I have indicated to the majority leader that we would be prepared, based upon the negotiations that have been going on all week, to maybe work some arrangement out with regard to the Y2K bill. We hadn't had any discussion about this. The motion was filed, and so there was no communication at all on that matter—this, ironically, at the same time we were trying to work with the majority leader to try to accommodate his need to move this juvenile justice bill along.

Surprises are never welcomed, and this was a surprise that was disappointing. Nonetheless, we will work through that. We will work to accommodate whatever other legislative schedule there may be this next week.

I will say this: At this point I am very concerned about voting on the motion to proceed under these circumstances. I think we could finish this bill and then perhaps go on to the Y2K bill. I might even be prepared to move to the motion to proceed and support it myself if we can get this juvenile justice bill done. But to put it back on the calendar and then ask unanimous consent to take it back off the calendar, if we vote for cloture on the motion to proceed—and that is what we would have to do—is a matter that is disturbing.

We have a circumstance here that is confusing, to say the least. The majority leader, for good reason, admonished all of us to make the most of Friday, to make the most of Monday, on the juvenile justice bill. Then he files cloture, effectively taking the bill off the calendar and denying the right to offer amendments and to work through these amendments on Friday and Monday. I am hopeful that we can make the most. Let us work on these bills today. Let us work on them Monday. Let us see if we can't work through the rest of the amendments before we divert our attention to other amendments and other bills.

This isn't a very orderly process we find ourselves in right now, unfortunately, because of some of these decisions. I am hopeful that we can figure out a way to accommodate the needs of the schedule but also accommodate the needs of Senators who are very hopeful to have their day in court and their opportunity to offer amendments on the juvenile justice bill.

I yield the floor.

Mr. REID. Before the Senator yields the floor, may I ask a question of the leader?

Mr. DASCHLE. I would be happy to entertain a question from the distinguished Democratic assistant leader.

Mr. REID. The Y2K legislation that has been talked about here today, is it not a fact that there has been significant progress made trying to arrive at a resolution of that issue?

Mr. DASCHLE. There has. Many people on both sides of the aisle have been involved in very intense and, I would say, productive negotiations this week. I am encouraged by the reports I have been receiving throughout the week on their discussions. I am hopeful that——

Mr. LOTT. Are you referring to the Y2K issue?

Mr. DASCHLE. Yes.

Mr. LOTT. I wasn't sure what you were talking about.

Mr. DASCHLE. The Senator is certainly correct.

Mr. LOTT. I wonder if the Senator would yield. Is there a possibility we could work out some agreement where we wouldn't have to have the vote on the motion to proceed? It is pretty hard to explain to people, when you are facing the threat of a filibuster even to take up a bill. So I wonder if we could maybe get some agreement to skip over that and then go on, if we had to have a cloture vote on the bill itself. I hope you will think about that or talk to the people who are involved to see if that would be a possibility. That would perhaps then vitiate the necessity of having to get this started next Tuesday in order to get it completed within a week's time. If we could get around that vote, that would help.

Mr. DASCHLE. I would be happy to consult with our colleagues and report back to the majority leader.

I yield the floor, Mr. President.

Mr. HATCH. Mr. President, may I ask the parliamentary situation?

The PRESIDING OFFICER. The distinguished Senator is informed that we are on a motion to proceed on S. 96, the Y2K bill.

Mr. HATCH. Mr. President, I ask unanimous consent that Senator KOHL be permitted to present the Hatch-Kohl trigger lock amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I can't hear.

Mr. HATCH. I am asking that Senator KOHL be able to present the Hatch-Kohl trigger lock amendment, and we will proceed. We will have that, followed by the Hatch-Feinstein amendment on gangs.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The distinguished Senator from Wisconsin is recognized.

VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 352

(Purpose: To amend chapter 44 of title 18, United States Code, to require the provision of a secure gun storage or safety device in connection with the transfer of a handgun)

Mr. KOHL. Mr. President, we have good news. We seem to have reached a bipartisan consensus on child safety locks, one which will result, we believe, in a lock being sold with every handgun. So I rise now, with my colleague, Senator HATCH, to offer the Safe Handgun Storage and Child Handgun Safety Act of 1999.

This measure is closely modeled on the Child Safety Lock Act which I introduced earlier this year, with Senators CHAFEE, FEINSTEIN, DURBIN, and BOXER. Senator CHAFEE is also a cosponsor of this amendment.

Briefly, our amendment will bring the entire industry up to the level of those responsible manufacturers who have already started including child safety locks with their handguns. It is a commonsense idea, not an extreme one, that will reduce gun-related accidents, suicides, and homicides by young people.

Don't take my word for it. Ask your own constituents. According to a recent Newsweek poll, 85 percent of the American people support this proposal.

Our amendment is simple, effective, and straightforward. While we want people to use child safety locks, our amendment doesn't mandate it. Instead, our measure simply requires that whenever a handgun is sold, a child safety device must also be sold.

These devices vary in form, and effective ones are available for less than $10. We have added a new section that gives limited liability to gun owners, but only if they store their handguns properly. This actually creates an incentive for more people to use safety locks.

Let me tell you briefly why this amendment is so much needed. Nearly 2,000 young people are killed each year in firearm accidents and suicides. This is not only wrong, it is unacceptable. While our proposal is certainly not a panacea, it will help prevent many of these tragedies.

Mr. President, safety locks will also reduce violent crime. Juveniles commit nearly 7,000 crimes each year with guns taken from their own homes. That doesn't include incidents like last year's school shooting in Jonesboro, AR, which involved guns taken from the home of one child's grandfather because most of the father's guns actually were locked up.

A few extremists on both sides may not agree, but this is clearly a step forward. It will help make children safer. It will help make mothers and fathers feel more secure leaving their children at a neighbor's home. Senator CRAIG, who worked with me in 1994 to author the ban on juvenile possession of handguns, deserves much credit today. When passed, this law will be a huge victory for our children and a victory for bipartisanship as well. I hope my colleagues can all support this bill.

At this point, Mr. President, I send the Kohl-Hatch-Chafee amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for himself, Mr. HATCH and Mr. CHAFEE, proposes an amendment numbered 352.

The amendment is as follows:

At the appropriate place in the bill, in Title—, General Provisions, insert the following new sections:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safe Hand Gun Storage & Child Handgun Safety Act of 1999''.

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(a) To promote the safe storage and use of handguns by consumers.

(b) To prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun, unless it is under one the circumstances provided for in the Youth Handgun Safety Act.

(c) To avoid hindering industry from supplying law abiding citizens firearms for all lawful purposes, including hunting, self-defense, collecting and competitive or recreational shooting.

SEC. 3. FIREARMS SAFETY.

(a) UNLAWFUL ACTS.—

(1) MANDATORY TRANSFER OF SECURE GUN STORAGE OR SAFETY DEVICE.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

''(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under the provisions of this chapter, unless the transferee is provided with a secure gun storage or safety device, as described in section 921(a)(35) of this chapter, for that handgun.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to the—

''(A)(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a handgun; or

''(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

''(B) transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

''(C) transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

''(D) transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e): *Provided*, That the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.''.

''(3) LIABILITY FOR USE.—(A) Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a civil liability action as described in this paragraph.

''(B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any federal or State court. The term 'qualified civil liability action' means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, where—

''(i) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

''(ii) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device.

''A 'qualified civil liability action' shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.''.

(b) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking ''or (f)'' and inserting ''(f), or (p)''; and

(2) by adding at the end the following:

''(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

''(1) IN GENERAL.—

''(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

''(i) suspend for up to six months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

''(ii) subject the licensee to a civil penalty in an amount equal to not more than $2,500.

''(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

''(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.''.

(c) LIABILITY; EVIDENCE.—

(1) LIABILITY.—Nothing in this Act shall be construed to—

(A) create a cause of action against any federal firearms licensee or any other person for any civil liability; or

(B) establish any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this Act shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce paragraphs (1) and (2) of section 922(z), or to give effect to paragraph (3) of section 922(z).

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

Mr. HATCH. Mr. President, I am prepared to accept the amendment. I am a cosponsor of it as well.

Mr. KOHL. We want a roll call vote.

Mr. HATCH. Can we put this over for a vote until next Tuesday?

Mr. KOHL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that the vote be postponed until the time set in an agreement of the two leaders.

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

Mr. KOHL. I thank the Chair.

Mr. HATCH. Mr. President, our understanding is that the next amendment will be the Hatch-Feinstein amendment.

Mr. REID. May I ask the manager of the bill a question?

Mr. HATCH. Yes.

Mr. REID. We have people who are ready to come and offer amendments. Could you give an indication as to how long your presentation will take?

Mr. HATCH. I think very little time. I feel badly that Senator FEINSTEIN is not here. She may want to say a few words right before the amendment comes up for a vote. We will offer some time there.

Mr. REID. What is ''very little time'' in Senate hours?

Mr. HATCH. I think I can explain the Feinstein amendment in probably less than 10 minutes.

Mr. REID. We want to make sure we have somebody ready when that is finished.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 353

(Purpose: To combat gang violence and for other purposes)

Mr. HATCH. Mr. President, I send an amendment to the desk on behalf of myself and Senator FEINSTEIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] for himself and Mrs. FEINSTEIN, proposes an amendment numbered 353.

Mr. HATCH. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. HATCH. Mr. President, I understand we will have time to debate this more at a future time.

This amendment, which I am pleased to offer with the Senator from California, Senator FEINSTEIN, is a much refined version of legislation we offered last Congress to address the serious and troubling issue of interstate and juvenile gangs. I want to commend Senator FEINSTEIN for her hard work and dedication on this issue.

Our amendment includes improvement to the current federal gangs statute, to cover conduct such as alien smuggling, money laundering, and high-value burglary, to the predicate offenses under the penalty enhancement for engaging in gang-related crimes, and enhances penalties for such crimes.

It criminalizes recruiting persons into a gang, with tough penalties, including a four year mandatory minimum if the person recruited is a minor.

It amends the Travel Act, 18 U.S.C. 1952, to include typical gang offenses in its predicate acts.

It includes the James Guelff Body Armor Act, which provides penalty enhancements for the use of body armor in the commission of a federal crime. This provision also prohibits the purchase, possession or use of body armor by anyone convicted of a violent felony, but provides an affirmative defense for bona fide business uses, and enhances the availability of body armor and other bullet-proof technology to law enforcement.

It includes penalties for teaching, even over the Internet, how to make or use a bomb, with the knowledge or intent that the information will be used to commit a federal crime.

Finally, our amendment enhances penalties under the Animal Enterprise Terrorism Act, 18 U.S.C. 43, to address the growing problem of attacks on businesses and research facilities, as well as establishes a clearinghouse to track such offenses. These crimes are increasingly being committed by some juvenile gangs, particularly in my state of Utah.

Gangs are an increasingly serious and interstate problem, affecting our crime rates and our youth. A 1997 survey of eighth graders in 11 cities found in 1997 that 9 percent were currently gang members, and that 17 percent said they had belonged to a gang at some point in their lives. These gangs and their members are responsible for as many as 68 percent of all violent crimes in some cities.

My home state of Utah continues to have a serious gang problem. In 1997, there were over 7,000 gang offenses reported to the police in Utah. Although we have seen some improvement from the unprecedented high levels of gang crime a couple of years ago, gang membership in the Salt Lake area has increased 209 percent since 1992. There are now about 4,500 gang members in the Salt Lake City area. Seven hundred and seventy of these, or 17 percent, are juveniles.

During 1998, there were at least 99 drive-by shootings in the Salt Lake City area. Also, drug offenses, liquor offenses, and sexual assaults were all up significantly over the same period in 1997. And in the first 2 months of 1999, there were 14 drive-by shootings in the Salt Lake City area.

An emerging gang in Utah is the Straight Edge. These are juveniles who embrace a strict code of no sex, drugs, alcohol, or tobacco, and usually no meat or animal products. Normally, of course, these are traits most parents would applaud. But these juveniles take these fine habits to a dangerous extreme, frequently violently attacking those who do not share their purist outlook.

There are 204 documented Straight Edgers in Salt Lake City, with an average age of 19 years old. Like most gangs, they adopt distinctive clothing and tattoos to identify themselves. Although not all Straight Edgers engage in criminal activities, many have become very violent prone. They have engaged in coordinated attacks on college fraternities, and a murder outside the Federal Building in downtown Salt Lake City last Halloween night was Straight Edge related. This crime, in which a 15-year-old youth named ''Bernardo Repreza'' occurred during a gang-related fight against the Straight-Edgers. Three Straight Edge gang members, have been charged with the murder.

Straight Edgers are also being recruited into, and more frequently linked to, the radical animal rights movement. For instance, in 1996, Jacob Kenison, then 16 and a Straight Edger, became so obsessed with animal rights that he set fire to a leather store and released thousands of animals from two Salt Lake County mink farms. In 1997, Kenison was charged in federal court for buying an assault rifle without disclosing he had been charged in state court. In December 1998, Kenison, now 20 years old, was sentenced to 9 months in jail for the mink release. The juveniles who committed the firebombing of a Murray breeders' co-op may have been Straight Edge, and have been linked to the Animal Liberation Front, a loose network of animal rights activists which advocates terrorist-like tactics.

And these gangs are learning some of their tactics on the Internet, which is why our amendment includes a provision making illegal to teach another how to make or use an explosive device intending or knowing that the instructions will be used to commit a federal crime, has passed the Senate on at least three separate occasions. It is time for Congress to pass it and make the law.

Sites with detailed instructions on how to make a wide variety of destructive devices have proliferated on the Internet. As many of my colleagues know, these sites were a prominent part of the recent tragedy in Littleton, Colorado.

Let me give my colleagues an example of one of these sites. The self-styled Animal Liberation Front has been linked to numerous bombings and arsons across the country, including several in my home State of Utah. Posted on their Internet site is the cyber-publication, The Final Nail #2. It is a detailed guide to terrorist activities. This chart shows just one example of the instructions to be found here—in this case, instructions to build an electronically timed incendiary igniter—the timer for a time bomb.

And how do the publishers intend that this information will be used? The suggestion is clear from threats and warnings in the guide. One page in the site shows a picture of an industry spokeswoman, warning her to ''take our advice while you still have some time: quit your job and cash in your frequent flier points for a permanent vacation.'' Now, on this chart, which comes from The Final Nail #2, we have redacted the spokeswoman's address and phone number to protect her privacy. The publishers weren't so considerate. And this is just the beginning. This same document has a 59 page list of targets, complete with names and addresses from nearly every U.S. State and Canadian province.

Let there be no mistake—the publishers know what they're doing. For instance, the instructions on how to make milk jug firebombs comes with this caution: ''Arson is a big time felony so wear gloves and old clothes you can throw away throughout the entire process and be very careful not to leave a single shred of evidence.''

It is unfortunate that people feel the need to disseminate information and instructions on bombmaking and explosives. Now perhaps we can't stop people from putting out that information. But if they are doing so with the intent that the information be used to commit a violent federal crime—or if they know that the information will be used for that purpose, then this amendment will serve to hold such persons accountable.

Unfortunately, kids today have unfettered access to a universe of harmful material. By merely clicking a mouse, kids can access pornography, violent video games, and even instructions for making bombs with ingredients that can be found in any household. Why someone feels the need to put such harmful material on the Internet is beyond me—there certainly is no legitimate need for our kids to know how to make a bomb. But if that person crosses the line to advocate the use of that knowledge for violent criminal purposes, or gives it our knowing it will be used for such purposes, then the law needs to cover that conduct.

Mr. President, the Hatch-Feinstein Federal Gang Violence Act incorporated in this amendment is a modest but important in stemming the spread of gangs and violence across the country and among our juveniles. I urge my colleagues to support it.

Mrs. FEINSTEIN. Mr. President, I am very pleased to rise today in support of the Hatch-Feinstein amendment, a comprehensive package which contains no less than three different bills which I have introduced, which all seek to stem the steady tide of criminal violence in this country.

Specifically, it includes the following bills which I have introduced:

The Federal Gang Violence Act, a comprehensive package of measures which were recommended by law enforcement to increase their ability to combat the increasingly-violent criminal gangs which are spreading across the country. Senator HATCH and I introduced this legislation in the past two congresses, and some of its provisions have already been included in the

bill before us today, as Title II of the bill.

The James Guelff Body Armor Act of 1999, which is designed to increase police and public safety by taking body armor out of the hands of criminals and putting it in the hands of police. I introduced this earlier this year as S. 783, and it has been co-sponsored by Senators SESSIONS, BOXER, REID, BRYAN, and KERRY. We also have incorporated S. 726, the Officer Dale Claxton Bullet Resistant Police Protective Equipment Act of 1999, which was introduced by Senators CAMPBELL and TORRICELLI.

Anti-bombmaking legislation, which is designed to do everything possible under the Constitution to take information about how to make a bomb off the Internet by criminalizing the distribution of such information for a criminal purpose. I have introduced it in the past as an amendment to other bills, with the support of Senator BIDEN, and introduced it earlier this year as part of S. 606, with Senators NICKLES, HATCH, and MACK.

This amendment also includes provisions drafted by Senator HATCH to address animal enterprise terrorism, which he introduced earlier this year as part of his omnibus crime bill, S. 899.

I want to express my great thanks to the distinguished chairman of the Judiciary Committee for working with me to put this package together, which is obviously of the highest priority to me.

Let me now describe what it does, in more detail:

GANGS

Gangs are no longer a local problem involving small groups of wayward youths. Rather, gang violence has truly become a problem of national scope.

The U.S. Justice Department issued a report which details the dramatic scope of this problem: there are over 23,000 youth gangs, in all 50 states; it will come as no surprise to you to learn that California is the number one gang state, with almost 5,000 gangs, and more than three times as many gang members as the next-most gang-plagued state; and overall, there are almost 665,000 gang members in the country, more than a ten-fold increase since 1975. [Source: U.S. Department of Justice, 1995 National Youth Gang Survey, released in August, 1997.]

In Los Angeles alone, nearly 7,300 of its citizens were murdered in the last 16 years from gang warfare, more people than have been killed in all the terrorist fighting in northern Ireland.

Today's gangs are organized and sophisticated traveling crime syndicates—much like the Mafia. They spread out and franchise across the country, many from California.

The Los Angeles-based 18th Street gang now deals directly with the Mexican and Colombian drug cartels, and has expanded its operations to Oregon, Utah, El Salvador, Honduras, and Mexico.

Local police and the FBI have traced factions of the Bloods and Crips to more than 119 cities in the West and Midwest with more than 60,000 members.

The Gangster Disciples, according to local authorities, is a Chicago-based 30,000 member multi-million dollar gang operation spanning 35 states, which traffics in narcotics and weapons, with income estimated at $300,000 daily.

A 1995 study of gang members by the National Gang Crime Research Center found: three-quarters of the gangs exist in multiple geographic areas; half of the gang members belonged to gangs which did not arise locally, but arose with contact from a gang from outside the area; and 61 percent indicated their gang was an official branch of a larger national gang.

Sgt. Jerry Flowers with the gang crime unit in Oklahoma City captured the migration instinct of these gangs when he said: ''the gang leaders realized that the same ounce of crack cocaine they sold for $300 in Los Angeles was worth nearly $2,000 in Oklahoma City.''

Gangs also steer at-risk youth into crime. A recently released study by the National Institute of Justice went about answering the question: ''Are gangs really responsible for increases in crime or are youths who grow up in very difficult circumstances but do not join gangs committing just as many crimes?'' To answer this, the Institute scientifically compared gang members with demographically similar at-risk youth in four cities.

The results were very revealing, and I think it's important to share these with the Senate:

> The research revealed that criminal behavior committed by gang members is extensive and significantly exceeds that committed by comparably at-risk but nongang youth.
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> * * * * *
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> Youths who join gangs tend to begin as 'wannabes' at about age 13, join about 6 months later, and get arrested within 6 months after joining the gang. By age 14 they already have an arrest record.
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> * * * * *
>
> An important positive correlation exists between when these individuals joined gangs and when their arrest histories accelerated.
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> * * * * *
>
> [D]ata indicate that gang involvement significantly increases one's chances of being arrested, incarcerated, seriously injured, or killed.
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> * * * * *
>
> [G]ang members are far more likely to commit certain crimes, such as auto theft; theft; assaulting rivals; carrying concealed weapons in school; using, selling, and stealing drugs; intimidating or assaulting victims and witnesses; and participating in drive-by shootings and homicides than nongang youths.
>
> * * * * *
>
> Gang members . . . are better connected to nonlocal sources than nongang drug traffickers.
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> * * * * *
>
> [N]early 75 percent of gang members acknowledged that nearly all of their fellow gang members own guns. Even more alarming, 90 percent of gang interviewees reported that gang members favor powerful, lethal weapons over small caliber handguns.

Finally, the study noted, ''By all accounts, the number of youth gangs and their members continues to grow.''

To help stem this tide, my staff met for months with prosecutors, law enforcement officers, and community leaders to search for solutions to the problem of gang violence.

The Federal Gang Violence Act makes the federal government a more active partner in the war against violent and deadly organized gangs. Provisions which are already in the bill include:

Making it a federal crime to recruit someone to join a criminal gang, subject to a one year mandatory minimum if an adult is recruited, and a four year mandatory minimum if a minor is recruited.

One of the most insidious tactics of today's gangs is the way they target children to do their dirty work, and indoctrinate them into a life of crime.

For example, the 18th street gang which I described earlier, according to the Los Angeles Times, ''resembles a kind of children's army,'' with recruiters who scout middle schools for 11- to 13-year-old children to join the gang. The gang's real leaders, however, are middle-aged veteranos, long-time gang members who direct its criminal activities from the background.

The establishment of a High Intensity Interstate Gang Activity Area program.

Efforts to combat gang violence have been hampered by jurisdictional boundaries. The Los Angeles Times has opined that,

> To date, that sort of 'in it for the long haul' anti-gang effort has not occurred among law enforcement authorities here. Local police agencies fail to share information and are unwilling to commit resources outside their boundaries; this is always a problem in multi-jurisdictional Southern California. Federal law enforcement agencies have come in, but only for limited times. Meanwhile, the outlaw force gets nothing more than a bloody nose.
>
> The growth, greed and brutality of the 18th Street gang demand a coordinated local, state and federal response, one prepared to continue for months and even years if necessary.

To remedy this situation, I crafted a program modeled after the popular High Intensity Drug Trafficking Area, or HIDTA, program. The HIIGAA program:

Adds $100 million per year for prosecutors and prevention programs, targeted to areas that are particularly involved in interstate criminal gang activity, for: Joint federal-state-local law enforcement task forces, ''for the coordinated investigation, disruption, apprehension, and prosecution of criminal activities of gangs and gang members'' in the areas; and community-based gang prevention programs in the areas.

These areas are designated by the Attorney General, who in so doing must

consider: The extent to which gangs from the area are involved in interstate or international criminal activity; the extent to which the area is affected by the criminal activity of gang members who are located in or have relocated from other states or foreign countries; and the extent to which the area is affected by the criminal activity of gangs that originated in other states or foreign countries (e.g., by migration of Crips and Bloods).

I believe that this program could be tremendously helpful to the L.A. area in particular, as it is the leading source of interstate gang activity in the country, and could help bring together Los Angeles, Riverside, San Bernardino and other counties with the state and federal governments, in a coordinated, focused effort, balanced between enforcement and prevention, to beat back the gangs.

The amendment Senator HATCH and I are offering today would increase the emphasis upon prevention in this program by boosting that share from 25 to 40 percent, consistent with the committee's action last Congress. The recent NIJ study which I mentioned earlier concluded: ''It is also important to address the brief window of opportunity for intervention that occurs in the year between the ''wannabe'' stage and the age at first arrest. It is vital that intervention programs that target gang members and successfully divert them from the gang are funded, developed, evaluated, improved, and sustained.'' This program, and the change we propose today, will help to do that.

This amendment also would add the following anti-gang provisions to the bill:

1. Increases sentences for gang members who commit federal crimes to further the gang's activities, by directing the Sentencing Commission to make an appropriate increase under the Sentencing Guidelines.

2. Makes is easier to prove criminal gang activity, by:

Reducing the number of members prosecutors have to prove are in a gang from five to three;

Changing the definition of a criminal gang from a group ''that has as one of its primary purposes the commission of'' certain criminal offenses to a group ''that has as one of its primary activities the commission of'' certain criminal offenses;

Adding the following federal offenses to the list of gang crimes: extortion, gambling, obstruction of justice (includes jury tampering and witness intimidation), money laundering, alien smuggling, an attempt or solicitation to commit any of these offenses, or federal violent felonies or drug crimes, which are already included in the current law), and gang recruitment;

Adding asset forfeiture

3. Amends the Travel Act, which passed in 1961 to address Mafia-type crime, to deal with modern gangs, by adding gang crimes such as: assault with a deadly weapon, drive-by shootings, and witness intimidation to its provisions. It also increases penalties under the Act, and helps prosecutors by adding a conspiracy provision to the Act.

4. Adds serious juvenile drug offenses to the Armed Career Criminal Act, which provides for a 15 year mandatory minimum sentence if a felon with three prior convictions for violent felonies or serious drug offenses is caught with a firearm.

5. Further targets gangsters who exploit children by adding a three-year mandatory minimum sentence to the existing law against knowingly transferring a firearm for use in a violent crime or drug trafficking crime, where the gun is transferred to a minor.

6. Provision addressing clone pagers, which Sen. DEWINE has worked on, which would make it easier to investigate gang members by allowing law enforcement to obtain pagers which are clones of those possessed by gang members, under the lower standard which applies to pen registers, rather than the more difficult wiretap standard, which currently applies.

I want to note that we did not include the provision of last year's bill which was criticized for federalizing much gang crime.

Altogether, this anti-gang package gives federal law enforcement a set of powerful new tools with which to team up with state and local law enforcement and crack down on criminal gangs.

BODY ARMOR

The next piece of this comprehensive amendment is the James Guelff Body Armor Act of 1999, which is designed to increase police and public safety by taking body armor out of the hands of criminals and putting it in the hands of police. As I mentioned previously, I introduced this earlier this year as S. 783, and it has been cosponsored by Senators SESSIONS, BOXER, REID, BRYAN, and KERRY.

Currently, Federal law does not limit access to body armor for individuals with even the grimmest history of criminal violence. However, it is unquestionable that criminals with violent intentions are more dangerous when they are wearing body armor.

Many will recall the violent and horrific shootout in North Hollywood, California, just 2 years ago. In that incident, two suspects wearing body armor and armed to the teeth, terrorized a community. Police officers on the scene had to borrow rifles from a nearby gunshop to counteract the firepower and protective equipment of these suspects.

Another tragic incident involved San Francisco Police Officer James Guelff. On November 13, 1994, Officer Guelff responded to a distress call. Upon reaching the crime scene, he was fired upon by a heavily armed suspect who was shielded by a kevlar vest and bullet-proof helmet. Officer Guelff died in the ensuing gun-fight.

Lee Guelff, James Guelff's brother, recently wrote a letter to me about the need to revise the laws relating to body armor. He wrote:

> It's bad enough when officers have to face gunmen in possession of superior firepower . . . But to have to confront suspects shielded by equal or better defensive protection as well goes beyond the bounds of acceptable risk for officers and citizens alike. No officer should have to face the same set of deadly circumstances again.

I couldn't agree with Lee more. Our laws need to recognize that body armor in the possession of a criminal is an offensive weapon. Our police officers on the streets are adequately supplied with body armor, and that hardened-criminals are deterred from using body armor.

This body armor amendment has three key provisions. First, it increases the penalties criminals receive if they commit a crime wearing body armor. Specifically, a violation will lead to an increase of two levels under the Federal sentencing guidelines.

Second, it makes it unlawful for violent felons to purchase, use, or possess body armor. Third, this bill enables Federal law enforcement agencies to directly donate surplus body armor to local police.

I will address each of these three provisions.

First, criminals who wear body armor during the commission of a crime should face enhanced penalties because they pose an enhanced threat to police and civilians alike. Assailants shielded by body armor can shoot at the police and civilians with less fear than individuals not so well protected.

In the North Hollywood shoot-out, for example, the gunmen were able to hold dozens of officers at bay because of their body armor. This provision will deter the criminal use of body armor, and thus deter the escalation of violence in our communities.

Second, this amendment would make it a crime for individuals with a violent criminal record to wear body armor. It is unconscionable that criminals can obtain and wear body armor without restriction when so many of our police lack comparable protection.

The bill recognizes that there may be exceptional circumstances where an individual with a brutal history legitimately needs body armor to protect himself or herself. Therefore, it provides an affirmative defense for individuals who require body armor for lawful job-related activities.

Another crucial part of this body armor amendment is that it speeds up the procedures by which Federal agencies can donate surplus body armor to local police.

Far too many of our local police officers do not have access to bullet-proof vests. The United States Department of Justice estimates that 25 percent of State, local, and tribal law enforcement officers, approximately 150,000 officers, are not issued body armor.

Getting our officers more body armor will save lives. According to the Federal Bureau of Investigation, greater

than 30 percent of the 1,182 officers willed by guns in the line of duty since 1980 could have been saved by body armor, and the risk of dying from gunfire is 14 times higher for an officer without a bulletproof vest.

Last year, Congress made some inroads into this shortage of body armor by enacting the ''Bulletproof Vest Partnership Grant Act of 1998.'' This act established a $25 million annual fund to help local and State police purchase body armor. This amendment will further boost the body armor resources of local and State police departments.

These body armor amendments have the support of over 500,000 law enforcement personnel nationwide. The Fraternal Order of Police, the National Association of Police Organizations, the National Sheriffs' Association, the National Troopers Coalition, the International Association of Police Chiefs, the Federal Law Enforcement Officers Association (FLEOA), the Police Executive Research Forum, the International Brother of Police Officers, the Major City Chiefs, and the National Association of Black Law Enforcement Executives, have all endorsed the legislation.

An additional piece of this body armor package is S. 726, the Officer Dale Claxton Bullet Resistant Police Protective Equipment Act of 1999 introduced by Senator CAMPBELL and cosponsored by Senator TORRICELLI.

Senator CAMPBELL's proposals are dedicated to the memory of Dale Claxton, a Colorado police officer who was fatally shot through the windshield of his police car. These proposals include:

Authorizing continued funding for the Bulletproof Vest Partnership Grant Act program at $25 million per year;

Second, creating a $40 million matching grant program to help State and local jurisdictions and Indian tribes purchase bullet resistant glass, armored panels for patrol cars, hand-held bullet resistant shield and other life saving bullet resistant equipment;

Third, authorizing a $25 million matching grant program for the purchase of video cameras for use in law enforcement vehicles; and

Finally, the amendment directs the National Institute of Justice to promote bullet-resistant technologies.

I am pleased that we were able to include these measures in our amendment as well. They strengthen the amendment's purpose to protect police and the public.

BOMBMAKING

Let me turn now to the bombmaking piece of this package.

According to authorities, the killers in Littleton learned how to make their 30-plus bombs form bombmaking instructions posted on the Internet.

Hundreds and hundreds of Web sites contain instructions on how to build bombs, such as this Terrorists' Handbook, which my staff downloaded from the Internet a week after the tragedy. This bombmaking manual contains detailed, step-by-step instructions for building devices such as pipe bombs, lightbulb bombs, and letter bombs, which have no legitimate, lawful purpose. It also tells the reader how to break into college labs to obtain useful chemicals, how to pick locks, and even contains a checklist for raids on laboratories.

INTERNET BOMBMAKING INCIDENTS CONTINUING AFTER LITTLETON

Unfortunately, in the short time since the tragedy in Littleton, Colorado, there has been a steady stream of incidents of youths using the Internet to build bombs and threaten their use at school:

Police arrested five students at McKinley Junior High School in Brooklyn for possessing a bomb-making manual, a day after the eighth-graders were caught allegedly plotting to set off a bomb at graduation. The arrested students, all 13, were charged with second-degree conspiracy after allegedly bringing bomb-making information found on the Internet to class, police and school officials said.

Salt Lake City School District has received about 10 reports of threats to kill or blow up schools, said Nancy Woodward, district director of student and family services. Many of the students making such threats have a history of violent threats and have written about such violence in notebooks or downloaded Internet information. [4/28/99 Deseret News]

Three Cobb County, Georgia boys arrested for possession of a pipe bomb on school property learned how to make the explosive by browsing the Internet, according to testimony at a court hearing.

One week after the high school killings in Colorado, authorities across Texas are reporting a spate of incidents that involve violent threats by students and crude efforts to manufacture bombs.

In Port Aransas, Texas, a 15-year-old boy who allegedly downloaded from the Internet information on bomb making and killing faced criminal charges after the was turned in to police by his father. The boy had threatened teachers and classmates.

At least seven teen-agers are being held in Wimberley and Wichita Falls alone, all of them on suspicion of making explosives, some of which officials say were to be used to attack a school.

A judge ordered four Wimberley, Texas junior high school students to remain in a juvenile detention center, accused of planning an attack on their own school. Sheriff's deputies questioned the four eighth-graders over the weekend and searched their homes, turning up gunpowder, crudely built explosives and instructions on making bombs on computer disks and downloanded from the Internet.

More than 50 threats of bombings and other acts of violence against schools have been reported across Pennsylvania over the last four days, which state officials attributed partly to last week's bombing in Littleton, Colo.

Elsewhere on the Web, the Columbine tragedy has triggered a kind of electronic turf warfare, as individuals snap up site addresses containing words reflecting the tragedy, such as the killers' names or the name of their clique, the Trench Coat Mafia. At least one such site, filled with images of guns and bomb-making instructions, was offered for sale to the highest bidder on eBay, an online auction. ''When we became aware of it, we took it down immediately,'' an eBay spokesman said. ''It is totally inappropriate.''

And just 28 miles away from where we stand today, three students at Glen Burnie High School, in Maryland, were arrested for issuing bomb threats and possessing bomb-making components. One of those arrested had told another student, ''You're on my hit list.'' A police search of the boys' homes found match heads, suitcases, wires, chemicals, and printouts from the Internet showing how to put it all together to make bombs. Graffiti at the school read, ''if you think Littleton was bad, wait until you see what happens here.''

DESCRIPTION OF THE LEGISLATION

I have been trying to do as much as I can under the First Amendment to get rid of this sort of filth for four years now. This amendment:

Makes it a federal crime to teach or distribute information on how to make a bomb or other weapon of mass destruction if the teacher: Intends that the information be used to commit a federal violent crime or knows that the recipient of the information intends to use it to commit a federal violent crime; and sets a maximum sentence of 20 years.

This legislation has been endorsed by both the explosives industry (Institute for Makers of Explosives) and the Anti-Defamation League.

HITORY OF THE AMENDMENT

The substance of this amendment has passed the Senate or the Judiciary Committee in each of the past four years, without a single vote in opposition: in 1995, as an amendment to the anti-terrorism bill, by unanimous consent; in 1996, as an amendment to the Department of Defense authorization bill, again by unanimous consent; in 1997, again as an amendment to the Department of Defense authorization bill, this time by a vote of 94–0; and last year, in the Judiciary Committee, as an amendment to a private relief bill for Kerr-McGee Corporation, by unanimous consent.

Unfortunately, despite the unanimous support of the Senate, the House has killed the amendment in conference each time it has passed the Senate: On the terrorism bill, it was replaced by a directive to the Attorney General to study and report to Congress on six different issues related to the amendment; on the FY 97 Defense bill, it was eliminated because the Attorney General's study was then ongoing, and she had not yet issued her report; on the FY 98 Defense bill, it was

eliminated because it falls within the jurisdiction of the Judiciary Committees, and the House objected to its not taking this usual course.

JUSTICE DEPARTMENT SUPPORT

I mentioned the Justice Department report earlier; that report found that the amendment was justified on each of the six factors the Department was asked to consider, and recommended that Congress finally pass this legislation:

Factor: ''(1) the extent to which there is available to the public material in any medium (including print, electronic or film) that provides instruction on how to make bombs, destructive devices, or weapons of mass destruction.''

DOJ Report: ''It is readily apparent from our cursory examination that anyone interested in manufacturing a bomb, dangerous weapon or weapon of mass destruction can easily obtain detailed instructions for fabricating and using such a device.''

Factor: ''(2) the extent to which information gained from such materials has been used in incidents of domestic or international terrorism.''

DOJ Report: ''Recent law enforcement experience demonstrates that persons who attempt or plan acts of terrorism often possess literature that describes the construction of explosive devices and other weapons of mass destruction (including biological weapons).''

''[R]eported federal cases involving murder, bombing, arson, and related crimes, reflect the use of bombmaking manuals by defendants and the frequent seizure of such texts during the criminal investigation of such activities.''

''Finally, information furnished by the Bureau of Alcohol, Tobacco and Firearms reveals that such literature is frequently used by individuals bent upon making bombs for criminal purposes.''

The report connected ''mayhem manuals'' to numerous terrorist and criminal actions, including: The World Trade Center bombing; the Omega 7 group, who conducted terrorist bombings in the New York area; an individual attempting to bring enough ricin—one of the most toxic substances known—into the U.S. to kill over 32,000 people; and the ''Patriots Council'' began developing ricin to attack federal or local law enforcement officials.

Factor: ''(3) the likelihood that such information may be used in future incidents of terrorism.''

DOJ Report: ''both the FBI and ATF expect that because the availability of such information is becoming increasingly widespread, such bombmaking instructions will continue to play a significant role in aiding those intent upon committing future acts of terrorism and violence.''

Factor: ''(4) the application of Federal laws in effect on the date of enactment of this Act to such material.''

DOJ Report: while there are several existing federal laws which could be applied to bombmaking instructions in some circumstances, ''current federal law does not specifically address certain classes of cases.''

Factor: ''(5) the need and utility, if any, for additional laws relating to such material.''

DOJ Report: ''the Department of Justice agrees with [Senators FEINSTEIN and BIDEN] that it would be appropriate and beneficial to adopt further legislation to address this problem directly, in a manner that does not impermissibly restrict the wholly legitimate publication and teaching of such information, or otherwise violate the First Amendment.''

Factor: ''(6) an assessment of the extent to which the first amendment protects such material and its private and commercial distribution.''

DOJ Report: ''where such a purpose [to aid or cause a criminal result] is proved beyond a reasonable doubt, as it would have to be in a criminal case, the First Amendment should be no bar to culpability.''

''we think these First Amendment concerns can be overcome, and that such a facilitation prohibition could be constitutional, if drafted narrowly.''

I ask that the Justice Department's report be incorporated by reference as part of the RECORD.

The Justice Department proposed a slight re-draft of the original version of the Feinstein amendment. It is this redraft which we have included in this amendment with one further modification, removing state crimes from its scope, made at the request of Representative MCCOLLUM.

CONCLUSION

This is a powerful set of amendments, which I am convinced can do a great deal to reduce criminal violence in America. I urge my colleagues to join me in supporting this.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BYRD. Mr. President, is the bill open for my amendment now?

Mr. HATCH. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The pending legislation is the Hatch-Feinstein amendment.

Mr. BYRD. I ask unanimous consent that measure be temporarily laid aside so I may offer an amendment.

Mr. HATCH. Will the Senator yield?

Mr. BYRD. Gladly.

Mr. HATCH. I am trying to work out the details to see if we can proceed with the Senator's amendment. If the Senator will give me a little bit more time, I will see if we can get that worked out.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. REID. Will the Senator yield?

Mr. BYRD. I am told I could offer the amendment. I am glad to yield, however.

Mr. REID. Mr. President, we want to do something on this bill. I have been asked personally by the majority leader and the minority leader to move this legislation along. I have pled with Members from the minority to narrow the amendment. We have done that. There are time limits on most every one.

We have spent 2 hours today trying to offer amendments. We want to offer amendments. We are being told we can't offer gun amendments, so we bring in the second most senior Member of the Senate to offer an amendment dealing with alcohol, and we are told we can't offer that.

What can we offer? I say to my friend from Utah, what can we offer? We want to move this thing along. I have been here since early this morning trying to move this bill along, and whatever we do we can't do it. You can't have it both ways. We can't be accused of trying to slow down the legislation and when we want to offer amendments we can't offer anything.

Mr. HATCH. Will the Senator yield?

Mr. BYRD. I would be glad to yield.

Mr. HATCH. We understand that most Senators have left. We also understand some of these amendments are controversial and they need debate on both sides. We also understand that some of us have to protect ourselves on both sides or protect our Senators.

We are moving ahead. I just put in a very important amendment for Senator FEINSTEIN and myself. We are submitting our statements for the RECORD today rather than taking the time of the Senate. We are moving ahead in a regular forum. We can move with some amendments today and some we can't. We do want to move ahead and we will certainly try to do so and accommodate Members. When it comes to protecting Members of the Senate, we have to do that. It is just a common courtesy that has been used in this body ever since I have been here for 23 years. I don't want to see that courtesy not extended at this time.

What I am hoping is that we can proceed with the Byrd amendment, which happens to be the bill that I filed on alcohol sales over the Internet. We know that the Senators from the States who are in opposition are not here today. We will try to work out an arrangement where this amendment can be filed and reserve time, an equivalent amount of time, for those who may be in opposition.

We have asked for just a few minutes for one of our distinguished Senators who has a direct interest in this to be able to read the amendment. It is not a long amendment. If we could just get a few more minutes of time.

As I now understand, the amendment is OK. Let's go ahead.

May I propose a unanimous consent request?

Mr. BYRD. Mr. President, may I speak for 1 minute?

This amendment has been printed in the RECORD. It is at the desk. So I have conformed with the request to get our amendments in. It was in yesterday's CONGRESSIONAL RECORD.

Mr. HATCH. Will the Senator yield for a unanimous consent request?

Mr. BYRD. It catches no one by surprise.

I yield to the Senator.

Mr. HATCH. Nobody is accusing anybody of surprise. The Senator has every right to call up his amendment and we are glad he is.

I ask unanimous consent whatever time the Senator takes on this amendment today, that those in opposition be permitted to take when they return on Monday.

Mr. REID. Reserving the right to object.

Mrs. FEINSTEIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada is recognized under his reservation.

Mr. BYRD. Do I still have the floor?

The PRESIDING OFFICER. The Senator from West Virginia continues to have the floor.

Mr. BYRD. I yield to the Senator from Nevada.

Mr. REID. Reserving the right to object, I say to my friend from Utah, of course people in opposition to this amendment can come and talk until the leader pulls the bill.

I don't understand why we can't move forward with amendments. If somebody wants to make an objection to the amendment in the form of a speech, they can come anytime they want. That is how we do business around here. When an amendment is offered, you don't have to have on the floor somebody on the other side to oppose it.

We are being accused of slowing down this bill. We are doing everything we can to move the bill along. I hope everyone understands who is slowing down this bill. It is not us.

Mr. LEAHY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I wonder how this works. Does this mean if we have other amendments on either side that come up, just because somebody is not there to respond to it, does that mean this will now become the procedure to be followed? We will let the proponent speak, and then on Monday the opponents speak?

I ask that because we have to do something to move this on. It is frustrating to the Senator from Vermont, who has canceled all other plans today to be here into the evening, if necessary, to move forward on this bill, in keeping with what the majority leader said he wants done, if he suddenly finds he will be picking and choosing whether anybody can bring up an amendment or not.

If Senators are serious about the amendments, they can come here and offer them. It is more of a question to the distinguished Senator from Utah: Is this going to be the practice, if another Senator brings up an amendment and there is not somebody on the other side, will that Senator bring it up and speak about it, and the other Senator comes back and responds on Monday?

Mr. HATCH. Mr. President, I will try to protect Senators on our side who may not be here. I presume the distinguished Senator from Vermont will do the same for Senators on this side when we know they are in opposition or opposing a particular amendment.

I amend my unanimous consent request to request that, immediately following Senator BYRD's presentation of his amendment, Senators FRIST and ASHCROFT be permitted to call up their amendment.

Mrs. FEINSTEIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, before I agree, I would like——

Mr. BYRD. May I say to the Chair, I am recognized.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. If the distinguished Senator from California wishes to say something, I would be glad to yield for a statement.

Mrs. FEINSTEIN. I thank the Senator. I wish to oppose your amendment and so I wish to see that there is an opportunity for me to do so.

Mr. BYRD. Mr. President, the Senator from California will certainly have an opportunity to oppose my amendment. Anybody else will certainly have an opportunity to do that.

Mr. HATCH. May I have a ruling on my unanimous consent request to get this order?

Mr. BYRD. Would the Senator remind repeating his request?

Mr. HATCH. I ask unanimous consent that there be given time to debate by opponents on Monday, if they are unable to be here at this time, to amendments that are called up today, and we give them the time to debate the equivalent used today—in the case of Senator FEINSTEIN, she is here so she can reply regarding Senator BYRD's amendment—but that Senator BYRD's amendment proceed, and immediately following the Byrd amendment, that Senators FRIST and ASHCROFT be permitted to call up their amendment, hopefully speaking for only 5 minutes.

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

The Senator from West Virginia.

Mr. BYRD. Mr. President I wasn't here when the consent order was entered. But do I understand that no amendment in the second degree can be offered today?

The PRESIDING OFFICER (Mr. HAGEL). No second-degree amendment can be offered and voted on until there has been a vote on or in relationship to the amendment.

Mr. BYRD. Mr. President, I do not seek any vote on my amendment today, but I have entered it earlier and I want to speak to it and officially call it up today. And it will be up on Monday for further debate and for amendment by other amendments.

AMENDMENT NO. 339

(Purpose: To provide for injunctive relief in Federal district court to enforce State laws relating to the interstate transportation of intoxicating liquor)

The PRESIDING OFFICER. The clerk will report the Senator's amendment.

Mr. BYRD. Mr. President, I want the clerk to report it in full.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. KOHL, proposes an amendment numbered 339:

At the appropriate place, insert the following:

SEC. ___. TWENTY-FIRST AMENDMENT ENFORCEMENT.

(a) SHIPMENT OF INTOXICATING LIQUOR INTO STATE IN VIOLATION OF STATE LAW.—The Act entitled ''An Act divesting intoxicating liquors of their interstate character in certain cases'', approved March 1, 1913 (commonly known as the ''Webb-Kenyon Act'') (27 U.S.C. 122) is amended by adding at the end the following:

''SEC. 2. INJUNCTIVE RELIEF IN FEDERAL DISTRICT COURT.

''(a) DEFINITIONS.—In this section—

''(1) the term 'attorney general' means the attorney general or other chief law enforcement officer of a State, or the designee thereof;

''(2) the term 'intoxicating liquor' means any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind;

''(3) the term 'person' means any individual and any partnership, corporation, company, firm, society, association, joint stock company, trust, or other entity capable of holding a legal or beneficial interest in property, but does not include a State or agency thereof; and

''(4) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

''(b) ACTION BY STATE ATTORNEY GENERAL.—If the attorney general of a State has reasonable cause to believe that a person is engaged in, is about to engage in, or has engaged in, any act that would constitute a violation of a State law regulating the importation or transportation of any intoxicating liquor, the attorney general may bring a civil action in accordance with this section for injunctive relief (including a preliminary or permanent injunction or other order) against the person, as the attorney general determines to be necessary to—

''(1) restrain the person from engaging, or continuing to engage, in the violation; and

''(2) enforce compliance with the State law.

''(c) FEDERAL JURISDICTION.—

''(1) IN GENERAL.—The district courts of the United States shall have jurisdiction over any action brought under this section.

''(2) VENUE.—An action under this section may be brought only in accordance with section 1391 of title 28, United States Code.

''(d) REQUIREMENTS FOR INJUNCTIONS AND ORDERS.—

''(1) IN GENERAL.—In any action brought under this section, upon a proper showing by the attorney general of the State, the court shall issue a preliminary or permanent injunction or other order without requiring the posting of a bond.

''(2) NOTICE.—No preliminary or permanent injunction or other order may be issued under paragraph (1) without notice to the adverse party.

''(3) FORM AND SCOPE OF ORDER.—Any preliminary or permanent injunction or other order entered in an action brought under this section shall—

''(A) set forth the reasons for the issuance of the order;

''(B) be specific in terms;

''(C) describe in reasonable detail, and not by reference to the complaint or other document, the act or acts to be restrained; and

''(D) be binding only upon—

''(i) the parties to the action and the officers, agents, employees, and attorneys of those parties; and

''(ii) persons in active cooperation or participation with the parties to the action who receive actual notice of the order by personal service or otherwise.

''(e) CONSOLIDATION OF HEARING WITH TRIAL ON MERITS.—

''(1) IN GENERAL.—Before or after the commencement of a hearing on an application for a preliminary or permanent injunction or other order under this section, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing on the application.

''(2) ADMISSIBILITY OF EVIDENCE.—If the court does not order the consolidation of a trial on the merits with a hearing on an application described in paragraph (1), any evidence received upon an application for a preliminary or permanent injunction or other order that would be admissible at the trial on the merits shall become part of the record of the trial and shall not be required to be received again at the trial.

''(f) NO RIGHT TO TRIAL BY JURY.—An action brought under this section shall be tried before the court.

''(g) ADDITIONAL REMEDIES.—

''(1) IN GENERAL.—A remedy under this section is in addition to any other remedies provided by law.

''(2) STATE COURT PROCEEDINGS.—Nothing in this section may be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any State law.''.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I have not asked for any action on this amendment, but I did want to have it read for the information of the Senate, and I want to speak on it briefly, after which I shall return to my office.

Mr. President, over the past few days, many of my colleagues have come to this Chamber and, with heartfelt passion, offered proposals aimed at addressing the scourge of juvenile crime and violence. We have seen efforts to reduce the pervasiveness of violence and indecency on television and in the movies. We have seen efforts to provide the tools parents need in order to make the Internet a safe and educational environment for their children. We have observed proposals to increase criminal penalties for those who would seek to subvert our youth by introducing them to gangs or the drug culture; and we have had attempts to limit children's access to guns.

Each of these has been, I believe, an honest effort toward seeking a much-needed solution to this national problem. And yet, despite these proposals, I am deeply concerned that we have overlooked an important element of this crisis—the problem of teen alcohol use—the problem of teen, t-e-e-n, alcohol use—more appropriately, perhaps, alcohol abuse.

I have long been concerned about underage drinking.

As a matter of fact, I am not an advocate of drinking at any age, but I recognize that not everybody seeks to pattern their own viewpoints and lives after my viewpoints. But especially—especially—I speak with reference to underage drinking.

It takes an immense toll on our children and our society. The younger a child starts drinking, the more likely that child is to run into bad, bad trouble down the road. Research has shown, for example, that children who begin drinking before age 15 are four times more likely to develop alcohol dependence than those who abstain from such activity until the legal drinking age of 21. We also know that too many kids are drinking.

If one kid is drinking, that is too many. I am not saying that with reference to this legislation. Obviously, if one is drinking, that is one too many. But for the purposes of this statement, let it stand as I say. We also know that too many kids are drinking.

During the last month, approximately 34 percent of high school seniors, 22 percent of tenth graders, and 8 percent of eighth graders, have been drunk.

That is hard to imagine. I started school in a two-room schoolhouse. I have said that many times, but I like to repeat it because there are still some of us here who remember those times. When I was later in high school, that would not have been tolerated. The parents would not have tolerated it. The community would not have tolerated it. The school principal, the teachers would not have tolerated it.

Let me read that again.

During the last month, approximately 34 percent of high school seniors—now that is a third of high school seniors—22 percent of the tenth graders; in other words, one-fifth of the tenth graders, and 8 percent of the eighth graders—think of that, 8 percent of the eighth graders—have been drunk!

What is going on here? Drunk. How can that happen if there is a parent who observes the responsibilities of a parent? How can a drunk child avoid the observation of the parent?

Yes, I said drunk! And, in the most tragic of statistics, we know that, in 1996, 5,233 young people ages 15 to 20 died in alcohol-related traffic accidents—5,233 lives cut short for what? Mr. President, 5,233 young people ages 15 to 20 died, and that means for a long, long time—died in alcohol-related traffic accidents. These statistics should be a cause for great concern not just among Senators, but for everyone throughout this Nation. Everybody. The churches ought to be up in arms about it. Legislators ought to be up in arms about it. The administration ought to put forth a crusade, not just a word here and there, tippy-toeing around. There ought to be a real crusade like the crusade that has been effectively carried on against smoking. Why not have a national crusade against drinking and especially concerning young people in school? Something is wrong.

Mr. President, we should also be concerned that, with direct-to-consumer sale of alcohol, children can now get beer, wine, or liquor sent directly to their homes by ordering from catalogues or over the Internet.

What a shame. Again, I have to point my finger at the parents. What a shame. Children can now get beer, wine or liquor sent directly to their homes by ordering from catalogs or over the Internet.

Unfortunately, these direct-to-consumer sales work to undermine the extremely important controls currently in place in many of our States.

Consequently, I am offering this amendment, on behalf of myself and Senator KOHL, in an effort to give States the opportunity to close that loophole and go after those who sell alcohol illegally to children. The Webb-Kenyon Act, a Federal statute dating back to the early part of this century, makes clear that States have the authority to control the shipment of alcohol into the State. Unfortunately, recent court decisions have maintained that the statute provides no enforcement mechanism. In the 1997 case of Florida Department of Business Regulation v. Zachy's Wine and Liquor, for example, the State of Florida was prohibited from enjoining four out-of-State direct shippers on the grounds that neither the 21st amendment to the Constitution, nor the Webb-Kenyon Act, gave the State a Federal right of action for failure to comply with State liquor laws. Thus, as a result of this and other court decisions, the ability of States to vigorously enforce their prerogatives under the 21st amendment and the Webb-Kenyon Act against out-of-State defendants is extremely limited at the very time when illegal alcohol shipments are burgeoning.

This amendment would remedy this problem by stating unequivocally—no ands, ifs, or buts; unequivocally—that States have the right to seek an injunction in Federal court to prevent the illegal, interstate sale of alcohol in violation of State law.

I am not saying you cannot sell it. I am simply saying that we should obey State laws by not selling alcohol to children—or expect to pay the consequences.

This amendment is based on legislation originally introduced earlier this year by the distinguished Senator from Utah, Mr. HATCH. The distinguished Senator from Utah has been at the forefront of this issue, and I thank him for his leadership on this important matter. In addition, Senator KOHL is a

cosponsor of my amendment and I sincerely thank him as well for his steadfast support.

Beyond my colleagues here in the Senate, though, this legislation has garnered diverse support. Organizations favoring this amendment include the American Academy of Pediatrics, the International Association of Chiefs of Police, the Wine and Spirits Wholesalers of America, the National Beer Wholesalers Association, the National Licensed Beverage Association and the National Alcohol Beverage Control Association.

Mr. President, let me be clear about what my amendment does. It simply clarifies that States may use the Federal courts to obtain an injunction to prevent the illegal shipment of alcohol. It does not overturn or interfere with any existing State law or regulation. It would have no impact on those companies that are selling alcohol products in accordance with State laws. It would not impede legal access to the marketplace. In fact, there are distributors who have offered to sell the products of any wine manufacturer, no matter how small that company might be. My amendment would have no impact on those who are using the Internet to sell alcohol products legally.

In sum, companies would remain free to utilize any marketing or sales process currently permitted under State law. That is why companies that legally sell alcohol over the Internet, such as Geerlings and Wade, have endorsed this legislation. The legislation would only impede those who use the Internet or other marketing techniques to avoid compliance with State alcohol laws.

Mr. President, as the Senate addresses the pernicious problem of youth crime and violence, I urge my colleagues to join me in addressing this important facet. We should not—indeed, we cannot—turn a blind eye to those who would, and do, violate State laws governing the sale of alcoholic beverages. The laws regulating alcoholic beverages are in place because such products can be—can be—a dangerous product. It should not be shipped to minors. It should not be shipped into States in violation of those States' laws. Congress should act now and ensure that the laws regulating the interstate shipment of alcohol are not rendered meaningless.

Mr. President, that completes my statement.

I yield the floor.

Mr. HATCH. Mr. President, if nothing else can be said about this issue, it is absolutely imperative that states have the means to prevent unlawful access to alcohol by our children.

If a 13-year-old is capable of ordering beer and having it delivered by merely ''borrowing'' a credit card and making a few clicks with her mouse, there is something wrong with the level of control that is being exercised over these sales and something must be done to address the problem.

I am a strong supporter of electronic commerce. But the sale of alcohol cannot be equated with the sale of a sweater or shirt. We need to foster growth in electronic commerce, but we also need to make sure that alcohol control laws are respected.

The growth of many of our nation's wineries is tied to their ability to achieve name recognition and generate sales nationwide—tasks the Internet is uniquely suited to accomplish. I do not want to preclude them from using the Internet; I want to ensure that they use it responsibly and in accordance with state laws.

If there is a problem with the system, we need to fix the system, not break the laws.

The 21st amendment gives states the right to regulate the importation of alcohol into their states. However, efforts to enforce laws relating to the importation of alcohol have run into significant legal hurdles in both state and Federal courts.

The scope of the 21st amendment is essentially a Federal question that must be decided by the Federal courts—and ultimately the Supreme Court. For that reason, among others, I believe a Federal court forum is appropriate for state enforcement efforts.

Most states do not permit direct shipping of alcohol to consumers. Therefore most Internet sales of alcohol are currently prohibited. If a state wants to set up a system to allow for the direct shipment of alcohol to consumers, such as New Hampshire and Louisiana have already done, then that is their right under the 21st amendment. But the decision to permit direct shipping, and under what conditions, is up to the states, not the purveyors of alcohol.

S. 577, the Twenty-First Amendment Enforcement Act was introduced by myself and Senator DEWINE on March 10, 1999. Senators BYRD and CONRAD have now cosponsored and Senator KOHL is to be added as a sponsor.

It is my understanding that Senator BYRD will offer the Twenty-First Amendment Enforcement Act as an amendment to S. 254, the Violent and Repeat Juvenile Offender Accountability Act of 1999. To my knowledge, only three Senators have gone on record opposing the bill—FEINSTEIN, DURBIN, ROCKEFELLER—and 57 Senators have given the bill tentative approval.

The bill is supported by a host of interests including, *inter alia*, Utah interests (Governor Leavitt, Attorney General Graham, Utah's Department of Alcoholic Beverage Control, the Utah Hospitality Association, numerous Utah Congressional Representatives and Senator BENNETT), SADD, the National Licensed Beverage Association, the National Beer Wholesalers Association, the Wine and Spirits Wholesalers, Geerlings and Wade (leading direct marketer of fine wines to 27 States and more than 81 percent of the wine consuming public) Americans for Responsible Alcohol Access, the National Association of Beverage Retailers, the National Alcohol Beverage Control Association, and the National Conference of State Liquor Administrators.

I had intended to offer this amendment. Senator FEINSTEIN asked that I withhold—and I was agreeable to working with her. I still wish to work with her. But, given Senator BYRD's decision to offer the amendment at this time I feel compelled to vote my conscience.

I have been working with Senator FEINSTEIN and others to try to come to an agreement on legislation which will balance the legitimate commercial interests involved with the rights of the states under the 21st amendment. However, I haven't seen any proposed amendments at this time which help alleviate the problems inherent in direct shipping while at the same time protecting the wineries' commercial interests.

I still want to work with the vineyards and those who have concerns. I hope we can keep working together.

SUMMARY OF BYRD AMENDMENT (S. 577, THE ''TWENTY-FIRST AMENDMENT ENFORCEMENT ACT'')

(1) Permits the chief law enforcement officer of a state to seek an injunction in federal court to prevent the violation of any of its laws regulating the importation or transportation of alcohol;

(2) Allows for venue for the suit where the defendant resides and where the violations occur;

(3) No injunctions issued without prior notice to the opposing party;

(4) Requires that injunctions be specific as to the parties, the conduct and the rationale underlying the issuance of the injunction;

(5) Allows for quick consideration of the application for an injunction; conserves court resources by avoiding redundant proceedings;

(6) Mandates a bench trial.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I ask unanimous consent to send an amendment to the desk.

The PRESIDING OFFICER. Is there objection to the Senator's request?

Mr. BYRD. Mr. President, I certainly have no objection to the Senator sending her amendment to the desk. Wait, Mr. President. Is this amendment a second-degree amendment?

Mrs. FEINSTEIN. First degree.

Mr. ASHCROFT. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Is this an amendment to the amendment offered by the Senator from West Virginia or is this another amendment?

Mrs. FEINSTEIN. I say to the Senator, this is another amendment on the same subject. It is a first-degree amendment.

Mr. ASHCROFT. If I may ask, as a point of procedure, I thought we were operating under a unanimous consent that the next amendment to be offered was to be, according to the unanimous

consent, an amendment sponsored by Senator FRIST and myself.

The PRESIDING OFFICER. The Senator is correct.

Mr. ASHCROFT. I do not mean to forestall other amendments, but it was just my understanding. I am happy to try to work out a unanimous consent which allows for the other amendment. But I think it would be appropriate to do that rather than set aside the amendment in place, and as a result, until we work that out, I object.

The PRESIDING OFFICER. Objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Could I ask the distinguished Senator what her amendment is?

Mrs. FEINSTEIN. Yes. The amendment essentially would require that when one ships an alcoholic beverage, that there be a label on the shipping container that contains clearly and prominently an identification of the contents of the package. It would then require that upon delivery, an adult must show identification to receive it. It also would provide that it is a criminal charge to violate that, and with three violations, the BATF revokes the license.

Mr. HATCH. I ask the distinguished sponsor of the amendment, is this one of the amendments that has been approved by both sides under the unanimous consent agreement?

Mrs. FEINSTEIN. I do not believe it has been.

Mr. HATCH. If it has not been, the only way we can bring it up without objection would be to get one of the—I think there are nine reserved amendments that could be utilized for this purpose. If you can do that, if I have interpreted this correctly, you would like your amendment right after the Byrd amendment so there will be a contrast.

Mrs. FEINSTEIN. If possible, yes.

Mr. HATCH. I support the Byrd amendment, but I do not think that is an unreasonable request. I ask my colleagues on this side to allow it, as long as there is not a lot of intervening debate.

Mrs. FEINSTEIN. Thank you very much.

The PRESIDING OFFICER. Is there objection to the request of the Senator from California? Hearing none, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Utah for doing that. It was a request similar to what I wanted. I agree with him. I happen to support the amendment by the distinguished Senator from California. I think it is a very reasonable and realistic one that should be passed.

Mr. HATCH. I do not know whether I was clear or not on my unanimous consent request, but she should be entitled to do it if she can use one of those nine amendments which have been reserved for things like this. We shouldn't have this if it is an additional amendment to all the ones we have on the RECORD.

Mr. LEAHY. I did not understand that to be the unanimous consent.

Mr. HATCH. That is what I meant to say.

Mr. LEAHY. I did not understand that to be the unanimous consent request that was agreed to.

Mr. HATCH. Let me rephrase the unanimous consent request. There are nine reserved amendments, five by the distinguished ranking member and four by the minority leader. The Senator should be allowed to call up this amendment utilizing one of those nine amendments, if she wants to. I do not want to expand the amendment list.

I ask unanimous consent that she be permitted to do that, utilizing one of the nine that aren't presently utilized.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, I make a parliamentary inquiry. What is the unanimous consent request the Senate just agreed to prior to this, as propounded by the distinguished senior Senator from Utah?

Mr. HATCH. Would the Senator acknowledge——

Mr. LEAHY. Could I get an answer?

Mr. HATCH. I do not know that I was clear. That is why I am trying to be clear now.

Mr. LEAHY. Well, all of us are unclear at times. I just want to be clear so I can understand how the Chair understands it.

Mr. HATCH. I did mention the nine amendments. That is clearly the import of what I wanted to do.

Mr. LEAHY. Well, except that that would not require, I would say to my friend from Utah, unanimous consent in any event, because we could just simply take one of those——

Mr. HATCH. I am prepared, but I think we should use one of the nine open amendments to be fair about it. But if you want to raise a technical objection and not use one, that is fine with me, because it is fair to the distinguished Senator from California, whom I oppose. That is why you kept those amendments. I think it is fairer to use one of them. That way, we do not expand the list. That is what I would do for you. If you won't, then I will accept whatever.

Mr. LEAHY. I tell my friend from Utah, I hope that I don't have to use them all in any event. But again, the reason I didn't object or anything, my understanding was that the distinguished Senator from Utah proposed a unanimous consent agreement which basically paralleled the unanimous consent agreement that the distinguished senior Senator from California had already made, which was to move forward, to be allowed to introduce her amendment. Now, that is why I am asking the distinguished occupant of the Chair, the Senator from Nebraska, just what it is we have agreed to.

Mr. HATCH. Let me say—

Mr. LEAHY. I am getting old, and it is Friday afternoon, Mr. President. I want to make sure I understand.

Mr. HATCH. I believe I was inarticulate. I believe I did not make it clear that one of these nine amendments should be used. If the Senator wants to be technical about it and not utilize one of those nine amendments, then let's quit debating and wasting time on it. We will just expand the amendment list by one in order to accommodate a Member of his side, but I would prefer, if he would, that he grant her the use of one of the nine which currently are not being used, as a courtesy to me and to her. And if he doesn't, we will do the other. I don't care, but I don't want a big debate on it. I want to get to the Ashcroft amendment, if we can.

Mr. BYRD. Will the Senator yield?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I have two amendments that have been agreed upon for calling up. One of those I will not call up, if I may yield that slot to the distinguished Senator from California.

Mr. HATCH. If you will do that, that will be—

Mr. LEAHY. That takes care of everybody's problem, and it satisfies the Senator from Utah and the Senator from Vermont.

The PRESIDING OFFICER. Without objection, the request is modified and the request is agreed to.

The Senator from California.

Mrs. FEINSTEIN. I thank the Chair, and I thank the Senator from West Virginia whose intelligence is only exceeded by his gentility and courtliness. Thank you very, very much.

Mr. BYRD. I thank the Senator.

AMENDMENT NO. 354

(Purpose: To modify the laws relating to interstate shipment of intoxicating liquors)

Mrs. FEINSTEIN. If I may, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 354.

Mrs. FEINSTEIN. 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:

At the appropriate place, add the following:

SEC. ___. INTERSTATE SHIPMENT AND DELIVERY OF INTOXICATING LIQUORS.

(a) IN GENERAL.—Chapter 59 of title 18, United States Code, is amended—

(1) in section 1263—

(A) by inserting ''a label on the shipping container that clearly and prominently identifies the contents as alcoholic beverages, and a'' after ''accompanied by''; and

(B) by inserting ''and requiring upon delivery the signature of a person who has attained the age for the lawful purchase of intoxicating liquor in the State in which the delivery is made,'' after ''contained therein,''; and

(2) in section 1264, by inserting ''or to any person other than a person who has attained the age for the lawful purchase of intoxicating liquor in the State in which the delivery is made,'' after ''consignee,''.

(b) REVOCATION OF BASIC PERMIT.—The Director of the Bureau of Alcohol, Tobacco, and Firearms shall revoke the basic permit of any person who has been convicted of 3 or more violations of the provisions of title 18, United States Code, added by this section.

Mrs. FEINSTEIN. Mr. President, what I believe we are in, to some extent, is a kind of interindustry beef, if I might use that vernacular. And it all deals with the shipment of alcohol or alcoholic beverages across State lines.

The amendment just submitted by the distinguished Senator from West Virginia is of major concern to the California wine industry. It is of major concern to the California wine industry, which makes 90 percent of the wine of this country, because small boutique wineries, which have wine tastings and then offer for sale a bottle of rather expensive wine over the Internet, are essentially affected by this amendment, which takes all State laws and essentially provides a Federal court venue.

We have had discussions in the Judiciary Committee; we had a full hearing in the the Judiciary Committee. The California Wine Institute testified as well as a vintner from Santa Cruz, CA. I thought there was going to be a delay. Senator HATCH had this amendment. He decided to let it sit for awhile so that we could put together some agreement.

Mothers Against Drunk Driving has been an original supporter of what the distinguished Senator from West Virginia proposes. However, at this time I will read from the text of a letter, dated May 13, from Mothers Against Drunk Driving, signed by Karolyn Nannalee, the national president.

At the time MADD provided testimony no legislation had been drafted on the subject. The text of S. 577 has implications far beyond our concerns and is, in fact, a battle between various elements within the alcoholic beverages industry. It does not surprise us that the competing parties would like to have the support of the victims of drunk driving. It does, however, dismay us that they would go to such lengths to misrepresent our views on the subject.

I only say this because Mothers Against Drunk Driving does not, in fact support the legislation that has just been presented.

The allegation is, of course, that this legislation is directed against the wine industry, which is having increasing success in the United States as more and more Americans consume wine as opposed to other alcoholic beverages. For the small winery that may not have shelf space in a supermarket, the Internet has emerged as a source of sales of their products.

Now, let's address the question of teenage drinking. In this respect, I agree entirely, 100 percent, with what the distinguished Senator from West Virginia said. We ought to do everything we can to discourage teenage drinking. I do not have a problem with that. What I have a problem with is throwing all complicated laws with respect to alcoholic beverages into the Federal courts. I think that is unnecessary, and I think it is unwanted by many of us at least.

The amendment I have submitted—actually as an alternative, although it is a first-degree amendment—as an alternative to the amendment of the distinguished Senator from West Virginia, I believe, would solve the problem, because it would require that any package containing an alcoholic beverage that is shipped across State lines must be labeled clearly and its contents must be identified as alcoholic beverages.

Second, it would require that upon delivery the recipient must be of an age to lawfully purchase the beverage and must sign and identify himself or herself as such. It would require the invoice to state that an adult signature is required for delivery. It would require the deliverer not to deliver unless an adult signature is attached. It provides criminal penalties for violation, and with three violations the BATF, on a mandatory basis, must revoke the basic permit of any person who has been convicted of three or more violations of this section.

I think this gets at the basic problem by setting up safeguards so that particularly wine can be shipped across State lines by the purchaser.

This is complicated but is something that has arisen and has become a kind of folk art, if you will, and that is the wine tasting where people go to wine areas, where they go directly to the winery where there is a wine tasting, where they see a new bottle of wine, sometimes very limited supply, and they say: Oh, how can I buy it? And the vendor will say: You can buy it through my web site, and it is $90, $80, $70 a bottle. That is how this is done.

I believe my amendment, without throwing all of this into Federal court, essentially skins the cat without killing it. I would be hopeful that the Senate would see it as worthy.

I very much thank the distinguished Senator from West Virginia. I would like to thank the ranking member and those who made it possible for me to offer this amendment at this time.

I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 355

(Purpose: To amend the Individuals with Disabilities Education Act and the Gun-Free Schools Act of 1994 to authorize schools to apply appropriate discipline measures in cases where students have firearms, and for other purposes)

Mr. FRIST. Mr. President, I call up the Frist-Ashcroft amendment as under the previous unanimous consent agreement.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. FRIST), for himself, Mr. ASHCROFT, Mr. ALLARD, Mr. COVERDELL, Mr. HELMS, and Mr. NICKLES proposes an amendment numbered 355.

Mr. FRIST. 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:

At the appropriate place, insert the following:

Subtitle ____—School Safety

SEC. ___1. SHORT TITLE.

This subtitle may be cited as the ''School Safety Act of 1999''.

SEC. ___2. AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—Section 615(k) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(k)) is amended—

(1) in paragraph (1)(A)(ii)(I), by inserting ''(other than a gun or firearm)'' after ''weapon'';

(2) by redesignating paragraph (10) as paragraph (11); and

(3) by inserting after paragraph (9) the following new section:

''(10) DISCIPLINE WITH REGARD TO GUNS OR FIREARMS.—

''(A) AUTHORITY OF SCHOOL PERSONNEL WITH RESPECT TO GUNS OR FIREARMS.—

''(i) Notwithstanding any other provision of this Act, school personnel may discipline (including expel or suspend) a child with a disability who carries or possesses a gun or firearm to or at a school, on school premises, or to or at a school function, under the jurisdiction of a State or a local educational agency, in the same manner in which such personnel may discipline a child without a disability.

''(ii) Nothing in clause (i) shall be construed to prevent a child with a disability who is disciplined pursuant to the authority provided under clause (i) from asserting a defense that the carrying or possession of the gun or firearm was unintentional or innocent.

''(B) FREE APPROPRIATE PUBLIC EDUCATION.—

''(i) CEASING TO PROVIDE EDUCATION.—Notwithstanding section 612(a)(1)(A), a child expelled or suspended under subparagraph (A) shall not be entitled to continued educational services, including a free appropriate public education, under this title, during the term of such expulsion or suspension, if the State in which the local educational agency responsible for providing educational services to such child does not require a child without a disability to receive educational services after being expelled or suspended.

''(ii) PROVIDING EDUCATION.—Notwithstanding clause (i), the local educational agency responsible for providing educational services to a child with a disability who is expelled or suspended under subparagraph (A) may choose to continue to provide educational services to such child. If the local educational agency so chooses to continue to provide the services—

''(I) nothing in this title shall require the local educational agency to provide such child with a free appropriate public education, or any particular level of service; and

''(II) the location where the local educational agency provides the services shall be left to the discretion of the local educational agency.

''(C) RELATIONSHIP TO OTHER REQUIREMENTS.—

''(i) PLAN REQUIREMENTS.—No agency shall be considered to be in violation of section 612

or 613 because the agency has provided discipline, services, or assistance in accordance with this paragraph.

''(ii) PROCEDURE.—Actions taken pursuant to this paragraph shall not be subject to the provisions of this section, other than this paragraph.

''(D) FIREARM.—The term 'firearm' has the meaning given the term under section 921 of title 18, United States Code.''.

(b) CONFORMING AMENDMENT.—Section 615(f)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(f)(1)) is amended by striking ''Whenever'' and inserting the following: ''Except as provided in section 615(k)(10), whenever''.

Mr. FRIST. Mr. President, I offer on behalf of Senators ASHCROFT, ALLARD, COVERDELL, and HELMS an amendment which addresses an issue which is fundamentally central to the issues we have been discussing over the last several days; that is, of guns and bombs in schools. This amendment will address a problem that we in this body have created through good intent but created a loophole which allows students who have brought a bomb or a gun into a school to be allowed to return to the classroom.

The amendment very specifically ends what has become a mixed message that the Federal Government has sent and is sending to American students on the issue of guns and bombs in our schools. Under the Individuals with Disabilities Education Act, IDEA, a law that I have fought very hard for, supported and have worked hard to reform and improve in past Congresses, a student with a disability who is in possession of a firearm is treated differently than a regular education student because of the disability. Students in special education are treated differently than all other students, if both have brought a gun or a bomb into the school. That is wrong. It has to be fixed. It is a loophole that creates a huge danger, I believe, to the safety of our children and teachers in our schools.

How big a problem is it? Some people said it is a hypothetical problem. It is hard to get this data. But I want to share with my colleagues what I have been able to find.

If you look just last year, over the 1997–1998 school year, just in Nashville, just one community in this country, there were eight firearm infractions, where children have been found to have brought a gun or firearm into the school. That isn't how many came in, but only how many were actually discovered. Of those eight, six were special education students, protected under IDEA.

By the way, about 13 percent of all students, or one out of every eight, are in special education. What happened to the six special education students? Under the law as it is written, we basically determine whether or not bringing that gun into school was a manifestation, meaning was it related in any way to the disability. Of those six, three were found to have brought that firearm in for a reason that is unrelated to the disability, and were expelled but were still allowed to receive educational services. The other three special education students were found to have brought the firearm to the school because it was related to the disability.

The significance of this is that we take those three students and say, You can go back into the school. The other two regualr education students not protected under IDEA were expelled and were not required to receive educational services. They can't come back to the school. But because we created this special class, we are letting kids with bombs and firearms to come back into the school in as soon as 45 days later. It is no more complicated than that.

Our amendment fixes this dangerous, dangerous loophole. To look at just over the last 8 months, of nine firearm violations in Nashville, four have involved special education students. These statistics say that in one city, Nashville, it is a problem. But it is a snapshot, a microscopic picture of what goes on all over the country. It is wrong. Students should be subject to the exact same disciplinary action whether or not they happen to be in special education. It is our fault. We created this system which treats them differently.

We contend that when it comes to bombs and firearms, they should all be treated exactly alike. The issue of possession of a gun or firearm, I don't believe the Federal Government should tie the hands of our local education authorities, our principals and teachers, when it comes to protecting students and teachers from guns and bombs in schools.

I believe there is absolutely no excuse whatsoever for any student to intentionally possess or bring to school a gun. What we have done is create by previous legislation, which this amendment fixes, a means by which a special group of students, students in special education to hide behind the Individuals with Disabilities Education Act to avoid the same punishment that a regular education student would receive.

Our amendment says that the possession must be intentional. This would allow the principal to determine if the student with a disability unknowingly had the gun placed on him. This targets a student who comes to that schoolyard with a firearm or gun intentionally.

Again, it is a tight, focused amendment.

Since its inception in 1975, 24 years ago, IDEA has been gradually modified with the times and has been improved.

I believe this is a marked improvement. I think this amendment is necessary for the reasons that we have been discussing regarding this bill, with the catastrophes around my State and other States, and in Colorado most recently, which reflect the decline in safety in our Nation's schools.

Our amendment, very simply, ensures that school authorities at the local level have the ability to remove dangerous students, whoever they are, from the classroom regardless of their status. Today they can't. Our amendment fixes this problem.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I want to commend the Senator from Tennessee, first of all, for his sensitivity to what is happening in the schools of America. His visiting the schools is something which I find to be very important. You can sit here in Washington for a long time and cook up all sorts of theories about how schools ought to be, but until you talk to the people in the schools—and in his case Nashville, Davidson County—until you talk to the principals and teachers and parents, you do not understand the problems created by our current Federal IDEA law. The Senator from Tennessee has found out that in a 1-year snapshot there were eight detected possessions of weapons in the schools, six of which were from students covered by individualized education plans, and three of which our law—the law that we made—says schools can't expel those students the way they ought to be able to expel them. He has pointed out we should fix the law.

What is interesting to me—and I commend the Senator from Tennessee. I have visited school districts all across the State of Missouri. I have gone to district after district to try and assert exactly what it is we should be doing. I have had school superintendents mention to me time after time this same problem. I talked to one small school district superintendent who talked about the dangers of not being able to have discipline in these settings. He talked about a student who threatened to kill other students seven times—threaten to shoot them.

Finally, the individual shot another student. Fortunately, the shot took place off the school premises so that the legal authorities incarcerated the student. They didn't have to go through the painful procedure of trying to discipline him within the confines of this law which makes it virtually impossible to exercise the kind of discipline necessary.

This bill is very simple. This bill is not designed to hurt any group of students. This is designed to secure the classroom. There isn't any class of students that is better off being favored and being able to bring guns or bombs to school. That is not in the interest of any group of students.

This bill basically takes off barriers that the Congress placed in the path of good school administrators, parents, teachers and local school boards. We erected barriers that kept from taking students who had guns in their possession out of schools—merely because they were determined to be in some way disabled.

This amendment simply says in spite of the fact that you are a student—of

course, one out of every eight students nationally turns out to be disabled; one in seven in the State of Missouri—the fact that you are in this category called IDEA, doesn't mean you can bring a gun or a bomb to school with impunity.

We simply take the barriers, the roadblocks out of the system. We say to school administrators and principals: You are free to discipline these students uniformly, just like you would discipline other students.

I think that is a very important, profoundly simple point. It is the kind of correction which we only make when we get out and talk to people out there who are running the schools. When they tell you they can't discipline kids who are threatening over and over to kill other students, who eventually shoot other students, when they tell you they can't keep kids who brought guns to school out of school or from bringing guns back into school, and because of Federal procedures that say disciplines are more difficult the second time because we set up a Federal bureaucracy that keeps schools from being able to exercise discipline, it is time to say the most important thing for students—whether disabled, conventional, mainstream or not—the most important thing for that classroom is safety.

When you keep guns and bombs out of the school, you promote the safety of all students.

I am here to say how much I appreciate the opportunity to be able to sponsor this amendment that gives local schools, principals, teachers, parents and school boards the right to maintain gun-free, bomb-free schools, to have safe learning environments where students, without the feeling of threat and insecurity, can actually learn.

It is a pleasure to be a cosponsor of this amendment with Senator FRIST. I commend him. We all want to do everything we can for the education of all of our students. Our students who are disabled deserve our special compassion and attention, and more than any others, they deserve the protection that is afforded when we can have the ability to have secure, safe learning environments. We can do that when we allow our administrators to make sure that those individuals who bring guns to school can be disciplined.

One last point: The law that provides for expulsion of students who bring guns to schools gives principals discretion to allow students to reenter the school. That same discretion would apply to these kinds of students as it applies to conventional students.

This is a field leveler. It puts people on the same level and it puts the safety of our schoolchildren in first place—not part of our schoolchildren, all of them. Disabled children, other individuals, the entire school population must have the assurance that school officials have the capacity to enforce safe schools.

I thank the Senator from Tennessee and others for joining in this. I am honored to be an original cosponsor of this amendment.

Mr. HELMS. Mr. President, I am grateful to the able Senator from Missouri, Mr. ASHCROFT, and the able Senator from Tennessee, Mr. FRIST, for offering this amendment which corrects a glaring flaw in the Federal disabilities law and, in my judgment, is among the most important amendments to the juvenile justice legislation when, again, it is pending.

This past Thursday morning, I was aghast when I noted an op-ed piece in the Washington Times written by Kenneth Smith. It was entitled ''Disabled Educators.'' The article detailed a number of disturbing incidents of students threatening their teachers and peers with violence, bringing knives and guns to campus and even burning down their own schools. In the wake of the tragedy of Littleton, CO, these news items, of course, are particularly chilling.

What is most alarming about the column is not the individual stories of violence, it is that a well-intentioned Federal law nevertheless prevents local school officials from expelling these dangerous students from their schools for all but a short period of time.

Let me admit up front that I bear my share of the responsibility for this situation. Two years ago, I was one of 98 Senators who voted to reauthorize the Individuals with Disabilities Act, the so-called IDEA legislation.

Only the courageous and farsighted Senator from Washington, Mr. GORTON, voted against final passage of IDEA shortly after his commonsense amendment to address these discipline procedures failed by just three votes.

Two years later, Senator GORTON's warnings began to appear prophetic, and I certainly appreciate his crucial leadership on this issue, as well as the many others Senator GORTON has helped the Senate to follow.

In any case, I voted for IDEA because I believed then, and I continue to believe, that it is appropriate for the Federal Government to help local school districts bear the financial burden of attending to the special needs of disabled children. But it is unfair and it is unwise for the Federal Government to use these funds to mandate unreasonable and even dangerous discipline procedures on the local schools. I believe that the amendment which I hope will be pending shortly will be an important first step in correcting this flaw in the IDEA legislation.

There are 165,402 children in North Carolina classified as learning disabled. I believe that every one of these children is entitled to get an education. But under the IDEA legislation, if 1—even 1—of those 165,402 children brings a weapon to school, he or she must be returned to the classroom within 45 days if the school district wants to keep its IDEA funding. If a disabled student threatens violence or poses any other kind of general discipline problem, the student can be suspended for only 10 days. Worse, these limitations apply to disabled children even if their behavior is unrelated to the disability.

Clearly, this policy defies common sense. This amendment frees the hands of school administrators to use their discretion to discipline a learning-disabled student who brings a weapon to school or threatens violence. I believe the Senate should adopt this eminently reasonable position.

Anybody who does not want to take my word for it should listen to the experts. For example, North Carolina State University is home to a unique organization called the Center for the Prevention of School Violence. It is, as far as I know, one of the few public policy outlets devoted solely to the issue of school violence. Its director, Pam Riley, works tirelessly to collect statistics, analyze legislation, and suggest solutions to make our schools safer.

I called Dr. Riley and asked her to look over the amendment I am discussing and to let me know her opinion. With the Chair's permission, I shall read a paragraph from her reply to me, because she states the issue quite clearly and succinctly, as far as I am concerned. Let me quote her:

> I believe it is entirely appropriate—indeed, entirely necessary—for Congress to allow local schools the flexibility to discipline students who bring weapons to school or threaten violence on their teachers or peers, regardless of whether the student is classified as disabled. While I believe it is important to make sure disabled students receive quality education, the safety of our classrooms should be an overriding goal of federal education policy.

That says it all, as far as I am concerned. I know that Senator ASHCROFT and Senator FRIST share my appreciation for Dr. Riley's support of this amendment. I ask unanimous consent that her entire letter, dated May 11, be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. HELMS. I thank the Chair.

Mr. President, the North Carolina School Boards Association, in a letter dated May 13, 1999, echoed Dr. Riley's sentiments:

> Being able to appropriately discipline all students is essential to maintaining safe schools.

Dr. Bob Bowers, superintendent of the Buncombe County Schools, wrote:

> [T]he Ashcroft amendment—

And it is now the Ashcroft-Frist-Helms amendment—

> is a necessary and proper response to student threats of violence in our schools made against teachers and [other students]. Moreover, weapons have no place in our schools and making exceptions erodes confidence regarding overall school safety.

I certainly agree. I ask unanimous consent that this letter from the North Carolina School Boards Association and the Buncombe County Public Schools be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 2.)

Mr. HELMS. I thank the Chair.

I hope those listening to this discussion are not misled into thinking that school administrators are suddenly discovering this problem as an aftermath of the Littleton tragedy. The fact is that schools have long been concerned about this aspect of IDEA.

This letter to my office dated April 2, 1998, from the Onslow County Schools in Jacksonville, NC, clearly indicates that discipline procedures have long been a problem for our school districts. More than a year ago, Superintendent Ronald Singletary wrote to me to say that under the IDEA law, ''we convey [to students] that there are no real consequences for the serious misbehavior of a disabled student.'' I cannot imagine a more inappropriate message to send to our students.

The problems we are discussing are more than just a quirk in the law or a technical matter. It is clearly an ill-conceived mistake by Congress, in which I participated. And I hope Senators will ask themselves what possible reason the Federal Government would have to prevent local school officials from making sure that their students have safe classrooms. This is the real problem.

Our school boards and our administrators are asking for our help in correcting a part of IDEA that does not work. And I sincerely hope the Senate will listen.

Mr. President, I ask unanimous consent that the article ''Disabled educators'' to which I referred at the outset of my comments be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 3.)

Mr. HELMS. Mr. President, with that I thank the Chair for recognizing me and I yield the floor.

EXHIBIT NO. 1

CENTER FOR THE PREVENTION OF SCHOOL VIOLENCE,
Raleigh, NC, May 11, 1999.

Hon. JESSE HELMS,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR HELMS: I appreciate your letting me know of Senator Ashcroft's school safety amendment, which would free the hands of local school districts to discipline dangerous students without regard to their status under the Individuals with Disabilities Education Act. I am certainly pleased to offer my support for this proposal, and I hope it will be swiftly adopted by the Senate.

I believe it is entirely appropriate—indeed, entirely necessary—for Congress to allow local schools the flexibility to discipline students who bring weapons to school or threaten violence on their teachers or peers, regardless of whether the student is classified as disabled. While I believe it is important to make sure disabled students receive quality education, the safety of our classrooms should be an overriding goal of federal education policy.

As Director of the Center for the Prevention of School Violence at North Carolina State University, I know our local officials are struggling to curb the worsening problem of violence in our schools. The Center's vision that ''Every student will attend a school that is safe and secure, one that is free of fear and conductive to learning.'' I hope the federal government will take all proper steps to assist in obtaining this goal, and I believe the Ashcroft amendment is a step in the right direction.

Sincerely,

DR. PAMELA L. RILEY,
Executive Director.

EXHIBIT NO. 2

NORTH CAROLINA SCHOOL BOARDS ASSOCIATION,
Raleigh, NC, May 13, 1999.

PUBLIC EDUCATION: NORTH CAROLINA'S BEST INVESTMENT

Hon. JESSE A. HELMS,
Dirkson Senate Office Building,
Washington, DC.

DEAR SENATOR HELMS: Thank you for sharing with me the Ashcroft School Safety Act, which seeks to amend the IDEA and the Guns Free Schools Act of 1994. The North Carolina School Boards Association strongly supports this Act. As you know, school safety is an issue of paramount concern for school districts. If we cannot maintain safety, it is impossible for us to teach children. Being able to appropriately discipline all students is essential to maintaining safe schools. The Ashcroft School Safety Act would give school systems more ability to discipline special education students the same as regular education students in specific situations. This would allow the entire school's safety to not be impaired by one individual student.

If I can be of further assistance to you, please let me know.

Sincerely,

LEANNE E. WINNER,
Director of Governmental Relations.

BUNCOMBE COUNTY PUBLIC SCHOOLS,
Asheville, NC, May 12, 1999.

Re Ashcroft amendment to IDEA.

Hon. JESSE HELMS,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR HELMS: Thank you for making this Board of Education aware of Senator Ashcroft's proposed amendment to the Individuals with Disabilities Education Act. This Board supports that law and is committed to providing an excellent education to all students attending the public schools in Buncombe County.

However, this Board is concerned about school violence and the ability of educators and administrators to deal with potential problems and protect the safety of everyone. To that end, we believe that the Ashcroft Amendment is a necessary and proper response to student threats of violence in our schools made against teachers and peers. Moreover, weapons have no place in our schools and making exceptions erodes confidence regarding overall school safety.

We are pleased to offer our support of this measure.

Sincerely,

DR. BOB BOWENS,
Superintendent, Buncombe County Board of Education.

EXHIBIT NO. 3

[From the Washington Post, May 6, 1999]

DISABLED EDUCATORS

(By Kenneth Smith)

When Fairfax County school officials discovered that a group of students had somehow managed to get a loaded .357 magnum handgun on school property, they moved swiftly to deal with the offenders. They expelled five of the students and would have done so with the sixth, only to discover that federal law prohibited them from doing so.

Why? He was considered ''learning disabled''—he had a ''weakness in written language skills''—and according to federal disabilities laws, Fairfax County had to continue educating him. As Jane Timian, a county School Board official who oversees student disciplinary cases, later explained the matter, ''The student was not expelled, The student later bragged to teachers and students at the school that he could not be expelled.''

He wasn't alone. She reported that after five gang members used a meat hook in an assault on another student, only three of them were expelled; the other two were special-ed students. When then-Virginia Gov. George Allen dared to challenge the wisdom of using federal law to make schools safer for violent offenders, the Clinton administration responded by threatening to yank millions of dollars in federal education dollars from the state.

That was 1994. Five years' worth of reform later, parents shocked by the shootings at Columbine High School and elsewhere may be interested to know that a law known as the Individuals with Disabilities Education Act still limits the discretion of local school boards to provide children with the safest schools possible. At a meeting in San Francisco last month, the National School Boards Association urged federal lawmakers to amend the law to provide greater flexibility to suspend, expel, or reassign students whose misconduct jeopardizes safety or unreasonably disrupts classroom learning. In particular, it seeks the removal of federal restrictions on withholding educational services to disabled students ''when their behavior, unrelated to their disability, endangers themselves or others.''

One would have thought it one of the more uncontroversial requests ever made of Congress. But when Rep. Bob Livingston, chairman of the House Appropriations Committee before he unexpectedly left town, tried to tack an amendment onto an appropriations measure that would accommodate the concerns of school officials, the administration forced him to drop it. Safer schools would have to wait.

How a model program like the IDEA turned out to be so delinquent would keep a political science class at the chalkboard for a week. The point of the act, first passed in 1975 and reauthorized most recently in 1997, was to ensure that a disability, physical or otherwise, did not deny someone access to education that everyone else got. Among other things, it called for the least restrictive—most permissive, one might say—educational setting possible for the disabled student. The law also dictated that special education was to take place within the school and not be isolated in some outside annex.

In theory it sounded like a fine idea. If the handicapped were to lead the kind of independent lives everyone wanted for them, they would need at least as good an education as everyone else. The last thing anyone worried about was that a blind, retarded child in a wheelchair might bring a gun to school.

Today, school officials still aren't very worried about that particular child. What's changed is the definition of disabled. When mere ''weakness in written language skills'' or attention and learning disorders constitute a handicap, not only do the numbers of disabled grow, there is no physical impairment to limit the harm they could do. ''No one thought,'' one school official says, ''the disabled would be like us.''

Louisiana officials who sought help from Mr. Livingston found out the hard way.

Among the anecdotes they collected from across the state:

Two students, one of them a special-education student, severely beat a third student who was subsequently hospitalized. The non-special-ed attacker was expelled from school. The special-ed attacker was suspended for 10 days, then returned to an alternative school across the street from the school where the girl was beaten.

A 14-year-old special-ed girl, who had been suspended for threatening a class aide, attacked her school principal twice, knocking her unconscious, damaging vertebrae in her neck and causing permanent nerve damage. Police arrested the student, and school officials kept her out of school for 45 days, the maximum under the IDEA. The principal was out for eight months.

A special-ed student, already under an in-school suspension, threatened to burn his school down after being told his suspension was being extended. Days later the school did in fact burn down, and police arrested the student. His brother, also a special-ed student under suspension, subsequently threatened to shoot the principal. The school was forced to lock its doors, keeping students inside, until police could apprehend the student. The law permits the students to return to school in 45 days, but the school superintendent has vowed he will go to jail before he lets them back in.

School administrators say they are more than willing to educate disabled students, but not at the cost of the safety of everyone else in the school. And they worry that the federal government is teaching disabled students a terrible lesson—that there is one standard for them, and another for everyone else. What could be more disabling?

Mrs. LINCOLN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I compliment my colleague from North Carolina. In the recent debates, certainly in the passage of the Ed-Flex bill, the great State of North Carolina showed what a great example it could be in its forward thinking and being able to look for innovative solutions for our children's education.

Mr. NICKLES. Mr. President, I wish to compliment my colleagues from Tennessee and from Missouri for an outstanding amendment, one that I hope will be overwhelmingly supported by all of our colleagues. It is important we not discriminate, in a way we would say if this child happens to be under the IDEA program, individuals with disabilities, that the laws or the rules and regulations say we will not discipline you if you happen to carry a gun or bomb to school.

Clearly, we want any student who is carrying a gun or a firearm or bomb to school to be disciplined—any student. We want safe schools. This amendment would provide for that. It is a common-sense amendment. It is an amendment that should be passed overwhelmingly.

I ask unanimous consent to be added as a cosponsor to the amendment.

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

Ms. MIKULSKI. Mr. President, I rise today to talk about an issue that is critical to saving children's lives. That issue is guns in the hands of our children. The events of Columbine have been a wake up call for the American people. Guns don't belong in the hands of kids. We must do everything we can to see to it that children cannot buy guns. We also need tougher penalties for illegal possession and crimes committed with guns. This is about America's children and getting behind our kids. This is about keeping our kids safer in their schools and safer on our streets.

I respect the Constitution and the right of law-abiding citizens to own guns. I understand that many people own a gun for self-protection. The fear of crime is a real issue for many Americans. I believe people should be able to protect themselves. I also know people enjoy using guns for sport. Many Americans enjoy hunting, and I do not want to interfere with lawful sport.

My support for reasonable steps to protect kids does not go against my support for people's right to protect themselves or their right to hunt. We can take measures to save lives without infringing on the Constitution.

One of my biggest concerns is the safe storage of guns in the home. I think it makes sense to require trigger locks for guns while children are in the home. There have been too many tragic accidents with children that could have been prevented.

Guns are too easily available to our young people. We must require gun show participants to comply with the same laws as gun shop owners. This would cut off a deadly supply of firearms to our Nation's children and dangerous criminals. The guns used in the Columbine massacre were purchased from gun shows. I was very disappointed that the Lautenberg amendment did not pass. This amendment would have closed the gun show loophole. What passed instead was an amendment giving a gun show participant the option of conducting a background check. Now, what gun show participant is going to choose to take the time and effort when the gun seller in the next booth is willing to sell a gun with no questions asked?

I was happy to support an amendment which would toughen the penalties for possession of semiautomatic assault weapons. The presence of semiautomatic weapons on our streets is a deplorable situation. Assault weapons have one purpose—to kill the largest number of people as quickly and efficiently as possible. They have no legitimate hunting or sporting use. I want to see them taken off our streets.

We must get behind our kids and teach them that character counts. We have to teach them respect for guns and respect for human life. We must listen carefully to them and help them when they are in trouble. We need to give them constructive goals to work toward. We must give them opportunities to live a rewarding life. Then they can respect themselves and others and not resort to guns and violence to demand the attention they need. We want kids to turn toward each other—not against each other.

PRINTING OF RAMBOUILLET AGREEMENT

Mr. NICKLES. Mr. President, on May 3, 1999, I addressed the administration policy regarding the Federal Republic of Kosovo. During my remarks, I asked unanimous consent to have printed in the CONGRESSIONAL RECORD the text of the Rambouillet Agreement. It is 44 pages long.

Consistent with the Standing Rules of the Senate, I ask unanimous consent that the text be printed in the CONGRESSIONAL RECORD. The cost of printing the text will total $3,758.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RAMBOUILLET AGREEMENT—INTERIM AGREEMENT FOR PEACE AND SELF-GOVERNMENT IN KOSOVO

The Parties of the present Agreement,

Convinced of the need for a peaceful and political solution in Kosovo as a prerequisite for stability and democracy,

Determined to establish a peaceful environment in Kosovo,

Reaffirming their commitment to the Purposes and Principles of the United Nations, as well as to OSCE principles, including the Helsinki Final Act and the Charter of Paris for a new Europe,

Recalling the commitment of the international community to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia,

Recalling the basic Clements/principles adopted by the Contact Group at its ministerial meeting in London on January 29, 1999,

Recognizing the need for democratic self-government in Kosovo, including full participation of the members of all national communities in political decision-making,

Desiring to ensure the protection of the human rights of all persons in Kosovo, as well as the rights of the members of all national communities, *Recognizing* the ongoing contribution of the OSCE to peace and stability in Kosovo,

Noting that the present Agreement has been concluded under the auspices of the members of the Contact Group and the European Union and undertaking with respect to these members and the European Union to abide by this Agreement,

Aware that full respect for the present Agreement will be central for the development of relations with European institutions,

Have agreed as follows:

FRAMEWORK

ARTICLE I: PRINCIPLES

1. All citizens in Kosovo shall enjoy, without discrimination, the equal rights and freedoms set forth in this Agreement.

2. National communities and their members shall have additional rights specified in Chapter 1. Kosovo, Federal, and Republic authorities shall not interfere with the exercise of these additional rights. The national communities shall be legally equal as specified herein, and shall not use their additional rights to endanger the rights of other national communities or the rights of citizens, the sovereignty and territorial integrity of the Federal Republic of Yugoslavia, or the functioning of representative democratic government in Kosovo.

3. All authorities in Kosovo shall fully respect human rights, democracy, and the equality of citizens and national communities.

4. Citizens in Kosovo shall have the right to democratic self-government through legislative, executive, judicial, and other institutions established in accordance with this