

of North Korea, China, or states of the former Soviet Union who differs delivers a living American prisoner of war from the Korean War. Information regarding the act is broadcast by the International Broadcasting Bureau over the Voice of America and other broadcast services.

The Bring Them Home Alive Act signals our continuing dedication to all the Americans who served in the Vietnam and Korean wars. It shall be needed until all of our soldiers are accounted for. This bill amends the Bring Them Home Alive Act to broaden its coverage for the Persian Gulf War and any future hostilities in Iraq. There have been recent reports that Michael Speicher, a Navy pilot shot down over Iraq in 1991, may still be in Iraqi hands. We owe it to him and to all those who may be called to serve in the coming months to pass this bill.

The bill provides refugee status to a national of Iraq or a nation in the greater Middle East who personally delivers into the custody of the United States Government a living American prisoner of war from the Persian Gulf War or any successor conflict. To receive refugee status, the alien cannot be eligible for asylum on account of being a criminal, a terrorist, or a danger to the security of the United States. I urge my colleagues to support this bill.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself as much time as I might consume.

Mr. Speaker, in light of the climate that we now face, calling upon our men and women in the United States military once again to defend our freedom and in the backdrop of the motion to instruct last week that recognized the importance of allowing our veterans to receive both their retirement benefits and other benefits simultaneously, there is no doubt that this Congress believes strongly in the fighting men and women of this Nation, and so I rise with enthusiastic support for this bill which will encourage the safe return of Navy pilot Captain Scott Speicher, the only person classified as a POW/MIA from the Gulf War of the early 1990's.

His status was changed from dead to MIA, and as well it was based upon last year's intelligence information that he survived his plane crash and is in prison in Bagdad, Iraq. Recently, he was reclassified as missing and captured. The amendment could also be used to encourage a return of POWs and MIAs if President Bush initiates a war against Iraq, as he currently plans to do.

A few years ago as a member of the Houston City Council, I was very proud to raise the first flag above Houston City Hall to recognize POWs and MIAs. This is an important component to recognizing but also dealing specifically with an individual now still lost. This bill will provide refugee status to the United States to any national of Iraq

or certain other Middle Eastern countries if they safely return an American POW/MIA from the Gulf War into the custody of the U.S. Government. The bill amends the Bring Them Home Alive Act of 2000, which provides the same benefits to citizens of Asian and former Soviet countries who safely return POW/MIAs from the Vietnam and Korean wars. The Senate Judiciary Committee already made an important amendment to the original language offered by Senator BEN NIGHTHORSE CAMPBELL to exempt alien terrorists, persecutors, and people who have been convicted of a serious offense and people who present a danger to the security of the United States from these benefits.

I know many Korean War veterans, including the gentleman from Michigan (Mr. CONYERS), the ranking member of this particular committee; and I want to commend Senator CAMPBELL, a fellow veteran of the Korean War, the gentleman from Michigan (Mr. CONYERS), fellow veteran and ranking member, for his initiative to ensure that our POW/MIAs come home.

Let me conclude by saying that we enthusiastically offer our support for this legislation initiative, and I ask my colleagues to support this legislation.

Mr. Speaker, I support this bill which will encourage the safe return of Navy pilot, Captain Scott Speicher, the only person classified as a POW/MIA from the Gulf War in the early 1990s. His status was changed from dead to MIA last year based on intelligence information that he survived his plane crash and is imprisoned in Bagdad, Iraq. Recently, he was reclassified as Missing/ Captured. The amendment could also be used to encourage the return of future POW/MIAs if President Bush initiates a war against Iraq, as he currently plans to do.

This bill will provide refugee status in the United States to any national of Iraq or certain other Middle Eastern countries if they safely return an American POW/MIA from the Gulf War into the custody of the U.S. government. The bill amends the "Bring Them Home Alive Act of 2000" which provided this same benefits to citizens of Asian and former Soviet countries who safely returned American POW/MIAs from the Vietnam and Korean wars.

The Senate Judiciary Committee already made an important amendment to the original language offered by Senator BEN NIGHTHORSE CAMPBELL to exempt alien terrorists, persecutors, people who have been convicted of a serious criminal offense, and people who present a danger to the security of the United States from these benefits.

As a Korean War veteran, I commend my fellow veteran Senator CAMPBELL for this initiative to ensure that our POW/MIAs come home.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 1339.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2155

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 2155.

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

There was no objection.

SOBER BORDERS ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2155) to amend title 18, United States Code, to make it illegal to operate a motor vehicle with a drug or alcohol in the body of the driver at a land border port entry, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAKING IT ILLEGAL TO OPERATE A MOTOR VEHICLE WITH A DRUG OR ALCOHOL IN THE BODY OF THE DRIVER AT LAND BORDER PORTS OF ENTRY.

Section 13(a) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) Whoever with a drug or alcohol in his or her body operates a motor vehicle at a land border port of entry in a manner that is punishable, because of the presence of the drug or alcohol, if committed within the jurisdiction of the State in which that land border port of entry is located (under the laws of that State in force at the time of the act) shall be guilty of a like offense and subject to a like punishment.

"(3) Any individual who operates a motor vehicle at a land border port of entry is deemed to have given consent to submit to a chemical or other test of the blood, breath, or urine of the driver by an officer or employee of the Immigration and Naturalization Service authorized under section 287(h) of the Immigration and Nationality Act (8 U.S.C. 1357(h)) for the purpose of determining the presence or concentration of a drug or alcohol in such blood, breath, or urine.

"(4) If an individual refuses to submit to such a test after being advised by the officer or employee that the refusal will result in notification under this paragraph, the Attorney General shall give notice of the refusal to—

"(A) the State or foreign state that issued the license permitting the individual to operate a motor vehicle; or

"(B) if the individual has no such license, the State or foreign state in which the individual is a resident.

"(5) The Attorney General shall give notice of a conviction of an individual under this section for operation of a motor vehicle at a land border port of entry with a drug or alcohol in the body of the individual, to—

"(A) the State or foreign state that issued the license permitting the individual to operate a motor vehicle; or

"(B) if the individual has no such license, the State or foreign state in which the individual is a resident.

“(6) For purposes of this subsection, the term ‘land border port of entry’ means any land border port of entry (as defined in section 287(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1357(h)(3))) that was not reserved or acquired as provided in section 7 of this title.”

SEC. 2. AUTHORIZING OFFICERS AND EMPLOYEES OF THE IMMIGRATION AND NATURALIZATION SERVICE TO CONDUCT TESTS FOR A DRUG OR ALCOHOL.

Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at the end the following:

“(h)(1) If an officer or employee of the Service authorized under regulations prescribed by the Attorney General is inspecting a driver at a land border port of entry and has reasonable grounds to believe that, because of alcohol in the body of the driver, operation of a motor vehicle by the driver is an offense under section 13 of title 18, United States Code, the officer or employee may require the driver to submit to a test of the breath of the driver to determine the presence or concentration of the alcohol.

“(2) If an officer or employee of the Service authorized under regulations prescribed by the Attorney General arrests a driver under this section for operation of a motor vehicle in violation of section 13 of title 18, United States Code, because of a drug or alcohol in the body of the driver, the officer or employee may require the driver to submit to a chemical or other test to determine the presence or concentration of the drug or alcohol in the blood, breath, or urine of the driver.

“(3) For purposes of this subsection:

“(A) The term ‘driver’ means an individual who is operating a motor vehicle at a land border port of entry.

“(B) The term ‘land border port of entry’ means any immigration checkpoint operated by the Immigration and Naturalization Service at a land border between a State (as that term is used in section 13 of title 18, United States Code) and a foreign state.”

SEC. 3. REQUIRING NOTICE AT LAND BORDER PORTS OF ENTRY REGARDING OPERATION OF A MOTOR VEHICLE AND DRUGS AND ALCOHOL.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 294 (8 U.S.C. 1363a) the following:

“NOTICE AT LAND BORDER PORTS OF ENTRY REGARDING OPERATION OF A MOTOR VEHICLE AND DRUGS AND ALCOHOL

“SEC. 295. At each point where motor vehicles regularly enter a land border port of entry (as defined in section 287(h)(3)), the Attorney General shall post a notice that operation of a motor vehicle with a drug or alcohol in the body of the driver at a land border port of entry is an offense under Federal law.”

(b) CLERICAL AMENDMENT.—The first section of the Immigration and Nationality Act is amended in the table of contents by inserting after the item relating to section 294 the following:

“Sec. 295. Notice at land border ports of entry regarding operation of a motor vehicle and drugs and alcohol.”

SEC. 4. IMPOUNDMENT OF VEHICLE FOR REFUSAL TO SUBMIT TO TEST FOR DRUG OR ALCOHOL.

Not more than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations authorizing an officer or employee of the Immigration and Naturalization Service to impound a vehicle operated at a land border port of entry, if—

(1) the individual who operates the vehicle refuses to submit to a chemical or other test under section 13(a)(3) of title 18, United States Code; and

(2) the impoundment is not inconsistent with the laws of the State in which the port of entry is located.

SEC. 5. EFFECTIVE DATE.

This Act shall take effect 180 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2155, the bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 2155 helps prevent drunk driving at and around our borders. The bill authorizes INS inspectors at the border to take drunk or drugged drivers into custody based on their impaired state. Currently, border inspectors do not have the authority to do so other than as private citizens making arrests. Typically, inspectors now have to alert State or local law enforcement that an impaired driver is headed their way, wave impaired drivers through the port of entry, and hope that State or local law enforcement will pick them up before the driver does any harm.

This bill makes it a Federal crime for a person to operate a motor vehicle at a land border patrol entry in an impaired manner because of the presence of drugs or alcohol. The bill deems any such driver to have given consent to submit to a chemical test by the INS to determine the presence or concentration of alcohol or drug in the driver's body. The bill authorizes INS inspectors at land border ports of entry to perform chemical tests upon drivers if the INS has reasonable grounds to believe that a driver is dangerous because of a drug or alcohol in the driver's body.

If the individual refuses to submit to such a test, the bill requires the Attorney General to notify the driver's State or foreign state of the driver's refusal to submit to the test. The Attorney General is also required to notify the driver's government of a conviction of the driver for impaired driving. The bill requires the Attorney General to issue regulations authorizing INS officers and employees to impound a vehicle if the driver refuses to submit to a chemical or other test.

Finally, the Attorney General is required to post a notice that operation of a motor vehicle with drugs or alcohol in the driver's body at a land border port of entry is a Federal offense. This bill will help prevent drunk driving and impaired driving tragedies in border areas, and I urge a “yes” vote on it.

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

Ms. JACKSON-LEE. Mr. Speaker, I yield myself such time as I might consume.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I believe the intentions of this legislation certainly have merit, but I rise in opposition to the measure on the floor today, H.R. 2155, the Sober Borders Act.

This bill authorizes officers and employees of the INS to conduct tests for drug or alcohol consumption when they have reasonable grounds to believe that a driver is operating a motor vehicle while under the influence. Second, to ensure travelers are fully aware of this policy, the bill further requires the INS to post notices at each land border port of entry, informing motorists that operating a vehicle while under the influence is an offense under Federal law.

The major problem with this proposal is a matter of policy and procedure. At the time when their workload is heavy and the lines and waits for border traffic are already causing huge burdens to border economies, this legislation will impose new duties unrelated to terrorism on immigration inspectors at the border. Essentially, H.R. 2155 is enlisting INS officers to enforce State law. Furthermore, 18 U.S.C. section 13, the Assimilative Crimes Act, currently incorporates State criminal law into Federal law for issues for which there is no applicable Federal criminal law in places in Federal jurisdiction such as military bases and, no doubt, ports of entry. So a criminal offense such as a DUI under State law is already also a Federal criminal offense in a Federal area, areas not in State jurisdiction. This law would extend that by incorporating noncriminal sanctions, examples, suspension of license or failure to agree to a drug test, into Federal law. It also seems a questionable use of the admittedly broad authority the INS has at the border to conduct searches to expand this to blood, breath, or urine testing.

Finally, during the subcommittee markup and the full committee markup of this legislation, after being assured that the majority would work with the minority on concerns with the legislation, an amendment was offered that would require the General Accounting Office to conduct an annual study concerning the exercise of the new authorities by officers and employees of the INS. It is well taken by this Congress, Mr. Speaker, that the GAO is an independent body. Republicans and Democrats alike have been known to ask and use the GAO for studies and to include such studies as language in legislation. This is not, if the Members will, a killer of the bill. The study would assemble and analyze the numbers of times the officers exercise this authority; the race, gender, and national origin of the driver involved; and the results of the exercise of this new authority.

Mr. Speaker, the border is used not only by noncitizens, but it is used by American citizens and we have stood on this floor of the House just last week to talk about our freedoms and our values and the justice and equality that we render. Then why not, why not, make sure that any legislative initiative that we pass has the ability to serve all Americans fairly, and those who may be unfairly stopped should be addressed as well while we also are committed to protecting the lives of our frontline officers at the border. A GAO study, simple, precise, and efficient, could have made this amendment of this legislation more effective.

The amendment further directed the General Accounting Office to submit a report to Congress no later than March 31 of each year. It was important to include this amendment because the legislation raises the potential for abuse of authority to stop and detain individuals at the border. The amendment would have ensured that the new authorities granted the officers and employees of the INS to test for the use of alcohol and drugs by a driver at the border is carried out in an efficient, fair, and equitable manner without targeting any group of people specifically pertaining to prevent racial profiling. It could have been an instructive tool.

Mr. Speaker, I have been to the borders of our country; and I have seen the very fine workers who are there. They want to do the right thing, and they want to do it well and efficiently. This information could have given them guidance on how to be effective and, of course, successful in doing the job.

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Racial profiling occurs when the police target someone for investigation on the basis of that person's race, national origin, or ethnicity. Examples of profiling are the use of race to determine which drivers are stopped for minor traffic violations, often referred to "driving while black and brown," and the use of race to determine which motorists or pedestrians are searched for contraband.

Racial profiling is still prevalent in America; and as I indicated, the borders are used by immigrants and citizens alike. Why could we not consider this as reasonable on behalf of the citizens of this country? In large cities across the country, African Americans and Hispanics and other people of color still move about with the fear that at any time they can be stopped and detained simply because they fit a broad profile characterized by little more than the color of a person's skin. Today, skin color makes one a suspect in America. It makes one more likely to be stopped, more likely to be searched, more likely to be arrested and imprisoned.

In a recent General Accounting Office study of March 2000, it found that persons of particular races and genders were generally more likely than others to be subjected to more intrusive

searches. For example, black women were nine times more likely to be searched than white women. Based on x-ray searches, however, the black women were less than half as likely to be caught carrying contraband than white women.

During the debate on H.R. 3129, the Customs Border Security Act, authorizing appropriations for fiscal year 2002, detailed the story of Yvette Bradley, a 33-year-old advertising executive and her sister who arrived at Newark Airport from a vacation in Jamaica, and she is an African American woman, and a United States citizen to my knowledge. Upon encountering Customs agent, Ms. Bradley recalled that she, along with most of the other women on the flight, were singled out for searches and interrogation where she experienced one of the most humiliating moments of her life. Ms. Bradley was searched throughout her body, including her private parts. Mr. Speaker, no drugs or contraband were found.

I happen to be a strong supporter of our INS, Customs, and other border security agents and the responsibilities that they have. I happen to be a strong supporter of adhering to the laws of this Nation. But I also believe that civil justice and civil liberties are important for those noncitizens and citizens alike. We have the responsibility of adhering to the values and the laws of this land.

This bill, however, adds substantial provisions so that they already have all they need to ensure the safety of this Nation. To take away, to give a pass or a bye on the Bill of Rights and the Constitution, the understanding of unreasonable search and seizures is unfair.

This bill, without protection against racial profiling, at least a study, is unfair and is not a solution.

Organizations like the ACLU have conducted reports that one of the ACLU's highest priority issues is the fight against the outrageous practice of racial profiling. In its report "Driving While Black, Racial Profiling on Our Nation's Highways," the ACLU documents the practice of substituting skin color for evidence as grounds for suspicion by law enforcement officials. Tens of thousands of innocent motorists on highways across the country are victims of racial profiling. It could be happening at our borders as well.

These discriminatory stops have reached epidemic proportions in some recent years, fueled by the war on drugs and potentially fueled by bills like this.

We want to make sure that our good police officers have the skills and tools to do the job. A study would provide them that instruction.

We put an end to the practice of racial profiling with my amendment. My amendment, most importantly, through the collection of data, would, in fact, assist the agency in being instructive and constructive. Is that not

why we are here, Mr. Speaker, to be constructive and instructive? Unfortunately, after vigorous debate, we were not able to include such an amendment. I am disappointed, Mr. Speaker; and for these reasons, among many others, I rise to oppose this legislation.

I rise in opposition to the measure on the floor today H.R. 2155, the Sober Borders Act. This bill authorizes officers and employees of the INS to conduct tests for drug or alcohol consumption when they have reasonable grounds to believe that a driver is operating a motor vehicle while under the influence.

Second, to ensure travelers are fully aware of this new policy, the bill further requires the INS to post notices at each land border port of entry informing motorists that operating a vehicle while under the influence is an offense under federal law.

The major problem with this proposal is a matter of policy. At a time when their workload is heavy and the lines and waits for border traffic are already causing huge burdens to border economies, this legislation will impose new duties, unrelated to terrorism, on immigration inspectors at the border. Essentially, H.R. 2155 is enlisting INS officers to enforce state law.

Furthermore, 18 U.S.C. section 13 (the Assimilative Crimes Act) currently incorporates state criminal law into federal law, for issues for which there is no applicable federal criminal law, in places in federal jurisdiction such as military bases and, no doubt, ports of entry. So, a criminal offense such as DUI under state law is already also a federal criminal offense in a federal area (areas not in state jurisdictions). This law would extend that by incorporating non-criminal sanctions (e.g., suspension of licenses for failure to agree to a drug test) into federal law. It also seems a questionable use of the admittedly broad authority the INS has at the border to conduct searches, to expand this to blood, breath or urine testing.

Finally, during both the Subcommittee markup and the Full Committee markup of this legislation, after being assured that the majority would work with the minority on concerns with the legislation, an amendment was offered that would require the General Accounting Office to conduct an annual study concerning the exercise of the new authorities by officers and employees of the INS. The study would assemble and analyze the number of times the officers exercised this authority, the race, gender, and national origin of the driver involved, and the results of the exercise of this new authority. The Amendment further directed the General Accounting Office to submit a report to Congress no later than March 31 of each year.

It was important to include this amendment because the legislation raises the potential for abuse of authority to stop and detain individuals at the border. The amendment would have ensured that the new authorities granted the officers and employees of the INS to test for the use of alcohol and drugs by a driver at the border is carried out in an efficient, fair, and equitable manner without targeting any group of people—specifically to prevent racial profiling.

"Racial profiling" occurs when the police target someone for investigation on the basis of that person's race, national origin, or ethnicity. Examples of profiling are the use of race to

determine which drivers to stop for minor traffic violations ("often referred to driving while black") and the use of race to determine which motorists or pedestrians to search for contraband.

Racial profiling is still prevalent in America. In large cities across the country, African Americans and other people of color still move about with the fear that at any time, they can be stopped and detained simply because they fit a broad profile characterized by little more than the color of a person's skin. Today skin color makes you a suspect in America. It makes you more likely to be stopped, more likely to be searched, and more likely to be searched, and more likely to be arrested and imprisoned.

In a recent General Accounting Office study of March, 2000 "found that persons of a particular races and genders were generally more likely than others to be subjected to more intrusive searches. For example, black women were 9 times more likely to be searched than white women. Based on x-ray searches, however, the black women were less than half as likely to be caught carrying contraband than white women.

During the Debate on H.R. 3129, the Customs Border Security Act authorizing appropriations for fiscal year 2002, I detailed the story of Yvette Bradley a 33-year-old advertising executive and her sister who arrived at Newark Airport from a vacation in Jamaica, and African American woman. Upon encountering Customs agents, Ms. Bradley recalled that she, along with most of the other black women on the flight, were singled out for searches and interrogation, where she experienced one of the most humiliating moments of her life. Ms. Bradley was searched throughout her body including her private parts. Mr. Speaker no drugs or contraband was found.

I happen to be a strong supporter of our INS, Customs and other border security agents and the responsibilities that they have. This bill, however, adds to substantial provisions they already have all that they need to ensure the safety of this Nation. To take away—to give them a bye, a pass, on the Bill of Rights and the Constitution, the understanding of unreasonable search and seizures, is unfair. This bill without protection against racial profiling is unfair and it is not a solution.

Organizations like the ACLU have conducted reports that ne of the ACLU's highest priority issues is the fight against the outrageous practice of racial profiling. In its report *Driving While Black: Racial Profiling On Our Nation's Highways*, the ACLU documents the practice of substituting skin color for evidence as a grounds for suspicion by law enforcement officials.

Tens of thousands of innocent motorists on highways across the country are victims of racial profiling. And these discriminatory police stops have reached epidemic proportions in recent years—fueled by the "Wars on Drugs" and potentially fueled by bills like this bad police officers have been given a pretext to target people who they think fit a profile. We must put an end to the practice of racial profiling. My Amendment, most importantly, through the collection of data, the amendment by its very nature would curb any tendency toward this abuse and help prevent this legislation from being used as a tool for racial profiling.

Unfortunately, after a vigorous debate during the markup, however, the majority refused

to accept the amendment arguing that the measure would place an extreme burden on the officers carrying out the provisions of the amendment. My attempts to have something in the bill to address this problem have been ignored.

While I firmly believe something must be done to lower the rate of alcohol-related car accidents that take place on our nation's highways and in close proximity to our nation's borders there are concerns raised by the bill. It is unfortunate because it had minimal efforts to make the bill acceptable to the Democrats as the majority had committed to doing during the Committee process this bill could have passed without opposition.

Mr. Speaker, in its current form, I must urge my colleagues to oppose H.R. 2155.

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

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

Mr. Speaker, unfortunately, the Bradley case that the gentlewoman from Texas (Ms. JACKSON-LEE) cited is not relevant to this bill. She talked about a search of a woman who arrived at the Newark Airport. This bill only applies to land border crossings, not ports of entry that are not land border crossings. So the argument that the gentlewoman from Texas (Ms. JACKSON-LEE) relies on is irrelevant to dealing with the issue of this bill.

The gentlewoman from Texas complains about the fact that people might be unduly targeted for stops. Everybody who crosses the border between the United States and Mexico and Canada has to be stopped. Mr. Speaker, 100 percent of the people do, regardless of what their race is or their national origin. I do not understand what the gentlewoman's complaints are because she should know that one must stop for inspection and the law requires it.

Now, finally, during the markup of the Committee on the Judiciary, as chairman, I gave the gentlewoman from Texas my commitment to ask for a GAO study once this bill is signed into law. The gentlewoman from Texas should know that any Member of the House can ask for a GAO study. It does not have to be an amendment adopted by the committee; it does not have to be legislation on the floor of the House. She can ask for one, I can ask for one, and anyone of the other 433 Members of the House of Representatives can ask for one. So nobody is preventing a GAO study from being done should this bill be passed by both Houses and signed into law by the President.

The issue is very simple, and that is that if somebody comes to a land border crossing at the United States who is drunk or who is under the influence of drugs and is not capable of safely operating a motor vehicle, should the immigration inspector who stops that individual be allowed to detain them and to administer a chemical test. We cannot do that now, but this bill does give the immigration inspectors the authority to do that. And if this bill fails and this hole in the law is not plugged,

then the drunk driver or the impaired driver will go on his or her merry way at a border crossing which is, of necessity, crowded by people who are stopping and submitting to inspection as required by Federal law and vulnerable to injury or death simply because the INS inspector had to call up the local police and it is only when the local police arrive on the scene can there be a stop.

This is a good bill. The arguments of the gentlewoman from Texas are complete red herrings. It should be passed.

Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding me this time. I want to thank and pay tribute to the chairman for bringing this bill to the floor and for working it through the committee in such a deliberative fashion. We debated this at the subcommittee level, at the committee level; and we had a great debate on it. Many Members shared their support for the bill.

As mentioned, this is simply closing a glaring loophole in the law that allows someone in a border port of entry, at a land port of entry to drive totally intoxicated, and INS officers are powerless to stop them, unless they want to do it as a citizen for which they risk liability that they are unwilling to assume. We asked INS officers what happens when someone who is visibly drunk crosses a border. They said, we let them go on a wing and a prayer and just hope that somebody, hope that a law enforcement officer at the municipal or State level is able to stop them.

Well, that has not been good enough. In California, in the past 2 years, we have had two law enforcement officers killed, killed when drunk drivers drove up, under-age drivers who drove to Mexico with the express purpose of drinking because they can, because of lax enforcement, drink underage, drive across the border knowing full well that they will not be stopped by the person who sees them right inside the window, who stops them, who cannot stop them when they are drunk, who will just let them go on through. They killed two California highway patrol officers. Several fatal car crashes in my home State of Arizona are blamed on drunk drivers going to Mexico to drink, coming back across the border, knowing that they cannot be stopped. This is wrong.

This is what this law is about. We have to change that. We have to close this glaring loophole. I do not know about my colleagues, but I do not want to stand and tell the widow or the widower of the next highway patrol officer or the next person who is killed on the border that we could have had this bill passed, we could have done it were it not for extraneous language that is purely secondary to the bill.

As the chairman mentioned, we have offered and are more than willing to have a letter to the GAO. This need not be in statute as they are asking. We

can do the same by a letter to the GAO. But let us get this bill passed. We need it. There is a glaring loophole now. Lives are being lost on the border in my State and others. I would ask for support of this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I give me great pleasure to yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary, who knows a lot about racial profiling inasmuch as he has authored legislation on that issue.

Mr. CONYERS. Mr. Speaker, I thank the gentlewoman from Texas for her leadership as ranking member of the subcommittee, and I want to thank the gentleman from Arizona (Mr. FLAKE) for his leadership as chairman of the subcommittee.

The question that the gentleman from Arizona has raised is a very disturbing one: two police officers from his State killed in connection with activity involving people driving under the influence. And that should be disturbing to everybody in Arizona as well as everybody in this Congress. Then why, I say to the gentleman from Arizona, would he jeopardize the passage of this bill over, and I will accept his description of it as an irrelevant addition to it, when the gentleman knows full well that one-third of the Members of the Congress can turn back a bill that is on suspension? This means that the gentleman is rolling the dice big time, I say to my friend. I do not want to take that chance. If the gentleman does, then we will have a vote shortly that will determine which one of us was more correct.

Mr. FLAKE. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Arizona.

Mr. FLAKE. Mr. Speaker, I too fear that this bill will be imperiled, but I fear it if we attach such language. That is why we had a debate in the committee. The chairman is correct. That is where we debate bills like this. We had the debate in committee, we put that amendment up to a vote and it failed. Were we to accept the unanimous consent request or to amend this on the floor, we would be going and stepping over the committee. That is not the process. That is the relevant process we have to follow.

Mr. CONYERS. Mr. Speaker, reclaiming my time, I thank the gentleman. I appreciate that procedural explanation. If the gentleman is going to risk police officers' lives in the gentleman's State based on a vote in the committee, then that, my friend, is a choice that the gentleman has who, as a Member, has as much right to cast that opinion as anybody else. I wish the gentleman good luck, frankly, because police officers' lives are at stake.

Mr. Speaker, I have just approached the distinguished chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER),

my good friend, who has informed me that unfortunately we are not able to remove this bill from the suspension calendar to have this amendment repaired because this is the last suspension day for bills under suspension that we will have in this Congress. And if he is right, that puts us in a more difficult situation.

Mr. Speaker, the reason that we are in this position is that the subcommittee ranking chairperson had assumed that there had been an agreement worked out on this amendment, and it was not until we came to the full committee markup that we found that there was a serious difference still outstanding.

All I stand here in the well of the House today to do is to work in every way that I can with the chairman of my committee and the chairman of the subcommittee to see that we can repair this so that we can get a bill out to protect the lives of all of our law enforcement people at the border. This is a bill that we support, a bill we support, a bill that we want to get to the Senate and enacted into law as quickly as possible.

□ 1445

We think that it is a lifesaving measure. But because of this disagreement over the importance of a study on racial profiling, we are not able to do that.

The Members of this House, before they vote on this measure tomorrow, should be fully aware of the fact that the reason we put the GAO in the amendment was that the subcommittee chairman, the gentleman from Arizona (Mr. FLAKE), is the one that asked that it be included. The original provision of the gentlewoman from Texas (Ms. JACKSON-LEE) referred this to the Attorney General's office, and they objected.

Mr. Speaker, I would ask the Members, what are we doing here? Where we are now, I say to the gentleman from Arizona (Mr. FLAKE), is that the American Civil Liberties Union, and this is not a funny matter, I say to the gentleman from Arizona. Please listen to me.

The American Civil Liberties Union announced this morning that they are in opposition to the bill in its present form. That is not a laughing matter. The Leadership Council on Civil Rights has announced their opposition to the bill. This is not a laughing matter. The National Association for the Advancement of Colored People, with a half a million members, has announced that until this bill is repaired they are against the bill. It is not a laughing matter.

So if it does not matter to the Members, okay. If it is funny, okay. If they have the votes, okay. But I think they are doing a grave disservice to an excellent piece of legislation that they and the gentlewoman from Texas (Ms. JACKSON-LEE) have crafted.

If they choose to roll the dice on it in the way they apparently have, then I

will have to live by that decision, because I am not in the House leadership, and I cannot assure the Members that if the bill is pulled off the floor, there will be another Suspension Calendar.

The reason I will not yield is because the chairman controls all the time on the gentleman's side.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE), who is not a chairman.

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, regarding the gentleman from Michigan's point about this not being a laughing matter, certainly I do not make a laughing matter out of it. The only humor I found is in being elevated to the status of chairman of the subcommittee, which I am not. The chairman just informed me if I am, it has been revoked. That is the only part that I find humorous. This is not a laughing matter at all.

When the ranking minority member mentions that in the subcommittee we had discussions about where the authority ought to rest for a study, we simply pointed out that the amendment, as drafted, mentioned the INS Commissioner when, under our own language out of the committee, that position will no longer exist. So that would not be the proper place for the study.

What we suggested was that that responsibility would lie with the GAO.

As the chairman mentioned, we have offered again and again and again, at the gentleman's suggestion, I say to the ranking minority member, that we draft a letter to the GAO and to ask them to conduct such a study, to do that. I stand ready to do that, and I hope that we can.

This is an important issue. We simply need not have it in statute because that would imperil the bill. We cannot, for every law enforcement action taken in this House or in this body, attach racial profiling language. We simply cannot. That would imperil too much good legislation going forward.

It is not a laughing matter at all; this is serious. People are dying in the border towns every day, and a lot of it is linked to drunken drivers coming across the borders. This is a serious matter, we ought to take it that way, and move this bill forward without secondary amendments.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PENCE). Members are reminded that they should direct their comments to the Chair, and avoid dialogue in the second person.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, this is a very serious matter. It really saddens me that we have come to this.

I notice that there was some discussion that no one seems to understand racial profiling. There is a bill that we wish had moved through this House with some 95 or more cosponsors that if

we could have gotten a hearing on it in the Committee on the Judiciary, maybe we could have educated our colleagues about this issue.

The fact is that we have to live the way we live, many of us who come from different walks of life, to understand racial profiling. One has to live in our skin as an American and be able to acknowledge this is the best country we could ever live in, but every day we work to improve that country. So I think it is important for those who do not live as many of us do to recognize that, as legislators, we try to work together.

In this instance, I think it is important to note that the INS border inspectors, by State law that is already codified, in complete disagreement with my colleagues, have the authority to stop those whom they might feel are impaired. This study only allows instruction, giving them the ability to do their job better, and to be able to recognize that all of us have the right to be treated fairly, no matter who we are, and that this Nation is founded on those who escaped persecution so they could be treated fairly.

I am sorry that my colleagues believe this to be frivolous and a laughing matter, and refuse to exercise the comity of this House and work with those of us who are sincere in promoting legislation that works for everyone. It is a great disappointment to me. In fact, Mr. Speaker, it is hurting, because I have constituents who have felt the abuse of this process.

So I would offer to say that a letter does not equate to legislation. Mr. Speaker, I would simply say, we have been fighting to pass racial profiling legislation in this House. Of course, as a minority, we have not been successful.

Mr. Speaker, I would like to pose a question to the ranking member, the gentleman from Michigan (Mr. CONYERS). It really goes to the legislation that he has had filed in this House for a period of time.

I recall traveling with the gentleman throughout the Nation on a series of racial profiling hearings. I think the persons appearing came from all walks of life, if I am correct; and I know that it was a searing issue to the extent that we had sponsors and supporters of legislation in the Senate, the other body, because it was so clear that this Nation needed to address this question.

I would ask the gentleman simply to expand on that point. There seems to be some question of the seriousness and the need for having at least an instructive amendment that allows us to be instructed by a study that will give guidance to having us do our jobs better.

I know the gentleman has spent a lot of time on this issue, so I would ask him to speak on this point, on this legislation that he filed and the need for its hearing; but more importantly, the work that he did in coming to the point of drafting this legislation.

Mr. CONYERS. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I thank the ranking member, the gentlewoman from Texas (Ms. JACKSON-LEE), of the Subcommittee on Immigration, Border Security, and Claims of the Committee on the Judiciary, for yielding to me.

Mr. Speaker, racial profiling cannot be considered irrelevant anywhere in the country, but particularly in a circumstance where we are giving additional powers to law enforcement agents on the border. For us not to include a study is sending a very dangerous signal to them, especially after this debate.

I frankly do not see how a measure like this, after this kind of discussion, could possibly clear the House of Representatives in consideration of the times and the problems with law enforcement and the minority community that plague the criminal justice system and law enforcement all over the country. I plead with my colleagues to please withdraw this measure until we can work out some rapprochement.

I can say that the gentlewoman from Texas (Ms. JACKSON-LEE) has been totally willing to cooperate, and I think, up until the day of the hearing, I would have said the same thing about the subcommittee chairman; or if he is not the subcommittee chairman, the gentleman from Arizona (Mr. FLAKE). He has been totally cooperative, as well.

I know that the gentleman from Wisconsin (Chairman SENSENBRENNER) and I have been working together in a very fine spirit to try to resolve this, and maybe the leadership of the House would schedule another session for suspensions, which would give us the time to at least bring this one back to the floor.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Michigan for his comments.

I would just simply close by saying that there is a throng of legislation passed on racial profiling. What we tried to do here is work in a bipartisan manner to enhance our Border Patrol agents, and, as well, protect the liberties of all of our people.

I would simply ask that my colleagues vote against this legislation, for it stands for nothing as it relates to being able to protect our Border Patrol agents and enhance their lives in contrast to diminishing the lives of others. I ask for a no vote on this legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think it is regrettable that my two colleagues, the gentleman from Michigan (Mr. CONYERS) and the gentlewoman from Texas (Ms. JACKSON-LEE) have decided to make this very meritorious bill into a debate on racial profiling.

I have offered, as has the gentleman from Arizona (Mr. FLAKE), to send a

letter to the Comptroller General asking for the precise study that the gentleman from Michigan and the gentlewoman from Texas have asked for.

As I said previously, every Member of Congress can get GAO studies on any relevant issue that they desire. We do not need to clutter up the statute books by requiring the Comptroller General to do a study on this subject or on any other subject. It merely requires sending a letter signed by a Member of Congress.

Now, if the gentleman from Michigan (Mr. CONYERS), who represents a border community, and the gentlewoman from Texas (Ms. JACKSON-LEE), who represents a district which is pretty close to the other border, if their idea becomes law, I am afraid that every immigration inspector who has to stop everybody who is legally crossing the border and ask them questions, they are going to have to compile this data for the GAO study, and the lines behind the border are going to get longer and longer, and people are going to be more frustrated, whether they are coming across the border to go to school, which we are going to talk about in a few minutes, or to further commerce, or just to visit the United States of America as a tourist, which is something that I think we encourage, as well, because we like foreigners spending their money here.

I am going to work with the gentleman from Michigan and the gentlewoman from Texas. But that is no reason, just because the issue of racial profiling is brought up, and a process where everybody has to be stopped and detained and questioned as they cross the border, that this very meritorious bill should be voted down.

Anybody in law enforcement will tell us that the quicker a drunk driver or a driver whose ability is impaired by drugs is stopped, the fewer people are placed at risk; so why not stop them on the border, and if they are drunk or impaired, do the appropriate chemical tests?

Mr. Speaker, I think this is a good idea. It might save lives. I commend the gentleman from Arizona (Mr. FLAKE) for keeping this a clean bill.

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

□ 1500

The SPEAKER pro tempore (Mr. PENCE). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 2155, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. JACKSON-LEE of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the

Chair's prior announcement, further proceedings on this motion will be postponed.

BORDER COMMUTER STUDENT ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4967) to establish new nonimmigrant classes for border commuter students.

The Clerk read as follows:

H.R. 4967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Border Commuter Student Act of 2002".

SEC. 2. ESTABLISHMENT OF BORDER COMMUTER NONIMMIGRANT CLASS.

(a) CLASS FOR ACADEMIC OR LANGUAGE STUDIES.—Section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) is amended by striking "and (ii)" and all that follows through the end of subparagraph (F) and inserting the following: "(i) the alien spouse and minor children of any alien described in clause (i) if accompanying or following to join such an alien, and (iii) an alien who is a national of Canada or Mexico, who maintains actual residence and place of abode in the country of nationality, who is described in clause (i) except that the alien's qualifications for and actual course of study may be full or part-time, and who commutes to the United States institution or place of study from Canada or Mexico;"

(b) CLASS FOR VOCATIONAL OR NONACADEMIC STUDIES.—Section 101(a)(15)(M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(M)) is amended by striking "and (ii)" and all that follows through the end of subparagraph (M) and inserting the following: "(i) the alien spouse and minor children of any alien described in clause (i) if accompanying or following to join such an alien, and (iii) an alien who is a national of Canada or Mexico, who maintains actual residence and place of abode in the country of nationality, who is described in clause (i) except that the alien's course of study may be full or part-time, and who commutes to the United States institution or place of study from Canada or Mexico;"

(c) LIMITATION.—Section 214(m) of the Immigration and Nationality Act (8 U.S.C. 1184(m); as redesignated by section 107(e)(2)(A) of P.L. 106-386) is amended by striking "section 101(a)(15)(F)(i)" both places it appears and inserting "clause (i) or (iii) of section 101(a)(15)(F)".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4967, the bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, the Immigration and Nationality Act permits foreign students to study in the United States on nonimmigrant student visas. Aliens must be full-time students to be eligible for F visas, which is academic or language studies, or M visas, which are vocational or non-academic studies, nonimmigrant student visas. However, some INS districts have paroled commuter students from Canada and Mexico into the United States as visitors to bypass this statutory requirement because no visa category exists for part-time commuter students.

Since September 11, 2001, the INS has issued memoranda regarding its intent to end this practice of accommodating part-time commuter students but permits its continuance through the end of this year for students already enrolled in border schools. On August 27, 2002, the INS issued an interim rule to expand the F and M student visa categories to permit Mexican and Canadian commuter students to obtain student visas.

However, such a rule is open to differing interpretations across administrations. By passing H.R. 4967, this bill would make Congress' intent clearer that the Canadian and Mexican students should be able to obtain student visas and attend U.S. schools along our borders.

The bill amends the F and M student categories of the Immigration and Nationality Act to expand student visa authorization only for nationals of Canada or Mexico who maintain actual residence and place of abode in the country of nationality, whose course of study may either be full- or part-time, and who commute to the U.S. institution or place of study from Canada or Mexico. These part-time students will be tracked in the Student and Exchange Visitor Information System, or SEVIS; and I would point out that if this bill is not passed, and they continue to be paroled in as visitors, they will not be tracked under SEVIS because they do not have student visas.

In practice, the INS has been allowing the students in for years but without proper authority to do so. This bill gives the INS that proper authority, and I urge my colleagues to vote for it.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I might consume.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am pleased to join my colleagues in support of making part-time commuter students who are nationals of either Canada or Mexico and attend school in the United States eligible for special student visas. I especially congratulate the gentleman from Arizona

(Mr. KOLBE) for his untiring efforts to move this legislation forward.

Thousands of Canadian and Mexican nationals commute to attend schools part-time in the United States. According to the Institute of International Education, 25,769 Canadian students and 10,679 Mexican students are enrolled at U.S. colleges on a full-time basis. There are thousands of additional students that are part-time students.

Texas has a significant portion of students who commute to schools in Texas. For years now, border points like El Paso and Laredo have made exceptions for part-time Mexican students who enter on a daily visitor and travel visa. Schools in Texas, such as Texas A&M International, will benefit from this legislation. Texas A&M International University has approximately 50 to 60 students that benefit from this legislation. At the University of Texas Pan-American in Edinburg, Texas, 14 of the 425 international students are part-time.

According to university officials at both institutions, many more students would attend if they could be able to cross the border easily. Unfortunately, current law does not establish an appropriate visa for those part-time commuter students who, in fact, are coming to learn and then returning home to contribute to their communities.

Under the Immigration and Naturalization Act, aliens who reside in a foreign country and are pursuing a full course of study from a recognized vocational institution or an established college, university or other academic institution in the United States are eligible for student visas. For the purpose of granting student visas, the INS defines "full course of study" as 12 credits or more. So, therefore, part-time commuter students, those who might only be taking a class or two, are not currently eligible for student visas.

However, some INS district offices have permitted part-time commuter students to enter the United States as visitors to pursue their studies. I am encouraged by the INS' recent reversal of a May 2002 decision to eliminate this practice and enforce the full-time 12-hour credit requirement.

We do know that we live in different times since the horrific acts of 9-11. We do know our responsibilities for border security; and of course, as I have mentioned earlier, my commitment to such in cosponsorship of several bills, recognizing the balance, a balance in the previous bill to add a study on racial profiling, this bill is a balance. It recognizes that these students are coming to learn, to contribute, and to make a difference not only in their lives but in their communities.

It also recognizes the economic aspect of it, and these students will be contributing to the economy of the regions of which they participate in those academic institutions.

Fortunately, the agency recently postponed enforcement of the policy