Sixth, the environmental community believes that we need to find a way to integrate multilateral trade agreements and multilateral environmental agreements, MEAs, and they are right. Actions taken under an MEA should not be subject to a GATT challenge. There are two ways to go about this. One is to ''grandfather'' specific environmental agreements, as we did in NAFTA. We could start out by providing a so-called ''safe haven'' for the Montreal Protocol and CITES, the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The other is to describe the characteristics of an MEA that will automatically be protected.

Let me add a few other agenda items that are unrelated to my Seattle list but need to be on our ''to do'' list in the United States.

First, we should take a hard look at the NAFTA environmental side agreement, and see how it is working. I will ask the key Congressional Committees, including the Senate Environment and Public Works Committee, to conduct appropriate oversight.

Second, we need to improve our domestic trade policy institutions. And that includes enhancing the role of Congress in trade negotiations. Last week, in a speech at the Washington International Trade Association, I proposed the establishment of a Congressional Trade Office. This office would provide the Congress with additional independent, non-partisan, neutral trade expertise.

Its functions would include: monitoring compliance with major bilateral, regional, and multilateral trade agreements; analysis of Administration trade policy, trade actions, and proposed trade legislation; participation in dispute settlement deliberations at the WTO and NAFTA, and evaluation of the results of dispute settlement cases involving the United States.

The National Wildlife Federation and the Sierra Club have proposed such an office, although the functions in my concept are quite different.

I will be offering legislation on this later this year.

One of the most difficult issues that has arisen in recent years has been the relationship between trade policy and environmental protection. The lack of consensus on this relationship has been one of the major reasons that we have not been able to proceed with fast track legislation in the Congress.

Paralysis helps no one. I hope that the thoughts I have set out today for Seattle and for our own domestic agenda will help to begin a constructive and responsible dialogue between the trade and the environmental communities. We need trade. We need environmental protection. We need a sustainable earth, and that means a clean world and a growing world—more and better jobs everywhere, increased income, cleaner air and water, the protection of our natural heritage for future generations. These goals are only incompatible when people are unwilling to talk about them together.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. KYL). Under the previous order, morning business is closed.

APPOINTMENT OF CONFEREES—H.R. 2480

Ms. COLLINS. Mr. President, I ask unanimous consent that with respect to H.R. 2480, the Chair be authorized to appoint conferees on the part of the Senate.

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

The Presiding Officer (Mr. KYL) appointed Mr. ROTH, Mr. LOTT, and Mr. MOYNIHAN conferees on the part of the Senate.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2000

The PRESIDING OFFICER. Pursuant to the order of the Senate of July 1, after having received H.R. 2587, the Senate will proceed to the bill. All after the enacting clause is stricken, and the text of S. 1283 is inserted. H.R. 2587 is read a third time and passed. The Senate insists on its amendment and requests a conference with the House, and the Chair appoints Mrs. HUTCHISON of Texas, Mr. KYL, Mr. STEVENS, Mr. DURBIN, and Mr. INOUYE conferees on the part of the Senate.

(The text of S. 1283 was printed in the RECORD of July 12, 1999.)

DECEPTIVE MAIL PREVENTION AND ENFORCEMENT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of S. 335, which the clerk will report by title.

The legislative assistant read as follows:

A bill (S. 335) to amend chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to games of chance, administrative procedures, orders, and civil penalties relating to such matter, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Deceptive Mail Prevention and Enforcement Act''.

SEC. 2. RESTRICTIONS ON MAILINGS USING MISLEADING REFERENCES TO THE UNITED STATES GOVERNMENT.

Section 3001 of title 39, United States Code, is amended—

(1) in subsection (h)—

(A) in the first sentence by striking ''contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement'' and inserting the following: ''which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government''; and

(B) in paragraph (2)—

(i) in subparagraph (A) by striking ''and'' at the end;

(ii) in subparagraph (B) by striking ''or'' at the end and inserting ''and''; and

(iii) by inserting after subparagraph (B) the following:

''(C) does not contain a false representation implying that Federal Government benefits or services will be affected by any purchase or nonpurchase; or'';

(2) in subsection (i) in the first sentence—

(A) in the first sentence by striking ''contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement'' and inserting the following: ''which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government''; and

(B) in paragraph (2)—

(i) in subparagraph (A) by striking ''and'' at the end;

(ii) in subparagraph (B) by striking ''or'' at the end and inserting ''and''; and

(iii) by inserting after subparagraph (B) the following:

''(C) does not contain a false representation implying that Federal Government benefits or services will be affected by any purchase or nonpurchase; or'';

(3) by redesignating subsections (j) and (k) as subsections (m) and (o), respectively; and

(4) by inserting after subsection (i) the following:

''(j)(1) Matter otherwise legally acceptable in the mails described under paragraph (2)—

''(A) is nonmailable matter;

''(B) shall not be carried or delivered by mail; and

''(C) shall be disposed of as the Postal Service directs.

''(2) Matter that is nonmailable matter referred to under paragraph (1) is any matter that—

''(A) constitutes a solicitation for the purchase of any product or service that—

''(i) is provided by the Federal Government; and

''(ii) may be obtained without cost from the Federal Government; and

''(B) does not contain a clear and conspicuous statement giving notice of the information under subparagraph (A) (i) and (ii).''.

SEC. 3. RESTRICTIONS ON SWEEPSTAKES AND DECEPTIVE MAILINGS.

Section 3001 of title 39, United States Code, is amended by inserting after subsection (j) (as added by section 2(4) of this Act) the following:

''(k)(1) In this subsection, the term—

''(A) 'facsimile check' means any matter designed to resemble a check or other negotiable instrument that is not negotiable;

''(B) 'skill contest' means a puzzle, game, competition, or other contest in which—

''(i) a prize is awarded or offered;

''(ii) the outcome depends predominately on the skill of the contestant; and

''(iii) a purchase, payment, or donation is required or implied to be required to enter the contest; and

''(C) 'sweepstakes' means a game of chance for which no consideration is required to enter.

''(2) Matter otherwise legally acceptable in the mails that is nonmailable matter described under paragraph (3) shall not be carried or delivered by mail and may be disposed of as the Postal Service directs.

''(3) Matter that is nonmailable matter referred to under paragraph (2) is any matter (except matter as provided under paragraph (4)) that—

''(A)(i) includes entry materials for a sweepstakes or a promotion that purports to be a sweepstakes; and

''(ii)(I) does not contain a statement that discloses in the mailing, in the rules, and on the order or entry form, that no purchase is necessary to enter such sweepstakes;

''(II) does not contain a statement that discloses in the mailing, in the rules, and on the order or entry form, that a purchase will not improve an individual's chances of winning with an entry from such materials;

''(III) does not state all terms and conditions of the sweepstakes promotion, including the rules and entry procedures for the sweepstakes, in language that is easy to find, read, and understand;

''(IV) does not disclose the sponsor or mailer of such matter and the principal place of business or an address at which the sponsor or mailer may be contacted;

''(V) does not contain sweepstakes rules that clearly state—

''(aa) the estimated odds of winning each prize;

''(bb) the quantity, estimated retail value, and nature of each prize; and

''(cc) the schedule of any payments made over time;

''(VI) represents that individuals not purchasing products may be disqualified from receiving future sweepstakes mailings;

''(VII) requires that a sweepstakes entry be accompanied by an order or payment for a product previously ordered;

''(VIII) represents that an individual is a winner of a prize unless that individual has won a prize;

''(IX) contains a representation that contradicts, or is inconsistent with sweepstakes rules or any other disclosure required to be made under this subsection, including any statement qualifying, limiting, or explaining the rules or disclosures in a manner inconsistent with such rules or disclosures; or

''(X) represents that the purchase of a product will allow a sweepstakes entry to receive an advantage in the winner selection process, to be eligible for additional prizes in that sweepstakes, or for an entry submitted in a future sweepstakes to have a better chance of winning;

''(B)(i) includes entry materials for a skill contest or a promotion that purports to be a skill contest; and

''(ii)(I) does not state all terms and conditions of the skill contest, including the rules and entry procedures for the skill contest, in language that is easy to find, read and understand;

''(II) does not clearly and conspicuously disclose the sponsor or mailer of the skill contest and the principal place of business or an address at which the sponsor or mailer may be contacted; or

''(III) does not contain skill contest rules that clearly state, as applicable—

''(aa) the number of rounds or levels of the contest and the cost to enter each round or level;

''(bb) that subsequent rounds or levels will be more difficult to solve;

''(cc) the maximum cost to enter all rounds or levels;

''(dd) the estimated number or percentage of entrants who may correctly solve the skill contest or the approximate number or percentage of entrants correctly solving the past 3 skill contests conducted by the sponsor;

''(ee) the identity or description of the qualifications of the judges if the contest is judged by other than the sponsor;

''(ff) the method used in judging;

''(gg) the date by which the winner or winners will be determined and the date or process by which prizes will be awarded;

''(hh) the quantity, estimated retail value, and nature of each prize; and

''(ii) the schedule of any payments made over time; or

''(C) includes any facsimile check that does not contain a statement on the check itself that such check is not a negotiable instrument and has no cash value.

''(4) Matter that appears in a magazine, newspaper, or other periodical and contains materials that are a facsimile check, skill contest, or sweepstakes is exempt from paragraph (3), if the matter—

''(A) is not directed to a named individual; or

''(B) does not include an opportunity to make a payment or order a product or service.

''(5) Any statement, notice, or disclaimer required under paragraph (3) shall be clearly and conspicuously displayed.

''(6) In the enforcement of paragraph (3), the Postal Service shall consider all of the materials included in the mailing and the material and language on and visible through the envelope.

''(l)(1) Any person who uses the mails for any matter to which subsection (h), (i), (j), or (k) applies shall adopt reasonable practices and procedures to prevent the mailing of such matter to any person who, personally or through a conservator, guardian, individual with power of attorney—

''(A) submits to the mailer of such matter a written request that such matter should not be mailed to such person; or

''(B)(i) submits such a written request to the attorney general of the appropriate State (or any State government officer who transmits the request to that attorney general); and

''(ii) that attorney general transmits such request to the mailer.

''(2) Any person who mails matter to which subsection (h), (i), (j), or (k) applies shall maintain or cause to be maintained a record of all requests made under paragraph (1). The records shall be maintained in a form to permit the suppression of an applicable name at the applicable address for a 5-year period beginning on the date the written request under paragraph (1) is submitted to the mailer.''.

SEC. 4. POSTAL SERVICE ORDERS TO PROHIBIT DECEPTIVE MAILINGS.

Section 3005(a) of title 39, United States Code, is amended—

(1) by striking ''or'' after ''(h),'' both places it appears; and

(2) by inserting '', (j), or (k)'' after ''(i)'' in both such places.

SEC. 5. TEMPORARY RESTRAINING ORDER FOR DECEPTIVE MAILINGS.

Section 3007 of title 39, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by striking subsection (a) and inserting the following:

''(a)(1) In preparation for or during the pendency of proceedings under sections 3005 and 3006, the Postal Service, in accordance with section 409(d), may apply to the district court in any district in which mail is sent or received as part of the alleged scheme, device, lottery, gift enterprise, sweepstakes, skill contest, or facsimile check or in any district in which the defendant is found, for a temporary restraining order and preliminary injunction under the procedural requirements of rule 65 of the Federal Rules of Civil Procedure.

''(2)(A) Upon a proper showing, the court shall enter an order which shall—

''(i) remain in effect during pendency of the statutory proceedings, any judicial review of such proceedings, or any action to enforce orders issued under the proceedings; and

''(ii) direct the detention by the postmaster, in any and all districts, of the defendant's incoming mail and outgoing mail, which is the subject of the proceedings under sections 3005 and 3006.

''(B) A proper showing under this paragraph shall require proof of a likelihood of success on the merits of the proceedings under section 3005 or 3006.

''(3) Mail detained under paragraph (2) shall—

''(A) be made available at the post office of mailing or delivery for examination by the defendant in the presence of a postal employee; and

''(B) be delivered as addressed if such mail is clearly shown not to be the subject of proceedings under sections 3005 and 3006.

''(4) No finding of the defendant's intent to make a false representation or to conduct a lottery is required to support the issuance of an order under this section.

''(b) If any order is issued under subsection (a) and the proceedings under section 3005 or 3006 are concluded with the issuance of an order under that section, any judicial review of the matter shall be in the district in which the order under subsection (a) was issued.''.

SEC. 6. CIVIL PENALTIES AND COSTS.

Section 3012 of title 39, United States Code, is amended—

(1) in subsection (a) by striking ''$10,000 for each day that such person engages in conduct described by paragraph (1), (2), or (3) of this subsection.'' and inserting ''$50,000 for each mailing of less than 50,000 pieces; $100,000 for each mailing of 50,000 to 100,000 pieces; with an additional $10,000 for each additional 10,000 pieces above 100,000, not to exceed $2,000,000.'';

(2) in subsection (b) (1) and (2) by inserting after ''of subsection (a)'' the following: '', (c), or (d)'';

(3) by redesignating subsections (c) and (d), as subsections (e) and (f), respectively;

(4) by inserting after subsection (b) the following:

''(c)(1) In any proceeding in which the Postal Service may issue an order under section 3005(a), the Postal Service may in lieu of that order or as part of that order assess civil penalties in an amount not to exceed $25,000 for each mailing of less than 50,000 pieces; $50,000 for each mailing of 50,000 to 100,000 pieces; with an additional $5,000 for each additional 10,000 pieces above 100,000, not to exceed $1,000,000.

''(2) In any proceeding in which the Postal Service assesses penalties under this subsection the Postal Service shall determine the civil penalty taking into account the nature, circumstances, extent, and gravity of the violation or violations of section 3005(a), and with respect to the violator, the ability to pay the penalty, the effect of the penalty on the ability of the violator to conduct lawful business, any history of prior violations of such section, the degree of culpability and other such matters as justice may require.

''(d) Any person who violates section 3001(l) shall be liable to the United States for a civil penalty not to exceed $10,000 for each mailing to an individual.''; and

(5) by amending subsection (e) (as redesignated by paragraph (3) of this section) to read as follows:

''(e)(1) From all civil penalties collected in the administrative and judicial enforcement of this chapter, an amount equal to the administrative and judicial costs incurred by the Postal Service in such enforcement, not to equal or exceed $500,000 in each year, shall be—

''(A) deposited in the Postal Service Fund established under section 2003; and

''(B) available for payment of such costs.

''(2) Except for amounts deposited in the Postal Service Fund under paragraph (1), all civil penalties collected in the administrative and judicial enforcement of this chapter shall be deposited in the General Fund of the Treasury.''.

SEC. 7. ADDITIONAL AUTHORITY FOR THE POSTAL INSPECTION SERVICE.

(a) IN GENERAL.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

''§ 3016. Administrative subpoenas

''(a) AUTHORIZATION OF USE OF SUBPOENAS BY POSTMASTER GENERAL.—In any investigation conducted under this chapter, the Postmaster General may require by subpoena the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Postmaster General finds relevant or material to the investigation.

''(b) SERVICE.—

''(1) SERVICE WITHIN THE UNITED STATES.—A subpoena issued under this section may be served by a person designated under section 3061 of title 18 at any place within the territorial jurisdiction of any court of the United States.

''(2) FOREIGN SERVICE.—Any such subpoena may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States may assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such court would have if such person were personally within the jurisdiction of such court.

''(3) SERVICE ON BUSINESS PERSONS.—Service of any such subpoena may be made by a Postal Inspector upon a partnership, corporation, association, or other legal entity by—

''(A) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

''(B) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity; or

''(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

''(4) SERVICE ON NATURAL PERSONS.—Service of any subpoena may be made upon any natural person by—

''(A) delivering a duly executed copy to the person to be served; or

''(B) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

''(5) VERIFIED RETURN.—A verified return by the individual serving any such subpoena setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such subpoena.

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—Whenever any person, partnership, corporation, association, or entity fails to comply with any subpoena duly served upon him, the Postmaster General may request that the Attorney General seek enforcement of the subpoena in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section.

''(2) JURISDICTION.—Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section. Any final order entered shall be subject to appeal under section 1291 of title 28. Any disobedience of any final order entered under this section by any court may be punished as contempt.

''(d) DISCLOSURE.—Any documentary material provided pursuant to any subpoena issued under this section shall be exempt from disclosure under section 552 of title 5.''.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this section, the Postal Service shall promulgate regulations setting out the procedures the Postal Service will use to implement this section.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

''3016. Administrative subpoenas.''.

SEC. 8. REQUIREMENTS OF PROMOTERS OF SKILL CONTESTS OR SWEEPSTAKES MAILINGS.

(a) IN GENERAL.—Chapter 30 of title 39, United States Code (as amended by section 7 of this Act) is amended by adding after section 3016 the following:

''§ 3017. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings

''(a) DEFINITIONS.—In this section, the term—

''(1) 'promoter' means any person who originates and causes to be mailed more than 500,000 mailings in any calendar year of any skill contest or sweepstakes, except for mailings that do not include an opportunity to make a payment or order a product or service;

''(2) 'removal request' means a written request stating that an individual elects to have the name and address of such individual excluded from any list used by a promoter for mailing skill contests or sweepstakes;

''(3) 'skill contest' means a puzzle, game, competition, or other contest in which—

''(A) a prize is awarded or offered;

''(B the outcome depends predominately on the skill of the contestant; and

''(C) a purchase, payment, or donation is required or implied to be required to enter the contest; and

''(4) 'sweepstakes' means a game of chance for which no consideration is required to enter.

''(b) NONMAILABLE MATTER.—

''(1) IN GENERAL.—Matter otherwise legally acceptable in the mails described under paragraph (2)—

''(A) is nonmailable matter;

''(B) shall not be carried or delivered by mail; and

''(C) shall be disposed of as the Postal Service directs.

''(2) NONMAILABLE MATTER DESCRIBED.—Matter that is nonmailable matter referred to under paragraph (1) is any matter that—

''(A) is a skill contest or sweepstakes; and

''(B)(i) is addressed to an individual who made an election to be excluded from lists under subsection (e); or

''(ii) does not comply with subsection (c)(1).

''(c) REQUIREMENTS OF PROMOTERS.—

''(1) NOTICE TO INDIVIDUALS.—Any promoter who mails a skill contest or sweepstakes shall provide with each mailing a clear and conspicuous statement that—

''(A) includes the address and toll-free telephone number of the notification system established under paragraph (2); and

''(B) states how the notification system may be used to prohibit the mailing of any skill contest or sweepstakes to such individual.

''(2) NOTIFICATION SYSTEM.—Any promoter that mails a skill contest or sweepstakes shall participate in the establishment and maintenance of a single notification system that provides for any individual (or other duly authorized person) to notify the system of the individual's election to have the name and address of the individual excluded from all lists of names and addresses used by all promoters to mail any skill contest or sweepstakes.

''(d) NOTIFICATION SYSTEM.—If an individual contacts the notification system through use of the toll-free telephone number provided under subsection (c)(1)(A), the system shall—

''(1) inform the individual of the information described under subsection (c)(1)(B); and

''(2) inform the individual that the election to prohibit mailings of skill contests or sweepstakes to that individual shall take effect 45 business days after receipt by the system of the signed removal request by the individual.

''(e) ELECTION TO BE EXCLUDED FROM LISTS.—

''(1) IN GENERAL.—An individual may elect to exclude the name and address of such individual from all mailing lists used by promoters of skill contests or sweepstakes by mailing a removal request to the notification system established under subsection (c).

''(2) RESPONSE AFTER MAILING REMOVAL REQUEST TO THE NOTIFICATION SYSTEM.—Not later than 45 business days after receipt of a removal request, all promoters who maintain lists containing the individual's name or address for purposes of mailing skill contests or sweepstakes shall exclude such individual's name and address from all such lists.

''(3) EFFECTIVENESS OF ELECTION.—An election under paragraph (1) shall—

''(A) be effective with respect to every promoter; and

''(B) remain in effect, unless an individual notifies the system in writing that such individual—

''(i) has changed the election; and

''(ii) elects to receive skill contest or sweepstakes mailings.

''(f) PROMOTER NONLIABILITY.—A promoter, or any other person maintaining the notification system established under this section, shall not be subject to civil liability for the exclusion of an individual's name or address from any mailing list maintained by a promoter for mailing skill contests or sweepstakes, if—

''(1) a removal request is received by the notification system; and

''(2) the promoter or person maintaining the system has a good faith belief that the request is from—

''(A) the individual whose name and address is to be excluded; or

''(B) another duly authorized person.

''(g) PROHIBITION ON COMMERCIAL USE OF LISTS.—

''(1) IN GENERAL.—

''(A) PROHIBITION.—No person may provide any information (including the sale or rental of any name or address) in a list described under subparagraph (B) to another person for commercial use.

''(B) LISTS.—A list referred to under subparagraph (A) is any list of names and addresses (or other related information) used, maintained, or created by the system established under this section.

''(2) CIVIL PENALTY.—Any person who violates paragraph (1) shall be assessed a civil penalty by the Postal Service not to exceed $2,000,000 per violation.

''(h) CIVIL PENALTIES.—

''(1) IN GENERAL.—Any promoter—

''(A) who recklessly mails nonmailable matter in violation of subsection (b) shall be liable to the United States in an amount of $10,000 per violation for each mailing of nonmailable matter; or

''(B) who fails to substantially comply with the requirements of subsection (c)(2) shall be liable to the United States.

''(2) ENFORCEMENT.—The Postal Service shall assess civil penalties under this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 30 of title 39, United States Code, is amended by adding after the item relating to section 3016 the following:

''3017. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings.''.

(c) EFFECTIVE DATE.—This section shall take effect 1 year after the date of enactment of this Act.

SEC. 9. STATE LAW NOT PREEMPTED.

(a) IN GENERAL.—Nothing in the provisions of this Act (including the amendments made by this Act) or in the regulations promulgated under such provisions shall be construed to preempt any provision of State or local law that imposes more restrictive requirements, regulations, damages, costs, or penalties. No determination by the Postal Service that any particular piece of mail or class of mail is in compliance with such provisions of this Act shall be construed to preempt any provision of State or local law.

(b) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State or any specific civil or criminal statute of such State.

SEC. 10. EFFECTIVE DATE.

Except as provided in section 8, this Act shall take effect 120 days after the date of enactment of this Act.

Amend the title so as to read: ''A bill to amend chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to sweepstakes, skill contests, facsimile checks, administrative procedures, orders, and civil penalties relating to such matter, and for other purposes.''.

The PRESIDING OFFICER. Under the previous order, there will now be 2 hours for debate on S. 335, to be equally divided between the Senator from Maine and the Senator from Michigan or their designees.

PRIVILEGE OF THE FLOOR

Ms. COLLINS. Mr. President, I ask unanimous consent that the following members of my staff be granted the privilege of the floor during consideration of S. 335: Lee Blaylock and Michael Bopp.

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

Mr. LEVIN. If the Senator will yield for a similar request, I ask unanimous consent that Leslie Bell of my staff be granted the privilege of the floor.

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

Ms. COLLINS. Mr. President, I ask unanimous consent that at 5:10 today Senator EDWARDS be allowed to speak for up to 10 minutes, with the time coming from the time controlled by the Senator from Michigan, that the Senator from Michigan be permitted to speak for 5 minutes following Senator EDWARDS, and that I be permitted to speak for 5 minutes immediately prior to the 5:30 vote.

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

Ms. COLLINS. I thank the Chair.

Mr. President, I am pleased that the Senate is now considering S. 335, the Deceptive Mail Prevention and Enforcement Act, legislation I authored along with my colleagues, Senator LEVIN, Senator COCHRAN, Senator EDWARDS, Senator DURBIN, and Senator SPECTER.

S. 335 is the product of an extensive investigation and 2 days of public hearings held by the Permanent Subcommittee on Investigations, which I chair. This legislation would establish for the first time tough new Federal standards for sweepstakes and other promotional mailings.

For example, these mailings would be required to clearly inform consumers that a purchase is not necessary to win the contest and that a purchase will not increase their chances of winning. In addition to these important consumer protections, the bill confers additional investigative and enforcement authority on the U.S. Postal Service and authorizes civil fines of up to $2 million for companies that violate the consumer protection standards.

This comprehensive measure has the support of the AARP, the National Consumers League, and the U.S. Postal Service.

I particularly recognize the leadership roles played by several members of the committee. Senator LEVIN, in particular, has long been a leader in the effort to curtail deceptive mailings. Senator COCHRAN held some of the first hearings on this issue. Senator EDWARDS, Senator SPECTER, and Senator DURBIN all contributed greatly to our investigation.

Let me also express my appreciation for the assistance provided by the chairman of the Governmental Affairs Committee, Senator THOMPSON, and by the committee's ranking minority member, Senator LIEBERMAN.

In addition, I salute Senator CAMPBELL, who was one of the first to call attention to the growing problems of deceptive sweepstakes mailings. Some of the provisions in our legislation are similar to those in a bill introduced by Senator CAMPBELL.

I first became aware of the growing problem of deceptive sweepstakes last year after receiving several complaints from my constituents in Maine. In order to learn more about this growing problem, the Permanent Subcommittee on Investigations began an investigation into the nature of deceptive mailings and the extent of sweepstakes and other promotional mailings. The subcommittee soon realized that the promotional mailing industry generates an enormous volume of mail that reaches the mailboxes of millions of Americans. In fact, the four major sweepstakes companies alone flood Americans with more than 1 billion solicitations every year.

The subcommittee held 2 days of public hearings. At the first subcommittee hearing in March, we examined the practices of the four major sweepstakes companies: American Family Publishers, Publishers Clearinghouse; Time, Inc.; and Reader's Digest.

I want to make clear that they all run legitimate sweepstakes, legitimate in the sense that they do award the prizes, they do deliver the merchandise orders, and they do not seek to conceal their identities. However, there is a critical distinction between running a legal contest and treating consumers fairly, without resorting to misleading or deceptive practices.

Our hearings in March examined the key issue of whether consumers are being clearly informed that no purchase is necessary to enter sweepstakes and that buying something does not increase their chance of winning. That is the biggest misconception. Far too many consumers believe that if they make a purchase in response to the sweepstakes solicitation, they somehow improve their chances of winning. Nothing could be further from the truth. The subcommittee heard testimony indicating that the existing disclaimers used by the large sweepstakes companies are of very little value. They are too often deceptively worded or they are contradicted by the glowing promises in the promotional copy. In addition, they are hard to locate on the mailing, and they are often written in very tiny print that is difficult to read.

Our hearings in March prompted over 1,000 letters from across the country to the subcommittee. Many of those letters included mailings from smaller sweepstakes companies with which the subcommittee had not been familiar. This public response prompted an expansion of the subcommittee's investigation into the deceptive practices of these smaller sweepstakes companies.

Those smaller companies were the focus of the subcommittee's second hearing in July. Many of these smaller companies tend to be fly-by-night operations that use multiple trade names to hide their identities and to confuse consumers. In fact, we found one company that sent out solicitations under 40 different trade names. That was obviously very confusing to consumers because they believed they were getting a chance to enter 40 different contests when, in fact, it was just one sweepstakes company using 40 different names.

In some cases, these smaller companies are run by promoters for a year or two and then shut down. The operator then starts up a new company under yet another name, often one that is specifically chosen to lend credibility to the contest or to deceive consumers. These companies profit not only from their extremely deceptive mailings but also by reselling the names of their customers to other operators who then inundate the unlucky consumer with still more mailings. Unfortunately, our investigation suggests that this practice, this business, is quite lucrative.

The smaller companies investigated by the subcommittee sent approximately 100 million mailings in 1998 and received over 4 million purchases, which we conservatively estimate cost consumers in the neighborhood of $40 million.

In return, most individuals received a discount coupon book that was frequently followed by additional numerous other mailings urging consumers to purchase the exact same coupon book once again.

Anonymity, as our hearings demonstrated, is crucial to the success of many of these small operators. They depend on working in the shadows and underneath the radar of State and Federal regulators. They are, in many ways, the ''stealth'' sweepstakes companies—difficult to detect, to track, and to stop. Our investigation discovered that most of these companies attempt to conceal their identities through multiple corporate names and various mailbox drops in several different States. Their mailings are often designed to deceive even the most cautious and wary consumer.

Our investigation and hearings demonstrated that sweepstakes companies, both large and small, use deceptive and aggressive marketing techniques far too often to entice consumers into making purchases that they do not need or want, in the mistaken belief that a purchase will improve their chances of winning that grand prize. Indeed, we heard testimony that deceptive sweepstakes mailings can induce trusting consumers to purchase thousands of dollars of questionable merchandise. One example that was related to us by a witness was a magazine subscription extending to the year 2018 that had been purchased by her 82-year-old father-in-law in response to repeated solicitations.

The subcommittee found that many of our senior citizens are particularly vulnerable to such deceptive mailings. They come from perhaps a more trusting generation. Many seniors tend to believe what they read, particularly if it is endorsed by a trusted spokesman, such as Ed McMahon or Dick Clark, or if it comes from a well-known company, such as Reader's Digest or Time, or if it involves a mailing that appears to be official.

At the subcommittee's hearings, family members told of loved ones who were so convinced that they had won a sweepstakes that they refused to leave their home for fear of missing the Prize Patrol. One of my constituents in Maine actually postponed needed surgery because she was absolutely convinced that that was going to be the day her winnings were delivered to her.

The subcommittee investigated many cases of seniors who, enticed by the bold promises in deceptive sweepstakes, actually spent their Social Security checks, squandered their life's savings, and even borrowed money in order to continue to make purchases through these sweepstakes mailings. I will never forget one of our witnesses who actually broke down in tears before the subcommittee as he recounted how he had been enticed to spend $15,000 on merchandise he did not want because he thought it would bring him closer to winning millions of dollars.

Time and again, family members have described sweepstakes companies literally bombarding elderly relatives with repeated mailings. Our witnesses explained that their elderly family members spent thousands of dollars in the vain hope that if they just bought one more trinket, or one more videotape, or one more magazine subscription, it would greatly improve their chances of winning. Of course, it never did.

The losses suffered by consumers could not, however, be measured in dollars alone. As one elderly gentleman put it:

> My wife has finally come to realize that she has been duped by the sweepstakes solicitations for all these years. Although the financial drain is now halted, the loss of her dignity is incalculable.

Unfortunately, these are not isolated examples. According to a recent survey commissioned by the AARP, nearly 40 percent of seniors surveyed believed there was a connection between purchasing and winning, that either making a purchase would help you to win or it would ensure that you would win a prize.

You have only to look at some of these sweepstakes mailings to understand why consumers draw these conclusions. For example, one mailing by Publishers Clearinghouse, which is famous for its Prize Patrol, tells consumers to ''open your door to $31 million on January 31.'' You can see the personalized mailing, although we blocked out the name of the person involved. This mailing clearly suggests to the consumer that his or her—her in this case—purchases are paying off. It specifically states:

> You see, your recent order and entry has proven to us that you're indeed one of our loyal friends and a savvy sweepstakes player. And now I'm pleased to tell you that you've passed our selection criteria to receive this special invitation. . . .

Mr. President, this is clearly and blatantly designed to deceive the consumers into drawing a connection between making a purchase and winning the prize.

Let me show you another example. The next example is a mailing from American Family Publishers. It states:

> It's down to a 2 person race for $11 million—you and one other person in Georgia were issued the winning number. Whoever returns it first wins it all.

Most people don't see the very fine print that declares:

> . . . if you have the winning number.

Unless the contestant reads and understands this fine print, the mailing leaves the unmistakable impression that this recipient, this lucky person, and one other person, have the winning number for the $11 million prize.

This mailing actually caused a number of contestants to fly to Florida in the hope that their entry would be received first. After all, it says, ''Whoever returns it first wins it all.'' It also prompted lawsuits by several States' attorneys general, and American Family Publishers eventually agreed to a multistate settlement.

I wish the misleading mailings from the largest sweepstakes companies represented the worst of the lot. Unfortunately, they do not. Let's take a look at a couple of examples of deceptive practices of some of the smaller sweepstakes companies. As you will recall, these were the companies that were brought to the subcommittee's attention by outraged consumers from across this country who wrote to us after our first round of hearings.

This solicitation, or promotion, from Mellon, Astor & Fairweather is a deceptive attempt to make the consumer think that a prestigious firm—presumably an accounting firm—is ready to give him or her money. Despite describing Mellon, Astor & Fairweather as the ''trustee of record,'' the sponsor of this mailing admitted under oath to the subcommittee that Mellon, Astor & Fairweather is not a trustee for any group or individual. In fact, there is no ''Mellon,'' ''Astor,'' or ''Fairweather'' associated with this company. The name was completely made up to give an air of legitimacy and credibility to this mailing—in short, to deceive people. Moreover, the sweepstakes promoter admitted that this is actually the address of a Mail Boxes, Etc., and that the company's offices are located not in Lake Forest, IL, but in Las Vegas, NV.

Another problem the subcommittee found was the use of words or symbols that give the impression that the mailing is connected with the Federal Government. Here is another example of this kind of mailing. It says at the top—it is hard to read: The Official United Sweepstakes of America.

Yes, this mailing implies a Government connection to the sweepstakes. It includes a photo of the U.S. Treasury building, and by using the address of 611 Pennsylvania Avenue, Southeast, Washington, DC, it sounds like a very prestigious Pennsylvania Avenue address of a Federal agency. In fact, once again, this is an address of a Mail Boxes, Etc. And, of course, the Federal Government does not sponsor sweepstakes, contrary to the implication of this mailing.

Yet another deceptive mailing shows how fraudulent operators link their company to the Government. This is a blowup of a postcard sent to me by a constituent from Machiasport, ME. As you can see, it is marked ''Urgent Delivery, A Special Notification of Cash Currently Being Held By the U.S. Government is Ready for Shipment to You.'' It mimics the typical postcard the Postal Service uses. It is designed to look like that.

The mailing asks the consumer to send $9.97 to learn how to receive this cash. Of course, this was not in any way a legitimate postcard from the Federal Government. It was merely a ploy used by an unscrupulous promoter to trick an unsuspecting consumer into sending money. Fortunately, my consumer did not fall for this scam. But

many others did, leading the Postal Service to bring action against the promoter of this scam.

Sadly, these are just a few of the many examples of deceptive mailings that the subcommittee uncovered during its investigation. The simple fact is that far too many consumers regularly fall victim to increasingly deceptive and sophisticated marketing techniques used in these mailings.

I want to emphasize that sweepstakes can, of course, be a legitimate marketing technique. While I have concerns about the deceptive nature of far too many sweepstakes mailings, I don't want to give the impression that all sweepstakes are deceptive, or that they should be outlawed. Our legislation is setting clear standards for them to follow to avoid the kind of deception that we found to be rampant in the industry.

Let me outline the major provisions of the legislation before the Senate today.

First, S. 335 requires sweepstakes mailings to clearly and conspicuously display several important disclaimers and consumer notices, including a clear statement that no purchase is necessary to win the contest, and, most of all, a statement that a purchase will not improve your chances of winning.

I think that is the most important disclaimer of all.

These statements have to appear in three places—on the solicitation, in the rules, and on the order form.

In addition, the mailings must state the odds of winning, the value and the nature of the prize, and the name and the address of the sponsor of the sweepstakes. Sweepstakes mailings would also be required to include all the rules and entry procedures for the contest. The bill would prohibit mailings from describing the recipient as a ''winner'' unless the recipient has really won a prize.

You can see from some of the mailings that we have discussed here today why that protection is so important.

Second, this legislation includes the provision drafted by Senator EDWARDS to require companies sending sweepstakes or skill contests to establish a system that will allow consumers to request that they be removed from sweepstakes mailing lists. Companies sending sweepstakes mailings must include either a toll-free number or the address at which the consumer may request that their name be removed altogether from future sweepstakes mailings. Companies would be required to remove such individuals from sweepstakes lists within 35 days.

Our hearings showed that far too many consumers had great difficulty in turning off the spigot of sweepstakes mailings to themselves, or, as was often the case, to an elderly family member. Senator EDWARDS' provision will assist consumers who want relief from the flood of solicitations.

Third, our legislation strengthens the current law regarding ''Government look-alike'' mailings by prohibiting mailings that imply a connection to, approval, or endorsement by the Federal Government through the misleading use of a seal, insignia, reference to the Postmaster General, citation to a Federal law, or any other term or symbol unless the mailings carry true disclaimers.

The bill imposes new Federal standards for facsimile checks that are sent in any mailing. These tests must include a statement on the check itself stating that it is non-negotiable and has no cash value.

Finally, S. 335 will strengthen the ability of the Postal Service to combat deceptive mailings. Under existing law, the Postal Inspection Service does not possess subpoena authority, is unable to obtain a judicial order to stop the deceptive mailing at multiple mailboxes in different States, and may only seek financial penalties after a company has violated a previously imposed order for sending deceptive mailings.

Our legislation grants the Postal Service subpoena authority, nationwide stop mail authority, and the ability to impose strong civil penalties for the first violation. At our hearings in July, the Postal Service testified that civil penalties would be a significant deterrent against deceptive mailings. We can't just have minor penalties that are treated as a cost of doing business. The penalties under our legislation can reach as high as $1 million, and, if a company violates an order, that penalty is doubled and can range as high as $2 million.

The current penalties—capped at $10,000 per day—are simply inadequate to deter deceptive mailings, especially since they can only be imposed after the mailer has evaded or failed to comply with a prior order.

Our bill recognizes the important role played by the States in investigating and prosecuting deceptive mailings. We do not preempt any provision of State or local law. In many instances, it is the States that have taken the strong action against deceptive sweepstakes mailings largely because of the gap in Federal law. During our investigation, we worked very closely with the National Association of Attorneys General.

I would like to close my initial statement by urging my colleagues to support S. 2335, the Deceptive Mail Prevention and Enforcement Act, so that the Senate, by passing this legislation later today, can take an important first legislative step in curtailing deceptive sweepstakes and protect the American consumer.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Senator from Maine for her tremendous leadership on this issue and so many other consumer protection issues. She is leading the Permanent Subcommittee on Investigations with tremendous distinction, with great strength, and the consumers of this Nation are all better off because of that leadership. This bill is a further example of that leadership. I am proud to be her principal cosponsor of the bill that we have worked on for so long.

Sweepstakes for many Americans has become a cruel joke. Americans are overwhelmed with sweepstakes solicitations in the mail that deceptively appear to promise large winnings but deliver only empty appeals for purchases of unneeded products and more entries into additional sweepstakes.

The majority of Americans may have a healthy skepticism about these solicitations and don't believe the misleading representations. But many are not so disbelieving, and they can get caught up and do get caught up in a spiral of financial and emotional trauma.

The subcommittee heard story after story before of seniors particularly, some of the most vulnerable people in America, who receive these mailings and believe that they have been awarded a prize.

Several of my constituents from Michigan lost tens of thousands of dollars to sweepstakes solicitations.

One woman in Grand Rapids spent over $12,000 in one year with Reader's Digest alone.

A woman in the Upper Peninsula of Michigan spent $30,000 in less than a month on sweepstakes-related promotions.

Sweepstakes solicitations are big business. Companies using sweepstakes to promote their products, be it magazines or coupon books, or jewelry, send over a billion pieces of mail a year to American consumers.

We learned that one person could get from one company alone as much as 144 different pieces of sweepstakes mail in a year. That was from a so-called ''legitimate company.''

Purchases through these types of mailings are in the billions of dollars. Sweepstakes are used as the ''come-on'' to get the recipient to purchase a product or make a contribution. They are used, companies say, to get the recipients to open the envelopes, and, once opened, used to get the person to respond with a purchase or contribution. Promoters argue that sweepstakes entrants buy these products because they want them or need them.

Our investigation demonstrated that many people who enter these sweepstakes purchase items only because they think doing so will improve their chances of winning the sweepstakes prize. A large number buy and buy and buy, spending tens of thousands of dollars, with that expectation that the purchase of items will help improve their chances of winning.

Companies are not allowed by law to use the U.S. mails to conduct a lottery. A lottery is where payment must be given in order to have a chance to win. It is illegal for a sweepstakes promotor to require a purchase in order for a person to have a chance to win or to improve a person's chances of winning.

Buying something when entering a sweepstakes cannot, by law, do anything to improve a person's chances of winning. Many people don't know that or believe a purchase will improve their chance and many sweepstake companies try to leave the impression that buying something will give that recipient an advantage.

Sweepstake companies encourage this in many ways. For example, some use different envelopes for those who buy a product and those who don't. Here is an example from Reader's Digest. They send two envelopes. If a person orders something, the envelope says: Yes, Reward Entitlement [underlined], Granted and Guaranteed. If a person does not order something, the envelope says: No Reward Entitlement, Denied and Unwarranted.

They go to different post office boxes, clearly leaving a very different impression. It is a very strong different impression and a very deceptive different impression.

Other sweepstake companies use their own envelope and address card for those entering the sweepstake without purchasing a product. In another sweepstakes, they are given an envelope if they want to buy something; if they don't want to buy something but still enter, they have to fill out their own envelope or their own card, which is much more difficult than if they are simply buying a product.

Some companies try to confuse the message, leaving the recipient to believe he has to pay a fee to collect a prize that he has already won. This certificate from the ''Motor Vehicle Awards'' states: [You] are guaranteed to receive a brand-new automobile or a cash award.

The first envelope has the name of the person receiving it, so it is very personalized: [Mr. or Miss Someone] are guaranteed to receive a brand-new automobile or cash award.

They ask the recipient to confirm that his name is spelled correctly on the certificate and to indicate how he wants the car delivered. In the very last paragraph it says: In addition, an optional commodities package with a fully redeemable value of over $2,500 is being held pending your submission of the standard acquisition fee.

The impression is that the recipient has won a car, that all he has to do is return the certificate for the car, and pay an acquisition fee. Of course, the impression they attempt to create—and often do, according to our testimony—is that acquisition fee relates to the car.

If he does that, the impression is he will receive a car and the commodities package. That is a pretty good bargain, at $14.98 for a car and commodities package. In reality, this is a sales promotion for the commodities package connected to a sweepstake. The acquisition fee of $14.98 is buying the commodities package. The commodities package is nothing more than a booklet of coupons that require buying items in order to redeem the coupons.

One must spend thousands and thousands and thousands of dollars for items that you don't need in order to receive the savings that are promised. Yet we learned at our hearings this is a very common sweepstakes scheme. Honest businesses don't engage in these practices, or they shouldn't. Over and over we heard from victims of the deceptive sweepstakes packages that they thought they had to buy something to receive the big prize or to improve their chances of winning. The sweepstake companies are very artful at creating this impression. This is about stringing people along. Often the people being strung along are the most vulnerable.

This is a promotion from Reader's Digest to a constituent of mine whose house is filled to the brim with tapes, books, CDs, and magazines she bought believing it would help her get the prize. This is a Certificate of Recognition for her loyalty to Reader's Digest: Dear valued customer: You've been selected to receive one of our highest honors—the Reader's Digest Recognition Reward. It's your obvious love of Reader's Digest and sweepstakes that made you an ideal candidate. In fact, it was your recent subscription request that finalized our decision.

In other words, keep buying and we will keep sending opportunities to win a sweepstake. It is buying the Reader's Digest that they are saying gets the special treatment. What is the Reader's Digest Recognition Award? It is a little stick 'em label that is pulled off this letter that has my constituent's name on it so she can paste it on any article of furniture around her house. It really is a come-on, an opportunity to enter yet another sweepstake. That is the award, a little stick 'em that Mrs. Roosenberg got for spending over $12,000 in 1 year for products she didn't even open, filling up her house.

Through the artful placement of words and graphics, the sweepstakes companies make the reader believe they have won. They use such large screaming headlines: [Mr. X] is Officially Declared $833,337 Winner.

A big headline you can't miss. However, one misses the fine print that says, no, you haven't—only if you held the right number. What jumps out is the headline that you have won.

Our sweepstakes promoters try to make their envelopes look special, not like the bulk mail which they are, or try to make them look like a Government document, or even in the case of a recent Publishers Clearinghouse envelope, as if they were photographs that the recipient paid to have developed. This envelope looks exactly like envelopes received from the photo store. In fact, this is one of these sweepstake offers from Publishers Clearinghouse.

We cannot control each and every trick that a company uses to get the recipient of a sweepstakes promotion to buy something. However, there are some things we can and we should insist upon. We can insist that the companies state clearly and conspicuously that buying something will not improve a person's chances of winning. We can insist that these companies state clearly and conspicuously that you don't need to buy anything to win. We can make these companies state clearly and conspicuously what are the odds of winning. In many cases, the odds are nearly 1 in 100 million or 1 in 150 million. We can also require the sweepstake promoters not tell a person they have won if they haven't and not use devices to suggest that the mail is from a Government agency. That will hopefully alert the folks receiving the sweepstakes promotion and will help them think twice before buying items they really do not want and do not need.

In the last Congress, several of our colleagues joined in sponsoring a bill to increase enforcement of deceptive mailings by the Postal Service. This, year Senator COLLINS held hearings on sweepstakes and other forms of deceptive mail. We have introduced two bills to try to eliminate deceptive sweepstakes practices. Senator COLLINS' bill is S. 335; my bill is S. 336. We learned during the hearings that the financial costs to consumers for deceptive and fraudulent sweepstakes is a serious problem and one that particularly plagues our senior citizens. We learned that the Postal Service has inadequate law enforcement tools to effectively shut down deceptive direct marketers who use deceptive sweepstakes promotions to sell their products. We also learned that the Postal Service can't impost a fine against such a promoter until the Postal Service has issued a stop order, and the stop order has been violated. Wily promoters craft their mailing so that it technically complies with a particular stop order but is this deceptive? Thus, time and time again these promoters continue to prey on Americans, and the postal Service has been all but powerless to stop them.

The bill before us is a combination of our two bills. It establishes a special provision in law for deceptive sweepstakes mailings, requires certain disclosures to be clearly and conspicuously displayed in key parts of the sweepstakes promotion; prohibits other misleading and deceptive statements in the promotion; gives the Postal Service additional enforcement tools, and requires sweepstakes promoters to provide a mechanism for a recipient of mail to remove his or her name off a mailing list if requested.

Mr. President, what is the time situation?

The PRESIDING OFFICER. These are 34½ minutes remaining on the Senator's side.

Mr. LEVIN. I yield myself 10 additional minutes.

Three key provisions in S. 336 have been incorporated into the substitute. First, to prevent unscrupulous mailers from duping people into believing that a purchase will increase their chances

of winning, the bill requires that a statement that a purchase will not increase an individual's chances of winning be clearly and conspicuously displayed in a prominent place and manner in the mailing, in the rules, and on the order or entry form.

I believe of all of the new requirements and standards, this is perhaps the most important. The statement that a purchase will not increase an individual's chances of winning must not only be clearly and conspicuously displayed but also displayed in a prominent place and manner in the mailing, in the rules, and on the order or entry form. Such a statement will, hopefully, help readers dissociate the ordering process from the sweepstakes entry.

Second, it provides the Postal Service with the authority to issue a civil penalty for a first-time violation of the statute. This means the Postal Service does not have to first issue a stop order and then wait for that order to be violated before assessing civil penalties. This has the effect of applying the penalty to the deceptive offense, not for noncompliance with the order. It makes enforcement a one-step instead of a two-step process. Third, it gives the Postal Service the subpoena authority it often needs to help identify sweepstakes scams.

Despite the specificity of the disclosures required under the bill, I remain quite concerned that the disclosures be noticeable and understandable to the reader. That is why the bill requires all disclosures to be clearly and conspicuously displayed. With a managers' amendment, we define ''clearly and conspicuously displayed'' in the bill so that there can be no misunderstanding by the Postal Service and the direct mail industry as to what we mean. Furthermore, two critical disclsoures—''no purchase necessary'' and ''a purchase will not increase an individual's chances of winning''—are required to be not only ''clearly and conspicuously displayed'' but ''prominently'' displayed as well. This means that these two diclsoures must be highly visible to and easily noticeable by the reader. These important messages will not be allowed to be hidden or disguised through illegible print size, glitzy displays which detract from the disclosure, or barely noticeable ink color.

The Deceptive Mail Prevention and Enforcement Act of 1999 takes a tough approach to dealing with sweepstakes solicitations and other games of chance offerings that are sent through the mail. If you use sweepstakes or a game of chance to promote the sale of a legitimate product, provide adequate disclosure, and abide with Postal Service regulations, then the Postal Service will deliver that solicitation without any interruption. If deceptive practices are used in a sweepstakes or game of chance solicitation, the Postal Service will be able to stop the solicitation and impose a significant penalty.

I again thank Senator COLLINS again for her hard work and commitment to consumers in this legislation. I also thank Senator COCHRAN for his early support and Senator EDWARDS for his excellent work on the provision requiring a delisting of persons not wanting to receive sweepstakes mailings. Finally, I want to thank the staff of the Permanent Subcommittee on Investigations for the terrific job they did putting together the hearings and developing this legislation. In particular I want to thank Linda Gustitus and Leslie Bell of the minority staff, Lee Blaylock and Kirk Walder of the majority staff, and Maureen Mahon of Senator EDWARDS' staff.

I reserve the remainder of our time as Senator COLLINS has indicated, and I yield the floor.

The PRESIDING OFFICER. For the Senator's information, the Senator from Michigan has 29 minutes remaining. The Senator from Maine has 35 minutes.

Ms. COLLINS. Mr. President, first I thank my colleague from Michigan for his very generous comments. Also, once again I commend his outstanding leadership on this issue. It has been terrific working with him in a variety of areas related to consumer protection. We are where we are today because of his efforts.

I also echo the thanks to our staff who have done a tremendous job.

PRIVILEGE OF THE FLOOR

I do ask unanimous consent the privilege of the floor be granted to the following members of my staff during the pendency of this legislation: R. Emmett Mattes, Kathy D. Cutler, and Deirdre Foley.

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

Ms. COLLINS. Mr. President, it is now my great pleasure to yield to the Senator from Mississippi, who is the chairman of the Subcommittee on Governmental Affairs with jurisdiction over the Postal Service. Senator COCHRAN held the very first hearings on deceptive mailings last year. He has been a tremendous supporter of the effort to curtail deceptive mailings. I really appreciate his leadership on this issue.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am pleased to be a cosponsor and to support the passage of the Deceptive Mail Prevention and Enforcement Act, S. 335. This legislation would establish new safeguards to protect consumers against deceptive and dishonest sweepstakes and other promotional mailings. The bill grants additional investigative and enforcement authority to the U.S. Postal Service to stop deceptive mailings, and it establishes standards for all sweepstakes mailings by requiring certain disclosures on each mailing.

In the last Congress, our subcommittee examined the use of mass mail to deceive and defraud consumers. At the subcommittee's hearing, we heard how sweepstakes and other promotions were causing individuals to make unwanted or excessive purchases in the hope that the purchases would increase their chances of winning money or other prizes. Since conducting that hearing, the subcommittee has been flooded with stories from consumers all over the country who have lost thousands of dollars in some cases—sometimes their life savings—to deceptive mailing practices. But it is not just sweepstakes offers that deceive consumers. Some mailers imply an association with the Government, often enticing consumers to pay unnecessary fees.

This bill will address several types of deceptive mailings, including sweepstakes and Government look-alike mailings.

First, it will require sweepstakes mailings to display a statement that no purchase is necessary to enter the contest and that a purchase will not improve the chances of winning. Other disclosures will also be required, including the sponsor of the sweepstakes and the principal place of business or an address at which the sponsor can be reached, and the estimated odds of winning each prize and the estimated value of each prize. In addition, all terms and conditions of the sweepstakes promotion, including the rules and entry procedures for the sweepstakes, will be required on each mailing.

Second, the bill will expand the authority of the U.S. Postal Service by granting the Postal Inspection Service subpoena authority, nationwide stop-mail authority, and the ability to impose civil penalties of up to $1 million for the first offense and $2 million for a violation of an existing order.

Finally, the bill will strengthen existing law regarding Government look-alike mailings by requiring disclaimers on any mailings that might be interpreted as implying a connection to the Federal Government.

This legislation was reported out of the Subcommittee on International Security, Proliferation and Federal Services on April 12 and reported unanimously by the Committee on Governmental Affairs on May 20. It has the support of the U.S. Postal Service, a number of consumer groups, and the American Association of Retired Persons.

I commend the work of the distinguished Senator from Maine, Ms. COLLINS, in crafting this legislation to curb deceptive mailings. As chair of the Permanent Subcommittee on Investigations, Senator COLLINS has thoroughly examined the issue, and I applaud her important efforts in developing this bill and her continuing efforts to protect consumers. The distinguished ranking minority member of the committee, Senator LEVIN, has also supported this initiative, and we appreciate his assistance.

This bill takes an important step toward the prevention of deception in sweepstakes and other promotional mailings. I urge Senators to support it.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Mississippi for his very kind comments and for his strong support of this initiative. He has been a partner throughout this investigation into deceptive mailings, and I am very grateful for his support.

DIFFERENT PROMOTIONS FOR THE SAME SWEEPSTAKES

Mr. LEVIN. Mr. President, during the July 1999 hearing on deceptive mail held by the Permanent Subcommittee on Investigations, several promoters testified that they use different business names and different stationery to send to the same people different-looking mailings to promote the same sweepstakes. So, for example, on day one, a person can get a solicitation to enter a $10,000 sweepstakes, and the solicitation says on the top that ''Company Blue'' is making the offer. In the rules it says ''your chances of winning are 1 in 3 million.'' Let's say you enter that sweepstakes. One week later you get another solicitation for a $10,000 sweepstakes.

And we learned that the standard operating procedure for this type of sweepstakes is to send 5 or 6 mailings for the same sweepstakes after the person responds to the first mailing.

So on this second mailing, it says ''Company Red'' at the top and the materials look totally different from the ''Company Blue'' promotions. The rules of this second solicitation also say you have a 1 in 3 million chance of winning $10,000, which a reasonable person would think is a completely different sweepstakes. That's also what the promoter wants you to think. So you think you have a chance of winning $20,000 in total. But, you don't. The most you can win is $10,000.

I believe these mailings are misrepresenting the facts, and under existing law these misrepresentations are deceptive. For example, in the ''Company Blue'' and ''Company Red'' scenario I just described, the promoter wants you to think that you're receiving two separate solicitations, each involving two separate sweepstakes. In fact, the solicitations for ''Company Blue'' and ''Company Red'' are for the same sweepstakes and thus you can win only once. Section 3005 of title 39 currently allows the Postal Service to deny delivery of mail used as part of a scheme to obtain money through the mail by means of false representations. Clearly many sweepstakes promoters use different business names and different stationery to make you think their multiple solicitations are unique and have no relationship to each other.

Does the Senator from Maine agree that these multiple mailing schemes mislead people into thinking they are entering separate contests from different companies?

Ms. COLLINS. Yes, I agree with the Senator from Michigan. The practice of using different-looking promotional mailings without any information explaining that they are for the same sweepstakes serves no purpose except to lead recipients into believing that they are different sweepstakes. Once the recipient believes that they are different sweepstakes, the recipient who believes that a purchase either is required or will confer an advantage upon them will then believe that a separate purchase must be made for each unique-looking sweepstakes. Because these different-looking mailings do not clearly state that they are promoting the same sweepstakes, I agree with the Senator from Michigan that they can be deceptive.

USE OF THE WORD ''PROMINENT''

Mr. LEVIN. Mr. President, our bill requires a sweepstakes or skill contest promotion, in order to be mailable matter, to contain a number of specific disclosures. Each of the disclosures required by the bill must be ''clearly and conspicuously displayed.'' We have defined that term in the bill to mean ''readily noticeable, readable, and understandable.'' This is a definition consistent with the definition used by the Federal Trade Commission.

Two of the required disclosures—that no purchase is necessary to win and that purchasing does not improve your chances of winning—are so important to giving a consumer the information he or she needs to decide whether or not to enter a sweepstakes and if so, whether or not to purchase an advertised product—that they should appear prominently in three places in each mailing. Our addition of the term ''prominently'' to these two disclosures is intended to emphasize the heightened significance of these disclaimers. This means that these two disclosures must be highly visible and highly noticeable to the reader. In *Edgeworth* v. *Fort Howard Paper Co.*, 673 F. Supp. 922, 923 (N.D. Ill. 1987), rev. on other grounds, 683 F. Supp. 1193 (1988), the District Court defined ''prominent and accessible place'' to mean that the message conveyed can readily be observed by the people for whom it is intended. In *Allstate Insurance Co.* v. *Clemmons*, 742 F. Supp. 1073, 1075 (D.NV 1990), the District Court defined ''prominently displayed'' to mean ''the message must have greater prominence than the balance of the policy language. . . . In other words, a clause attains prominence by being different from its surrounding terms.'' ''Prominently'' requires, for purposes of our bill, making the two disclosures to which ''prominently'' applies different from other messages in appearance, manner of presentation, and location. These two disclosures must stand out from the rest of the printed material on the three locations where they are required to appear.

One can argue that there is going to be some subjectivity in deciding whether a statement is prominently placed in a promotion or not. Our intention here is to provide the Postal Service with enough guidance to ensure that when it comes to these two disclosures, there should be no close calls. These two disclosures should be obviously clearly and conspicuously displayed in a prominent manner and location.

Does the Senator from Maine agree with my description?

Ms. COLLINS. Yes, I do. Of the several disclosures we require to be included in a mailing containing a sweepstakes or skill contest promotion, these two disclosures—that no purchase is necessary and that purchasing does not improve your chances of winning—are particularly important for the reader to see in a prominent way. The statements themselves should be clear and conspicuous, as required by the bill, and they should be prominent in three places in each mailing, so it would be very difficult for a recipient not to notice them.

A number of sweepstakes and skill contest promoters currently include in their mailings the statement that no purchase is necessary. But this is often included only as a part of a lengthy set of rules or buried in other statements and notices that allow it to be easily overlooked. That is why our managers' amendment includes the requirement that these two statements be prominent, and clearly and conspicuously displayed. I thank the Senator from Michigan for his assistance on this issue.

AMENDMENT NO. 1497

(Purpose: To provide a managers' amendment)

Ms. COLLINS. Mr. President, I send to the desk the managers' amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself and Mr. LEVIN, proposes an amendment numbered 1497.

Ms. COLLINS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 19, insert between lines 22 and 23 the following:

''(A) 'clearly and conspicuously displayed' means presented in a manner that is readily noticeable, readable, and understandable to the group to whom the applicable matter is disseminated;

On page 19, line 23, strike ''(A)'' and insert ''(B)''.

On page 20, line 1, strike ''(B)'' and insert ''(C)''.

On page 20, line 9, strike ''(C)'' and insert ''(D)''.

On page 20, line 21, insert ''prominently'' after ''that''.

On page 21, line 1, insert ''prominently'' after ''that''.

On page 21, lines 4 and 5, strike ''an entry from such materials'' and insert ''such entry''.

On page 21, lines 8 and 9, strike '', in language that is easy to find, read, and understand''.

On page 21, line 15, strike ''clearly''.

On page 22, line 5, insert ''or'' after the semicolon.

On page 22, line 11, strike ''or'' after the semicolon.

On page 22, strike lines 12 through 17.

On page 22, lines 23 and 24, strike '', in language that is easy to find, read and understand''.

On page 23, line 1, strike ''clearly and conspicuously''.

On page 23, line 6, strike ''clearly''.

On page 34, line 1, strike all through page 39, line 23, and insert the following:

SEC. 8. REQUIREMENTS OF PROMOTERS OF SKILL CONTESTS OR SWEEPSTAKES MAILINGS.

(a) IN GENERAL.—Chapter 30 of title 39, United States Code (as amended by section 7 of this Act) is amended by adding after section 3016 the following:

''§ 3017. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings

''(a) DEFINITIONS.—In this section, the term—

''(1) 'promoter' means any person who—

''(A) originates and mails any skill contest or sweepstakes, except for any matter described under section 3001(k)(4); or

''(B) originates and causes to be mailed any skill contest or sweepstakes, except for any matter described under section 3001(k)(4);

''(2) 'removal request' means a request stating that an individual elects to have the name and address of such individual excluded from any list used by a promoter for mailing skill contests or sweepstakes;

''(3) 'skill contest' means a puzzle, game, competition, or other contest in which—

''(A) a prize is awarded or offered;

''(B) the outcome depends predominately on the skill of the contestant; and

''(C) a purchase, payment, or donation is required or implied to be required to enter the contest; and

''(4) 'sweepstakes' means a game of chance for which no consideration is required to enter.

''(b) NONMAILABLE MATTER.—

''(1) IN GENERAL.—Matter otherwise legally acceptable in the mails described under paragraph (2)—

''(A) is nonmailable matter;

''(B) shall not be carried or delivered by mail; and

''(C) shall be disposed of as the Postal Service directs.

''(2) NONMAILABLE MATTER DESCRIBED.—Matter that is nonmailable matter referred to under paragraph (1) is any matter that—

''(A) is a skill contest or sweepstakes, except for any matter described under section 3001(k)(4); and

''(B)(i) is addressed to an individual who made an election to be excluded from lists under subsection (d); or

''(ii) does not comply with subsection (c)(1).

''(c) REQUIREMENTS OF PROMOTERS.—

''(1) NOTICE TO INDIVIDUALS.—Any promoter who mails a skill contest or sweepstakes shall provide with each mailing a statement that—

''(A) is clearly and conspicuously displayed;

''(B) includes the address or toll-free telephone number of the notification system established under paragraph (2); and

''(C) states that the notification system may be used to prohibit the mailing of all skill contests or sweepstakes by that promoter to such individual.

''(2) NOTIFICATION SYSTEM.—Any promoter that mails or causes to be mailed a skill contest or sweepstakes shall establish and maintain a notification system that provides for any individual (or other duly authorized person) to notify the system of the individual's election to have the name and address of the individual excluded from all lists of names and addresses used by that promoter to mail any skill contest or sweepstakes.

''(d) ELECTION TO BE EXCLUDED FROM LISTS.—

''(1) IN GENERAL.—An individual (or other duly authorized person) may elect to exclude the name and address of that individual from all lists of names and addresses used by a promoter of skill contests or sweepstakes by submitting a removal request to the notification system established under subsection (c).

''(2) RESPONSE AFTER SUBMITTING REMOVAL REQUEST TO THE NOTIFICATION SYSTEM.—Not later than 35 calendar days after a promoter receives a removal request pursuant to an election under paragraph (1), the promoter shall exclude the individual's name and address from all lists of names and addresses used by that promoter to select recipients for any skill contest or sweepstakes.

''(3) EFFECTIVENESS OF ELECTION.—An election under paragraph (1) shall remain in effect, unless an individual (or other duly authorized person) notifies the promoter in writing that such individual—

''(A) has changed the election; and

''(B) elects to receive skill contest or sweepstakes mailings from that promoter.

''(e) PROMOTER NONLIABILITY.—A promoter shall not be subject to civil liability for the exclusion of an individual's name or address from any list maintained by that promoter for mailing skill contests or sweepstakes, if—

''(1) a removal request is received by the promoter's notification system; and

''(2) the promoter has a good faith belief that the request is from—

''(A) the individual whose name and address is to be excluded; or

''(B) another duly authorized person.

''(f) PROHIBITION ON COMMERCIAL USE OF LISTS.—

''(1) IN GENERAL.—

''(A) PROHIBITION.—No person may provide any information (including the sale or rental of any name or address) derived from a list described under subparagraph (B) to another person for commercial use.

''(B) LISTS.—A list referred to under subparagraph (A) is any list of names and addresses (or other related information) compiled from individuals who exercise an election under subsection (d).

''(2) CIVIL PENALTY.—Any person who violates paragraph (1) shall be assessed a civil penalty by the Postal Service not to exceed $2,000,000 per violation.

''(g) CIVIL PENALTIES.—

''(1) IN GENERAL.—Any promoter—

''(A) who recklessly mails nonmailable matter in violation of subsection (b) shall be liable to the United States in an amount of $10,000 per violation for each mailing to an individual of nonmailable matter; or

''(B) who fails to comply with the requirements of subsection (c)(2) shall be liable to the United States.

''(2) ENFORCEMENT.—The Postal Service shall assess civil penalties under this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 30 of title 39, United States Code, is amended by adding after the item relating to section 3016 the following:

''3017. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings.''.

(c) EFFECTIVE DATE.—This section shall take effect 1 year after the date of enactment of this Act.

Ms. COLLINS. Mr. President, I offer this managers' amendment on behalf of myself and Senator LEVIN to clarify certain provisions of S. 335.

As I described in my opening statement, this legislation imposes a number of new standards on promotional mailings. The managers' amendment further defines the ''clear and conspicuous'' standard for the disclaimers and notices required in this bill. All disclaimers and notices must be ''clearly and conspicuously displayed,'' which means ''in a manner that is readily noticeable, readable and understandable to the group to whom the applicable matter is disseminated.''

During its investigation into deceptive sweepstakes mailings, the Permanent Subcommittee on Investigations found numerous examples of mailings that misled consumers into believing that they must purchase a product to win a prize, or that a purchase will improve their chances of winning. The investigation showed that many mailings did not clearly inform consumers that no purchase was necessary to enter the sweepstakes and that buying a product did not increase their chances of winning. The disclaimers and notices in many existing sweepstakes mailings are of little value because they are too often buried in tiny print or contradicted by the promotional copy. Consumers should not need a law degree or a magnifying glass to read the rules or to decipher how to enter a sweepstakes without placing an order. In order to give some value to the disclaimers and consumer notices mandated by this bill, S. 335 requires each of these disclosures to be ''clearly and conspicuously displayed.''

The managers' amendment defines ''clearly and conspicuously displayed'' in a manner that is consistent with previous agency and court rulings. As the committee report for this legislation explains, the Federal Trade Commission has issued opinions on the meaning of ''clear and conspicuous'' and this standard is a staple of commercial law. The definition of clear and conspicuous, as used in S. 335, is meant to be consistent with the interpretation of the standard as developed in previous regulatory opinions, statements, and case law.

Thus, as the definition states, the required disclosures must be readily noticeable, readable, and understandable to the group to whom the matter is mailed. As the committee report notes, in some instances, the language may need to be highlighted, in bold letters, or placed in a visible location. We recognize that the format and layout of promotional mailings differ dramatically and, accordingly, the presentation of each required disclosure will necessarily vary. Thus, we believe it is unwise to dictate the size, font, color, or placement of each disclaimer imposed on promotional mailings. The definition in this managers' amendment, however, gives the regulators broad guidance to interpret on a case-by-case basis what is required for a disclaimer or notice to qualify as ''clearly and conspicuously displayed.''

The committee report accompanying S. 335 provides a detailed description of the clear and conspicuous standard as

enunciated by the Federal Trade Commission and in court decisions. The standard was designed to prevent deception, and we expect those enforcing this Act to make use of this standard to protect consumers receiving promotional mailings from deceptive practices. We agree with the Federal Trade Commission that deception occurs if there is a representation, omission, or practice that is likely to mislead the reasonable consumer or his or her detriment.

Furthermore, the managers' amendment adds the word ''prominently'' to the two most significant disclosures required by S. 335: first, that no purchase is necessary to enter the sweepstakes; and second, that a purchase will not increase an individual's chances of winning with that entry. S. 335 already places significance on these two disclaimers by requiring that they appear in three different places in most sweepstakes mailings: (1) the mailing, (2) the rules, and (3) the entry or order form. Because the subcommittee's investigation found strong evidence that some consumers believed a purchase would increase their chances of winning, we view these two disclosures as particularly important. As such, and because of the brevity of these disclosures, we believe that it is particularly important that they be easily identifiable by the reader.

The Federal Trade Commission has used a variety of terms to describe clear and conspicuous, including sufficiently clear and prominent. Because many of the other disclosures required by S. 335 may be lengthy and may only appear in one place in a mailing, we believe that what is ''clear and conspicuous'' for one disclaimer may differ from what is necessitated by another. A disclosure of a few words, such as ''no purchase necessary,'' would by its very nature dictate a different yardstick than would the entire contest rules, which might consist of several hundred words. We expect all disclosures to be clear and conspicuous but these two disclosures should be ''prominent'' in the three required places in each mailing.

The managers' amendment also makes several technical changes. it removes duplicative language from several different disclosures required by S. 335. These deletions, however, are not intended in any way to weaken the overall requirement that disclosures must be ''clearly and conspicuously displayed.'' The managers' amendment also deletes a somewhat duplicative requirement relating to advantages that a sweepstakes might imply are given to those entries that accompany a purchase. Given the disclaimer which states that a purchase will not improve the contestant's chance of winning, we determined that this provision was superfluous.

Finally, the managers' amendment replaces section 8 of the bill reported by the Governmental Affairs Committee with new language requiring all companies sending sweepstakes or skill contest mailings to establish a system for removing the names of individuals who do not wish to receive such mailings. Section 8, as reported out of the Committee on Governmental Affairs, established a uniform notification system for most sweepstakes and contest mailings.

Under the new provisions companies would be required—on a company-by-company basis—to include on their mailings a notice of the address or toll-free telephone number that individuals could contact to request that their names be removed from future mailings. Such names must be removed within 35 days after appropriate notice. If a mailing is recklessly sent to consumers who have requested not to receive further solicitations, the mailer shall be subject to a penalty of $10,000. This section shall take effect one year after enactment of this legislation. We commend our colleague and friend Senator EDWARDS for his strong leadership in crafting this proposal.

In closing, I thank my colleagues, particularly Senator LEVIN, for their assistance in crafting this managers' amendment, and I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1497) was agreed to.

Ms. COLLINS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Ms. COLLINS. Mr. President, we are expecting additional speakers. In the meantime, I suggest the absence of a quorum, and I ask unanimous consent that time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. ROTH. Mr. President, I rise today to speak in support of the Deceptive Mail Prevention and Enforcement Act. Unrequested mailings are seen by many as a nuisance. But when junk mail makes insupportable and outrageous claims of instant wealth, phantom prices, and bogus benefits annoyance becomes fraud—the small print notwithstanding.

Among its provisions, the Deceptive Mail Prevention and Enforcement Act, S. 335, would place new requirements on sweepstakes offerings and allow fines to be levied on deceptive mailings. S. 335 would also require sweepstakes information to be presented clearly, and grants the Postal Service new authority to halt misleading mailings. I feel strongly that these reforms will benefit an untold number of American families and elderly persons from some unscrupulous elements of our society.

It pleases me to remark briefly on the genesis of this proposal. In my experience, the role of oversight and investigation has enabled the Congress to craft its most informed, well reasoned, and thorough legislative proposals. As past chairman of the Senate's Permanent Subcommittee on Investigation and current chairman of the Senate Finance Committee, I have long used and will continue to use these tools to assess and reform.

I commend my successor as chairman of the Permanent Subcommittee on Investigation, Senator SUSAN COLLINS, for taking a thorough approach to crafting this proposal. Following a process of investigation and hearings, Senator COLLINS has applied the right tools to a common problem. The people of Maine, Delaware, and the rest of our Nation will benefit from her hard work.

Mr. JEFFORDS. Mr. President, I rise today to express my strong support for S. 335, the Deceptive Mail Prevention and Enforcement Act.

As a cosponsor of this legislation, let me first thank Senator COLLINS for her hard work in crafting this legislation, and for the informative and insightful oversight hearings she has held on the sweepstakes industry this year. Those hearings have exposed some troubling practices, and clearly demonstrate the need for this important legislation.

Earlier this year a constituent of mine from Huntington, Vermont, e-mailed my office and relayed his own personal story as an example of the need for this legislation. He had been asked by his mother to help review her mail as she was certain she had won something from a variety of sweepstakes mailings. He was shocked to learn in reviewing the material that while technically correct the material she was sent was very misleading. Any information that would lead the person to believe they had won was highlighted or in bold print, while the statements containing words like ''if you have the winning number'' are subdued, and in small print. The intent of these mailings was clearly to create a false sense of ''winning'' in the recipient.

As his e-mail further points out, it used to be only the big names which sent out these sweepstakes mailings, but it ow seems to be every fund-raising group, catalog, or magazine has some version of these sweepstakes mailings. However, even if you are just receiving material from one company if can be an overwhelming amount of sweepstakes mailings.

For example, another constituent of mine from Barre, Vermont, brought into my office over fifteen pounds of sweepstakes mailings from one company that related to only one contest. You heard me right, fifteen pounds of material for only one contest from one company. Multiply that by the number

of contests and companies people receive mailings from and you are looking at an overwhelming amount of mail.

One of the most outrageous practices in these mailings is the request for a donation or a purchase of a product without making it clear that the donation or purchase has no effect on your chances of winning any of the prizes. This has caused some people to expend their precious resources thinking they are giving themselves a better chance at winning the grand prize, when in reality it has done nothing to change the odds.

Senator COLLIN's legislation, S. 335, will go a long way to solve the problems of these deceptive sweepstakes mailings. It requires a clear disclosure of the game's rules and an indication that the odds of winning are not improved by purchasing any products that are being advertised. It also will restrict the mailing from depicting an individual as a winner unless that person actually has won a prize. In addition, the bill will implement stricter penalties for sending mail that does not comply with the federal standards.

Every day people are being inundated with these mailings and many of them promote a belief that you have already won, or that a donation or purchase will increase your chances of winning. For many, especially for the most vulnerable in our society, it has been very difficult to separate the truth from the fantasy in these mailings, and as past history has shown sweepstakes mailings are a particular problem for the elderly in our society.

Mr. President, we have a chance to protect all Americans, particularly the elderly, and I urge all my colleagues to support this important piece of legislation.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. COLLINS. Mr. President, how much time is remaining on the majority side?

The PRESIDING OFFICER. Fifteen minutes 12 seconds.

Ms. COLLINS. Mr. President, I ask unanimous consent that the time remaining on the majority side be equally divided between Senator THOMPSON and Senator BURNS.

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

Ms. COLLINS. I thank the Chair.

Mr. LEVIN. Mr. President, I ask unanimous consent that the time under the quorum call, which I will ask for, be charged against our side.

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

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. THOMPSON. Mr. President, I lend my strong support for Senate approval of S. 335, the Deceptive Mail Prevention and Enforcement Act. This bill will establish new consumer protections to shield consumers from falling victim to deceptive and fraudulent practices found in some sweepstakes and mail promotions.

Thanks to the hard work of the Permanent Subcommittee on Investigations, under the leadership of Senator SUSAN COLLINS, we have become privy to the operations of some of these sweepstakes companies. As the hearings pointed out, sweepstakes companies are now sending out more than one billion mailings per year. In the course of these mailings, some recipients have been led to believe that their chances of winning large amounts of money could be increased through the purchase of the promoter's products or merchandise. Whether through the use of unclear and ambiguous language, symbols, or documents, these mailings have been a source of confusion and have lead to some readers spending significant sums of money ordering products in the mistaken belief that this would increase their chances of winning.

S. 335, for the first time, would establish specific guidelines and parameters for mailings containing sweepstakes, games of skill and facsimile checks. The legislation requires clear and conspicuous disclaimers that ''no purchase is necessary'' on the sweepstakes claim or entry form. The legislation also improves restrictions on government look-alike mailings. Further, the bill directs sweepstakes companies to adopt procedures to prevent the mailing of these materials to anyone who submits a request stating their intent not to receive these mailings.

This bill has the strong support of the Postal Service. In providing the Postal Service with the ability to protect consumers through civil enforcement, the bill further grants the Postal Service administrative subpoena authority. It will also give U.S. district courts the ability to impose nationwide temporary training orders.

As a strong proponent of federalism, I think it is important that this bill does not preempt the authority of the state attorneys general and various consumer protection agencies which also combat deceptive mailings. The Postal Service and these agencies have a history of cooperation in the investigation and prosecution of these cases. The Postal Service reports that this collective effort has produced significant results in policing a variety of frauds while enabling state prosecution efforts to investigate questionable promotion practices beyond their state borders. S. 335 will not only improve the Postal Service's ability to investigate and stop deceptive mailings, but it will also help state attorneys general work more effectively against fraud.

This bill represents the bipartisan efforts of a number of Senators. S. 335 was unanimously reported out of the Committee on Governmental Affairs with the support of both myself and the ranking minority member, Senator LIEBERMAN. I would like to take this opportunity to acknowledge the hard work put forth by the bill's sponsor, Senator COLLINS, and other cosponsors of the legislation including Senators COCHRAN, LEVIN, and EDWARDS. In addition I want to acknowledge the role of Senator CAMPBELL in first introducing legislation last year on this issue. His efforts served as the genesis for the successful investigative and legislative efforts we have seen this year.

In conclusion, Mr. President, S. 335 presents a balanced and fair approach in protecting consumers from misleading and fraudulent sweepstakes and related mailings, while not unduly burdening those mailers who legitimately use the mail as an advertising medium. I urge all Senators to support Senate approval of S. 335.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LEVIN. I yield 6 minutes to the Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my friend and colleague from Michigan.

I am delighted to stand in support of defending S. 335, the Deceptive Mail Prevention and Enforcement Act. I commend my colleague from Michigan, along with Senators COLLINS, COCHRAN, and EDWARDS, for the way they have worked together with my former colleagues, the State attorneys general, the AARP, and the sweepstakes industry itself to put together this important consumer protection legislation. I think their combined efforts stand as a model not only of cooperation but of thoughtful legislating from which we can all learn. I am very proud to join them as a cosponsor of this bill.

No marketing effort should be based on misleading advertising. That principle is at the core of the legislation before the Senate. It reminds everyone that occasionally the Federal Government has to step in to make sure that the free market we celebrate and benefit so much from truly remains free. That freedom is so often based on the truthfulness of representations made by those who are marketing.

The purpose of this bill is to eliminate deceptive practices in the sweepstakes industry. We have all seen

them. Who wouldn't be tantalized by a letter proclaiming you may already be a winner? It is hard not to open that one up. Everybody wants to be a winner. Most of us have probably fantasized about how we would spend a sudden windfall that dropped into our bank accounts.

Unfortunately, sweepstakes mailings often involve sophisticated marketing techniques that persuade recipients to spend money in the hope of finding the pot of gold at the end of the rainbow, but it is a long way off in almost all cases. Often the mailings are targeted at the elderly or the financially vulnerable who don't realize that sweepstake companies are not in business primarily to rain riches down upon them. Sweepstakes companies are in business to sell products that make a profit, plain and simple. That is legitimate so long as they do it fairly and truthfully.

It is a big business. The fact is that sweepstakes and telemarketing firms take in more than $400 million a year from promotional campaigns in my State of Connecticut alone. Nationally, estimates are that the sweepstakes in telemarketing firms have gross revenues between $40 and $60 billion a year. This legislation makes sure that before consumers take a chance on the sweepstakes, they know it is just that, a chance—not a winning ticket, not a prize, but a chance. They will know the odds are not improved no matter how many subscriptions they buy.

This legislation requires a clear statement that no purchase is necessary to win, as well as terms and conditions of the promotion in language that is easy to find, to read, and to understand. It prohibits abuses we have seen such as symbols or statements that imply Federal Government endorsement, and it provides meaningful disclosures to let consumers know the actual odds of winning.

Further, the bill sets up a mechanism for consumers and those who care for them to stop unwanted sweepstake solicitations and a recordkeeping requirement to assure that such requests are properly implemented.

Finally, the bill gives the Postal Service the additional enforcement authority it needs to stop unlawful sweepstake schemes, particularly those that flirt with fraud and skip from State to State.

I strongly support this legislation as a tool to help consumers negotiate their way through the high pressure sales tactics sometimes employed by marketers using sweepstakes to sell their products. I am very grateful to colleagues on the Governmental Affairs Committee for the leadership they have shown.

I am delighted to join this bipartisan effort to protect our citizens—again, particularly the aged—from these deceptive marketing tactics. I urge the Senate to vote for this strong consumer protection measure. I hope the House will then join in adopting this bill and sending it to the President.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WELLSTONE. Mr. President, I am going to speak for a brief period of time in morning business. I see the Senator from Mississippi is coming into the Chamber. I know we are ready to start with the Ag appropriations bill.

FOOD ASSISTANCE PROGRAMS

Mr. WELLSTONE. Mr. President, I want to very briefly speak to an issue that actually might be one we will debate as we go through this Ag appropriations bill since part of what we deal with within the Department of Agriculture is food assistance programs such as the Women, Infants, and Children Program and the Food Stamp Program.

We have heard a great deal from the White House and from some Members of Congress about the success of the welfare bill. On Sunday, the White House released data on the number of women who were on welfare and are now working. There will be a gathering in Chicago tomorrow, I believe, where the President will be talking about welfare to work and talking about the success of this.

As a Senator, I want to raise a couple of questions that I think are important and to focus on some unpleasant facts that we should be willing to face up to.

First of all, I point out for my colleagues the fact that the welfare rolls are down 40 percent begs the question of whether or not we have reduced poverty. The fact of the matter is, the welfare rolls are down 40 percent, but poverty is barely down. The goal was not to reduce the welfare rolls; the goal everybody talked about was to move families from poverty to economic independence. That is really what the goal was all about. The issue has never been welfare; the issue has been poverty.

The question is, How do you reduce the poverty? I do not quite understand how the White House or any Democrat or any Republican can proclaim this a success when we have done so little to reduce poverty in our country, especially poverty of children. There are about 14 million people who are poor in the country.

My second point is, when the President and the White House talk about the number of mothers who are now working, that begs the question as to what kind of jobs and what kind of wages. What we should be talking about are family-wage or living-wage jobs. The evidence we have right now is that most of the mothers who are working are working in jobs with wages somewhere between about $5.50 and $7 an hour, which is barely above minimum wage but does not enable these families to escape poverty.

My third point is, Families USA just came out with a study that points out there are about 675,000 low-income citizens who have now been cut off medical assistance because of the welfare bill. There are about 675,000 low-income citizens who no longer are receiving any medical assistance.

My final point is, there was a Wall Street Journal piece today about the dramatic, precipitous decline of participation in the Food Stamp Program. I argue especially the decline of participation among children which cannot be explained alone by the state of the economy, especially with the dramatic increase in the use of food shelf service.

What is going on? Do we have a situation now where the AFDC structure is no longer there, and when people come in, no one tells them about the fact they and their families are eligible for food stamps—that is happening—or they are not told they are eligible for medical assistance—that is happening—all of which leads me to two final things today as we move into this debate about the Agriculture appropriations bill.

First, I lost by one vote on a welfare tracking amendment, and then the Senate adopted it on the Treasury-Postal bill. It is now in conference committee. The amendment called upon the States, when they apply for the $1 billion bonus money, to present to Health and Human Services the data on what kind of jobs women have, whether or not they and their children are participating in food stamps and do the families have medical assistance, so we can find out if families are better off or worse off. That is now in conference. If that gets taken out of conference committee—amendments are adopted in the Senate and taken out in conference committee—I am going to bring that amendment back up on this bill, and we are going to have a vote because sometimes we do not know what we do not want to know, and sometimes we only know what we want to know.

That is the way it is with the White House about this welfare bill. We ought to be engaged in an honest policy evaluation to find out what is happening in the country. We are talking about poor women and poor children, and we ought to know whether they are better off or whether they are worse off. There is some disturbing evidence that many of these families might, in fact, be worse off. It is a little early and premature for the White House to be declaring this a success or for any Senator or Representative, Democrat or Republican, to be declaring it a success.

My final point is, since we are dealing with an Ag appropriations bill—and I think I will have an amendment to this effect—we need to call on USDA, or someone, to do a study and to report