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(7) Its psychic or physiological dependence liability.
(8) Whether the substance is an immediate precursor of a substance already controlled under this title.

The statute proscribes that:

The recommendations of the Secretary (of Health and Human Services) to the Attorney General shall be binding on the Attorney General as to such scientific and medical matters, and if the Secretary recommends that a drug or other substance not be controlled, the Attorney General shall not control the drug or other substances.

This is the section of the law which appears not to have functioned optimally in the case of GHB. We can, and should, do better in anticipating and combating the next GHB.

To a large degree, the legislation we adopt today implements the May 19, 1999 HHS recommendations and the accompanying "Eight Factor Analysis Report" that take into account both the illicit abuse of GHB as well as the highly promising legitimate uses of this substance. While I believe that the language worked out by Senators ABRAHAM and BIDEN, and Bing Chairman BURSTEIN, Chairman MCCOLLUM, and the DEA, is preferable to the earlier versions of the bill, I remain troubled by some aspects of how the current statute has worked and may work in the future.

First, I am troubled that if we place promising pharmaceutical candidates such as GHB into Schedule I of the Controlled Substance Act we undermine its integrity of the CSA and will discourage the legitimate, potential life-saving uses of such compounds. According to the statute, one of the three requirements of schedule I is that there is "no accepted medical use" in the United States. But the May 19, 1999 HHS recommendation has already found that metoprolol product has cleared this hurdle.

The abuse potential of GHB, when used under an authorized research protocol, is consistent with substances typically controlled under Schedule IV. An authorized formulation of GHB is far enough along in the development process to meet the standard under Schedule II of a drug or substance having a "currently accepted medical use with severe restrictions." Under these circumstances, HHS recommends placing authorized formulations of GHB in Schedule III.

On October 12, 1999 DOJ sent a letter that disregards the May 19th HHS schedule III recommendation. DOJ first states "... the DEA strongly supports the control of GHB in Schedule I of the CSA" and then asserts: "The data collected to date would support control of the GHB product in Schedule II."

Second, in addition to giving no apparent deference to HHS on matters supposedly binding on DOJ under section 201(b) of the CSA, DOJ almost seems to be interpreting the statute as requiring full FDA approval before the "currently accepted medical use" language of the CSA can be satisfied. Such an outcome is neither compelled by the statute, nor does it reflect sound public health policy as it acts to discourage drug development and patient access to promising drugs in clinical trials.

I hasten to point out that I have advocated stiffening the penalties for abuse of date-rape drugs such as GHB. In 1997 I successfully led the charge to enact a law that imposed schedule I-level penalties for another date rape drug, flunitrazepam. This product was marketed for use in medical purposes overseas and did not meet the Schedule I requirement that "there is lack of accepted safety for use of the drug or other substance under medical supervision." Therefore, the Congress passed, my legislation to increase the penalties for this drug. But we stopped short of scheduling the pharmaceutical into Schedule I, recognizing that the product does have accepted medical uses. It was my hope that this could be the model for GHB legislation as well.

I want to work constructively with my colleagues in Congress to achieve our common goals of taking immediate action against GHB, preserving the integrity of the CSA, and sending a strong message to those agencies charged with implementing the CSA that they must work together in a cooperative and expedient way to protect the American public.

While I think the bill we adopt today might have been written differently, I agree with my colleagues that our foremost goal must be to take quick and decisive action with respect to the criminalization of GHB used for nonmedical purposes. Senator Abraham's bill is a good bill and he deserves a lot of credit for putting this improved legislative package together.

Let me also note that the bill we have just passed includes language I drafted requiring DEA to create a Special Unit to assess the abuse and trafficking of GHB and other date rape drugs, and will identify the threat posed by date rape drugs on a national and regional basis. I am pleased to be the sponsor of S. 497, the bill that creates this Special Unit. S. 497 has been incorporated in the final language that we adopt today. I can assure all my colleagues that this is one Senator that will closely review the Attorney General's report on the allocation and reallocation of resources to combat date rape and other crimes related to designer drugs.

We can and should look further into the problems associated with the scheduling of drugs under CSA and whether we need to change the relevant laws. But today we honor the legislation introduced by Senators ABRAHAM and SAMANTHA REID by taking an act that will hopefully reduce the risk of GHB abuse being visited upon unsuspecting women.

ELECTRONIC BENEFIT TRANSFER INTEROPERABILITY AND PORTABILITY ACT OF 1999

Mr. COLLINS. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 1733, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection?

The clerk will report the bill by title. The legislative clerk read as follows: A bill (S. 1733) to amend the Food Stamp Act of 1977 to provide for a national standard of interoperability and portability applicable to electronic food stamp benefit transactions.

There being no objection, the Senate proceeded to consider the bill.

Ms. COLLINS. Mr. President, there is a substitute amendment at the desk submitted by Senator FITZGERALD, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senate from Maine (Ms. COLLINS), for Mr. FITZGERALD, proposes an amendment numbered 2765.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.
This Act may be cited as the "Electronic Benefit Transfer Interoperability and Portability Act of 1999".

SEC. 2. PURPOSES.
The purposes of this Act are—
(1) to protect the integrity of the food stamp program;
(2) to ensure cost-effective portability of food stamp benefits across State borders without imposing additional administrative expenses for special equipment to address problems relating to the portability;
(3) to enhance the flow of interstate commerce involving electronic transactions involving food stamp benefits under a uniform national standard of interoperability and portability;
and
(4) to eliminate the inefficiencies resulting from a patchwork of State-administered systems and regulations established to carry out the food stamp program.

SEC. 3. INTEROPERABILITY AND PORTABILITY OF FOOD STAMP TRANSACTIONS.
Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) is amended by adding at the end the following:
"(k) INTEROPERABILITY AND PORTABILITY OF ELECTRONIC BENEFIT TRANSFER TRANSACTIONS—
"(1) DEFINITIONS.—In this subsection:
"(A) ELECTRONIC BENEFIT TRANSFER CARD.—The term 'electronic benefit transfer card' means a card that provides benefits under this Act through an electronic benefit transfer service (as defined in subsection (6)(B)) supported by the Electronic Benefit Transfer Contract. The term 'electronic benefit transfer contract' means a contract that provides for the issuance, use, or redemption of coupons in the form of an electronic benefit transfer card.
"(C) INTEROPERABILITY.—The term 'interoperability' means a system that enables a coupon issued in the form of an electronic benefit transfer card to be redeemed in any State.
``(D) Interstate Transaction.—The term ‘interstate transaction’ means an interstate transaction that is initiated in 1 State by the use of an electronic benefit transfer card that is issued in another State.

``(E) Portability.—The term ‘portability’ means—

``(ii) requirements for the interoperability and portability required under paragraph (2);

``(F) Switching.—The term ‘switching’ means the routing of an interstate transaction that consists of transmitting the details of a transaction electronically received through the use of an electronic benefit transfer card in 1 State to the issuer of the card that is in another State.

``(G) Smart Card.—The term ‘smart card’ means an intelligent benefit card described in section 17(f).

``(H) Switching.—The term ‘switching’ means the routing of an interstate transaction that consists of transmitting the details of a transaction electronically received through the use of an electronic benefit transfer card in 1 State to the issuer of the card that is in another State.

``(2) REQUIREMENT.—Not later than October 1, 2002, the Secretary shall ensure that systems that provide for the electronic issuance, use, and redemption of coupons in the form of electronic benefit transfer cards, to access these benefits. The federal cost of groceries. The supermarket industry is competitive. Customers paying with every type of tender except EBT have the ability to shop around for the best prices. Shouldn’t recipients of our nation’s federal food assistance benefits be able to stretch their dollars without regard to state borders?

Another reason for cross-border shopping is convenience. While one of my constituents may live in the metro east area of Illinois, he or she may work in St. Louis. Under the current situation, if the only grocery store between work and home is in Missouri, the recipient cannot purchase food without traveling miles out of the way. Legislation would allow companies to provide for the portability of food assistance benefits and allow food stamp recipients the flexibility of shopping at locations that they choose.

Interoperability works well today with ATM/Debit cards, the type of cards that EBT was modeled after. Consumers and merchants are confident that when a MAC card issued by a bank in Pittsburgh is presented, authorization and settlement of that transaction will work the same as when a Star card, issued by Bank of America in California is presented. This occurs regardless of where the merchant is located.

Unfortunately, this is currently not the case with EBT cards. If every state operated their EBT program under a standard set of operating rules, as this legislation requires, companies operating in multiple states could be more efficient, resolve any discrepancies in a manner that is more quickly, and ultimately hold down the price of groceries for all consumers.

This legislation is more about good government than it is about food recipients. That issue is the inability of recipients to use their state-issued cards across state lines. This is especially true in communities that are near a state border.
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AMENDMENT NO. 2786

(Purpose: To provide continued reporting of interception of wire, oral, and electronic communications)

Ms. COLLINS. Mr. President, Senator LEAHY has an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Maine (Ms. Collins), for Mr. Lea...