course of treatment may yield the best outcome.

Once again, I thank our colleague Congresswoman CUBIN, the coalition of supporters, and the Energy and Commerce Committee majority and minority staff.

I urge my colleagues to vote ''yes'' on H.R. 1014.

□ 2130

Mr. BURGESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1014. This legislation encourages manufacturers of drugs and devices to report to the Food and Drug Administration gender and race-specific information on their products. The legislation also authorizes the Secretary to develop a public awareness campaign relating to the prevention, diagnosis, and treatment of heart disease, stroke, and cardiovascular diseases in women.

Lastly, the bill authorizes the WISEWOMAN program at the Centers for Disease Control which provides heart disease and stroke prevention screening, such as tests for high blood pressure and high cholesterol, to low-come uninsured and underinsured women.

I urge Members to support the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. PALLONE. Mr. Speaker, I urge support of this important legislation relative to heart disease.

Mr. RADANOVICH. Mr. Speaker, I would like to thank my colleagues Mrs. CAPPS and Mrs. CUBIN for sponsoring H.R. 1014, the Heart Disease Education, Analysis Research and Treatment, or HEART, for Women Act. I lend my strong support for its swift passage both here and on the House floor Heart for Women Act will be a vital step forward in addressing the disparities in the diagnosis and treatment of heart disease and stroke between men and women.

Heart disease, stroke, and other cardiovascular diseases are the number one killer of women, both nationally and in my home state of California. They account for over 30 percent of all female deaths in California, and there are currently approximately 43 million adult women living with one or more forms of heart disease.

These numbers are very telling about the need for this reporting and authorization. But to really understand the importance of this legislation, you must look at how this can affect the lives of any one of those 43 million women living with heart disease today. I personally have seen the effects it can have—the struggles for the individual and the difficulties it can place on a family—through the experiences of a longtime and valued member of my staff But also through her, I have seen the courage displayed by women living with heart disease. They are dedicated to this cause, so that others may have it a little easier than they have. For her and all women living with this disease, this legislation today is a triumph and a testament to their strength.

Thank you again to the bill's sponsors, and I encourage all my colleagues to fully support this extremely important legislation.

Ms. DELAURO. Mr. Speaker, I rise in support of the HEART for Women Act (H.R. 1014) to help improve the prevention, diagnosis, and treatment of heart disease in women, which often manifests itself differently in women than in men. It is critically important that we develop a better understanding of these differences and the reasons behind them, and spur the development and use of diagnosis, treatment, and prevention strategies that are most effective for reducing the death rate for heart disease in women.

We have made some progress on this front. The Centers for Disease Control and Prevention's WISEWOMAN (Well-Integrated Screening and Evaluation for Women Across the Nation) provides low-income, under-insured or uninsured middle-aged women with screening and knowledge to prevent cardiovascular disease. Cardiovascular disease ranks as America's number-one killer and, with one in three female adults facing some form of cardiovascular disease, this program shows how prevention can make the difference between life or death.

The WISEWOMAN program has proven to be tremendously successful in reaching those women most at risk for heart disease and stroke. In fact, 3 out of 4 of the women screened by WISEWOMAN have at least one risk factor for heart disease and stroke, and women who have participated in WISEWOMAN are more likely to quit smoking and make other lifestyle changes to reduce their cardiovascular disease risk.

It is a good investment, too. A recent study found the WISEWOMAN program to be very cost-effective because of its success in reducing risk for chronic diseases. In this study, the program extended women's lives at a cost of $4,400 per estimated year of life saved, as opposed to a much higher cost of $26,000 per estimated year of life saved by heart bypass surgery.

Unfortunately, even these effective, proven programs reach only a fraction of the women who could actually take advantage of them. Through 2007, CDC funded 14 state health departments and two tribal organizations to offer WISEWOMAN programs. It makes common sense to bring this effective program to women in all 50 states. The HEART for Women Act would do just that.

The HEART for Women Act is co-sponsored by a majority of Members of Congress, including almost all of the women in the House, and has the support of the American Heart Association, the Society for Women's Health Research, WomenHeart, the Association of Black Cardiologists, and the American College of Cardiology.

I commend the Energy and Commerce committee for supporting this important bill and congratulate my colleague Congresswoman CAPPS for her leadership. This represents an important step forward in ensuring that women all across our country have the help they need to live the healthiest, most productive lives possible.

Mr. PALLONE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. PALLONE) that the House suspend the rules and pass the bill, H.R. 1014, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BURGESS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

RYAN HAIGHT ONLINE PHARMACY CONSUMER PROTECTION ACT OF 2008

Mr. PALLONE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6353) to amend the Controlled Substances Act to address online pharmacies, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6353

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 ''Ryan Haight Online Pharmacy Consumer Protection Act of 2008''.

SEC. 2. REQUIREMENT OF A VALID PRESCRIPTION FOR CONTROLLED SUBSTANCES DISPENSED BY MEANS OF THE INTERNET.

Section 309 of the Controlled Substances Act (21 U.S.C. 829) is amended by adding at the end the following:

''(e) CONTROLLED SUBSTANCES DISPENSED BY MEANS OF THE INTERNET.—

''(1) No controlled substance that is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act may be delivered, distributed, or dispensed by means of the Internet without a valid prescription.

''(2) As used in this subsection:

''(A) The term 'valid prescription' means a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by—

''(i) a practitioner who has conducted at least 1 in-person medical evaluation of the patient; or

''(ii) a covering practitioner.

''(B)(i) The term 'in-person medical evaluation' means a medical evaluation that is conducted with the patient in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other health professionals.

''(ii) Nothing in clause (i) shall be construed to imply that 1 in-person medical evaluation demonstrates that a prescription has been issued for a legitimate medical purpose within the usual course of professional practice.

''(C) The term 'covering practitioner' means, with respect to a patient, a practitioner who conducts a medical evaluation (other than an in-person medical evaluation) at the request of a practitioner who—

''(i) has conducted at least 1 in-person medical evaluation of the patient or an evaluation of the patient through the practice of telemedicine, within the previous 24 months; and

''(ii) is temporarily unavailable to conduct the evaluation of the patient.

''(3) Nothing in this subsection shall apply to—

''(A) the delivery, distribution, or dispensing of a controlled substance by a practitioner engaged in the practice of telemedicine; or

''(B) the dispensing or selling of a controlled substance pursuant to practices as determined by the Attorney General by regulation, which shall be consistent with effective controls against diversion.''.

SEC. 3. AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT RELATING TO THE DELIVERY OF CONTROLLED SUBSTANCES BY MEANS OF THE INTERNET.

(a) IN GENERAL.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following:

''(50) The term 'Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected worldwide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol to such protocol, to communicate information of all kinds by wire or radio.

''(51) The term 'deliver, distribute, or dispense by means of the Internet' refers, respectively, to any delivery, distribution, or dispensing of a controlled substance that is caused or facilitated by means of the Internet.

''(52) The term 'online pharmacy'—

''(A) means a person, entity, or Internet site, whether in the United States or abroad, that knowingly or intentionally delivers, distributes, or dispenses, or offers or attempts to deliver, distribute, or dispense, a controlled substance by means of the Internet; and

''(B) does not include—

''(i) manufacturers or distributors registered under subsection (a), (b), (d), or (e) of section 303 who do not dispense controlled substances to an unregistered individual or entity;

''(ii) nonpharmacy practitioners who are registered under section 303(f) and whose activities are authorized by that registration;

''(iii) any hospital or other medical facility that is operated by an agency of the United States (including the Armed Forces), provided such hospital or other facility is registered under section 303(f);

''(iv) a health care facility owned or operated by an Indian tribe or tribal organization, only to the extent such facility is carrying out a contract or compact under the Indian Self-Determination and Education Assistance Act;

''(v) any agent or employee of any hospital or facility referred to in clause (iii) or (iv), provided such agent or employee is lawfully acting in the usual course of business or employment, and within the scope of the official duties of such agent or employee, with such hospital or facility, and, with respect to agents or employees of health care facilities specified in clause (iv), only to the extent such individuals are furnishing services pursuant to the contracts or compacts described in such clause;

''(vi) mere advertisements that do not attempt to facilitate an actual transaction involving a controlled substance;

''(vii) a person, entity, or Internet site that is not in the United States and does not facilitate the delivery, distribution, or dispensing of a controlled substance by means of the Internet to any person in the United States;

''(viii) a pharmacy registered under section 303(f) whose dispensing of controlled substances via the Internet consists solely of—

''(I) refilling prescriptions for controlled substances in schedule III, IV, or V, as defined in paragraph (55); or

''(II) filling new prescriptions for controlled substances in schedule III, IV, or V, as defined in paragraph (56); or

''(ix) any other persons for whom the Attorney General and the Secretary have jointly, by regulation, found it to be consistent with effective controls against diversion and otherwise consistent with the public health and safety to exempt from the definition of an 'online pharmacy'.

''(53) The term 'homepage' means the opening or main page or screen of the website of an online pharmacy that is viewable on the Internet.

''(54) The term 'practice of telemedicine' means, for purposes of this title, the practice of medicine in accordance with applicable Federal and State laws by a practitioner (other than a pharmacist) who is at a location remote from the patient and is communicating with the patient, or health care professional who is treating the patient, using a telecommunications system referred to in section 1834(m) of the Social Security Act, which practice—

''(A) is being conducted—

''(i) while the patient is being treated by, and physically located in, a hospital or clinic registered under section 303(f); and

''(ii) by a practitioner—

''(I) acting in the usual course of professional practice;

''(II) acting in accordance with applicable State law; and

''(III) registered under section 303(f) in the State in which the patient is located, unless the practitioner—

''(aa) is exempted from such registration in all States under section 302(d); or

''(bb) is—

''(AA) an employee or contractor of the Department of Veterans Affairs who is acting in the scope of such employment or contract; and

''(BB) registered under section 303(f) in any State or is utilizing the registration of a hospital or clinic operated by the Department of Veterans Affairs registered under section 303(f);

''(B) is being conducted while the patient is being treated by, and in the physical presence of, a practitioner—

''(i) acting in the usual course of professional practice;

''(ii) acting in accordance with applicable State law; and

''(iii) registered under section 303(f) in the State in which the patient is located, unless the practitioner—

''(I) is exempted from such registration in all States under section 302(d); or

''(II) is—

''(aa) an employee or contractor of the Department of Veterans Affairs who is acting in the scope of such employment or contract; and

''(bb) registered under section 303(f) in any State or is using the registration of a hospital or clinic operated by the Department of Veterans Affairs registered under section 303(f);

''(C) is being conducted by a practitioner—

''(i) who is an employee or contractor of the Indian Health Service, or is working for an Indian tribe or tribal organization under its contract or compact with the Indian Health Service under the Indian Self-Determination and Education Assistance Act;

''(ii) acting within the scope of the employment, contract, or compact described in clause (i); and

''(iii) who is designated as an Internet Eligible Controlled Substances Provider by the Secretary under section 311(g)(2);

''(D)(i) is being conducted during a public health emergency declared by the Secretary under section 319 of the Public Health Service Act; and

''(ii) involves patients located in such areas, and such controlled substances, as the Secretary, with the concurrence of the Attorney General, designates, provided that such designation shall not be subject to the procedures prescribed by subchapter II of chapter 5 of title 5, United States Code;

''(E) is being conducted by a practitioner who has obtained from the Attorney General a special registration under section 311(h);

''(F) is being conducted—

''(i) in a medical emergency situation—

''(I) that prevents the patient from being in the physical presence of a practitioner registered under section 303(f) who is an employee or contractor of the Veterans Health Administration acting in the usual course of business and employment and within the scope of the official duties or contract of that employee or contractor;

''(II) that prevents the patient from being physically present at a hospital or clinic operated by the Department of Veterans Affairs registered under section 303(f);

''(III) during which the primary care practitioner of the patient or a practitioner otherwise practicing telemedicine within the meaning of this paragraph is unable to provide care or consultation; and

''(IV) that requires immediate intervention by a health care practitioner using controlled substances to prevent what the practitioner reasonably believes in good faith will be imminent and serious clinical consequences, such as further injury or death; and

''(ii) by a practitioner that—

''(I) is an employee or contractor of the Veterans Health Administration acting within the scope of that employment or contract;

''(II) is registered under section 303(f) in any State or is utilizing the registration of a hospital or clinic operated by the Department of Veterans Affairs registered under section 303(f); and

''(III) issues a controlled substance prescription in this emergency context that is limited to a maximum of a 5-day supply which may not be extended or refilled; or

''(G) is being conducted under any other circumstances that the Attorney General and the Secretary have jointly, by regulation, determined to be consistent with effective controls against diversion and otherwise consistent with the public health and safety.

''(55) The term 'refilling prescriptions for controlled substances in schedule III, IV, or V'—

''(A) means the dispensing of a controlled substance in schedule III, IV, or V in accordance with refill instructions issued by a practitioner as part of a valid prescription that meets the requirements of subsections (b) and (c) of section 309, as appropriate; and

''(B) does not include the issuance of a new prescription to an individual for a controlled substance that individual was previously prescribed.

''(56) The term 'filling new prescriptions for controlled substances in schedule III, IV, or V' means filling a prescription for an individual for a controlled substance in schedule III, IV, or V, if—

''(A) the pharmacy dispensing that prescription has previously dispensed to the patient a controlled substance other than by means of the Internet and pursuant to the valid prescription of a practitioner that meets the applicable requirements of subsections (b) and (c) of section 309 (in this paragraph referred to as the 'original prescription');

''(B) the pharmacy contacts the practitioner who issued the original prescription at the request of that individual to determine whether the practitioner will authorize the issuance of a new prescription for that individual for the controlled substance described in subparagraph (A); and

''(C) the practitioner, acting in the usual course of professional practice, determines there is a legitimate medical purpose for the issuance of the new prescription.''.

(b) REGISTRATION REQUIREMENTS.—Section 303(f) of the Controlled Substances Act (21 U.S.C. 823(f)) is amended in the matter preceding paragraph (1)—

(1) in the first sentence, by adding after ''schedule II, III, IV, or V'' the following: ''and shall modify the registrations of pharmacies so registered to authorize them to dispense controlled substances by means of the Internet''; and

(2) in the second sentence, by striking ''if he determines that the issuance of such registration'' and inserting ''or such modification of registration if the Attorney General determines that the issuance of such registration or modification''.

(c) REPORTING REQUIREMENTS.—Section 307(d) of the Controlled Substances Act (21 U.S.C. 827(d)) is amended by—

(1) striking ''(d) Every'' and inserting ''(d)(1) Every''; and

(2) adding at the end the following:

''(2) Each pharmacy with a modified registration under section 303(f) that authorizes the dispensing of controlled substances by means of the Internet shall report to the Attorney General the controlled substances it dispenses, in the amount specified, and in such time and manner as the Attorney General by regulation shall require, except that the Attorney General, under this paragraph, may not require any pharmacy to report any information other than the total quantity of each controlled substance that the pharmacy has dispensed each month. For purposes of this paragraph, no reporting shall be required unless the pharmacy has met 1 of the following thresholds in the month for which the reporting is required:

''(A) 100 or more prescriptions dispensed.

''(B) 5,000 or more dosage units of all controlled substances combined.''.

(d) ONLINE PRESCRIPTION REQUIREMENTS.—

(1) IN GENERAL.—The Controlled Substances Act is amended by inserting after section 310 (21 U.S.C. 830) the following:

''ADDITIONAL REQUIREMENTS RELATING TO ONLINE PHARMACIES AND TELEMEDICINE

''SEC. 311. (a) IN GENERAL.—An online pharmacy shall display in a visible and clear manner on its homepage a statement that it complies with the requirements of this section with respect to the delivery or sale or offer for sale of controlled substances and shall at all times display on the homepage of its Internet site a declaration of compliance in accordance with this section.

''(b) LICENSURE.—Each online pharmacy shall comply with the requirements of State law concerning the licensure of pharmacies in each State from which it, and in each State to which it, delivers, distributes, or dispenses or offers to deliver, distribute, or dispense controlled substances by means of the Internet, pursuant to applicable licensure requirements, as determined by each such State.

''(c) INTERNET PHARMACY SITE DISCLOSURE INFORMATION.—Each online pharmacy shall post in a visible and clear manner on the homepage of each Internet site it operates, or on a page directly linked thereto in which the hyperlink is also visible and clear on the homepage, the following information for each pharmacy that delivers, distributes, or dispenses controlled substances pursuant to orders made on, through, or on behalf of, that website:

''(1) The name and address of the pharmacy as it appears on the pharmacy's Drug Enforcement Administration certificate of registration.

''(2) The pharmacy's telephone number and email address.

''(3) The name, professional degree, and States of licensure of the pharmacist-in-charge, and a telephone number at which the pharmacist-in-charge can be contacted.

''(4) A list of the States in which the pharmacy is licensed to dispense controlled substances.

''(5) A certification that the pharmacy is registered under this part to deliver, distribute, or dispense by means of the Internet controlled substances.

''(6) The name, address, telephone number, professional degree, and States of licensure of any practitioner who has a contractual relationship to provide medical evaluations or issue prescriptions for controlled substances, through referrals from the website or at the request of the owner or operator of the website, or any employee or agent thereof.

''(7) The following statement, unless revised by the Attorney General by regulation: 'This online pharmacy will only dispense a controlled substance to a person who has a valid prescription issued for a legitimate medical purpose based upon a medical relationship with a prescribing practitioner. This includes at least one prior in-person medical evaluation or medical evaluation via telemedicine in accordance with applicable requirements of section 309.'.

''(d) NOTIFICATION.—

''(1) IN GENERAL.—Thirty days prior to offering a controlled substance for sale, delivery, distribution, or dispensing, the online pharmacy shall notify the Attorney General, in such form and manner as the Attorney General shall determine, and the State boards of pharmacy in any States in which the online pharmacy offers to sell, deliver, distribute, or dispense controlled substances.

''(2) CONTENTS.—The notification required under paragraph (1) shall include—

''(A) the information required to be posted on the online pharmacy's Internet site under subsection (c) and shall notify the Attorney General and the applicable State boards of pharmacy, under penalty of perjury, that the information disclosed on its Internet site under subsection (c) is true and accurate;

''(B) the online pharmacy's Internet site address and a certification that the online pharmacy shall notify the Attorney General of any change in the address at least 30 days in advance; and

''(C) the Drug Enforcement Administration registration numbers of any pharmacies and practitioners referred to in subsection (c), as applicable.

''(3) EXISTING ONLINE PHARMACIES.—An online pharmacy that is already operational as of the effective date of this section, shall notify the Attorney General and applicable State boards of pharmacy in accordance with this subsection not later than 30 days after such date.

''(e) DECLARATION OF COMPLIANCE.—On and after the date on which it makes the notification under subsection (d), each online pharmacy shall display on the homepage of its Internet site, in such form as the Attorney General shall by regulation require, a declaration that it has made such notification to the Attorney General.

''(f) REPORTS.—Any statement, declaration, notification, or disclosure required under this section shall be considered a report required to be kept under this part.

''(g) NOTICE AND DESIGNATIONS CONCERNING INDIAN TRIBES.—

''(1) IN GENERAL.—For purposes of sections 102(52) and 512(c)(6)(B), the Secretary shall notify the Attorney General, at such times and in such manner as the Secretary and the Attorney General determine appropriate, of the Indian tribes or tribal organizations with which the Secretary has contracted or compacted under the Indian Self-Determination and Education Assistance Act for the tribes or tribal organizations to provide pharmacy services.

''(2) DESIGNATIONS.—

''(A) IN GENERAL.—The Secretary may designate a practitioner described in subparagraph (B) as an Internet Eligible Controlled Substances Provider. Such designations shall be made only in cases where the Secretary has found that there is a legitimate need for the practitioner to be so designated because the population served by the practitioner is in a sufficiently remote location that access to medical services is limited.

''(B) PRACTITIONERS.—A practitioner described in this subparagraph is a practitioner who is an employee or contractor of the Indian Health Service, or is working for an Indian tribe or tribal organization under its contract or compact under the Indian Self-Determination and Education Assistance Act with the Indian Health Service.

''(h) SPECIAL REGISTRATION FOR TELEMEDICINE.—

''(1) IN GENERAL.—The Attorney General may issue to a practitioner a special registration to engage in the practice of telemedicine for purposes of section 102(54)(E) if the practitioner, upon application for such special registration—

''(A) demonstrates a legitimate need for the special registration; and

''(B) is registered under section 303(f) in the State in which the patient will be located when receiving the telemedicine treatment, unless the practitioner—

''(i) is exempted from such registration in all States under section 302(d); or

''(ii) is an employee or contractor of the Department of Veterans Affairs who is acting in the scope of such employment or contract and is registered under section 303(f) in any State or is utilizing the registration of a hospital or clinic operated by the Department of Veterans Affairs registered under section 303(f).

''(2) REGULATIONS.—The Attorney General shall, with the concurrence of the Secretary, promulgate regulations specifying the limited circumstances in which a special registration under this subsection may be issued and the procedures for obtaining such a special registration.

''(3) DENIALS.—Proceedings to deny an application for registration under this subsection shall be conducted in accordance with section 304(c).

''(i) REPORTING OF TELEMEDICINE BY VHA DURING MEDICAL EMERGENCY SITUATIONS.—

''(1) IN GENERAL.—Any practitioner issuing a prescription for a controlled substance under the authorization to conduct telemedicine during a medical emergency situation described in section 102(54)(F) shall report to the Secretary of Veterans Affairs the authorization of that emergency prescription, in accordance with such requirements as the Secretary of Veterans Affairs shall, by regulation, establish.

''(2) TO ATTORNEY GENERAL.—Not later than 30 days after the date that a prescription described in subparagraph (A) is issued, the Secretary of Veterans Affairs shall report to the Attorney General the authorization of that emergency prescription.

''(j) CLARIFICATION CONCERNING PRESCRIPTION TRANSFERS.—Any transfer between pharmacies of information relating to a prescription for a controlled substance shall meet the applicable requirements under regulations promulgated by the Attorney General under this Act.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91–513; 84 Stat. 1236) is amended by inserting after the item relating to section 310 the following:

''Sec. 311. Additional requirements relating to online pharmacies and telemedicine.''.

(e) OFFENSES INVOLVING CONTROLLED SUBSTANCES IN SCHEDULES III, IV, AND V.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking ''or in the case of any controlled substance in schedule III (other than gamma hydroxybutyric acid), or 30 milligrams of flunitrazepam''; and

(B) by adding at the end the following:

''(E)(i) Except as provided in subparagraphs (C) and (D), in the case of any controlled substance in schedule III, such person shall be sentenced to a term of imprisonment of not more than 10 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not more than 15 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $500,000 if the defendant is an individual or $2,500,000 if the defendant is other than an individual, or both.

''(ii) If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not more than 30 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both.

''(iii) Any sentence imposing a term of imprisonment under this subparagraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 4 years in addition to such term of imprisonment.'';

(2) in paragraph (2)—

(A) by striking ''3 years'' and inserting ''5 years'';

(B) by striking ''6 years'' and inserting ''10 years'';

(C) by striking ''after one or more prior convictions'' and all that follows through ''have become final,'' and inserting ''after a prior conviction for a felony drug offense has become final,''; and

(3) in paragraph (3)—

(A) by striking ''2 years'' and inserting ''4 years'';

(B) by striking ''after one or more convictions'' and all that follows through ''have become final,'' and inserting ''after a prior conviction for a felony drug offense has become final,''; and

(C) by adding at the end the following ''Any sentence imposing a term of imprisonment under this paragraph may, if there was a prior conviction, impose a term of supervised release of not more than 1 year, in addition to such term of imprisonment.''.

(f) OFFENSES INVOLVING DISPENSING OF CONTROLLED SUBSTANCES BY MEANS OF THE INTERNET.—Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by adding at the end the following:

''(h) OFFENSES INVOLVING DISPENSING OF CONTROLLED SUBSTANCES BY MEANS OF THE INTERNET.—

''(1) IN GENERAL.—It shall be unlawful for any person to knowingly or intentionally—

''(A) deliver, distribute, or dispense a controlled substance by means of the Internet, except as authorized by this title; or

''(B) aid or abet (as such terms are used in section 2 of title 18, United States Code) any activity described in subparagraph (A) that is not authorized by this title.

''(2) EXAMPLES.—Examples of activities that violate paragraph (1) include, but are not limited to, knowingly or intentionally—

''(A) delivering, distributing, or dispensing a controlled substance by means of the Internet by an online pharmacy that is not validly registered with a modification authorizing such activity as required by section 303(f) (unless exempt from such registration);

''(B) writing a prescription for a controlled substance for the purpose of delivery, distribution, or dispensation by means of the Internet in violation of section 309(e);

''(C) serving as an agent, intermediary, or other entity that causes the Internet to be used to bring together a buyer and seller to engage in the dispensing of a controlled substance in a manner not authorized by sections 303(f) or 309(e);

''(D) offering to fill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire; and

''(E) making a material false, fictitious, or fraudulent statement or representation in a notification or declaration under subsection (d) or (e), respectively, of section 311.

''(3) INAPPLICABILITY.—

''(A) This subsection does not apply to—

''(i) the delivery, distribution, or dispensation of controlled substances by nonpractitioners to the extent authorized by their registration under this title;

''(ii) the placement on the Internet of material that merely advocates the use of a controlled substance or includes pricing information without attempting to propose or facilitate an actual transaction involving a controlled substance; or

''(iii) except as provided in subparagraph (B), any activity that is limited to—

''(I) the provision of a telecommunications service, or of an Internet access service or Internet information location tool (as those terms are defined in section 231 of the Communications Act of 1934); or

''(II) the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication, without selection or alteration of the content of the communication, except that deletion of a particular communication or material made by another person in a manner consistent with section 230(c) of the Communications Act of 1934 shall not constitute such selection or alteration of the content of the communication.

''(B) The exceptions under subclauses (I) and (II) of subparagraph (A)(iii) shall not apply to a person acting in concert with a person who violates paragraph (1).

''(4) KNOWING OR INTENTIONAL VIOLATION.—Any person who knowingly or intentionally violates this subsection shall be sentenced in accordance with subsection (b).''.

(g) PUBLICATION.—Section 403(c) of the Controlled Substances Act (21 U.S.C. 843(c)) is amended by—

(1) striking ''(c)'' and inserting ''(c)(1)''; and

(2) adding at the end the following:

''(2)(A) It shall be unlawful for any person to knowingly or intentionally use the Internet, or cause the Internet to be used, to advertise the sale of, or to offer to sell, distribute, or dispense, a controlled substance where such sale, distribution, or dispensing is not authorized by this title or by the Controlled Substances Import and Export Act.

''(B) Examples of activities that violate subparagraph (A) include, but are not limited to, knowingly or intentionally causing the placement on the Internet of an advertisement that refers to or directs prospective buyers to Internet sellers of controlled substances who are not registered with a modification under section 303(f).

''(C) Subparagraph (A) does not apply to material that either—

''(i) merely advertises the distribution of controlled substances by nonpractitioners to the extent authorized by their registration under this title; or

''(ii) merely advocates the use of a controlled substance or includes pricing information without attempting to facilitate an actual transaction involving a controlled substance.''.

(h) INJUNCTIVE RELIEF.—Section 512 of the Controlled Substances Act (21 U.S.C. 882) is amended by adding at the end the following:

''(c) STATE CAUSE OF ACTION PERTAINING TO ONLINE PHARMACIES.—

''(1) IN GENERAL.—In any case in which the State has reason to believe that an interest of the residents of that State has been or is being threatened or adversely affected by the action of a person, entity, or Internet site that violates the provisions of section 303(f), 309(e), or 311, the State may bring a civil action on behalf of such residents in a district court of the United States with appropriate jurisdiction—

''(A) to enjoin the conduct which violates this section;

''(B) to enforce compliance with this section;

''(C) to obtain damages, restitution, or other compensation, including civil penalties under section 402(b); and

''(D) to obtain such other legal or equitable relief as the court may find appropriate.

''(2) SERVICE; INTERVENTION.—

''(A) Prior to filing a complaint under paragraph (1), the State shall serve a copy of the complaint upon the Attorney General and upon the United States Attorney for the judicial district in which the complaint is to be filed. In any case where such prior service is not feasible, the State shall serve the complaint on the Attorney General and the appropriate United States Attorney on the same day that the State's complaint is filed in Federal district court of the United States. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or any other proceedings under this title or any other laws of the United States.

''(B) Upon receiving notice respecting a civil action pursuant to this section, the United States shall have the right to intervene in such action and, upon so intervening, to be heard on all matters arising therein, and to file petitions for appeal.

''(C) Service of a State's complaint on the United States as required in this paragraph shall be made in accord with the requirements of rule 4(i)(1) of the Federal Rule of Civil Procedure.

''(3) POWERS CONFERRED BY STATE LAW.—For purposes of bringing any civil action under paragraph (1), nothing in this Act shall prevent an attorney general of a State from exercising the powers conferred on the attorney general of a State by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses of or the production of documentary or other evidence.

''(4) VENUE.—Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

''(5) NO PRIVATE RIGHT OF ACTION.—No private right of action is created under this subsection.

''(6) LIMITATION.—No civil action may be brought under paragraph (1) against—

''(A) the United States;

''(B) an Indian Tribe or tribal organization, to the extent such tribe or tribal organization is lawfully carrying out a contract or compact under the Indian Self-Determination and Education Assistance Act; or

''(C) any employee of the United States or such Indian tribe or tribal organization, provided such agent or employee is acting in the usual course of business or employment, and within the scope of the official duties of such agent or employee therewith.''.

(i) IMPORT AND EXPORT ACT.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) in paragraph (4)—

(A) by striking ''or any quantity of a controlled substance in schedule III, IV, or V, (except a violation involving flunitrazepam and except a violation involving gamma hydroxybutyric acid)'';

(B) by inserting ''or'' before ''less than one kilogram of hashish oil''; and

(C) by striking ''imprisoned'' and all that follows through the end of the paragraph and inserting ''sentenced in accordance with section 401(b)(1)(D).'';

(2) by adding at the end the following:

''(5) In the case of a violation of subsection (a) involving a controlled substance in schedule III, such person shall be sentenced in accordance with section 401(b)(1).

''(6) In the case of a violation of subsection (a) involving a controlled substance in schedule IV, such person shall be sentenced in accordance with section 401(b)(2).

''(7) In the case of a violation of subsection (a) involving a controlled substance in schedule V, such person shall be sentenced in accordance with section 401(b)(3).''; and

(3) in paragraph (3), by striking '', nor shall a person so sentenced be eligible for parole during the term of such a sentence'' in the final sentence.

(j) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(2) DEFINITION OF PRACTICE OF TELEMEDICINE.—

(A) IN GENERAL.—Until the earlier of 3 months after the date on which regulations are promulgated to carry out section 311(h) of the Controlled Substances Act, as amended by this Act, or 15 months after the date of enactment of this Act—

(i) the definition of the term ''practice of telemedicine'' in subparagraph (B) of this paragraph shall apply for purposes of the Controlled Substances Act; and

(ii) the definition of the term ''practice of telemedicine'' in section 102(54) of the Controlled Substances Act, as amended by this Act, shall not apply.

(B) TEMPORARY PHASE-IN OF TELEMEDICINE REGULATION.—During the period specified in subparagraph (A), the term ''practice of telemedicine'' means the practice of medicine in accordance with applicable Federal and State laws by a practitioner (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) (other than a pharmacist) who is at a location remote from the patient and is communicating with the patient, or health care professional who is treating the patient, using a telecommunications system referred to in section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)), if the practitioner is using an interactive telecommunications system that satisfies the requirements of section 410.78(a)(3) of title 42, Code of Federal Regulations.

(C) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to create a precedent that any specific course of conduct constitutes the ''practice of telemedicine'' (as that term is defined in section 102(54) of the Controlled Substances Act, as amended by this Act) after the end of the period specified in subparagraph (A).

(k) GUIDELINES AND REGULATIONS.—

(1) IN GENERAL.—The Attorney General may promulgate and enforce any rules, regulations, and procedures which may be necessary and appropriate for the efficient execution of functions under this Act or the amendments made by this Act, and, with the concurrence of the Secretary of Health and Human Services where this Act or the amendments made by this Act so provide, promulgate any interim rules necessary for the implementation of this Act or the amendments made by this Act, prior to its effective date.

(2) SENTENCING GUIDELINES.—The United States Sentencing Commission, in determining whether to amend, or establish new, guidelines or policy statements, to conform the Federal sentencing guidelines and policy statements to this Act and the amendments made by this Act, should not construe any change in the maximum penalty for a violation involving a controlled substance in a particular schedule as being the sole reason to amend, or establish a new, guideline or policy statement.

(l) ANNUAL REPORT.—Not later than 180 days after the date of enactment of this Act, and annually for 2 years after the initial report, the Drug Enforcement Administration, in consultation with the Department of State, shall submit to Congress a report describing—

(1) the foreign supply chains and sources of controlled substances offered for sale without a valid prescription on the Internet;

(2) the efforts and strategy of the Drug Enforcement Administration to decrease the foreign supply chain and sources of controlled substances offered for sale without a valid prescription on the Internet; and

(3) the efforts of the Drug Enforcement Administration to work with domestic and multinational pharmaceutical companies and others to build international cooperation and a commitment to fight on a global scale the problem of distribution of controlled substances over the Internet without a valid prescription.

SEC. 4. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall be construed as authorizing, prohibiting, or limiting the use of electronic prescriptions for controlled substances.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Texas (Mr. BURGESS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

GENERAL LEAVE

Mr. PALLONE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 6353, the Ryan Haight Online Pharmacy Consumer Protection Act of 2008. This legislation addresses serious concerns about the purchase of controlled substances through online pharmacies.

According to the Drug Enforcement Agency, nearly seven million Americans are abusing prescription drugs, more than the number who are abusing cocaine, heroin, hallucinogens, ecstasy and inhalants combined.

Prescription pain relievers are new drug users' drug of choice. Nearly one in 10 high school seniors admits to abusing powerful prescription pain relievers. And prescription pain relievers appear to be among the drugs most heavily dispensed by certain Internet pharmacies using prescriptions that are issued based on online questionnaires. Most times, the doctor providing the prescription has never seen the patient or even had a conversation with them. This practice has sometimes been abused by rogue sites and it has led to instances of addiction, overdose and death.

H.R. 6353 will go a long way in combating this harmful practice. The bill prohibits the delivery, distribution, or dispensing of controlled substances over the Internet without a valid prescription. A valid prescription is defined as a prescription that is issued for a legitimate purpose by a practitioner who has conducted at least one in-person medical evaluation of the patient.

H.R. 6353 also imposes new registration and reporting requirements for online pharmacies. The legislation before us also increases criminal penalties involving controlled substances in Schedules II, IV and V of the Controlled Substances Act.

H.R. 6353 is named after Ryan Haight, a young man who unfortunately was the victim of illegal sales of pharmaceuticals through the Internet. Ryan died on February 12, 2001 at the age of 18 from an overdose of prescription drugs he had purchased on the Internet. Ryan was prescribed the drugs by a doctor whom he never saw and was never examined by, and an Internet pharmacy delivered them to his home.

H.R. 6353 is the result of the leadership of Representative BART STUPAK and the hard work and cooperation of the Democratic and Republican members of the Energy and Commerce Committee and the Judiciary Committee.

The bill is a bipartisan product. It enjoys the support of the administration and the National Association of Chain Drug Stores.

I strongly urge all of my colleagues to vote to prevent another needless death similar to that of Ryan Haight and vote for the passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BURGESS. Mr. Speaker, I yield myself such time as I may consume and rise in support of H.R. 6353. I would like to commend Congressman BART STUPAK and Ranking Member LAMAR SMITH of the Judiciary Committee for their work on this bill.

This bill prohibits the delivery, distribution or dispensing of controlled substances over the Internet without a valid prescription. Ryan Haight overdosed and died on February 12, 2001

on narcotics that he had purchased over the Internet. He was prescribed the medication from a doctor on the Internet, and the doctor never examined the patient. He was 17 when he purchased the narcotics and 18 when he died.

This bill will provide the Drug Enforcement Agency better tools to combat rogue Internet sites that are peddling narcotics to our children.

I urge Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield 5 minutes to the gentlewoman from California. Again, Mrs. CAPPS has played such an important role on this and other bills of this nature that are important. Reading about this legislation, it really is so crucial.

Mrs. CAPPS. I thank our chairman for yielding and for his leadership.

Mr. Speaker, I rise in support of H.R. 6353, the Ryan Haight Online Pharmacy bill. And in doing so, I want to pay tribute to its author, BART STUPAK, who would be here giving this statement except that his voice ran out tonight. So I am stepping in on his behalf, but it is something that I truly support as well.

Nearly 7 million Americans are abusing prescription drugs; more than the number of individuals who are abusing cocaine, heroin, hallucinogens, ecstasy and inhalants all combined.

Over the past 6 years, we have witnessed a dramatic 80 percent increase in prescription drug abuse from 3.8 million to 7 million. That's more than double. A large number of individuals are obtaining their prescription drugs over the Internet through rogue Internet pharmacies.

Purchasing drugs online without a valid prescription can be simple: A consumer just types the name of the drug into a search engine, quickly identifies a site selling the medication, fills out a brief questionnaire, and then clicks to purchase.

The risks of self-medicating, however, can include potential adverse reactions from inappropriately prescribed medicines, dangerous drug interactions, use of counterfeit or tainted products, and addiction to habit-forming substances.

Several of these illegitimate sites failed to produce information about potential adverse side effects, effectiveness, and where the pharmacies are located.

A 2004 GAO study obtained 68 samples of 11 different prescription drugs, each from a different Web site. GAO found that 45 online pharmacies provided a prescription based on their own medical questionnaire or had no prescription requirement. Among the drugs GAO obtained without prescription were those with special safety restrictions and highly addictive narcotic pain killers.

The tragic case of Ryan Haight has already been mentioned. His mother has testified before Congress and is nationally known. Ryan died at the age of 18, as has been stated, from an overdose of pain killers, including Vicodin. He ordered these over the Internet without a legitimate prescription while he was a 17-year-old minor.

The Ryan Haight Online Pharmacy Consumer Protection Act would bar the sale or distribution of all controlled substances via the Internet without a valid prescription. In order for a prescription to be valid, it must be issued by a practitioner who has conducted at least one in-person examination of the particular patient.

H.R. 6353 would also require online pharmacies to clearly display on their Web site a statement of compliance with U.S. laws and DEA regulations. This would allow consumers to clearly identify which pharmacies are safe and which are not.

This legislation also creates a new Federal cause of action that would allow a State attorney general to shut down a rogue site selling controlled substances in any State and increase the penalties for all illegal distributions of controlled substances classified as Schedule III, IV or V substances.

This legislation is supported by the administration, including the DEA and FDA, the Chain Drug Stores, Go Daddy, eBay, Federation of State Medical Boards, and the Fraternal Order of Police.

I encourage all of my colleagues to vote in favor of this legislation. I thank Congressman LAMAR SMITH, Congresswoman MARY BONO MACK, Senator FEINSTEIN, Chairman DINGELL and Ranking Member BARTON. I also want to thank Virgil Miller, Ryan Long, Caroline Lynch and Jeff Spalding with the committee staff, and Erika Orloff of Mr. STUPAK's personal staff for their hard work on this bill.

Mr. BURGESS. I yield back the balance of my time.

Mr. PALLONE. Mr. Speaker, I want to urge, strongly, passage of this important bill regarding consumer protection for controlled substances.

Mr. SMITH of Texas. Mr. Speaker, America is no stranger to the plague of illegal drugs and drug addiction. For decades, Congress has fought to curb the flow of drugs such as heroin, cocaine, and marijuana into our country.

Today, America is facing a new threat—prescription drug abuse. According to the Office of National Drug Control Policy, prescription drugs now rank second—only behind marijuana—as America's drug of choice.

The Drug Enforcement Administration estimates that as many as 7 million Americans are addicted to prescription drugs—more than the number of cocaine and heroin addicts combined.

Today, prescription painkillers cause a higher number of overdose-related deaths than cocaine or heroin. And large quantities of these drugs are just a few mouse clicks away. The dangers posed by illegal online pharmacies are real. The National Center on Addiction and Substance Abuse reports a 542-percent increase in abuse of prescription opiates among 12- to 17-year olds between 1992 and 2002.

Hundreds of rogue online pharmacies peddle these highly-addictive painkillers to adults and teenagers without a valid prescription. The most popular of these drugs is commonly known as Vicodin.

Teenagers are fast becoming addicted to prescription painkillers, in large part because of their availability on the Internet. The Partnership for a Drug Free America reports that every day, 2,500 teenagers use a prescription drug to get high for the first time. Teenagers are abusing prescription drugs at a higher rate because they perceive them as less dangerous than illegal drugs.

Today, the House has the opportunity to put a stop to illegal online pharmacies. I am pleased to join Congressman BART STUPAK and Congresswoman MARY BONO MACK as an original sponsor of H.R. 6353, the Ryan Haight Online Pharmacy Consumer Protection Act of 2008.

On February 12, 2001, Ryan Haight died of an overdose of Vicodin. He was just 18. An investigation into his death revealed that Ryan ordered the drugs from a doctor he had never seen and who had never examined him. The drugs were shipped directly to his home by an online pharmacy.

This legislation amends the Controlled Substances Act to address the growing sale of prescription drugs by these so-called online pharmacies. The bill prohibits the sale or distribution of all controlled substances via the Internet without a valid prescription and requires online pharmacies to display information identifying the business and any pharmacy and doctor associated with the Web site. The bill also provides tough penalties for the illegal sale of prescription drugs.

Legislation sponsored by Senators FEINSTEIN and SESSIONS unanimously passed the Senate in April. It is time for the House to do the same.

This legislation represents months of hard work and bipartisan negotiations by House and Senate Republicans and Democrats. I wish to thank my House colleagues, Mr. STUPAK and Mrs. BONO MACK and my Senate colleagues, Senators FEINSTEIN and SESSIONS, for their efforts to complete this legislation.

I urge my colleagues to join me in supporting this important bill.

Mrs. BACHMANN. Mr. Speaker, the House considered and passed H.R. 6353, the Ryan Haight Online Pharmacy Consumer Protection Act. This legislation will ensure that purchasers of potentially dangerous prescription drugs are evaluated face-to-face by a physician, removing the potentially dangerous anonymity inherent in the current federal regulations which allow prescriptions to be written based on a telephone call or online questionnaire.

To be sure, online pharmaceuticals makes it possible for millions of Americans to conveniently and affordably access the prescription medications on which they rely. However, the online system of prescribing and dispensing

medication has been accompanied by a disturbing increase in the level of harm and death due to prescription drugs. This increase is, in large part, a result of the current federal guidelines that allow online pharmacies to write prescriptions for patients based on a telephone conversation with a physician or a simple online questionnaire, empowering patients to diagnose and prescribe for themselves virtually any drug and dosage they desire. Without the necessary information for adequate oversight by a qualified physician, many people have been exposed to dangerous and, all too often, deadly medications.

In response, many states have enacted laws requiring that individuals seeking access to powerful medications such as Vicoden and Xanax be evaluated in person before being prescribed a controlled substance. For example, in my state of Minnesota, the legislature and governor have recently worked together to establish Justin's Law. Named for a vibrant young man whose bright future was cut short by an overdose of prescription painkillers obtained through an internet pharmacy without a physician visit, Justin's Law has already been implemented to hold illicit online pharmacies accountable.

That said, the lives affected by online pharmacies are not limited to a particular state, and moreover, the interstate nature of the commerce conducted via the internet warrants that legislation be enacted at the federal level to help protect online consumers. As a result, I applaud my colleague, Congressman STUPAK for introducing H.R. 6353. This legislation, of which I am a cosponsor, will help stem the dangerous tide of controlled substances being dispensed without adequate supervision.

Mr. PALLONE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. PALLONE) that the House suspend the rules and pass the bill, H.R. 6353, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CODE TALKERS RECOGNITION ACT OF 2008

Mr. GUTIERREZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4544) to require the issuance of medals to recognize the dedication and valor of Native American code talkers, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4544

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 ''Code Talkers Recognition Act of 2008''.

SEC. 2. PURPOSE.

The purpose of this Act is to require the issuance of medals to express the sense of the Congress that—

(1) the service of Native American code talkers to the United States deserves immediate recognition for dedication and valor; and

(2) honoring Native American code talkers is long overdue.

SEC. 3. FINDINGS.

The Congress finds the following:

(1) When the United States entered World War I, Native Americans were not accorded the status of citizens of the United States.

(2) Without regard to that lack of citizenship, members of Indian tribes and nations enlisted in the Armed Forces to fight on behalf of the United States.

(3) The first reported use of Native American code talkers was on October 17, 1918.

(4) Because the language used by the Choctaw code talkers in the transmission of information was not based on a European language or on a mathematical progression, the Germans were unable to understand any of the transmissions.

(5) This use of Native American code talkers was the first time in modern warfare that such a transmission of messages in a native language was used for the purpose of confusing an enemy.

(6) On December 7, 1941, Japan attacked Pearl Harbor, Hawaii, and the Congress declared war the following day.

(7) The Federal Government called on the Comanche Nation to support the military effort during World War II by recruiting and enlisting Comanche men to serve in the Army to develop a secret code based on the Comanche language.

(8) The United States Army recruited approximately 50 Native Americans for special native language communication assignments.

(9) The United States Marine Corps recruited several hundred Navajos for duty in the Pacific region.

(10) During World War II, the United States employed Native American code talkers who developed secret means of communication based on native languages and were critical to winning the war.

(11) To the frustration of the enemies of the United States, the code developed by the Native American code talkers proved to be unbreakable and was used extensively throughout the European theater.

(12) In 2001, the Congress and President Bush honored Navajo code talkers with congressional gold medals for the contributions of the code talkers to the United States Armed Forces as radio operators during World War II.

(13) The heroic and dramatic contributions of Native American code talkers were instrumental in driving back Axis forces across the Pacific during World War II.

(14) The Congress should provide to all Native American code talkers the recognition the code talkers deserve for the contributions of the code talkers to United States victories in World War I and World War II.

SEC. 4. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) CODE TALKER.—The term ''code talker'' means a Native American who—

(A) served in the Armed Forces during a foreign conflict in which the United States was involved; and

(B) transmitted (encoded and translated) secret coded messages for tactical military operations during World War I and World War II using their native tribal language (non-spontaneous communications)

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

SEC. 5. CONGRESSIONAL GOLD MEDALS.

(a) AWARD AUTHORIZATION.—The Speaker of the House of Representatives and the President pro tempore of the Senate shall make appropriate arrangements for the award, on behalf of the Congress, of gold medals of appropriate design in recognition of the service of Native American code talkers during World War I and World War II.

(b) IDENTIFICATION OF RECIPIENTS.—The Secretary, in consultation with the Secretary of Defense and the tribes, shall—

(1) determine the identity, to the maximum extent practicable, of each Native American tribe that had a member of that tribe serve as a Native American code talker, with the exception of the Navajo Nation;

(2) include the name of each Native American tribe identified under subparagraph (A) on a list; and

(3) provide the list, and any updates to the list, to the Smithsonian Institution for maintenance under section 5(c)(2).

(c) DESIGN AND STRIKING OF MEDALS.—

(1) IN GENERAL.—The Secretary shall strike the gold medals awarded under subsection (a) with appropriate emblems, devices, and inscriptions, as determined by the Secretary.

(2) DESIGNS OF MEDALS EMBLEMATIC OF TRIBAL AFFILIATION AND PARTICIPATION.—The design of a gold medal under paragraph (1) shall be emblematic of the participation of the code talkers of each recognized tribe.

(3) TREATMENT.—Each medal struck pursuant to this subsection shall be considered to be a national medal for purposes of chapter 51 of title 31, United States Code.

(d) ACTION BY SMITHSONIAN INSTITUTION.—The Smithsonian Institution—

(1) shall accept and maintain such gold medals, and such silver duplicates of those medals, as recognized tribes elect to send to the Smithsonian Institution;

(2) shall maintain the list developed under section 6(1) of the names of Native American code talkers of each recognized tribe; and

(3) is encouraged to create a standing exhibit for Native American code talkers or Native American veterans.

SEC. 6. NATIVE AMERICAN CODE TALKERS.

The Secretary, in consultation with the Secretary of Defense and the tribes, shall—

(1) with respect to tribes recognized as of the date of the enactment of this Act —

(A) determine the identity, to the maximum extent practicable, of each Native American code talker of each recognized tribe with the exception of the Navajo Nation;

(B) include the name of each Native American code talker identified under subparagraph (A) on a list, to be organized by recognized tribe; and

(C) provide the list, and any updates to the list, to the Smithsonian Institution for maintenance under section 5(d)(2);

(2) in the future, determine whether any Indian tribe that is not a recognized as of the date of the enactment of this Act, should be eligible to receive a gold medal under this Act; and

(3) with consultation from the tribes listed in following subsection, examine the following specific tribes to determine the existence of Code Talkers:

(A) Assiniboine.
(B) Chippewa and Oneida.
(C) Choctaw.
(D) Comanche.
(E) Cree.
(F) Crow.
(G) Hopi.
(H) Kiowa.
(I) Menominee.
(J) Mississauga.
(K) Muscogee.
(L) Sac and Fox.
(M) Sioux.

SEC. 7. DUPLICATE MEDALS.

(a) SILVER DUPLICATE MEDALS.—

(1) IN GENERAL.—The Secretary shall strike duplicates in silver of the gold medals struck