

Senators from Utah, Senator BENNETT and Senator HATCH.

Mr. WARNER. Mr. President, reserving the right to object, I shall not. We also have an understanding that the closing statements of the managers appear in the RECORD as the last.

Mr. DOLE. I did get consent you could offer the managers' amendment right now.

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

AMENDMENT NO. 1464, AS MODIFIED

Mr. WARNER. Mr. President, I send to the desk a technical amendment to be added to the managers' amendment.

Mr. STEVENS. Has the agreement been entered into?

The PRESIDING OFFICER. Yes, it has. Without objection, the agreement is entered into.

Mr. WARNER. Mr. President, this is a technical amendment which includes the State of Maine as covered by the amendment of the Senator from New Hampshire.

I ask that it be accepted. It is to a previously agreed to amendment.

The PRESIDING OFFICER. Without objection, amendment No. 1464 is modified and is agreed to in that form.

The amendment (No. 1464), as modified, was agreed to, as follows:

At the appropriate place in the bill add the following new section:

SEC. .

The State of New Hampshire and the State of Maine shall be deemed as having met the safety belt use law requirements of section 153 of title 23 of the U.S. Code, upon certification by the Secretary of Transportation that the State has achieved—

(a) a safety belt use rate in each of fiscal years ending September 30, 1995 and September 30, 1996, of not less than 50 percent; and

(b) a safety belt use rate in each succeeding fiscal year thereafter of not less than the national average safety belt use rate, as determined by the Secretary of Transportation.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VISIT TO THE SENATE BY MEMBERS OF THE CHILEAN SENATE

Mr. DODD. Mr. President, I wanted to take a moment, if I could, to say that we just had a very wonderful opportunity in the Senate Foreign Relations Committee room to have a very healthy and productive discussion with a group of our colleagues, Senators from Chile, who are here in the United States, to meet with their counterparts in the Senate and some Members of the House and the administration on a variety of subject matters, not the least of which—and it will not come as a great surprise—is NAFTA.

I know many colleagues share the view that Chile would be a welcome partner in the NAFTA agreements. That is a matter we will address in the future.

I would like to take this opportunity to introduce to my distinguished colleagues four Members of the Chilean Senate. With us today are Senator Arturo Alessandri, Senator Sebastian Pinera, Senator Hernan Larrain, and Senator Jaime Gazmuri.

We are pleased to welcome four of our colleagues from Chile to the U.S. Senate. We are delighted you are here on an important visit to our country.

[Applause]

PRIVATE SECURITIES LITIGATION REFORM ACT

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 240) to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Private Securities Litigation Reform Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF ABUSIVE LITIGATION

Sec. 101. Elimination of certain abusive practices.

Sec. 102. Securities class action reform.

Sec. 103. Sanctions for abusive litigation.

Sec. 104. Requirements for securities fraud actions.

Sec. 105. Safe harbor for forward-looking statements.

Sec. 106. Written interrogatories.

Sec. 107. Amendment to Racketeer Influenced and Corrupt Organizations Act.

Sec. 108. Authority of Commission to prosecute aiding and abetting.

Sec. 109. Loss causation.

Sec. 110. Applicability.

TITLE II—REDUCTION OF COERCIVE SETTLEMENTS

Sec. 201. Limitation on damages.

Sec. 202. Proportionate liability.

Sec. 203. Applicability.

TITLE III—AUDITOR DISCLOSURE OF CORPORATE FRAUD

Sec. 301. Fraud detection and disclosure.

TITLE I—REDUCTION OF ABUSIVE LITIGATION

SEC. 101. ELIMINATION OF CERTAIN ABUSIVE PRACTICES.

(a) PROHIBITION OF REFERRAL FEES.—Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended by adding at the end the following new paragraph:

"(8) PROHIBITION OF REFERRAL FEES.—No broker or dealer, or person associated with a broker or dealer, may solicit or accept, directly or indirectly, remuneration for assisting an attorney in obtaining the representation of any person in any private action arising under this title or under the Securities Act of 1933."

(b) ATTORNEY CONFLICT OF INTEREST.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(f) ATTORNEY CONFLICT OF INTEREST.—In any private action arising under this title, if a plaintiff is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such ownership or other interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the party."

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

"(i) ATTORNEY CONFLICT OF INTEREST.—In any private action arising under this title, if a plaintiff is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such ownership or other interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the party."

(c) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(g) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court upon motion by the Commission, or, in the case of an administrative action, as otherwise ordered by the Commission, funds disgorged as the result of an action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds."

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following new paragraph:

"(4) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court upon motion by the Commission, or, in the case of an administrative action, as otherwise ordered by the Commission, funds disgorged as the result of an action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds."

SEC. 102. SECURITIES CLASS ACTION REFORM.

(a) RECOVERY RULES.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(h) RECOVERY RULES FOR PRIVATE CLASS ACTIONS.—

"(1) IN GENERAL.—The rules contained in this subsection shall apply in each private action arising under this title that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

"(2) CERTIFICATION FILED WITH COMPLAINTS.—

"(A) IN GENERAL.—Each plaintiff seeking to serve as a representative party on behalf of a class shall provide a sworn certification, which shall be personally signed by such plaintiff and filed with the complaint, that—

"(i) states that the plaintiff has reviewed the complaint and authorized its filing;

"(ii) states that the plaintiff did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order