in the United States, regardless of where they originated.

The House and Senate versions of the new FISA provisions differ slightly, but leaders on both sides acknowledged that the major stumbling block is immunity for the telecommunications industry, which faces dozens of lawsuits for providing personal information to intelligence agencies without warrants.

Senate Democrats' split on immunity echoes past party divisions over national security issues, including how strongly to confront Bush on the tools the administration uses to target suspected terrorists and their allies.

"This is the right way to go, in terms of the security of the nation," said Sen. John D. Rockefeller IV (D-W.Va.), chairman of the intelligence committee, which wrote the Senate bill.

Rockefeller was one of 17 Democrats who joined 49 Republicans and one independent to reject an amendment offered by Sen. Christopher J. Dodd (D-Conn.) that would have stripped the immunity provision from the bill.

Two-thirds of the Democratic caucus opposed immunity. "It is inconceivable that any telephone companies that allegedly cooperated with the administration's warrantless wiretapping program did not know what their obligations were. And it is just as implausible that those companies believed they were entitled to simply assume the lawfulness of a government request for assistance," said Sen. Russell Feingold (D-Wis.), who co-sponsored the amendment.

Sen. Barack Obama (D-Ill.), who is locked in a tight race with Sen. Hillary Rodham Clinton (D-N.Y.) for the Democratic presidential nomination, opposed immunity for the industry, along with the entire elected Democratic leadership team. Clinton, who has publicly opposed immunity in the past, was campaigning during yesterday's primaries and did not attend the vote.

Sen. John McCain (R-Ariz.), the front-runner for the GOP nomination, supported the overall bill and the immunity provision. Neither Clinton nor Obama was on hand for the vote on final passage of the bill. McCain was.

Congressional leaders have until Friday -- when a two-week extension of the temporary law that authorizes expanded surveillance powers expires -- to iron out differences between the House and Senate versions. House Democratic leaders introduced a bill for another 21-day extension of the law, the Protect America Act, to provide sufficient time.

Republican leaders in both chambers have pushed for passage of the Senate bill without a House-Senate conference.

"I don't think there's a need to do a conference. This bill has been vetted and vetted and vetted," said Sen. Jon Kyl (R-Ariz.), the Republican whip.
Rep. Lamar Smith (R-Tex.), the ranking Republican on the House Judiciary Committee, warned Democrats not to expect a softening of the administration's position.

"I think the Democrats would be making a mistake if they felt the president was not going to be serious about vetoing any further extension or insisting that the immunity provisions be in there," Smith said.

But House Democratic leaders continued pushing for more information about the warrantless spying that telephone companies aided after the 2001 attacks.

Available documents on the program "raise important questions, and it will take some time to gather enough information to make a determination on the issue of retroactive immunity," House Intelligence Committee Chairman Silvestre Reyes (D-Tex.) said yesterday.

Staff writer Michael Abramowitz and washingtonpost.com staff writer Ben Pershing contributed to this report.