

AS MODIFIED

PENDING

AMENDMENT NO. _____ Calendar No. _____

Purpose: To prohibit the use of contractors for certain Department of Defense activities and to establish limitations on the transfer of custody of prisoners of the Department of Defense.

IN THE SENATE OF THE UNITED STATES—108th Cong., 2d Sess.

S. 2400

To au	AMENDMENT No.	3313	tary
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cc	By <u>Dodd</u>		part-
tr	To: <u>S. 2400</u>		for
si			ther
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Page(s)

GPO 2002 83-247(Mae)

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. DODD (*for himself, Lautenberg, Feinstein*)

Viz:

- 1 On page 195, between lines 10 and 11, insert the fol-
- 2 lowing:

1 SEC. 868. PROHIBITIONS ON USE OF CONTRACTORS FOR
2 CERTAIN DEPARTMENT OF DEFENSE ACTIVI-
3 TIES.

4 (a) PROHIBITION ON USE OF CONTRACTORS IN IN-
5 TERROGATION OF PRISONERS AND COMBAT MISSIONS.—

6 (1) Notwithstanding any other provision of law and except
7 as provided in paragraph (2), the use of contractors by
8 the Department of Defense is prohibited for activities as
9 follows:

10 (A) Interrogation of prisoners, detainees, or
11 combatants at any United States military installa-
12 tion or other installation under the authority of
13 United States military or civilian personnel.

14 (B) United States-led combat missions that re-
15 quire routine engagement in direct combat on the
16 ground, except in cases of self-defense.

17 (2)(A) During fiscal year 2005, the President may
18 waive the prohibition in paragraph (1) with respect to the
19 use of contractors to provide translator services under sub-
20 paragraph (A) of that paragraph if the President deter-
21 mines that no United States military personnel with ap-
22 propriate language skills are available to provide trans-
23 lator services for the interrogation to which the waiver ap-
24 plies.

25 (B) The President may also waive the prohibition in
26 paragraph (1) ^(A) with respect to any other use of contractors

1 otherwise prohibited by that paragraph during the 90-day
2 period beginning on the date of the enactment of this Act,
3 but any such waiver shall cease to be effective on the last
4 day of such period.

5 (3) The President shall, on a quarterly basis, submit
6 to the appropriate committees of Congress a report on the
7 use, if any, of contractors for the provision of translator
8 services pursuant to the waiver authority in paragraph
9 (2).

10 (b) PROHIBITION ON USE OF FUNDS.—No funds au-
11 thorized to be appropriated by this Act or any other Act
12 may be obligated or expended for the utilization of con-
13 tractor personnel in contravention of the prohibition in
14 subsection (a), whether such funds are provided directly
15 to a contractor by a department, agency, or other entity
16 of the United States Government or indirectly through a
17 permanent, interim, or transitional foreign government or
18 other third party.

19 (c) PROHIBITION ON TRANSFER OF CUSTODY OF
20 PRISONERS TO CONTRACTORS.—No prisoner, detainee, or
21 combatant under the custody or control of the Department
22 of Defense may be transferred to the custody or control
23 of a contractor or contractor personnel.

24 (d) RECORDS OF TRANSFERS OF CUSTODY OF PRIS-
25 ONERS TO OTHER COUNTRIES.—(1) No prisoner, de-

1 tainee, or combatant under the custody or control of the
2 Department of Defense may be transferred to the custody
3 or control of another department or agency of the United
4 States Government, a foreign, multinational, or other non-
5 United States entity, or another country unless the Sec-
6 retary makes an appropriate record of such transfer that
7 includes, for the prisoner, detainee, or combatant
8 concerned—

9 (A) the name and nationality; and

10 (B) the reason or reasons for such transfer.

11 (2) The Secretary shall ensure that—

12 (A) the records made of transfers by a transfer-
13 ring authority as described in paragraph (1) are
14 maintained by that transferring authority in a cen-
15 tral location; and

16 (B) the location and format of the records are
17 such that the records are readily accessible to, and
18 readily viewable by, the appropriate committees of
19 Congress.

20 (3) A record under paragraph (1) shall be maintained
21 in unclassified form, but may include a classified annex.

22 (e) APPROPRIATE COMMITTEES OF CONGRESS DE-
23 FINED.—In this section, the term “appropriate commit-
24 tees of Congress” means—

1 (1) the Committees on Armed Services, Foreign
2 Relations, and the Judiciary of the Senate and the
3 Select Committee on Intelligence of the Senate; and

4 (2) the Committees on Armed Services, Inter-
5 national Relations, and the Judiciary of the House
6 of Representatives and the Permanent Select Com-
7 mittee on Intelligence of the House of Representa-
8 tives.