

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.

Thank you. I yield the floor.

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, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2783) was agreed to.

The amendment (No. 2782) was agreed to.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 692), as amended, was 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. 1561.

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 black 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,*

#### [SECTION 1. SHORT TITLE.

[This Act may be cited as the "Date-Rape Drug Control Act of 1999".]

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 1999".*

#### SEC. 2. FINDINGS.

Congress finds as follows:

(1) Gamma hydroxybutyric acid (also called G, Liquid X, Liquid Ecstasy, Grievous

Bodily Harm, Georgia Home Boy, Scoop) has become a significant and growing 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-changing 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 as impact builds are comparable to alcohol ingestion/intoxication. 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 precursor chemicals is a significant and growing law enforcement problem.

(5) A human pharmaceutical formulation of gamma hydroxybutyric acid is 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 I.—

[(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 schedule I 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 substance 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, gamma hydroxybutyric acid and its salts, isomers, and salts of isomers manufactured, distributed, or possessed in accordance with an exemption approved under section 505(i) 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.

[(b) ADDITION TO SCHEDULE III.—Schedule III under section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended in (b)—

[(1) by redesignating (4) through (10) as (6) through (12), respectively; and

[(2) by redesignating (3) as (4);

[(3) by inserting after (2) the following:

["(3) Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained

in a drug product for which an application has been approved under section 505 of the Federal Food, Drug, and Cosmetic Act."]; and

[(4) by inserting after (4) (as so redesignated) the following:

["(5) Ketamine and its salts, isomers, and salts of isomers."]

[(c) ADDITIONAL LIST I CHEMICAL.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended—

[(1) by redesignating subparagraph (X) as subparagraph (Y); and

[(2) by inserting after subparagraph (W) the following subparagraph:

["(X) Gamma butyrolactone."]

[(d) RULE OF CONSTRUCTION REGARDING CONTROLLED SUBSTANCE ANALOGUES.—Section 102(32) of the Controlled Substances Act (21 U.S.C. 802(32)) is amended—

[(1) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraph (C)";

[(2) by redesignating subparagraph (B) as subparagraph (C); and

[(3) by inserting after subparagraph (A) the following new subparagraph (B):

["(B) The designation of gamma butyrolactone or any other chemical as a listed chemical pursuant to paragraph (34) or (35) does not preclude a finding pursuant to subparagraph (A) that the chemical is a controlled substance analogue."]

[(e) PENALTIES REGARDING SCHEDULE I.—

[(1) IN GENERAL.—Section 401(b)(1)(C) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(C)) is amended in the first sentence by inserting after "schedule I or II," the following: "gamma hydroxybutyric acid in schedule III,"]

[(2) CONFORMING AMENDMENT.—Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended by inserting "other than gamma hydroxybutyric acid)" after "schedule III".

[(f) DISTRIBUTION WITH INTENT TO COMMIT CRIME OF VIOLENCE.—Section 401(b)(7)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(7)(A)) is amended by inserting "or controlled substance analogue" after "distributing a controlled substance".]

#### SEC. 3. EMERGENCY SCHEDULING OF GAMMA HYDROXYBUTYRIC ACID AND LISTING OF GAMMA BUTYROLACTONE AS LIST I CHEMICAL.

(a) EMERGENCY SCHEDULING OF GHB.—

(1) IN GENERAL.—The Congress finds that the abuse of illicit gamma hydroxybutyric acid is an imminent hazard to the public safety. Accordingly, the Attorney General, notwithstanding sections 201(a), 201(b), 201(c), and 202 of the Controlled Substances Act, shall issue, not later than 60 days after the date of the enactment of this Act, a final order that schedules such drug (together with its salts, isomers, and salts of isomers) in the same schedule under section 202(c) of the Controlled Substances Act as would apply to a scheduling of a substance by the Attorney General under section 201(h)(1) of such Act (relating to imminent hazards to the public safety), except as follows:

(A) For purposes of any requirements that relate to the physical security of registered manufacturers and registered distributors, the final order shall treat such drug, when the drug is manufactured, distributed, or possessed in accordance with an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (whether the exemption involved is authorized before, on, or after the date of the enactment of this Act), as being in the same schedule as that recommended by the Secretary of Health and Human Services for the drug when the drug is the subject of an authorized investigational new drug application (relating to such section 505(i)). The recommendation referred to in the preceding sentence is contained in the first paragraph of the letter transmitted on May 19, 1999, by such Secretary (acting through the Assistant Secretary for Health) to the Attorney

General (acting through the Deputy Administrator of the Drug Enforcement Administration), which letter was in response to the letter transmitted by the Attorney General (acting through such Deputy Administrator) on September 16, 1997. In publishing the final order in the Federal Register, the Attorney General shall publish a copy of the letter that was transmitted by the Secretary of Health and Human Services.

(B) In the case of gamma hydroxybutyric acid that is contained in a drug product for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act (whether the application involved is approved before, on, or after the date of the enactment of this Act), the final order shall schedule such drug in the same schedule as that recommended by the Secretary of Health and Human Services for authorized formulations of the drug. The recommendation referred to in the preceding sentence is contained in the last sentence of the fourth paragraph of the letter referred to in subparagraph (A) with respect to May 19, 1999.

(2) FAILURE TO ISSUE ORDER.—If the final order is not issued within the period specified in paragraph (1), gamma hydroxybutyric acid (together with its salts, isomers, and salts of isomers) is deemed to be scheduled under section 202(c) of the Controlled Substances Act in accordance with the policies described in paragraph (1), as if the Attorney General had issued a final order in accordance with such paragraph.

(b) ADDITIONAL PENALTIES RELATING TO GHB.—

(1) CONTROLLED SUBSTANCES ACT.—

(A) IN GENERAL.—Section 401(b)(1)(C) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(C)) is amended in the first sentence by inserting after “schedule I or II,” the following: “gamma hydroxybutyric acid (including when scheduled as an approved drug product for purposes of section 3(a)(1)(B) of the Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 1999).”.

(B) CONFORMING AMENDMENT.—Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended by striking “, or 30” and inserting “(other than gamma hydroxybutyric acid), or 30”.

(2) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—

(A) IN GENERAL.—Section 1010(b)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(3)) is amended in the first sentence by inserting after “I or II,” the following: “gamma hydroxybutyric acid (including when scheduled as an approved drug product for purposes of section 3(a)(1)(B) of the Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 1999).”.

(B) CONFORMING AMENDMENT.—Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking “flunitrazepam” and inserting the following: “flunitrazepam and except a violation involving gamma hydroxybutyric acid”).

(C) GAMMA BUTYROLACTONE AS ADDITIONAL LIST I CHEMICAL.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended—

(1) by redesignating subparagraph (X) as subparagraph (Y); and

(2) by inserting after subparagraph (W) the following subparagraph:

“(X) Gamma butyrolactone.”.

#### SEC. 4. AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS FOR GAMMA HYDROXYBUTYRIC PRODUCTS IN SCHEDULE III.

Section 307 of the Controlled Substances Act (21 U.S.C. 827) is amended by adding at the end the following:

“(h) In the case of a drug product containing gamma hydroxybutyric acid for which an application has been approved under section 505 of the Federal Food, Drug, and Cosmetic Act, the Attorney General

may, in addition to any other requirements that apply under this section with respect to such a drug product, establish any of the following as reporting requirements:

“(1) That every person who is registered as a manufacturer of bulk or dosage form, as a packager, repackager, labeler, relabeler, or distributor shall report acquisition and distribution transactions quarterly, not later than the 15th day of the month succeeding the quarter for which the report is submitted, and annually report end-of-year inventories.

“(2) That all annual inventory reports shall be filed no later than January 15 of the year following that for which the report is submitted and include data on the stocks of the drug product, drug substance, bulk drug, and dosage forms on hand as of the close of business December 31, indicating whether materials reported are in storage or in process of manufacturing.

“(3) That every person who is registered as a manufacturer of bulk or dosage form shall report all manufacturing transactions both inventory increases, including purchases, transfers, and returns, and reductions from inventory, including sales, transfers, theft, destruction, and seizure, and shall provide data on material manufactured, manufactured from other material, use in manufacturing other material, and use in manufacturing dosage forms.

“(4) That all reports under this section must include the registered person's registration number as well as the registration numbers, names, and other identifying information of vendors, suppliers, and customers, sufficient to allow the Attorney General to track the receipt and distribution of the drug.

“(5) That each dispensing practitioner shall maintain for each prescription the name of the prescribing practitioner, the prescribing practitioner's Federal and State registration numbers, with the expiration dates of these registrations, verification that the prescribing practitioner possesses the appropriate registration to prescribe this controlled substance, the patient's name and address, the name of the patient's insurance provider and documentation by a medical practitioner licensed and registered to prescribe the drug of the patient's medical need for the drug. Such information shall be available for inspection and copying by the Attorney General.

“(6) That section 310(b)(3) (relating to mail order reporting) applies with respect to gamma hydroxybutyric acid to the same extent and in the same manner as such section applies with respect to the chemicals and drug products specified in subparagraph (A)(i) of such section.”.

#### ISEC. 5. DEVELOPMENT OF FORENSIC FIELD TESTS FOR GAMMA HYDROXYBUTYRIC ACID.

[The Attorney General shall make a grant for the development of forensic field tests to assist law enforcement officials in detecting the presence of gamma hydroxybutyric acid and related substances.]

#### SEC. 5. CONTROLLED SUBSTANCES ANALOGUES.

(a) RULE OF CONSTRUCTION REGARDING CONTROLLED SUBSTANCE ANALOGUES.—Section 102(32) of the Controlled Substances Act (21 U.S.C. 802(32)) is amended—

(1) in subparagraph (A), by striking “subparagraph (B)” and inserting “subparagraph (C)”; and

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

“(B) The designation of gamma butyrolactone or any other chemical as a listed chemical pursuant to paragraph (34) or (35) does not pre-

clude a finding pursuant to subparagraph (A) of this paragraph that the chemical is a controlled substance analogue.”.

(b) DISTRIBUTION WITH INTENT TO COMMIT CRIME OF VIOLENCE.—Section 401(b)(7)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(7)(A)) is amended by inserting “or controlled substance analogue” after “distributing a controlled substance”.

#### SEC. 6. DEVELOPMENT OF MODEL PROTOCOLS, TRAINING MATERIALS, FORENSIC FIELD TESTS, AND COORDINATION MECHANISM FOR INVESTIGATIONS AND PROSECUTIONS RELATING TO GAMMA HYDROXYBUTYRIC ACID, OTHER CONTROLLED SUBSTANCES, AND DESIGNER DRUGS.

(a) IN GENERAL.—The Attorney General, in consultation with the Administrator of the Drug Enforcement Administration and the Director of the Federal Bureau of Investigation, shall—

(1) develop—

(A) model protocols for the collection of toxicology specimens and the taking of victim statements in connection with investigations into and prosecutions related to possible violations of the Controlled Substances Act or other Federal or State laws that result in or contribute to rape, other crimes of violence, or other crimes involving abuse of gamma hydroxybutyric acid, other controlled substances, or so-called “designer drugs”; and

(B) model training materials for law enforcement personnel involved in such investigations; and

(2) make such protocols and training materials available to Federal, State, and local personnel responsible for such investigations.

(b) GRANT.—

(1) IN GENERAL.—The Attorney General shall make a grant, in such amount and to such public or private person or entity as the Attorney General considers appropriate, for the development of forensic field tests to assist law enforcement officials in detecting the presence of gamma hydroxybutyric acid and related substances.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and House of Representatives a report on current mechanisms for coordinating Federal, State, and local investigations into and prosecutions related to possible violations of the Controlled Substances Act or other Federal or State laws that result in or contribute to rape, other crimes of violence, or other crimes involving the abuse of gamma hydroxybutyric acid, other controlled substances, or so-called “designer drugs”. The report shall also include recommendations for the improvement of such mechanisms.

#### ISEC. 6. ANNUAL REPORT REGARDING DATE-RAPE DRUGS; NATIONAL AWARENESS CAMPAIGN.]

#### SEC. 7. ANNUAL REPORT REGARDING DATE-RAPE DRUGS; NATIONAL AWARENESS CAMPAIGN.

(a) ANNUAL REPORT.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall periodically submit to Congress reports each of which provides an estimate of the number of incidents of the abuse of date-rape drugs (as defined in subsection (c)) that occurred during the most recent one-year period for which data are available. The first such report shall be submitted not later than January 15, 2000, and subsequent reports shall be submitted annually thereafter.

(b) NATIONAL AWARENESS CAMPAIGN.—

(1) DEVELOPMENT OF PLAN; RECOMMENDATIONS OF ADVISORY COMMITTEE.—

(A) IN GENERAL.—The Secretary, in consultation with the Attorney General, shall

develop a plan for carrying out a national campaign to educate individuals described in subparagraph (B) on the following:

(i) The dangers of date-rape drugs.  
(ii) The applicability of the Controlled Substances Act to such drugs, including penalties under such Act.

(iii) Recognizing the symptoms that indicate an individual may be a victim of such drugs, including symptoms with respect to sexual assault.

(iv) Appropriately responding when an individual has such symptoms.

(B) INTENDED POPULATION.—The individuals referred to in subparagraph (A) are young adults, youths, law enforcement personnel, educators, school nurses, counselors of rape victims, and emergency room personnel in hospitals.

(C) ADVISORY COMMITTEE.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish an advisory committee to make recommendations to the Secretary regarding the plan under subparagraph (A). The committee shall be composed of individuals who collectively possess expertise on the effects of date-rape drugs and on detecting and controlling the drugs.

(2) IMPLEMENTATION OF PLAN.—Not later than 180 days after the date on which the advisory committee under paragraph (1) is established, the Secretary, in consultation with the Attorney General, shall commence carrying out the national campaign under such paragraph in accordance with the plan developed under such paragraph. The campaign may be carried out directly by the Secretary and through grants and contracts.

(3) EVALUATION BY GENERAL ACCOUNTING OFFICE.—Not later than two years after the date on which the national campaign under paragraph (1) is commenced, the Comptroller General of the United States shall submit to Congress an evaluation of the effects with respect to date-rape drugs of the national campaign.

(C) DEFINITION.—For purposes of this section, the term "date-rape drugs" means gamma hydroxybutyric acid and its salts, isomers, and salts of isomers and such other drugs or substances as the Secretary, after consultation with the Attorney General, determines to be appropriate.

**SEC. 8. SPECIAL UNIT IN DRUG ENFORCEMENT ADMINISTRATION FOR ASSESSMENT OF ABUSE AND TRAFFICKING OF GHB AND OTHER CONTROLLED SUBSTANCES AND DRUGS.**

(a) ESTABLISHMENT.—Not later than 60 days after the date of the enactment of this Act, the Attorney General shall establish within the Operations Division of the Drug Enforcement Administration a special unit which shall assess the abuse of and trafficking in gamma hydroxybutyric acid, flunitrazepam, ketamine, other controlled substances, and other so-called "designer drugs" whose use has been associated with sexual assault.

(b) PARTICULAR DUTIES.—In carrying out the assessment under subsection (a), the special unit shall—

(1) examine the threat posed by the substances and drugs referred to in that subsection on a national basis and regional basis; and

(2) make recommendations to the Attorney General regarding allocations and reallocations of resources in order to address the threat.

(c) REPORT ON RECOMMENDATIONS.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and House of Representatives a report which shall—

(A) set forth the recommendations of the special unit under subsection (b)(2); and

(B) specify the allocations and reallocations of resources that the Attorney General proposes to make in response to the recommendations.

(2) TREATMENT OF REPORT.—Nothing in paragraph (1) may be construed to prohibit the Attorney General or the Administrator of the Drug Enforcement Administration from making any reallocation of existing resources that the Attorney General or the Administrator, as the case may be, considers appropriate.

**SEC. 9. TECHNICAL AMENDMENT.**

Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

Amend the title so as to read: "An Act to amend the Controlled Substances Act to direct the emergency scheduling of gamma hydroxybutyric acid, to provide for a national awareness campaign, and for other purposes."

**AMENDMENT NO. 2784**

(Purpose: To modify the short title)

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 Mrs. HUTCHISON, proposes an amendment numbered 2784.

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 1, beginning on line 4, strike "Samantha Reid and Hillory J. Farias" and insert "Hillory J. Farias and Samantha Reid".

On page 6, line 21, strike "Samantha Reid and Hillory J. Farias" and insert "Hillory J. Farias and Samantha Reid".

On page 7, line 12, strike "Samantha Reid and Hillory J. Farias" and insert "Hillory J. Farias and Samantha Reid".

Ms. COLLINS. Mr. President, I ask unanimous consent that the amendment be agreed to, the committee amendment, as amended, be agreed to, and the bill be read the third time. I further ask unanimous consent that the Senate proceed to the consideration of the House companion bill, H.R. 2130, all after the enacting clause be stricken and the text of S. 1561, as amended, be inserted in lieu thereof. I further ask that the bill be read the third time and passed, the motion to reconsider be laid upon the table, the amendment to the title be agreed to, and that any statements relating to the bill be printed in the RECORD. Finally, I ask that S. 1561 be placed back on the calendar.

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

The amendment (No. 2784) was agreed to.

The committee amendments, as amended, were agreed to.

The bill (H.R. 2130), as amended, was read the third time and passed.

The title was amended so as to read: "An Act to amend the Controlled Substances Act to direct the emergency scheduling of gamma hydroxybutyric acid, to provide for a national awareness campaign, and for other purposes."

Ms. COLLINS. Mr. President, I yield to the distinguished Senator from

Michigan, Mr. ABRAHAM, who has been a real leader on this bill, for any comments he might have.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Mr. President, I wanted to make a few comments about the legislation we are about to pass. Before I do so, I would like to thank a number of people for their help in this effort.

First, I would like to thank my colleagues who cosponsored this legislation: Senators FEINSTEIN, LIEBERMAN, DEWINE, GRASSLEY, COVERDELL, and GRAHAM. Their support was crucial to moving forward with this bill and doing so in a timely fashion. Second, I would like to thank Senator HATCH, his Judiciary Chief Counsel Manus Cooney, his Deputy Chief Counsel Sharon Prost, his Chief of Staff Patricia Knight, and Bruce Artim and Pattie DeLoatche, all of whose commitment to seeing this effort through to fruition I appreciate both for the advice and guidance they provided and as the act of friendship I recognize it to be. Third, I would like to thank Senator BIDEN and his staff, especially Marcia Lee, whose assistance and cooperation in working out a final version of this bill acceptable to all involved, including the Administration, was indispensable. I would also like to thank my good friend Fred Upton, who first brought the serious problem that is the focus of this legislation to my attention, and Congressman BLILEY and his able staff, especially John Manthei, who patiently tolerated and assisted with the vagaries of bicameral legislative drafting. Finally, I would like to thank my own staff, especially my Subcommittee General Counsel Chase Hutto, who worked tirelessly and creatively on this effort, and Lee Otis, my Subcommittee Chief Counsel.

S. 1561, and its counterpart, H.R. 2130, are named for a young woman by the name of Samantha Reid. Samantha was born in the Henry Ford Hospital in Detroit on January 2, 1984. She grew up in Lincoln Park. She played trumpet in her elementary school band. She was a girl scout for eight years, with the help of her mother, Judi Clark, who was a troop leader. She was an "all star" 6th grade baseball player. She went on to attend Carlson High School in Gibraltar, where she played freshman basketball. Her favorite restaurant was McDonald's, and her favorite meal there was a Big Mac. She loved to go to Cedar Point Amusement Park, and got mad if she couldn't go at least twice a year. She earned her spending money by helping around the house with chores and babysitting, and indeed, on February 11, 1995, she earned an award for outstanding performance in completing babysitting training from the City of Lincoln Park. Her mother called her "Hammy Sammy" because of the way she always smiled in pictures. Her older brother Charles Reid, who is 18, remembers and misses her loud voice.

On January 17, 1999, Samantha died a few weeks after turning 15. She and two friends, none of them yet 16, were at a party given by a 25 year-old man in Woodhaven, Michigan. Samantha Reid drank a Mountain Dew—a soft drink—and passed out within minutes. She vomited in her sleep, and she died. Her friend, Melanie Sindone, also 15, passed out as well. Melanie lapsed into a coma, but she has survived.

These two girls had no reason to believe that they were drinking anything dangerous. But they were wrong. Their drinks had been laced with the drug GHB, commonly known as a "date rape drug." Samantha was undoubtedly slipped it for the purpose of this name suggests, although she died before that purpose was accomplished.

Mr. President, GHB and its analogues are becoming increasingly common in our nation. They are finding their way into nightclubs, onto campuses and into homes. They are being used by sexual predators against young—sometimes very young—women. Their unwitting victims may be raped, become violently ill, and even die.

GHB is especially dangerous because it is relatively easy to produce. According to the DEA, the clandestine synthesis involves the use of two common, non-regulated chemicals: gamma-butyrolactone (GBL), the primary precursor chemical, and sodium hydroxide (lye). GBL is a solvent with a wide range of industrial uses. Tens of thousands of metric tons are produced annually and it is readily available from chemical supply companies. The synthesis is a simple one-pot method requiring no special chemical expertise. In addition, kits for making GHB containing GBL and sodium hydroxide are being sold on the Internet. GBL, once absorbed from the gastrointestinal tract after oral administration, is readily converted to GHB in the body and produces the same profile of physiological and behavioral effects as GHB. The combination of the ease with which GHB can be produced and widespread ignorance about GHB's dangers especially among our nation's youth has led the law enforcement community to view GHB as a serious and growing threat.

The Controlled Substances Act provides an administrative mechanism for the Attorney General, in consultation with the Secretary of HHS, to place dangerous substances susceptible of abuse on a "schedule" of controlled substances, thereby restricting access to them and imposing criminal penalties for their illicit sale and manufacture. The Attorney General and the Secretary are in agreement that GHB should in fact be scheduled, but they are in disagreement over which schedule it should be placed on. This is because GHB is currently under investigational use as a means of treating narcolepsy and cataplexy, afflictions affecting about 70,000 Americans, and HHS has been understandably reluctant to agree that GHB belongs on

Schedule I or II, which would carry the most serious penalties for illicit sale, because the security requirements that would accompany such scheduling would interfere with this medical research. On the other hand, the DEA has been understandably reluctant to agree to any lesser scheduling, because the result would be lower penalties for the unauthorized sale and distribution of this drug. Moreover, under the Controlled Substances Act, the fact that GHB is under investigation for possible medical use precludes the Attorney General from using her emergency authority to schedule it as an "imminent hazard to the public safety."

The result has been an administrative deadlock that has resulted in a complete failure to schedule GHB at all. Hence legislative intervention is needed.

This legislation has been drafted as a specific response to these various competing considerations, which the current scheduling categories are not all that well suited to handle in any event. Notwithstanding the current investigational medical use, the legislation determines that GHB is an imminent hazard to public safety. It therefore directs the Attorney General to place it on the schedule on which imminent hazards are ordinarily placed, which is Schedule I. It relaxes the physical security requirements that would ordinarily apply to Schedule I substances for the investigational medical uses of the drug, however, following the recommendation of the Secretary of HHS on what is appropriate in that area and thereby avoiding interfering with the ongoing research. It also makes clear that should this research pay off with a drug that the FDA approves because it concludes that it can responsibly be prescribed to treat narcolepsy, cataplexy, or other diseases, the FDA approved drug will be classified as a Schedule III drug, although the Attorney General can impose additional record keeping requirements to help assure that it is not diverted to improper uses. Finally, anyone involved in selling or distributing the diverted product will be subject to the same tough "Schedule I" penalties that apply to the sale or distribution of the illicit or unapproved drug.

In practice, this means that while medical research will continue unhampered by the most cumbersome consequences of placing this drug in Schedule I, the harsh penalties provided for the sale, manufacture, and distribution of all Schedule I substances will apply to any and all illicit trafficking in GHB, whether the drug originated in a bathtub or a medical facility. This means that traffickers will be subject to a 20 year statutory maximum for distributing this drug, and that if, as in the case of Samantha Reid, the drug is slipped to someone who dies, or if it is slipped to someone who is raped or suffers serious bodily injury, that 20 year maximum become a 20 year minimum.

This legislation also addresses three other major problems society has had in responding to the threat posed by this drug. First, it would require the Attorney General to develop, and make available to Federal, State, and local authorities, model protocols for taking toxicology specimens and victim statements in connection with suspected crimes involving GHB and other controlled substances or so-called designer drugs. The Attorney General also would be required to provide training materials for law enforcement officials responsible for investigating these offenses. And finally, she would be directed to make a grant for the development of standardized tests that could be used in the field to test for the presence of these drugs.

The reason for these requirements is that even many in law enforcement are unfamiliar with the operation of GHB. As a result, they may defer testing for it or taking victim statements on the mistaken assumption that the victim is drunk and will be more coherent later, whereas in fact this drug can be processed very quickly by the body and no longer be detectable at that time. Moreover, the victim's memory may be impaired by the substance and she may forget events that she would have remembered had her statement been taken more quickly. Hence the need for model protocols, training, and tests.

Second, the legislation directs the Secretary of HHS to conduct a National Awareness Campaign about the dangers of GHB. Consciousness of the dangers of this drug is lagging far behind the threat the drug presents, and it is critical that we make it a national priority to remedy that problem.

Finally, the legislation would direct the Attorney General to examine and recommend improvements to current mechanisms for coordinating federal, state and local investigations and prosecutions in this area. And it would establish a special unit within the DEA to assess the federal response to the abuse and trafficking of GHB, other controlled substances, and other designer drugs associated with sexual assault, recommended any reallocations of enforcement resources necessary to improve that response, and direct the Attorney General to make any such reallocations she believes are appropriate.

It is time to act, Mr. President, to save young people, and young women in particular, from these deadly drugs and the predators who use them.

I ask my colleagues to give their full support to this amendment.

I also ask unanimous consent that a number of letters from families and victims of date-rape drugs be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

TRINKA D. PORRATA, DESIGNER  
DRUGS—TEACHING & CONSULTING,  
Pasadena, CA, October 3, 1999.

Senator SPENCER ABRAHAM,  
329 Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR ABRAHAM: I'm writing in support of Senate Bill 1561. For four years, my life has revolved around a world of drug abuse little known by law enforcement, medical personnel, politicians and parents. I've watched MDMA explode worldwide in the rave, college and club scenes. I've seen flunitrazepam (Rohypnol, aka roofies) make its mark on sexual assaults. I've seen LSD resurface. And, I've watched in horror as the drug gamma hydroxy butyrate (GHB) has marched coast to coast, plucking out young lives in its path, picking up momentum as it goes. I consider it simply the most dangerous drug I've encountered in 25 years as a police officer. This is because of the overwhelming amount of misinformation spread about GHB, the dramatic lack of real scientific knowledge of it, the difficulty in testing for it and recognizing it in the street, and how easily and unpredictably it kills. GHB is indeed the Bad Child of the Internet. And, it has forever change the face of sexual assault investigations.

Despite a world brimming with technology and communication devices, knowledge of this drug has been based primarily on information via the Internet that runs the gamut from outdated to totally false. Any drug abuser or drug pusher can go on the Internet and pump out volumes of lies and half truths unabated. There are thousands of websites claiming GHB to be the wonder drug that will cure anything you can think of and instructing everyone NOT to call 911 for the victim of a GHB overdose. Deadly advice indeed. Meanwhile, government, law enforcement and the medical world have failed to make significant gain in countering the flood of bad information, identifying and making available accurate testing methods for it and providing even the most basic education about GHB. The "system" has truly failed the American public on this drug. As a friend of Samantha Reid, the 15-year-old Michigan victim of GHB, so aptly put it, "You tell us every day about marijuana and other drugs. Why didn't you tell us about GHB?" Daily, I am asked by the families who have lost loved ones to GHB—"I've never heard of this drug. Why, why didn't we know about this drug?"

Each day that GHB is not a federally controlled substance is another day of failure by the "system." No, controlling a drug does not solve the problem, but it allows additional resources to be plugged into the tasks of educating the public, providing more standardized information to law enforcement, and developing testing procedures. It would be a giant step toward stopping the lies about GHB as a totally safe, wonder drug.

There isn't a meaningful data collection mechanism to capture drug trends like this. Existing systems are cumbersome, far behind in reporting statistics, and non-responsive to changing trends. In early 1997, the tally of GHB-related deaths kept by the Drug Enforcement Administration was seven. We knew that there was no way to put a figure on the possible number of deaths related to GHB where neither law enforcement nor the coroners knew to test for it. During our hearings before the California Legislature, Dennis Fraga showed up on the witness list. He arrived with autopsy report in hand, showing that his 25-year-old son, Jeffery, had died from alcohol and GHB ingestion. We realized that if we hadn't known about this death, there were undoubtedly more where the coroner knew that GHB was involved but

hadn't known to report it to anyone. Dr. Jim Tolliver, who was at that time tracking GHB information for the DEA, began to make inquiries around the country, and the death count rapidly jumped to 26. The death toll continued to slowly increase, based on word of mouth, followed by the DEA obtaining a copy of the autopsy to review before including each death in the tally. Still, there was no reporting mechanism, no blanket means of obtaining information. Despite DEA polling its offices, where knowledge of this drug was limited by DEA agents and local authorities, it was obvious that not all cases were being spotted. I have personally worked closely with Dr. Chris Sannerud, who is now tracking GHB data for the DEA, and have referred numerous leads about deaths to her for investigation.

The count recently jumped to 49. I would like to point out to you that of the 49, ten have been in 1999. Furthermore, 25 additional cases have come to light, all but one of them in 1999. These cases are now being reviewed. That would mean more than 30 in 1999 to date. The victims get younger. More of them involve GHB and its analogs only (no alcohol or other drugs). I receive leads on GHB related death and rape cases virtually daily. And, we have only scratched the surface at this point. Law enforcement, legislators, doctors and parents are still largely unfamiliar with GHB. Remember too, these figures do not reflect the victims of impaired drivers under the influence of GHB.

Meanwhile, the drug company and the pro-drug abuse element want to divert attention saying that it is the homebrew aspect of GHB that is the problem and that it is only dangerous with alcohol and other drugs. The homebrew aspect occasionally adds an extra element of burns from high pH levels. But that isn't the problem. It is GHB that impairs, resulting in dangerous users behind the wheel causing accidents and deaths and resulting in victims unable to protect themselves from sexual assault. Look beyond the smoke and mirrors. The fact remains: 25-year-olds don't die from a .17 blood alcohol; Jeffery Fraga died that night BECAUSE he took GHB. Samantha Reid was drinking a Mountain Dew the night she died. And 20-year olds don't die from sleeping face down on a pillow . . . unless in coma from GHB ingestion. Kyle Hagmann took it as a sleep aid (after reading on the Internet that it is "totally safe"), not a recreational drug. It is GHB that kills.

Not nearly enough is known about this drug from a medical and scientific viewpoint. The literature is old and outdated. New information is being learned daily and still not nearly enough is known. The old literature says GHB is not addictive. We know this to be untrue. In fact, withdrawal from GHB addiction is life threatening. This is simply not a market-ready product—any drug that is leaving 13-year olds suffering pulmonary edema in our nation's hospitals and alleys is not ready for market. One doctor with nine years of GHB research walked away from it, saying a much safer, longer acting product is needed. One doctor currently researching GHB for narcolepsy first told me personally that it was eight to ten years away for being ready and changed his story only after claims were publicized that the supply would cease for research if it became a Schedule I drug. There is simply no reason to give concessions to future issues re this drug. Let the research take its course and determine the future. Other drugs have been developed in Schedule I. I personally do not believe it will be GHB, but a safer, longer acting cousin that is yet to be developed. Don't let them bypass proper research and development!!!!

I have no doubt that if GHB is ever approved for narcolepsy, the horror of abuse

will only skyrocket as doctors blatantly abuse the controversial, dangerous "off label use" policy that would enable them to prescribe it for anything, not just the combination of narcolepsy and cataplexy of which it is being researched. There is simply no mechanism in place that will prevent such abuse (there is plenty of evidence of abuse of other drugs because of this policy). And, I cannot imagine in my wildest dreams a company saying, "Oh excuse me, we are making too much money!!!!" If the Legislature is determined to deal with future issues, then I adamantly urge that this drug be specifically excluded from the "off label use" policy. Any use of GHB beyond narcolepsy/cataplexy would require its own proper research and development. If, as the drug company claims, their only interest is for narcolepsy/cataplexy patients, then there is simply no reason they would protest such a clause being included.

There is much work to be done on this drug in all arenas. The dangers of GHB need to be made crystal clear to America's youth and parents. Law enforcement, prosecutors and medical personnel are not uniformly prepared to handle cases involving GHB. GHB has brought to the sexual assault investigation an unbelievably challenge to overcome and an added horror for rape victims that I cannot even begin to address in this document. As a start, we need to standardize all sexual assault medical kits nationwide to include urine samples from victims and upgrade investigative and testing procedures. Changes need to be made in the impaired driving world as well. Aggressive federal/state prosecution is needed against manufacturers and distributors of GHB and analogs.

The GHB death toll speaks for itself. Legislation and strong federal backing for education and enforcement is clearly overdue and urgently needed.

Sincerely,

TRINKA D. PORRATA,  
Drug Consultant.

*To the members of the judiciary committee:*

On Jan. 17, 1999 I lost my only daughter, Samantha Reid, when GHB and/or GBL was slipped into her Mountain Dew soft drink. I knew nothing about GHB before this tragic event. I took six months off of work and began educating myself on GHB. The more I learn about this invisible predator the more concerned for our nation's safety I become.

I have joined Spencer Abraham on campaigning to pass S. 1561. This bill is long overdue in our country and contains many positive programs for awareness and will give law enforcement the much needed tools necessary to prosecute GHB cases. S. 1561 will allow for education targeting teens who are now receiving false information on GHB. A nation wide awareness campaign will give many young ladies the information necessary to protect and ultimately save themselves from GHB. Parents can be reached through public service announcements giving them the opportunity to communicate the dangers of GHB to their children.

Samantha and I were not given the opportunity that S. 1561 has to offer.

Lets not wait for one more senseless death before passing this legislation. Not one more mother should have to water the grass of a fresh grave, or place wind chimes on a tender, young tree planted to shade the site of their daughter. Pumpkins for Halloween should be carved at the kitchen table together, not placed by a headstone.

Our country is in desperate need of all the good this bill has to offer.

Respectfully,

JUDI CLARK,  
Rockwood, Michigan.

Mr. ABRAHAM. Mr. President, I would like to close by reading one of

those letters, the letter I received from Judi Clark, Samantha Reid's mother, that, better than anything I can say, makes the case as to why this legislation is needed now. She wrote this letter to the members of the Senate Judiciary Committee.

It is as follows:

*To the Members of the Senate Judiciary Committee:*

On January 17, 1999, I lost my only daughter, Samantha Reid, when GHB and/or GBL was slipped into her Mountain Dew soft drink. I knew nothing about GHB before this tragic event. I took six months off of work and began educating myself on GHB. The more I learned about this invisible predator the more concerned for our nation's safety I become.

I have joined Spencer Abraham on campaigning to pass S. 1561. This bill is long overdue in our country and contains many positive programs for awareness, and will give law enforcement the much needed tools necessary to prosecute GHB cases. S. 1561 will allow for education targeting teens who are now receiving false information on GHB. A nationwide awareness campaign will give many young ladies the information necessary to protect and ultimately save themselves from GHB. Parents can be reached through public service announcements giving them the opportunity to communicate the dangers of GHB to their children.

Samantha and I were not given the opportunity that S. 1561 has to offer. Let's not wait for one more senseless death before passing this legislation. Not one more mother should have to water the grass of a fresh grave, or place wind chimes on a tender young tree planted to shade the site of their daughter. Pumpkins for Halloween should be carved at the kitchen table together, not placed by a headstone.

Our country is in desperate need of all the good this bill has to offer.

Respectfully,

JUDI CLARK,  
Rockwood, Michigan.

Mr. President, I would say in closing that I am happy we have finally taken the action which Judi Clark and other parents across this country have been asking us to take, to make sure that other children will be made aware of the dangers of GHB. Hopefully the predators who use drugs such as this will be treated in the fashion they deserve, which is to be prosecuted effectively and put behind bars where they belong.

No one else should have to go through what this family has suffered.

I am very determined to not only see this legislation pass, but also to work closely with the Department of Justice, the Drug Enforcement Agency, and State and local law enforcement agencies, to make sure this is just the first step in what will ultimately be a successful campaign to rid this Nation of the illicit use of this drug, and to make sure the children of our country are no longer the victims of predators who use it for criminal purposes.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maine.

Ms. COLLINS. Mr. President, I commend the Senator from Michigan for his leadership and his eloquent statement.

Mr. HATCH. Mr. President, Today, the Senate adopted a significant measure against date rape and other heinous crimes associated with abusing certain types of drugs. I want to make a few comments on this bill, S. 1561, which addresses the abuse of the dangerous drug GHB which has been used to commit date rape and other crimes.

As Chairman of the Senate Judiciary Committee, I am proud that it was a member of our Committee, Senator SPENCER ABRAHAM, who introduced and has played the key leadership role in Senate passage of S. 1561, The Samantha Reid and Hillory J. Farias Date Rape Prohibition Act of 1999." I am also proud that other members of the Judiciary Committee, Senators DEWINE, FEINSTEIN, and GRASSLEY have joined Senator ABRAHAM in co-sponsoring this legislation.

It is only through the hard work and insistence of Senator ABRAHAM that this bill will pass the Senate today. I also want to commend his able staff, especially Lee Otis and Chase Hutto, who have spent considerable time and effort in improving this legislation. Their efforts were in the best tradition of staff of the United States Senate.

I also want to thank my friend on the other side of the aisle, Senator BIDEN, who has long been in the forefront of controlled substances and other drug abuse issues. I must also recognize the efforts of Ms. Marcia Lee of his staff for her diligence and creativity in developing this language.

I must also recognize the efforts of Chairmen THOMAS BLILEY and FRED UPTON for their work in developing and shepherding the House companion to S. 1561, H.R. 2310, through that body. In this regard, I must mention the efforts of John Manthei of the House Commerce Committee as well as Ms. Jane Williams of Rep. UPTON's staff. Both of them deserve recognition for their dedication to passing this bill.

S. 1561 is concerned with the proper regulation of gamma hydrobutyric acid, the chemical known on the street as GHB which has both hateful and hopeful uses. On one hand, many families across America have suffered due to abuse of this agent which has been used to lull unsuspecting women into a date-rape situation and has even resulted in death through overdose. On the other hand, GHB holds unprecedented promise to those one-quarter million Americans suffering from extreme sleep disorders such as cataplexy and narcolepsy.

Cataplexy is a debilitating condition suffered by some 70,000 Americans that results in an inability of the muscles to function. Narcolepsy, which attacks 170,000 Americans, causes a person suddenly and unpredictably to fall asleep. Neither of these terrible diseases have an effective treatment today. As author of the 1984 Orphan Drug Act which creates incentives for private sector drug firms to investigate treatments for rare diseases, I am particularly sensitive to the needs of families suffering

from low-prevalence conditions. We need to do everything we can to get academic researchers and the pharmaceutical industry to find cures for the hundreds of currently untreatable rare diseases.

The problem for policymakers, both in the Congress and at the DEA, is how to encourage the use of the medically promising uses of GHB while discouraging and outlawing the illicit uses such as date rape.

While there are no known cases of diversion of this drug from the on-going and highly promising clinical trials of GHB as a treatment for cataplexy and narcolepsy, the problem of GHB abuse demands our attention.

According to DEA, hospital and law enforcement officials have reported about 5,500 cases of GHB abuse, including 49 deaths. Aggregate statistics, as alarming as they may be, cannot convey the absolute upheaval that GHB abuse can cause for an individual and a family.

Senator ABRAHAM has told me the story about the untimely death of a bright and vivacious 15-year-old young woman from Michigan, Samantha Reid. She went to a small gathering of friends, was given a drink from a soft drink bottle laced with GHB, and died. Samantha did nothing wrong. Her mother, Judi Clark, did nothing wrong. Unfortunately, this tragedy has struck this family.

Four young men have been charged under Michigan law for involuntary manslaughter and poisoning. But, given the prevalence and, as the Reid case highlights, the potential severity of GHB abuse, it seems clear—and both public health and law enforcement officials agree on this—that this chemical warrants regulation under the Controlled Substances Act. That's exactly what S. 1561 and its House companion accomplish.

Some may raise a question about whether the federal Controlled Substances Act failed to operate in a fashion that could have prevented deaths or sexual assaults through abuse of GHB.

Although there have been reports of substantial GHB abuse for several years now, I do not know why the Attorney General and Secretary of Health and Human Services have been unable to resolve the matters that have precluded this drug from being scheduled through the normal procedures under the Controlled Substances Act. I don't know why it took until September of 1997 for the DEA to request FDA to analyze the medical and scientific matters relating to GHB. I don't know why it took until May 19, 1999 to get a response to this request. I don't know why DEA has not acted in the last six months to bring this matter to a conclusion through administrative means. It should not take an act of Congress to schedule a dangerous drug under the Controlled Substances Act.

I do know that part of the unjustifiable delay in the scheduling of GHB

stemmed from the fact that there is a difference of opinion between DEA and FDA about how to schedule this drug. But that answer is not good enough. It is simply inadequate to tell a mother of a child like Samantha Reid, a promising young woman with her whole life ahead of her, that the system "just takes time" because two bureaucracies disagreed about how something so serious should be handled.

This situation points out that a significant breakdown in the system has occurred with respect to the scheduling of GHB. It behooves the Congress to deliberate more over ways to make the key agencies, DEA and FDA, be more responsive in the future, rather than be forced to do their jobs for them. The lesson of GHB should not be to teach the agencies to wait for Congressional action whenever the bureaucracy cannot act.

Let me just say that as a general matter I do not favor legislative scheduling or rescheduling. By statute, the responsibility for scheduling is delegated to the experts at DOJ and HHS. The world is turned upside down when DOJ informs Congress, as it did on May 3, 1999, that: "DOJ believes that it is appropriate for Congress to schedule GHB at this time."

By any measure, a fair reading of the Controlled Substances Act places the primary responsibility for regulating dangerous drugs upon law enforcement and public health experts at the appropriate federal agencies. I do have a concern about Congress legislating on the safety and efficacy of individual drug products, especially before clinical testing or introduction into commerce commences. Nor should we allow the Congress to be placed in the position of making technical, scientific and law enforcement judgment whenever an individual drug product with an actual or potential legitimate medicinal use is determined by experts to warrant the application of the CSA.

I am firmly behind efforts to stop so-called "date rapes,"; this is a despicable crime and the Federal Government should take action to make sure it does not occur. While I wholeheartedly applaud the efforts of the House to strike a blow against abuse of GHB, I am concerned about Congress getting directly involved in the scheduling process as the House mandated in adopting H.R. 2130. In this regard, it was my strong sense that rather than for Congress to legislatively schedule GHB, it would have more impact to amend the statute and direct DEA to implement the Surgeon General's recommendations that were issued back on May 19, 1999.

I will not take the time today to consider the full implications of a policy of legislative rescheduling. I do plan in the future to re-examine the scheduling provisions of the Controlled Substances Act.

At this point, let me elaborate further on some of the issues I have raised.

Subsections (b) and (c) of section 201 of the Controlled Substances Act identify eight criteria that must be taken into account in scheduling a drug. With respect to scheduling a drug, these factors are:

- (1) Its actual or relative potential for abuse.
- (2) Scientific evidence of its pharmacological effect, if known.
- (3) The state of current scientific knowledge regarding the drug or other substance.
- (4) Its history and current pattern of abuse.
- (5) The scope, duration, and significance of abuse.
- (6) What, if any, risk there is to the public health.
- (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, Chairman BLILEY, 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 the cataplexy 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 legitimate 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, and the President signed, 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 expeditious 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 non-medical 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. 1947, the bill that creates this Special Unit. S. 1947 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 memory of Hillory Farias 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

Ms. 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, it is so ordered.

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.

AMENDMENT NO. 2785

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 Senator from Maine (Ms. COLLINS), for Mr. FITZGERALD, proposes an amendment numbered 2785.

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 (i)(1)(A)).

"(B) 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 electronic benefit transfer cards.

"(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 a 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 a system that enables a coupon issued in the form of an electronic benefit transfer card to be used in any State by a household to purchase food at a retail food store or wholesale food concern approved under this Act.

"(F) SETTLING.—The term 'settling' means movement, and reporting such movement, of funds from an electronic benefit transfer card issuer that is located in 1 State to a retail food store, or wholesale food concern, that is located in another State, to accomplish an interstate transaction.

"(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 recorded 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 are interoperable, and food stamp benefits are portable, among all States.

"(3) COST.—The cost of achieving the interoperability and portability required under paragraph (2) shall not be imposed on any food stamp retail store, or any wholesale food concern, approved to participate in the food stamp program.

"(4) STANDARDS.—Not later than 210 days after the date of enactment of this subsection, the Secretary shall promulgate regulations that—

"(A) adopt a uniform national standard of interoperability and portability required under paragraph (2) that is based on the standard of interoperability and portability used by a majority of State agencies; and

"(B) require that any electronic benefit transfer contract that is entered into 30 days or more after the regulations are promulgated, by or on behalf of a State agency, provide for the interoperability and portability required under paragraph (2) in accordance with the national standard.

"(5) EXEMPTIONS.—

"(A) CONTRACTS.—The requirements of paragraph (2) shall not apply to the transfer of benefits under an electronic benefit transfer contract before the expiration of the term of the contract if the contract—

"(i) is entered into before the date that is 30 days after the regulations are promulgated under paragraph (4); and

"(ii) expires after October 1, 2002.

"(B) WAIVER.—At the request of a State agency, the Secretary may provide 1 waiver to temporarily exempt, for a period ending on or before the date specified under clause (iii), the State agency from complying with the requirements of paragraph (2), if the State agency—

"(i) establishes to the satisfaction of the Secretary that the State agency faces unusual technological barriers to achieving by

October 1, 2002, the interoperability and portability required under paragraph (2);

"(ii) demonstrates that the best interest of the food stamp program would be served by granting the waiver with respect to the electronic benefit transfer system used by the State agency to administer the food stamp program; and

"(iii) specifies a date by which the State agency will achieve the interoperability and portability required under paragraph (2).

"(C) SMART CARD SYSTEMS.—The Secretary shall allow a State agency that is using smart cards for the delivery of food stamp program benefits to comply with the requirements of paragraph (2) at such time after October 1, 2002, as the Secretary determines that a practicable technological method is available for interoperability with electronic benefit transfer cards.

"(6) FUNDING.—

"(A) IN GENERAL.—In accordance with regulations promulgated by the Secretary, the Secretary shall pay 100 percent of the costs incurred by a State agency under this Act for switching and settling interstate transactions—

"(i) incurred after the date of enactment of this subsection and before October 1, 2002, if the State agency uses the standard of interoperability and portability adopted by a majority of State agencies; and

"(ii) incurred after September 30, 2002, if the State agency uses the uniform national standard of interoperability and portability adopted under paragraph (4)(A).

"(B) LIMITATION.—The total amount paid to State agencies for each fiscal year under subparagraph (A) shall not exceed \$500,000."

#### SEC. 4. STUDY OF ALTERNATIVES FOR HANDLING ELECTRONIC BENEFIT TRANSACTIONS INVOLVING FOOD STAMP BENEFITS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall study and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on alternatives for handling interstate electronic benefit transactions involving food stamp benefits provided under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), including the feasibility and desirability of a single hub for switching (as defined in section 7(k)(1) of that Act (as added by section 3)).

Mr. FITZGERALD. Mr. President, I rise today to recognize the passage of the Electronic Benefit Transfer Interoperability and Portability Act of 1999. This legislation addresses the problem of food stamp beneficiaries being unable to redeem their benefits in authorized stores that may be located outside their state of residence.

As you may know, Congress passed legislation in 1996 that required the federal government to deliver food stamp benefits electronically, rather than using paper coupons. Most states have started the process of issuing plastic cards, very similar to ATM cards, to access these benefits. The federal government termed this new process, electronic benefits transfer (EBT).

You may have noticed a separate button on the payment terminal in your local supermarket with the designation "EBT" or a separate stand-alone payment terminal to handle these new transactions.

More than half of the country has already switched from the paper coupons