give the Postal Service subpoena authority. Those are some of the things we have done.

Again, I thank the good Senator from Maine, Ms. Collins, her staff, my staff, Linda Gustitus and her good crew, who have made it possible for this bill to happen. Senator Edwards has been extremely helpful with his provision requiring a delisting of persons not wanting to receive sweepstakes mailings. Senator Cochran has been very much in the forefront of this effort. Again, the majority and minority staffs of the Permanent Subcommittee on Investigations have done an absolutely superb job of putting together these hearings and developing this legislation.

I am confident that with the Senate’s passage today, the President will sign the bill into law. It is a bill that will help end the abuses which too often occur in this area and which take advantage of people who are too often vulnerable to the power of suggestion.

PRIVILEGE OF THE FLOOR

Ms. Collins. Mr. President, I ask unanimous consent that Benjamin Brown, a legislative assistant in Senator Ted Stevens’ office, be granted floor privileges for the 19th and 20th of November.

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

INTERNET GAMBLING PROHIBITION ACT OF 1999

Ms. Collins. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 158, S. 692.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill to prohibit Internet gambling, and for other purposes.

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

S. 692

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the “Internet Gambling Prohibition Act of 1999”.

SEC. 2. PROHIBITION ON INTERNET GAMBLING.

(a) In General.—Chapter 30 of title 18, United States Code, is amended by adding at the end the following:

“§1085. Internet gambling

“(a) Definitions.—In this section:

“(1) BETS OR WAGERS.—The term ‘bets or wagers’

“(A) means the stakes or risk by any person of something of value upon the outcome of a contest of others, a sporting event, or a game of chance, upon an agreement or understanding

that the person or another person will receive something of value based on that outcome; and

“(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominately subject to chance);

“(2) Does not include—

“(i) a bona fide business transaction governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(a)(10)));

“(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7);

“(iii) a contract of indemnity or guarantee; or

“(iv) a contract for life, health, or accident insurance.

“(2) CLOSED-LOOP SUBSCRIBER-BASED SERVICE.—The term ‘closed-loop subscriber-based service’ means any information service or system that uses—

“(A) a device or combination of devices—

“(I) expressly authorized and operated in accordance with the laws of a State, exclusively for placing, receiving, or otherwise making a bet or wager described in subsection (f)(1)(B); and

“(ii) by which a person located within any State must subscribe and be registered with the provider of the wagering service by name, address, and appropriate billing information to be authorized to place, receive, or otherwise make a bet or wager, and must be physically located within that State in order to be authorized to do so;

“(B) an effective customer verification and age verification system, expressly authorized and operated in accordance with the laws of the State in which it is located, to ensure that all applicable Federal and State legal and regulatory requirements for lawful gambling are met; and

“(C) appropriate data security standards to prevent unauthorized access by any person who has not subscribed to a minor.

“(3) FOREIGN JURISDICTION.—The term ‘foreign jurisdiction’ means a jurisdiction of a foreign country or political subdivision thereof.

“(4) GAMBLING BUSINESS.—The term ‘gambling business’ means—

“(A) a business that is conducted at a gambling establishment, or that—

“(i) involves—

“(I) the placing, receiving, or otherwise making of bets or wagers; or

“(II) the offering to engage in the placing, receiving, or otherwise making of bets or wagers;

“(ii) involves 1 or more persons who conduct, manage, operate, affect, partake in, or control such a minor.

“(B) has been or remains in substantially continuous operation for a period in excess of 10 days or has a gross revenue of $2,000 or more from such business during any 24-hour period;

“(C) any soliciting agent of a business described in subparagraph (A).”

“(5) INFORMATION ASSISTING IN THE PLACING OF A BET OR WAGER.—The term ‘information assisting in the placing of a bet or wager’—

“(A) means information that is intended by the sender or recipient to be used by a person engaged in the business of betting or wagering to place, receive, or otherwise make a bet or wager; and

“(B) does not include—

“(i) information concerning pari-mutuel pools that is exchanged exclusively between or among 1 or more racetracks or other pari-mutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and 1 or more pari-mutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, if that information is used only to conduct a common pool pari-mutuel pooling under applicable law;

“(ii) information exchanged exclusively between or among 1 or more facilities that are located within a single State and are certified or regulated by that State, and any support service, wherever located, if the information is used only for the purpose of providing reports on the number of bets or wagers made with that facility under applicable law;

“(iii) information exchanged exclusively between or among 1 or more wagering facilities that are located within a single State and are licensed and regulated by that State, and the appropriate private communications technology provider to prevent unauthorized access of wagering activity, including odds, racing or event results, race and event schedules, or categories of wagering; or

“(iv) any posting or reporting of any educational information on how to make a bet or wager or the nature of betting or wagering.

“(6) INTERACTIVE COMPUTER SERVICE.—The term ‘interactive computer service’ means any information service, system, or access software provider that operates in, or uses a channel or instrumentality of, interstate or foreign commerce to provide or enable access by multiple users to a computer server, including specifically a service or system that provides access to the Internet.

“(7) PRIVATE COMPUTER SERVICE PROVIDER.—The term ‘private computer service provider’ means any person that provides an interactive computer service, to the extent that such person offers or provides such service.

“(8) INTERNET.—The term ‘Internet’ means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

“(9) PERSON.—The term ‘person’ means any individual association, partnership, corporation (or any affiliate of a corporation), State or political subdivision thereof, department, agency, or instrumentality of a State or political subdivision, any other government, organization, or entity (including any governmental entity (as defined in section 3701(2) of title 28)).

“(10) PRIVATE NETWORK.—The term ‘private network’ means a communications channel or channels, including voice or computer data transmission facilities, that use either—

“(A) private dedicated lines; or

“(B) the public communications infrastructure, if the infrastructure is secured by means of the appropriate private communications technologies to prevent unauthorized access.

“(11) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory, commonwealth, territory, or possession of the United States.

“(12) SUBSCRIBER.—The term ‘subscriber’ means any person with a business relationship with the interactive computer service provider through which such person receives access to the system, service, or network of that provider engaged in the business of betting or wagering if no formal subscription agreement exists; and

“(B) includes registrants, students who are given access to a university system or network, and employees or contractors who are granted access to the system or network of their employers.
"(b) Internet Gambling.—

(1) PROHIBITION.—The provisions of a subsection 3, if it shall be unlawful for a person engaged in a gambling business knowingly to use the Internet or any other interactive computer service—

(A) to place, receive, or otherwise make a bet or wager or

(B) to send, receive, or invite information assisting in the placing of a bet or wager.

(2) PENALTIES.—A person engaged in a gambling business who violates this section shall be—

(i) fined in an amount equal to not more than three times the amount wagered, as a result of engaging in that business in violation of this section; or

(ii) $20,000; or

(B) imprisoned not more than 4 years; or

(c) civil remedies.

(3) PERMANENT INJUNCTIONS.—Upon conviction of a person under this section, the court may enter a permanent injunction enjoining such person from placing, receiving, or otherwise making bets or wagers, as a result of engaging in that business in violation of this section.

(d) CIVIL REMEDIES.

(1) JURISDICTION.—The district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain violations of this section, regardless of whether a violation has occurred or will occur.

(2) PROCEEDINGS.—

(A) IN GENERAL.—The United States may institute proceedings under this subsection to prevent or restrain a violation of this section.

(B) INSTITUTION BY FEDERAL GOVERNMENT.—

(i) IN GENERAL.—The United States may institute proceedings under this subsection to prevent or restrain a violation of this section.

(ii) INSTITUTION BY STATE ATTORNEY GENERAL.—

(i) IN GENERAL.—The attorney general of a State or other appropriate State official in which an affected State under paragraph (2)(B) or (2)(A), or the attorney general (or other appropriate State official) of an affected State under paragraph (2)(A), or the attorney general (or other appropriate State official) of the United States, as applicable, notifies the court that issued the order or injunction that the United States or the State, as applicable, will not seek a permanent injunction.

(3) EXPEDITED PROCEEDINGS.—

(A) IN GENERAL.—In addition to any proceeding under paragraph (2), a district court may, in exigent circumstances, enter a temporary restraining order against a person alleged to be in violation of this section upon application by the United States under paragraph (2)(A), or the attorney general (or other appropriate State official) of an affected State under paragraph (2)(B), without notice and the opportunity for a hearing as provided in rule 65(b) of the Federal Rules of Civil Procedure (except as provided in subsection (d)(3)), if the United States or the State, as applicable, demonstrates that there is probable cause to believe that the use of the Internet or other interactive computer service at issue violates this section.

(B) HEARINGS.—A hearing requested pursuant to paragraph (1)(B) of the Federal Rules of Civil Procedure shall be held at the earliest practicable time.

(d) INTERACTIVE COMPUTER SERVICE PROVIDERS.—

(i) IMMUNITY FROM LIABILITY FOR USE BY ANOTHER.—

(A) IN GENERAL.—An interactive computer service provider described in subparagraph (B) shall not be liable, under this section or any other provision of Federal or State law prohibiting gambling or gambling-related activities, for the use of its facilities or services by another person to engage in Internet gambling activity that violates such law.

(B) INSTITUTION BY FEDERAL GOVERNMENT.—

(i) IN GENERAL.—The United States, or a State or other appropriate State official, may, in exigent circumstances, enter a temporary restraining order, or an injunction to prevent the use of the interactive computer service at issue violates this section.

(ii) PROVIDES INFORMATION REASONABLY SUFFICIENT TO PERMIT THE PROVIDER TO LOCATE AND, AS APPROPRIATE, IN A NOTICE ISSUED PURSUANT TO PARAGRAPH (3)(A) TO BLOCK ACCESS TO THE MATERIAL OR ACTIVITY.

(iii) IS SUPPLIED TO ANY AGENT OF A PROVIDER DESIGNATED IN ACCORDANCE WITH SECTION 512(C)(2) OF TITLE 17, IF INFORMATION REGARDING SUCH DESIGNATION IS READILY AVAILABLE TO THE PUBLIC.

(iv) PROVIDES INFORMATION THAT IS REASONABLY SUFFICIENT TO PERMIT THE PROVIDER TO CONTACT THE LAW ENFORCEMENT AGENCY THAT ISSUED THE NOTICE, IF ANY, AND TO IDENTIFY THE PERSON OR PERSONS WHO CONDUCTED OR CONTROLLED THE ACTIVITY.

(v) DECLARES UNDER PENALTIES OF PERJURY THAT THE PERSON SUBMITTING THE NOTICE IS AN OFFICIAL OF THE LAW ENFORCEMENT AGENCY DESCRIBED IN CLAUSE (IV).

(ii) PROVIDING ACCESS TO AN IDENTIFIED SUBSCRIBER OF AN INTERACTIVE COMPUTER SERVICE PROVIDER DESCRIBED IN PARAGRAPHS (3)(A) TO BLOCK ACCESS TO THE MATERIAL OR ACTIVITY.

(iii) PROVIDES INFORMATION REGARDING THE IDENTIFICATION OF AN INTERACTIVE COMPUTER SERVICE PROVIDER DESIGNATED UNDER PARAGRAPH (3)(A) TO BLOCK ACCESS TO THE MATERIAL OR ACTIVITY.

(C) INDIAN LANDS.—Notwithstanding subsections (A) and (B), for a violation that is alleged to have occurred, or may occur, on Indian lands (as that term is defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2701))—

(i) the United States shall have the enforcement authority provided under subparagraph (A), and

(ii) the enforcement authorities specified in an applicable Tribal-State compact negotiated under section 11 of the Indian Gaming Regulatory Act (25 U.S.C. 2710) shall be carried out in accordance with that compact.

(D) EXPIRATION.—Any temporary restraining order or preliminary injunctive entered pursuant to subparagraph (A) or (B) shall expire 14 days after the date the attorney general (or other appropriate State official) of the United States, as applicable, notifies the court that issued the order or injunction that the United States or the State, as applicable, will not seek a permanent injunction.

(6) NOTICE TO INTERACTIVE COMPUTER SERVICE PROVIDERS.—

(A) IN GENERAL.—If an interactive computer service provider receives from a Federal or State law enforcement agency, acting within its authority and jurisdiction, a written or electronic notice described in subparagraph (B), that a particular online site residing on a computer server owned, controlled, or operated by or for the provider is being used to violate this section, the provider shall expeditiously—

(i) remove or disable access to the material or activity residing at that online site that allegedly violates this section; or

(ii) in any case in which the provider does not control the site at which the subject material or activity resides, the provider, through any agent of the provider designated in accordance with section 512(c)(2) of title 17, or other responsible identified employee or contractor—

(a) provide information reasonably sufficient to identify the person or persons who control the site.

(B) NOTICE.—A notice is described in this subparagraph only if it—

(i) identifies the material or activity that allegedly violates this section, and alleges that such material or activity violates this section;

(ii) provides information reasonably sufficient to permit the provider to locate and, as appropriate, in a notice issued pursuant to paragraph (3)(A) to block access to the material or activity;

(iii) is supplied to any agent of a provider designated in accordance with section 512(c)(2) of title 17, if information regarding such designation is readily available to the public;

(iv) provides information that is reasonably sufficient to permit the provider to contact the law enforcement agency that issued the notice, if any, and to identify the person or persons who conduct or control the activity;

(v) declares under penalties of perjury that the person submitting the notice is an official of the law enforcement agency described in clause (iv).

(3) INJUNCTIVE RELIEF.—

(A) IN GENERAL.—The United States, or a State law enforcement agency acting within its authority and jurisdiction, may, not less than 24 hours following the issuance to an interactive computer service provider of a notice described in paragraph (2)(B), in a civil action, obtain a temporary restraining order, or an injunction to prevent the use of the interactive computer service by another person in violation of this section.

(B) LIMITATIONS.—Notwithstanding any other provision of this section, in the case of any application for a temporary restraining order or an injunction against an interactive computer service provider described in paragraph (1)(B) to prevent a violation of this section—

(i) arising out of activity described in paragraph (1)(A)(i), the injunctive relief is limited to—

(A) an order restraining the provider from providing access to an identified subscriber of the computer system or network of the interactive computer service provider, if the court determines that there is probable cause to believe that such
November 19, 1999

CONGRESSIONAL RECORD—SENATE

30853

Ms. COLLINS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. KYL, for himself and Mr. BRYAN, proposes an amendment numbered 2782.

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

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

The text of the amendment is printed in today’s RECORD under “Amendments Submitted.”

AMENDMENT NO. 2782

(Purpose: To provide a complete substitute)

Ms. COLLINS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. KYL, for himself and Mr. BRYAN, proposes an amendment numbered 2782.

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

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

The text of the amendment is printed in today’s RECORD under “Amendments Submitted.”

AMENDMENT NO. 2783 TO AMENDMENT NO. 2782

Ms. COLLINS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. CAMPBELL, proposes an amendment numbered 2783 to amendment No. 2782.

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

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

The amendment is as follows:

On page 35 of the Kyl-Bryant substitute, after line 18, insert the following:

(4) INDIAN GAMING.—Subject to paragraph (2), the prohibition in this section does not apply to any otherwise lawful bet or wager that is placed, received, or otherwise made for a fan-based sports league game or contest.

The amendment is purpose: To provide a complete substitute.
Act, 25 U.S.C. 2703), or the sending, receiving, or inviting of information assisting in the placing of such a bet or wager, as applicable, if—

(i) the game is conducted under and is conducted within the scope of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.);

(ii) each person placing, receiving, or otherwise making such bet or wager, or transmitting such information, is physically located on Indian lands (as that term is defined in section 4 of Indian Gaming Regulatory Act, 25 U.S.C. 2703) when such person places, receives, or otherwise makes the bet or wager, or transmits such information;

(iii) the game is conducted on a closed-loop subscriber-based system or a private network; and

(iv) in the case of a game that constitutes class III gaming—

(I) the game is authorized under, and is conducted in accordance with, the respective Tribal-State compacts entered into and approved pursuant to section 11(d) of the Indian Gaming Regulatory Act, 25 U.S.C. 2719(g) governing such activity on the Indian lands, in each respective State, on which each person placing, receiving, or otherwise making such a bet or wager, or transmitting such information, is physically located when such person places, receives, or otherwise makes the bet or wager, or transmits such information; and

(ii) each such Tribal-State compact expressly provides that the game may be conducted using the Internet or other interactive computer service only on a closed-loop subscriber-based system or a private network.

(B) ACTIVITIES UNDER EXISTING COMPACTS.—The requirement of subparagraph (A) shall not apply in the case of gaming activity, otherwise subject to this section, that was being conducted on Indian lands on September 1, 1999, with the approval of the state gaming commission or like regulatory authority of the State in which such Indian lands are located, but without such required compact, until the date on which the compact governing gaming activity on such Indian lands expires (exclusive of any automatic or discretionary renewal or extension of such compact), so long as such gaming activity is conducted using the Internet or other interactive computer service only on a closed-loop subscriber-based system or a private network. For purposes of this subparagraph, the phrase "conducted on Indian lands" shall refer to all Indian lands on which any person placing, receiving, or otherwise making a bet or wager, or sending, receiving, or inviting information assisting in the placing of a bet or wager, is physically located when such person places, receives, or otherwise makes the bet or wager, or sends, receives, or invites such information.

Mr. KYL. Mr. President, I rise in strong support of S. 692, the Internet Gambling Prohibition Act of 1999. As we move toward passage of this landmark legislation, I want to thank especially Senator Feinstein, the ranking member of the Judiciary Committee, who helped advance S. 692 notwithstanding her differences with some of its features. Finally, I want to thank all of my colleagues who joined the legislation as cosponsors following its introduction.

S. 692 enjoys extraordinarily broad public support. This legislation is aimed at protecting the Federal and State law-enforcement authorities to religious, consumer, and family groups, from the professional and amateur sports leagues to the thoroughbred racing industry—fully identified in the Judiciary Committee report accompanying the bill. I want to acknowledge, in particular, the support of the National Association of Attorneys General, the National Football League, and the National Collegiate Athletic Association, headed by Marty Gold, Daniel Nestel, and Stephen Higgins, whose hard work and diplomatic skills played an important role in securing the passage of the bill by unanimous consent.

The bill we are voting on today, which the Judiciary Committee approved in June by a recorded vote of 16–1, is the culmination of efforts spanning many years. The bill establishes mechanisms tailored to the Internet to enforce this prohibition. That legislation, S. 474, was approved by the Judiciary Committee in August 1997 and passed by a 90–10 vote as an amendment to the Commerce-Judiciary Appropriations bill for fiscal year 1998. The Subcommittee on Crime of the House Judiciary Committee held hearings on an Internet gambling bill in that the last Congress (H.R. 2380) and approved a revised version of the bill (H.R. 4427), but the House did not act. We hope the Internet gambling legislation will be enacted into law early next year.

Mr. President, as documented in the Judiciary Committee's report, both the number of Internet gambling sites and Internet gambling revenues, have grown rapidly since Internet gambling first appeared in the summer of 1995. Two studies cited by the National Gambling Impact Study Commission in its 'Final Report' to Congress this summer indicate that Internet gambling revenues have doubled every year for the past three years. One study reported growth from $300 million in 1998 to $651 million in 1999, and projected revenues of $2.3 billion by 2001. Another study reported growth from $445.4 million in 1997 to $1,919.1 million in 1999. The Commission noted estimates by the Financial Times and Smith Barney that Internet gambling will reach annual revenues of $10 billion early in the new millennium. A third study cited by the Commission found that the number of online gamblers had increased from 6.9 million to 14.5 million between 1997 and 1998. According to the Commission, “virtually all observers assume the rapid growth of Internet gambling will continue.”

It is no exaggeration to say that the Internet has brought gambling into every home that has purchased a computer and chosen to go online. According to the Department of Commerce, in late 1997 and early 1998, it had 26.2 percent of U.S. households had computers but simply have not yet chosen to go online. Bill, not long from now, online home computers will be as commonplace as the humble telephone—which, like the telegraph before it, seemed as revolutionary and wondrous, in its day, as the Internet seems today.

As a new technology, the Internet presents new problems that current law must be updated to address. These problems, which S. 692 is designed to remedy, are extensively documented in the Judiciary Committee's report. They include, among others, serious harms to our young people, who are the most adept users of Internet; harms from gambling on professional and amateur sports events and athletic performances; and harms relating to pathological gambling and criminal activity. It is vital that we legislate to prevent the Internet from being used as an instrument of gambling and establish an effective mechanism—specifically tailored to this new medium—for enforcing that prohibition. In establishing such a mechanism, however, it is also important to avoid impeding or disrupting the use of the Internet as an instrument of lawful activity. I am confident that S. 602 meets these objectives. I believe the fact that the legislation is strongly supported by the chief law enforcement officers of the States is compelling evidence that it strikes the right balance between Federal and State authority in this area.

S. 602 creates a new section 1065 of title 18. It prohibits anyone engaged in a gambling business from using the Internet to place, receive, or otherwise make a bet or wager, or to send, receive, or invite information assisting in the placing of a bet or wager, and it establishes mechanisms tailored to the Internet to enforce this prohibition. The new section provides criminal penalties for violations, authorizes
civil enforcement proceedings by Fed-
eral and State authorities, and estab-
lishes mechanisms for requiring Inter-
net service providers to terminate or
block access to material or activity
that violates the prohibition.

Because section 1085, as reported by
the Judiciary Committee, is com-
prehensively analyzed in the Judiciary
Committee’s report, I will only de-
scribe its structure here. Section
1085(a) contains definitions. Section
1085(b) contains the prohibitions
and criminal penalties. Section
1085(c) provides for civil actions by the
United States and the States to prevent
and restrain violations, applicable to
persons other than Internet service pro-
viders. Section 1085(d) establishes re-
sponsibilities for Internet service pro-
viders, enforceable through civil inj-
junctions against Federal and State
authorities, and grants providers speci-
fied immunities from liability. Section
1085(e) specifies that the availability of
relief under subsections (c) and (d),
which is civil in nature, is independent
of any action under subsection (b) or
any other Federal or State law. Section
1085(f) specifies categories of activi-
ties that, if otherwise lawful, are not subject to the prohibi-
tion of subsection (b). This subsection
addresses State lotteries, pari-mutuel
animal wagering, Indian gaming, and
fantasy sports league games and con-
tests. Section 1085(g) specifically pre-
serves the regulatory authority of the
States with respect to gambling and
gambling-related activities not subject
to the prohibition of subsection (b), but
nothing in section 1085 authorizes dis-
criminatory or other action by a State
that would otherwise violate the Com-
merce Clause. Section 1085(g) specifies that section
1085 does not create immu-
nity from criminal prosecution under any provision of Federal or State
law, except as provided in subsection
(d), and does not affect any prohibition
or remedy applicable to a person en-
gaged in a gambling business under any
other provision of Federal or State law.

Mr. President, the bill we are voting
on today has been modified in several
respects from the version reported by
the Judiciary Committee. All but one
of those modifications affect section
1085. The other affects section 3 of the
bill, which calls for a report to Con-
gress by the Department of Justice two
years after enactment.

Proceedings by Sports Organizations.
The bill has been amended by adding a
new subparagraph (C) to section
1085(c)(2) to authorize a professional or
amateur sports organization whose
games, or the performances of whose
athletes in such games, are alleged to
be the basis of a violation of section
1085 to institute civil proceedings in an
appropriate district court of the United
States to prevent or restrain the viola-
tion. The right of action provided by
this subparagraph is similar to the
right of action for sports organizations
provided in the Professional and Ama-
teur Sports Protection Act, 28 U.S.C.
section 1605. Congress passed in
1992 to halt the spread of legalized
sports betting and S. 692 is intended to
reinforce. The new subparagraph limits
proceedings, by sports organizations
against interactive computer service
providers.

Advertising and promotion of Non-
Internet Gambling. The bill has been
amended by adding a new paragraph (4)
to section 1085(d) to address the respon-
sibilities and immunities of an Inter-
net service provider relating to the use
of its facilities by another person to
advertise or promote non-online gam-
bling. Paragraph (4) generally mirrors
the approach of paragraph (1), which
addresses the responsibilities and im-
munity under both Federal law and the
Indian Gaming Regulatory Act.

First, the game must be one that is
permitted under and conducted in ac-
cordance with the Indian Gaming Regu-
latory Act.

Second, each person placing, receiv-
ing, or otherwise making such bet or
wager, or transmitting (i.e., sending,
receiving, or inviting) such informa-
tion, must be physically located in a
gaming facility on Indian lands when
such person places, receives, or other-
wise makes the bet or wager, or trans-
mits such information.

Third, the game must be conducted
on a closed-loop subscriber-based sys-
tem or a private network.

Fourth, in the case of a game that
constitutes class III gaming, the game
must be authorized under, and be con-
ducted in accordance with, the provi-
sive Tribal-State compacts that govern
(gambling activity on the Indian lands on
which each person placing, receiving,
or otherwise making such bet or wager,
or transmitting such information, is
physically located when such person
places, receives, or otherwise makes
the bet or wager, or transmits such in-
formation. In addition, each such Trib-
al-State compact must expressly pro-
vide that the game may be conducted
using the Internet or other interactive
computer service only on a closed-loop
subscriber-based system or a private
network.

To illustrate one application of the
fourth condition, suppose that Person
A is an Indian who is physically located
on Indian lands in Florida, by using the
Internet or other interactive computer
service, places or makes a bet or wager
with Person B, a person operating or
employed by a casino who is physically
located on Indian lands in Idaho. To be
lawful under section 1085 in this illus-
tration, the game, among other things,
must be one that is expressly author-
ized (1) by the compact that governs
gambling activity on the Indian lands in
Florida on which Person A is phys-
ically located when he places or makes
the bet or wager, and (2) by the com-
pact that governs gambling activity on
the Indian lands in Idaho on which Per-
som B is physically located when the
bet is placed, received, or otherwise
made. In addition, both compacts must
expressly provide such gaming activity
may be conducted using the Internet or
other interactive computer service only
on a closed-loop subscriber-based system
or a private network.

Paragraph (4) further provides that
the requirement of compact language
expressly allowing the game to be con-
ducted using the Internet or other
interactive computer service, if a
closed-loop subscriber-based system or a private network is used, as set forth in paragraph (4)(A)(iv)(II), shall not apply in the case of gaming activity otherwise subject to section 1085, that was being conducted on Indian lands using the Internet or other interactive computer service on September 1, 1999, with the approval of the Tribal Gaming Commission or like regulatory authority of the Tribe in which such Indian lands are located, but without the compact language required by paragraph (4)(A)(iv)(II). The exemption applies only until the date on which the compact governing gaming activity on such Indian lands expires (exclusive of any automatic or discretionary renewal or extension of such compact), and only to the extent that the gaming activity is conducted using the Internet or other interactive computer service on a closed-loop subscriber-based system or a private network. This exemption avoids the need to negotiate compacts currently in effect if the specified conditions are satisfied. The exempt only the requirement of subparagraph (A)(iv)(II). It does not in any manner waive the compact authorization requirement of subparagraph (A)(iv)(I), the physical location requirement of subparagraph (A)(ii), the closed-loop or private network requirement of subparagraph (A)(iii), or any other requirement of subparagraph (A).

To use the previous illustration, if the compact that currently governs gaming on the Indian lands in Florida on which Person A is physically located when Person A places or makes the bet or wager does not expressly specify that the game may be conducted using the Internet or other interactive computer service (if a closed-loop subscriber-based system or a private network is used), the game may nevertheless be conducted on those Indian lands using the Internet or other interactive computer service, and any gaming on those Indian lands in Florida using the Internet or other interactive computer service on September 1, 1999, with the approval of the gaming commission or like regulatory authority of Florida. After the compact expires, however, any gaming on those Indian lands using the Internet or other interactive computer service is subject to the requirement of express approval (limited to use of a closed-loop subscriber-based system or a private network) in subsequent compacts governing gaming activity on those Indian lands.

Rule of Construction. The bill has been amended by adding a new paragraph to section 1085(g) to make even more explicit that, except as provided in subsection (d), section 1085 does not create immunity from any criminal prosecution under any provision of Federal or State law. This amendment was prompted by concern expressed by Senator LEAHY.

Report on Enforcement. Section 3 of S. 692 has been amended to require the Justice Department to include in the required report to Congress further information specified by the Gambling Impact Study Commission in its “Final Report”.

Mr. President, S. 692 is urgently needed to address a serious social problem. It reflects the very best thinking on how to update existing law to meet the challenges of a new technology. I respectfully urge its passage.

Mr. LEAHY. Mr. President, I have long been an advocate for legislation that ensures that existing laws keep pace with developing technology. It is for this reason that I have sponsored and supported over the past few years a host of bills to bring us into the 21st Century.

This same impetus underlies my support for the legislation to ensure our nation’s gambling laws keep pace with developing technology, particularly the Internet. The Department of Justice has noted that “the Internet has allowed for new types of electronic gambling, including interactive games such as poker or blackjack, that may not clearly be included within the types of gambling currently made illegal. . . .” This new technology clearly has the potential to diminish the effectiveness of current gambling statutes.

Vermonters have spoken clearly that they do not want certain types of gambling permitted in our state, and they do not want current laws to be rendered obsolete by the Internet. Vermont Senator William Sorrell strongly supports federal legislation to address Internet gambling, as do other law enforcement officials in Vermont. I believe, therefore, that there is considerable value in updating our federal gambling statutes, which is why I voted for S. 692, the “Internet Gambling Prohibition Act,” during Senate Judiciary Committee consideration. I support the bill as a step forward in our bipartisan efforts to make sure our federal laws keep pace with emerging technologies.

I do, however, have concerns that S. 692 might unnecessarily weaken existing federal and state gambling laws.

My first concern is that the bill provides unnecessary exemptions from its Internet gambling ban for certain forms of gambling activities without a clear public policy justification. For example, the bill exempts parimutuel wagering on horse and dog racing from the ban on Internet gambling. The sponsors of S. 692 have offered no compelling reason for this special treatment of one form of gambling. Indeed, the Department of Justice is “especially troubled by the broad exemptions given to parimutuel wagering, which essentially would make legal on the Internet gambling that are not legal in the physical world,” according to its June 9, 1999 views letter on S. 692.

Broad exemptions from the Internet gambling ban also contradict the recent recommendations to Congress of the National Gambling Impact Study Commission. After 2 years of taking testimony at hearings across the country, the Commission has endorsed the need for Federal legislation to prohibit Internet gambling. But the Commission clearly rejected adding new exemptions to the law in such a ban.

Indeed, in a letter to me dated June 15, 1999, Kay C. James, Chair, and William H. Braddock, Commissioner, of the National Gambling Impact Study Commission, wrote:

The Commission recommends to the President, Congress, and the Department of Justice that the Federal government should prohibit, without exception, the conduct of gambling or the expansion of existing federal exemptions to other jurisdictions, Internet gambling not already authorized within the United States or among parties in the United States and any foreign jurisdiction. (emphasis in the original)

My second concern is that the bill unnecessarily creates a new section in our Federal gambling laws, which may prove inconsistent with existing law and established legal precedent. Instead of updating section 1084 of title 18, which has prohibited interstate gambling through wire communications since 1961, S. 692 creates a new section 1085 to title 18 to cover Internet gambling only. Creating a new section out of whole cloth with different definitions and other provisions from existing Federal gambling statutes creates overlapping and inconsistent Federal gambling laws for no good reason.

According to its views letter on S. 692, the Department of Justice believes overlapping and inconsistent Federal gambling laws can be easily avoided by amending section 1084 of title 18 to cover Internet gambling:

We therefore strongly recommend that Congress address the objective of this legislation through amending existing gambling laws, rather than creating new laws that specifically govern the Internet. Indeed, the Department of Justice believes that an amendment to section 1084 of title 18 could satisfy many of the concerns addressed in S. 692, as well as ensure that the same laws apply to gambling businesses, whether they operate over the Internet, the telephone, or some other instrumentality of interstate commerce.

I want to thank the sponsors of the legislation, Senators KYL and BRYAN, for addressing my third concern in their substitute amendment. I was concerned that the bill might unecessarily create immunity from criminal prosecution under State law for Internet gambling. Any new immunity would have been in sharp contrast to
express my deep appreciation and the administration to enact into communication medium.''

objectives without stifling the growth of illegal gambling. Instead, we need to foster effective Federal-State partnerships to combat illegal Internet gambling.

During our consideration of the Internet Gambling Prohibition Act in this Congress and the last, the sponsors of the bill and members of the Senate Judiciary Committee have improved the bill on a bipartisan basis. The bill now applies only to Internet gambling businesses, while we need to foster effective Federal-State partnerships to combat illegal Internet gambling.

As a former State prosecutor in Vermont, I strongly believe that Congress should not tie the hands of our State crime-fighting partners in the battle against Internet gambling when we do not mandate Federal preemption of state criminal laws for other forms of illegal gambling. Instead, we need to use available technologies to enhance traditional gaming.

It is important for my colleagues to realize that the bill does not prohibit all forms of gaming using available high-technology. As I supported S. 692 for the first time, I realized that certain gaming activities currently being conducted by Indian tribes would be prohibited by this bill.

My concerns centered on the fact that the same or similar activities were allowed to other entities—such as the states, the horse-racing industry and others—that were disallowed to tribes. This fundamental inequity is what led me to propose fair treatment for tribal governmental gaming.

In addition to fairness, the economic impacts of Indian gaming are substantial and should be acknowledged. These revenues provide an important source of development capital and jobs for many tribes across the country. Contrary to the views many here hold, Indian gaming is very highly regulated by federal, state and tribal officials, and has been subject to federal law for eleven years.

I addressed my concerns to the Senate Judiciary Committee in June of this year and began discussions on how best to address currently-legal Indian gaming in S. 692. My main concerns with drafting any language dealing with Indian gaming and the IGRA centered on the following requirements:

1. All gaming must be legal under current federal law;
2. All class III gaming (casino style) must be conducted pursuant to a tribal state compact; and
3. All aspects of the game must take place on Indian lands (game, player, facility, server, etc.).

It is critical to note that there is no tribe in the U.S. that is currently offering online/Internet betting. Instead, several tribes currently use available technology to broadcast bingo to numerous locations located on Indian lands, or to link class III games for the purpose of determining an aggregate betting pool for the purpose of offering bigger prizes.

As my colleagues know, I supported the "Internet Gaming Prohibition Act." As Chairman of the Committee on Indian Affairs I have been concerned that existing law, namely the Indian Gaming Regulatory Act, would be irreparably harmed unless we made certain changes to the bill.

This is an important bill and I support the intent of the bill's sponsors to make it more difficult for this kind of gaming to be conducted, particularly by underage players. If enacted, this bill would prohibit Internet gambling, but make exceptions for certain segments of the gaming industry which currently use a variety of technologies to enhance traditional gaming.

The specific provisions of my amendment address all currently legal class II and class III gaming, as defined in the Indian Gaming Regulatory Act, 25 U.S.C. §2701 et seq.

Accordingly, for Indian gaming activities to not run afoul of the provisions of S. 692:

1. The game must be conducted according to the requirements of IGRA.
2. All persons making or receiving a bet, or transmitting information regarding a bet must be on Indian lands. That means all aspects of the game must be located on tribal land, including the person playing the game (the actual machine which is the game, and any computer server which may be used to keep track of information relating to the play of the game. In the case of a satellite (which cannot be located on Indian land), all machinery used to receive the signal must be located on Indian land.
3. The game must be conducted on an interactive computer service which uses a closed-loop subscriber-based service or a private network.
4. Where class III games are conducted, each tribe participating in a network must have a compact which authorizes the game. The technology described, that is, an interactive computer service which uses a closed-loop subscriber-based service or a private network. It is critical to understand that this means that a tribe must have a compact only in the state in which they are located, not that they compact with every state in which the network is located.
5. In jurisdictions where class III gaming is currently being conducted, tribes or other entities may not have technology to link games, but either have compacts which do not specifically authorize networked games, or that do authorize these games, but do not contain
the specific authorization required in S. 692, the amendment allows them to continue the operations of those games until their compacts expire by their own terms. Once a tribe's compact expires, the compact must be renegotiated and will be required to contain language which conforms to the requirements of S. 692.

Contrary to the views of some, Indian tribes are not generally interested in operating games which are broadcast on the "world wide web" or the Internet, and in which a person sitting in their home may "log on" to a computer and begin placing bets.

Indian tribes are, however, interested in continuing the operation of the games they currently have, and which they have agreed with their states are legal. This amendment allows them to do just that.

Mr. FEINGOLD. Mr. President, I rise today to express my opposition to the Internet Gambling Prohibition Act of 1999. I voted against this bill when it was brought to the floor last year as an amendment to an appropriations bill and again this year when it came before the Judiciary Committee.

I am pleased to see that Senator Kyl was able to reach an agreement with Senator Campell, and others to address the Internet gambling issues. The bills special treatment of certain forms of gambling was one of the reasons I voted against this bill when it was before the Judiciary Committee. It allowed state lotteries, fantasy sports leagues, and horse and dog track racing to continue to operate over the Internet, but prohibited use of the Internet for Indian gaming, which is expressly authorized by federal law. Under Senator Campbell’s amendment to S. 692, Indian gaming can continue to operate over the Internet under certain circumstances.

While I am glad to see the Indian gaming issue addressed, I nevertheless remain concerned with the fact that this bill singles out one emerging technology, and the Internet, to try to attack the broad, complex social problems associated with gambling. The Internet is an evolving technology, and its full potential as a medium of expression has not been reached. While I share some of the concerns about the dangers of gambling that have inspired the sponsors of this legislation, I am reluctant to start down the path of restricting the use of the Internet for any particular lawful purpose. Once we have prohibited gambling on the Internet, what will be the next? On-line auctioneers? Or will they try to ban? We need to be very careful not to create a precedent that might stifle the commercial and educational development of this very exciting technological tool with unhealthy implications for the First Amendment. I fear that this bill starts us down a road in that direction.

Mr. President, in light of the expressed sentiment of this body last year, I did not object to the unanimous consent request to pass this bill in the closing days of this session, but I would like the record to reflect my continuing opposition to this bill.

The floor was in order.

Ms. COLLINS. Mr. President, I ask unanimous consent that the amendments be agreed to, the substitute amendment be agreed to, as amended, the bill be read the third time and passed, as follows:

[The bill was not available for printing. It will appear in a future edition of the Record.]

DATE-RAPE DRUG CONTROL ACT OF 1999

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 416. S. 692.

THE PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill to amend the Controlled Substance Act to add gamma hydroxybutyric acid and ketamine to the schedules of control substances, to provide for a national awareness campaign, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with amendments as follows:

[Matter proposed to be deleted is enclosed in brackets; new matter is printed in italic.]

S. 1516

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ...

SEC. 1. SHORT TITLE.

'This Act may be cited as the “Date-Rape Drug Control Act of 1999”.'

SEC. 2. FINDINGS.

Congress finds as follows:

1. Gamma hydroxybutyric acid (also called G, Liquid X, Liquid Ecstasy, Grieve, Bodily Harm, Georgia Home Boy, Scoop) has become a significant problem in law enforcement. At least 20 States have scheduled such drug in their drug laws and law enforcement officials have been experiencing an increased presence of the drug in driving under the influence, sexual assault, and overdose cases especially at night clubs and parties.

2. A behavioral depressant and a hypnotic, gamma hydroxybutyric acid ("GHB") is being used in conjunction with alcohol and other drugs with detrimental effects in an increasing number of cases. It is difficult to isolate the impact of such drug’s ingestion since it is so typically taken with an ever increasing array of other drugs and especially alcohol which potentiates its impact.

3. GHB takes the same path as alcohol, processes via alcohol dehydrogenase, and its symptoms at high levels of intake and if ingested by an alcoholic can be compared to alcohol ingestion. Thus, aggression and violence can be expected in some individuals who use such drug.

4. If taken for human consumption, common industrial chemicals such as gamma butyrolactone and 1,4-butanediol are swiftly converted by the body into GHB. Illicit use of these and other GHB analogues and precursors is a significant and growing law enforcement problem.

5. A human pharmaceutical formulation of gamma hydroxybutyric acid (GHB) is presently being developed as a treatment for cataplexy, a serious and debilitating disease. Cataplexy, which causes sudden and total loss of muscle control, affects about 65 percent of the estimated 180,000 Americans with narcolepsy, a sleep disorder. People with cataplexy often are unable to work, drive a car, hold their children or live a normal life.

6. Abuse of illicit GHB is an imminent hazard to public safety that requires immediate regulatory action under the Controlled Substances Act (21 U.S.C. 801 et seq.).

SEC. 3. ADDITION OF GAMMA HYDROXYBUTYRIC ACID AND KETAMINE TO SCHEDULES OF CONTROLLED SUBSTANCES; GAMMA BUTYROLACTONE AS ADDITIONAL LIST I CHEMICAL.

(a) ADDITION TO SCHEDULE IV

(1) In general.—Section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by adding at the end of section 1 the following:

"(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following substances having a depressant effect on the central nervous system, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Gamma hydroxybutyric acid."

(2) Security of facilities.—For purposes of any requirements that relate to the physical security of registered manufacturers and registered distributors of gamma hydroxybutyric acid and its salts, isomers, and salts of isomers manufactured, distributed, or possessed in accordance with an exemption approved under section 202 of the Federal Food, Drug, and Cosmetic Act shall be treated as a controlled substance in schedule III under section 202(c) of the Controlled Substances Act.