

(2) **FEDERAL REGISTER.**—The Secretary shall publish notice of the effective date of the cost-sharing requirements specified under paragraph (1) in the Federal Register.

SEC. 705. PILOT PROGRAM ON REFILLS OF MAINTENANCE MEDICATIONS THROUGH THE TRICARE MAIL-ORDER PHARMACY PROGRAM.

(a) **IN GENERAL.**—The Secretary of Defense shall conduct a pilot program to refill prescription maintenance medications for each TRICARE for Life beneficiary through the national mail-order pharmacy program under section 1074g(a)(2)(E)(iii) of title 10, United States Code.

(b) **MEDICATIONS COVERED.**—

(1) **DETERMINATION.**—The Secretary shall determine the prescription maintenance medications included in the pilot program under subsection (a).

(2) **SUPPLY.**—In carrying out the pilot program, the Secretary shall ensure that the medications included in the program are—

(A) generally available through retail pharmacies for an initial filling of a 30-day or less supply; and

(B) obtained by refill through the national mail-order pharmacy program.

(3) **NO DENIAL.**—In the instance when a refill of such maintenance medication is not obtained through a national mail-order pharmacy program, the Secretary shall ensure that beneficiaries are provided a supply at a retail pharmacy for a limited period of time. The Secretary may impose a cost-sharing requirement on beneficiaries accessing such supply.

(4) **EXEMPTION.**—The Secretary may exempt the following prescription maintenance medications from the requirements in paragraph (2):

(A) Medications for acute care needs.

(B) Medications dispensed to patients in long-term care facilities.

(C) Such other medications as the Secretary considers appropriate.

(c) **NONPARTICIPATION.**—

(1) **OPT OUT.**—The Secretary shall give beneficiaries who have been covered by the pilot program under subsection (a) for a period of at least one year an opportunity to opt out of continuing to participate in the pilot program.

(2) **WAIVER.**—The Secretary may waive the requirement for a beneficiary to participate in the pilot program if the Secretary determines, on an individual basis, that the waiver is appropriate.

(d) **OPERATION OF PROGRAM.**—In carrying out the pilot program, the Secretary shall ensure that the operational responsibilities for the national mail-order pharmacy program for purposes of the pilot program are awarded through full and open competition.

(e) **REPORTS.**—Not later than March 31 of each year beginning in 2014 and ending in 2018, the Secretary shall submit to the congressional defense committees a report on the pilot program under subsection (a), including the effects of offering incentives for the use of mail-order pharmacies by TRICARE for Life beneficiaries, access to maintenance medications, and the effect on retail pharmacies.

(f) **TRICARE FOR LIFE BENEFICIARY DEFINED.**—In this section, the term “TRICARE for Life beneficiary” means a beneficiary under the TRICARE program who is enrolled in the Medicare wraparound coverage option of the TRICARE program made available to the beneficiary by reason of section 1086(d) of title 10, United States Code.

(g) **SUNSET.**—The Secretary may not carry out the pilot program under subsection (a) after December 31, 2017.

SA 3018. Mrs. FEINSTEIN (for herself, Mr. LEE, Mr. COONS, Ms. COLLINS,

Mr. PAUL, Mr. LAUTENBERG, Mrs. GILLIBRAND, and Mr. KIRK) submitted an amendment intended to be proposed by her to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

At the end of subtitle D of title X, add the following:

SEC. 1032. PROHIBITION ON THE INDEFINITE DETENTION OF CITIZENS AND LAWFUL PERMANENT RESIDENTS.

Section 4001 of title 18, United States Code, is amended—

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

(2) by inserting after subsection (a) the following:

“(b)(1) An authorization to use military force, a declaration of war, or any similar authority shall not authorize the detention without charge or trial of a citizen or lawful permanent resident of the United States apprehended in the United States, unless an Act of Congress expressly authorizes such detention.

“(2) Paragraph (1) applies to an authorization to use military force, a declaration of war, or any similar authority enacted before, on, or after the date of the enactment of the National Defense Authorization Act For Fiscal Year 2013.

“(3) Paragraph (1) shall not be construed to authorize the detention of a citizen of the United States, a lawful permanent resident of the United States, or any other person who is apprehended in the United States.”.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 27, 2012, at 10 a.m., to hold a hearing entitled, “Update on Arms Control Matters”.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. HARKIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on November 27, 2012, at 2:30 p.m.

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

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that John Daley, a State Department detailee to the Foreign Relations Committee, be given floor privileges during the debate on the disabilities treaty.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I ask unanimous consent, on behalf of Senator MURRAY, that Jake Cornett, a fel-

low in her office, be granted floor privileges for the remainder of the 112th Congress.

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

THEFT OF TRADE SECRETS CLARIFICATION ACT OF 2012

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3642.

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

The legislative clerk read as follows:

A bill (S. 3642) to clarify the scope of the Economic Espionage Act of 1996.

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

Mr. LEAHY. Mr. President, I am pleased that the Senate today will pass this simple, commonsense legislation to clarify a provision of the Economic Espionage Act and thereby help protect American businesses and American jobs.

The Economic Espionage Act makes it a crime to, among other things, steal a trade secret knowing that the theft will hurt the owner. This is an important protection for American businesses, which often choose trade secret protection over other forms of intellectual property protection.

A recent decision of the Second Circuit in *United States v. Aleynikov* casts doubt on the reach of the statute. A jury in that case found the defendant guilty of stealing computer code from his employer. The court overturned the conviction, holding among other things that the trade secret did not meet the interstate commerce prong of the statute, even though the defendant had copied the stolen code from his office in New York to a server in Germany; downloaded the code to his home computer in New Jersey; then flew to his new job in Illinois with the stolen source code in his possession; and the code was used in interstate commerce.

The court held that the Economic Espionage Act provision applies only to trade secrets that are part of a product that is produced to be placed in interstate commerce. Because the company's proprietary software was neither placed in interstate commerce, nor produced to be placed in interstate commerce, the law did not apply—even though the stolen source code was part of a financial trading system that was used in interstate commerce every day.

The clarifying legislation that the Senate will pass today corrects the court's narrow reading to ensure that our federal criminal laws adequately address the theft of trade secrets related to a product or service used in interstate commerce. It is a straightforward fix, but an important one, as we work to ensure that American companies can protect the products they work so hard to develop, so they may continue to grow and thrive. I urge the House to act quickly to pass this commonsense legislation.