

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. FEINSTEIN. Mr. President, is the Senate in morning business?

The PRESIDING OFFICER. The Senate is in morning business.

SMALL ENGINE POLLUTION

Mrs. FEINSTEIN. Mr. President, I will make my remarks as if in morning business, but my remarks pertain to the HUD-VA bill, and in particular to the small engine provision of that bill.

If Members will remember, the Senator from Missouri, in the Appropriations Committee, placed an environmental rider into the HUD-VA bill which would prevent California from moving forward with its regulation to regulate off-road engines under 175 horsepower. The State has developed a regulatory scheme to do so because these engines were a substantial part—17 percent—of the mobile source pollution in the State, and it was believed by the California Air Resources Board that regulation of these engines could be achieved and, in fact, could reduce pollutants considerably.

On the floor of the Senate, the Senator from Missouri offered an amendment to his amendment from committee. The new language which changed the amendment, in my view, making it better, by only affecting engines under 50 horsepower. I spoke against his amendment in the Appropriations Committee. I did not press for a vote on the small engine amendment which he offered on the floor largely because I thought we would lose it and that we had a better chance of trying to remove the language from the bill in conference.

The bill has been pre-conferenced. Sadly, we have not been able to remove that language from the bill. I am told today that if I were to submit the amendment we had prepared which would eliminate the Bond amendment in its entirety, I would not be allowed a vote on that amendment. I believe the rationale is because I agreed to go to conference. I had only because I didn't want to lose on the floor and I thought I didn't have the votes.

Since that time, a number of States have realized that their regulatory schemes would also be impacted by this provision. Other States would be affected because the 1990 amendments to the Clean Air Act essentially said that California has the ability to regulate these engines, and other States may then take various components of that regulation and enact them as their own State law if they so choose. Since last week, a number of States have weighed in indicating they have regulatory regimes underway that would be affected

and that they are opposed to the Bond amendment. Nonetheless, we are where we are.

I have come to the floor today simply to speak about why I think this is so egregious—and I do think it is egregious. I believe it is the first major setback from the clean air amendments of 1990, and specifically from the amendments allowing States to regulate air quality for the protection of their own people. By eliminating this, we are taking important rights away from the States certain rights and diminishing the States' ability to take care of their own people.

As the fire chiefs have said to me in a letter, if they waited for the Federal Government to regulate bedding and upholstery, they would be still be waiting for that regulation. Instead, the States have taken it on their own to make those regulations. The people of California are much safer because of it.

Let there be no doubt. I believe very strongly that this small engine provision should be removed from the bill and that we should restore the States' rights to protect public health under the Clean Air Act.

On the surface, the amendment that was adopted on Wednesday looked like a substantial improvement. At the time I thought it was an improvement simply because it dropped from 175 horsepower to 50 horsepower. However, the amendment still blocks all States from regulating some of the dirtiest engines out there.

The States will lose the ability to reduce pollution from all spark-ignition engines smaller than 50 horsepower. This includes lawn and garden equipment, some forklifts, recreational boats, off-road motorcycles, and all-terrain vehicles. The original small engine provision would not have affected boats or off-road motorcycles. But the amendment adopted on Wednesday is broad enough to affect a whole new group of engines.

This provision will take four California regulations off the books. My State will lose regulations on lawn and garden equipment, recreational boats, and off-road motorcycles.

I don't know whether the effects on additional engines were intentional or not. We told the Senator from Missouri about them and the language did not change.

But I want to point out another important fact about the amendment adopted on Wednesday. The language requires the U.S. Environmental Protection Agency to propose a new national regulation by December 1, 2004. It does not require the EPA to finalize that regulation, ever. They could propose a regulation and never finalize it. The one promising part of this amendment guarantees nothing. The States need to reduce these emissions now.

I want to remind my colleagues just how dirty these engines are. You will see here that mowing the lawn produces as much pollution as driving a car for 13 hours. I didn't know that be-

fore. I didn't know that if you mow your lawn for 1 hour it is like driving the automobile for 13 hours.

This chart shows how long you would have to drive a car to produce as much pollution as when you operate various types of equipment for one hour.

In other words, using a weed trimmer for 1 hour produces as much pollution as driving a car for 8 hours, mowing a lawn for 1 hour produces as much pollution as driving a car for 13 hours, and operating a forklift for 1 hour produces as much pollution as driving a car for a full 17 hours.

Clearly, this is a problem. In 8 hours a person can drive from Washington to Charleston, SC. Or he can mow the lawn for an hour and produce just as much pollution. The States need to be able to clean up these engines.

The small engine provision is bad for the States and for public health. The compromise from last week did not change the substantive issues.

The small engine provision is still using an appropriations bill to make fundamental changes to the Clean Air Act. It is an environmental rider on the HUD-VA bill. It has had no authorization. It has had no hearing. It does not belong in this bill.

The amendment from Wednesday still takes a longstanding right away from the States. States with serious air pollution need to be able to reduce emissions from these engines. The 1990 amendments to the Clean Air Act guarantee the States the right to do so. This provision overturns that right without even going through the proper channels.

Under the compromise, my State alone will lose the right to regulate over 4 million cars' worth of pollution. That is what is being taken away—access to 4 million cars' worth of pollution. That means the State is most likely going to have to tighten regulations on stationary sources, which is going to mean more expense to major industries in the State of California. That means job loss in other industries.

I cannot see how building cleaner engines should cost jobs to individuals at one company when every other company has said they will be able to build the engines without job loss. Because Briggs & Stratton does not like one California regulation, every State in the Union is going to permanently lose the right to reduce pollution from these engines. States with serious pollution problems need to be able to reduce these emissions or risk harming public health and losing transportation funds.

This provision affects every single State, not just California. For example, I understand that New York has already adopted the California regulation affecting recreational boat motors. New York will lose that regulation because of this provision.

Eight southeastern States—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee—have all written a

letter opposing this provision. The letter clearly states that any compromise that does not fully restore the State's rights is unacceptable to those States.

Mr. President, I ask unanimous consent that the November 10 letter from the Southeastern States Air Resources Managers be printed in the RECORD following my remarks.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

(See exhibit No. 1.)

Mrs. FEINSTEIN. Thirdly, States still need flexibility to improve air quality. One size-fits-all solutions just do not work. We should not force every State to rely on national regulations. National regulations move too slowly and are often just not strong enough for States with a lot of pollution.

We have heard a lot about unfunded mandates lately in the Senate. We have given the States a duty to protect public health. The small engine provision does not change the States' responsibility but it takes away a mechanism by which they might comply with this mandate. This provision, in a sense, creates another unfunded mandate.

The amended provision still creates a very bad precedent. I don't think one company should be allowed to overturn States' rights under the Clean Air Act, especially when that company said on their annual report to the Securities and Exchange Commission on September 11, 2003, that the disputed regulation would not "have a material effect on their financial condition or results of operations, given that California represents a relatively small percentage of Briggs & Stratton's engine sales and increased costs will be passed on to California consumers."

This is their 10-K, their report to the Securities and Exchange Commission, from just 2 months ago. Where does the truth really lie? If California is just a small part of the company's market and the company will just pass on the costs, why does Briggs & Stratton object to the California regulation and insist on changing the Clean Air Act? It makes no sense.

I believe people will pay the necessary costs for cleaner engines. I believe that people will pay for cleaner lawnmowers when they learn that you have to drive your car for 13 hours to produce as much pollution as your lawn mower does in 1 hour.

Every company and every industry needs to do their part to protect public health. Briggs & Stratton should be no different. We should not allow them to pass the buck to other industries.

Once again I will quote from a letter from Allen Lloyd, the Chairman of the California Air Resources Board, about this provision. According to Mr. Lloyd, . . . the aggregate impact of the 50 hp [horsepower] exemption will be 70 tons per day of smog by 2010, the date by which California's various offroad regulations would have been fully effective. This tonnage impact is over

and above Federal regulations for the same emission sources and reflects California's more health-protective rules. For context, 70 tons per day is equivalent to adding 2.4 million cars to California roadways . . .

So when the conference committee includes this provision in their conference report, they are effectively adding 70 tons of pollutants to California's air each day. The California Air Resources Board has also said that this provision could well result in the death of more than 300 people per year in California alone.

California already has seven non-attainment areas, more than any other State. My State has the worst air quality in the country, and now this provision is taking away the State's right to regulate some of the dirtiest engines available. It is a strike at the core of States' rights under the Clean Air Act.

The small engine provision also threatens our economy. California has to reduce emissions from these engines to comply with air quality requirements under the Clean Air Act. Taking away the State's right to reduce emissions threatens our State Implementation Plan, with serious economic consequences.

Violating the State's plan will jeopardize \$1 billion in transportation funds per year in Southern California alone. The South Coast could lose those funds next summer. The South Coast has the worst air quality in the nation and cannot afford to lose \$1 billion per year in transportation funds.

Statewide, this provision threatens \$2.4 billion in transportation funds. And this is just in California.

So this has huge ramifications for my State and every other State facing serious pollution. They will all be in a serious situation in the future when the time comes and they find their hands are tied because one company did not want to build cleaner engines.

It has become clear that the supporters of the small engine provision have confused two very different ideas. Just because a group is concerned about the California regulation on lawn and garden equipment does not mean they support the small engine provision.

The California Association of Fire Chiefs has expressed important safety concerns about a specific regulation. But the chiefs have also clearly said they oppose the small engine provision because of its affect on States' rights. The Fire Chiefs understand the importance of state leadership on these issues. To quote the chiefs' November 11 letter in reference to the small engine provision:

We were never asked to comment on this matter, but for the record, we do not support legislation that would interfere with a state's ability to protect its own citizens.

Mr. President, I ask unanimous consent that the Fire Chiefs' letter from November 11 be printed in the RECORD following my remarks.

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

(See exhibit 2.)

Mrs. FEINSTEIN. Mr. President, I do not quite know what to do. I would very much like to have a vote on this matter. I have tried to importune the conferees. I am told the Governor of California, Mr. Schwarzenegger, now inducted as Governor, has indicated his support for the removal of this amendment. It is my understanding that a whole panoply of States oppose this provision.

It is clear to me this is a bad thing. It is clear to me this is going to set back the cause of clean air. It is clear to me this is going to impact youngsters and the elderly with asthma and other lung diseases. It is clear to me that it is going to impact our transportation dollars. It is clear to me that by 2010, because of one company, California is going to have deal with 70 additional tons of smog per day. None of this needs to happen.

I regret that I cannot send an amendment to the desk. I regret I am not being allowed a vote on the amendment. But this is the wrong thing to do.

I yield the floor, Mr. President.

EXHIBIT 1

SOUTHEASTERN STATES AIR
RESOURCE MANAGERS, INC.,

November 10, 2003.

Hon. ZELL MILLER,
Dirksen Senate Office Bldg.,
Washington, DC.

DEAR SEN. MILLER: Southeastern States Air Resource Managers, Inc. (SESARM), representing the directors of the southeastern state air pollution control agencies in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee, is writing this letter to encourage your support of the removal of a position introduced by Senator Bond in S. 1584, the Fiscal Year 2004 VA, HUD and Independent Agencies Appropriations Bill. The provision would amend Section 209(e)(1)(A) of the Clean Air Act to curtail a state's authority to reduce emissions from diesel and gasoline off-road equipment and engines.

While Senator Bond's proposed provision regarding the off-road engines apparently was intended to address rules adopted only in California, it will limit the ability of all states to solve serious public health-related air quality problems. Senator Bond's proposal revises a very important provision of the Clean Air Act which allows states to adopt engine emission standards more stringent than the federal standards as long as appropriate federal review processes are followed. Congress wisely put this provision into the Act to give states the ability to deal with serious air quality problems across the country. SESARM opposes the impact of the Bond proposal on this important provision.

Please note that other compromise amendments which fall short of fully restoring Section 209(e)(1)(A) are, in our opinion, unacceptable and will constrain states as discussed above. SESARM and your state air pollution control agency would appreciate your support of removal of the Bond Amendment from S. 1584.

Sincerely,

JOHN E. HORNBACK,
Executive Director.

EXHIBIT 2

CALIFORNIA FIRE CHIEFS ASSOCIATION,
November 11, 2003.

Sen. DIANNE FEINSTEIN,
Hart Senate Office Building,
Washington, DC.

DEAR SEN. FEINSTEIN: The California Fire Chiefs Association (CFCA) has been expressing concerns about the potential fire hazard posed by catalytic converters that may be required for certain lawnmowers and other outdoor power equipment. In just the past few days, our concerns seem to be receiving significant attention.

After further investigation we have determined that there were some misunderstandings between CFCA representatives and the California Air Resources Board (CARB) as it relates to the regulations.

The fire safety issues we raised need more attention and require independent assessment before engineering and production decisions are made. In our most recent discussions with CARB, they support the idea of an independent study, and have proposed moving forward with a study, much the same as what is now underway with catalytic converters being used in marine applications. We enthusiastically support this idea, and will be working closely with CARB, the State Fire Marshal, and the US Environmental Protection Agency to ensure that all fire safety concerns are addressed. We wish to make clear that we regard fire safety and environmental quality as being equally important, and wish to make it clear that we support without reservation the air quality goals of the proposed requirements. We support the regulation moving forward as we have received assurances from CARB that our safety concerns will be addressed through the independent study.

Finally, we understand that as a separate matter, the Senate is debating the question of whether states are free to develop safety and environmental standards. We were never asked to comment on this matter, but for the record, we do not support legislation that would interfere with a state's ability to protect its own citizens. To the contrary, we have had to count on the State of California to develop fire safety standards for upholstered furniture, mattresses and bedding because the federal government has failed to do so. The issues of fire safety and air quality as they relate to outdoor power equipment can be addressed, and I believe that working closely with CARB we will find a solution that will provide a high degree of fire safety while maintaining CARB's goals for air quality.

In closing, allow me to express my personal apologies to you. We were not aware that you had an interest in this matter or that we were engaged in anything beyond fire safety. As you know, we have had our hands full in the past month. Even so, if we had been aware of your interest, we would have asked for your help in sorting through these issues. You have always been there when we've needed your help. We look forward to moving beyond the current issues and working with you on higher levels of air quality and fire safety for the communities of California.

Sincerely,

WILLIAM J. MCCAMMON,
President,
California Fire Chiefs Association.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I have had numerous discussions with the Senator from California. Obviously, we see these issues very differently.

Let me point out to my colleagues, this is not something that has just

come up. When we had the committee markup of this bill, the Senator and I had an opportunity to debate it at that point. An amendment, not modified, such as the one I presented on the floor last week, was kept in the bill. Her motion to strike failed 17 to 12.

After that time, we met with the Senator from California and other concerned Senators to make sure we did not do the things that the current California Air Resources Board regulation would do; that is, cost 22,000 American jobs and put at risk of fire, burn, and explosion people using small engines, whether they be in a lawnmower, a leaf blower, a weed eater, or a chain saw. These were the real problems in the California Air Regulation Board proposal.

Now, when I listened to the Senators, they wanted to make sure, No. 1, they did not affect diesels. I said good point; make sure we cut diesels. They wanted to make sure it only applied to smaller engines, and that is why we put the 50 horsepower and smaller engine limitation in it. They wanted to make sure you could require retrofitting, and we made it clear it was only for new engines.

Most of all, almost every State wanted to get some form of reduction of pollution from these small engines, so we crafted an amendment that made all those changes and specifically directed the EPA to move forward with a rule. The fastest they can do that rule is that it is to be proposed by December 1, 2004; and then the EPA is required to move forward on it. That would be a quicker reduction in emissions than under CARB, the California Air Resources Board, proposal.

Now, when this measure came to the floor, I had a number of cosponsors, people who felt very strongly, as do I, about this amendment, and we debated it on the floor. The Democratic leadership came to us and said: We do not want to vote on this. We want to accept it by voice vote. We said: All right, we will cut off the debate, accept it by voice vote, if that is the last we are going to deal with it.

Now, today, my colleague from California says she was not a party to that agreement and she wants a vote on it. Well, I view it as a failure to live up to that agreement.

Nevertheless, there are a very significant number of Senators on my side, and I assume on the other side, who would want to weigh in on it, and some of those Senators are not back. As I said, we have a deadline this afternoon when we are going to try to take other amendments on this bill. I said we would not be debating this amendment today because other Senators have amendments that must come up.

But there is so much misunderstanding about what the Clean Air Act provides, what CARB has done, and what my amendment would do.

First, the Senator has said, on a number of instances, that every State loses the right to fight pollution.

States can take bits and pieces of the California ruling and use it in their State.

Well, No. 1, California is the only State that has a narrow exemption for engines under 175 horsepower that do not affect agriculture and construction. Obviously, many of these engines that are affected would affect agriculture and construction. No State can pick and choose and develop its own regulations from part of the California regulation or take bits and pieces of the California regulation. No State, on its own, can go out and regulate these small engines. There was a presumption in the Clean Air Act that we would have a national standard.

Now, the EPA has moved forward on regulations on a wide variety of engines. We are directing them specifically to go after these small engines and get the proposed rule out within 1 year, to consider job loss, and to consider the fire hazard of these catalytic converters.

I understand the CARB regulation would not go into effect until 2007. My colleague from California said we cannot force all States to rely on national standards. Well, that is what the Clean Air Act does. We want to make sure the national standards are imposed to give every State the reduction in air pollution which comes about from implementing the kinds of changes that were made for ATVs and snowmobiles that do not require catalytic converters.

At the end of the day, if they cannot get the reductions, then EPA, which has a national responsibility, can listen to all of these arguments. Frankly, many of the arguments made by the Senator from California reflect a completely different understanding than I have on the science and on the technology involved.

Under these circumstances, I do not think we ought to be exporting 22,000 jobs to the Far East, perhaps China, and posing a significant fire risk to anybody using small engines.

As I have said before, I use those small engines. When I am using a chainsaw, I am very aware of the danger of that saw blade. If it had a catalytic converter-heated engine, at 1,100 degrees, I do not know how I would do it. I would probably, if I cut down a tree, set the tree on fire with the catalytic converter.

When we are talking about fire hazards, as I would think anybody in California would be very much concerned about, a catalytic converter is a tremendous fire hazard. I will go into that in a moment.

But my colleague said one company, referring to Briggs and Stratton, should not be allowed to change our air quality rules. Frankly, California wrote a rule that favors one company, Honda, which manufactures small engines and has very significant production in the Far East already.

They could start up just like that because the American companies would

not be able to retool immediately. Honda would capture the market. I am arguing for the jobs of 5,000 workers in Missouri, 5,101 workers for Briggs & Stratton, and about 2,000 of them work for Briggs & Stratton; 3,000 of them work for other companies that have part of this: In Wisconsin, 5,158 jobs; Georgia, 2,542 jobs; Kentucky, 2,198 jobs; Illinois, 2,116 jobs; Alabama, 1,288 jobs.

I am worried about the workers. I have visited those workers. I did not know the Senator from California was coming to the floor today. Otherwise, I would have brought out a scroll signed by the workers who would lose their jobs if this amendment were adopted.

The Senator points out that Briggs & Stratton said it wouldn't cause them much trouble. Well, they are a multi-billion-dollar company. They can move their production to China as well. I fully expect that they would. It wouldn't make much of a difference to the shareholders. They said it wouldn't affect the shareholders, no. But it will affect 22,000 jobs in the United States. That is why this amendment is important.

These arguments and the totally differing view of how this problem can be addressed should rightly be debated at the national level. The EPA is directed to move forward, take all the technological information, take the arguments, listen to the safety concerns, listen to the cost benefit arguments, and figure out how the Nation can get cleaner air by further limiting the pollution from these small engines. If they come down with a modified catalytic converter proposal at the end of the day, so be it.

But the California fire chiefs were excluded from the negotiations. The negotiation went on between CARB and Honda. The California fire chiefs were stunned because they had been assured that there would not be a problem with the regulation causing fire.

After they saw the CARB rule, the California State fire marshals wrote a letter saying:

We categorically do not support the CARB proposed regulation because we believe it will lead to a substantial increase in residential and wildland fires.

The Senator and the chief of staff from California have had very direct conversations with representatives of the California fire chiefs. They must have been very persuasive because now their letter says:

We are sure that the safety concerns can be addressed.

I think that suggests that there was a great deal of effective persuasion applied. But they were not the only ones who believed there was a problem, when you look at the other people who have raised questions about it. The National Association of State Fire Marshals remains very concerned that the CARB rule cannot be safely met. The U.S. Consumer Product Safety Commission expressed concerns over the potential for burn, fire, or material

hazards that remain unaddressed. The Missouri State fire marshals remain concerned that the CARB rule creates a significant threat to the safety of the people, property, and the environment. The National Marine Manufacturing Association is concerned that California's activities create marine safety issues that must be evaluated further before they are imposed on industry.

There is one place where they can evaluate those concerns and evaluate the technology and make sure we clean up the air without an undue cost, a cost in risk of fire and explosion. I was talking with a fellow in Missouri this weekend at a football game. His neighbor drove a car with a catalytic converter out into the field, caught the field on fire. A lot of people are very much concerned, in addition to these groups, as to the dangerousness of catalytic converters, which can get up to 1,151 degrees.

In the November 6 letter I received before there was this very persuasive meeting with the eloquent Senator from California, the California fire chiefs said:

Earlier this year, in oral and written communications to the California Air Resources Board, our association expressed serious concerns about the CARB's plan to require catalytic converters on lawn mowers and other lawn and garden power equipment. Firefighters have far too much experience suppressing fires caused by catalytic converters on automobiles carelessly parked on combustible grass and leaves. After this past month of fighting wildland fires, we are almost too tired to think about catalytic converters on lawn mowers which, after all, are intended for use on grass. California does not need yet another way of igniting fires.

That was the November 6 letter sent to me.

Grass ignites at about 500 degrees. Grass clippings ignite at 518 degrees. High efficiency catalytic converters from CARB's own testing reach temperatures of 1,126 degrees Fahrenheit. We wrote to CARB. I asked them if they had any safety data, if they had done any studies, had they looked at alternative methods, had they tried out any of these small engines with catalytic converters, had they done any tests. We asked them a whole list of questions that any responsible agency would be expected to answer. I fully expect the Environmental Protection Agency to make sure we have a rule that cleans up the environment but doesn't cost jobs and doesn't increase significantly the risk of fire.

There are many issues we are not going to be able to resolve here today. I want to see these technology issues debated, worked out on a prompt schedule, and produced in a resolution by the EPA.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

Mr. BOND. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The legislative clerk continued with the call of the roll.

Mr. REID. 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. REID. Mr. President, I have been working with the distinguished Senator from California for more than a day. I am trying to work out this very sensitive issue dealing with small engines, which has been talked about at some length.

I am very disappointed that the majority is not going to allow the Senator from California to have a vote on this amendment. It is too bad. It happens. It happens too much around here. When there is some decision made that they may not be able to win the vote, they just don't give us a vote. I think that is unfortunate.

I have spoken to the Senator from California and, of course, everybody needs to hear it from her. We are going to take our chances in conference on this matter. The House has said this should not be in the bill. The Senator from California, if she wanted to be like too many people are around here and say if she doesn't get what she wants, nobody will get anything, could hold up action on this important legislation that Senator MIKULSKI has worked on for many months with the majority.

The only thing I can say is I applaud the Senator from California for what she has indicated she reasonably might do, and that is not go forward on this amendment. I think it is too bad.

I have said it before, and I will say it again. I personally think she is on the right side of this issue. If this matter were brought to a vote, I think she would win it on the Senate floor. Obviously, we have been here now for 3½ hours, and the majority has indicated they are not going to allow a vote. When this amendment goes down, it will allow us to move forward with other pieces of this legislation.

I say to my friend from California, it is my understanding that she has heard the statements that I have made. And as I have indicated through the Chair to the Senator from California, this happens far too often here. When it appears there is a chance that we can win a vote, they don't give us a vote. As a result of that, we are not going to be able to have a vote. But for the Senator from California, being the team player she is, we would not be able to go forward on the bill. I still think the Senator from California and the Senator from Nevada are members of the conference, and we will do our best in full conference to see that justice prevails. I will do what I can.

I express my appreciation to the Senator from California for her not moving

forward with the amendment at this time.

Mrs. FEINSTEIN. Mr. President, I thank the Democratic whip for his concern and his words.

I want to correct a couple of things. The Senator from Missouri pointed out that catalytic converters are fire hazards. That may be true with some. But virtually every automobile, every pickup truck, every sport utility vehicle driving on the roads and highways of California today is equipped with a catalytic converter. It has been that way for a substantial period of time. Catalytic converters are nothing new.

Secondly, I want you to know that Honda has said that they would increase their U.S. production of these engines even with the California regulation. So, in other words, there are other companies manufacturing these engines in the United States that have said they would adhere to these new regulations and produce cleaner engines.

Thirdly, I want you to know that Briggs & Stratton has already moved some of its operations to China. I very much doubt that this California regulation has much to do with it. I am told they have been manufacturing in China since 1986, and in April of this year they increased their ownership share of two factories in China from 52 percent to a controlling 90 percent. I am also told that California regulators have incorporated Briggs & Stratton's own recommendations into its final rule issued in September. The Air Resources Board relaxed the regulation's exhaust emissions standard, relying instead on controlling evaporative emissions, as recommended by Briggs & Stratton.

So I don't know why this is being done. But I will tell you one thing: everybody who votes to sustain this will be also voting to put 70 more tons of smog into California's skies in 2010. That is how important this issue is to our State.

I yield the floor.

Mr. REID. Mr. President, it is my understanding that the Senator is going to withdraw the amendment.

Mrs. FEINSTEIN. I did not send it to the desk.

The PRESIDING OFFICER. The Senate is in morning business at this time.

Mr. REID. Could the bill be reported?

Mr. BOND. Mr. President, I ask that we go to the bill.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004—Resumed

The PRESIDING OFFICER. The clerk will state the bill.

The legislative clerk read as follows:

A bill (H.R. 2861) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes.

Pending:

Bond/Mikulski amendment No. 2150, in the nature of a substitute.

Clinton amendment No. 2152 (to amendment No. 2150), to permit the use of funds for the Capital Asset Realignment for Enhanced Services (CARES) initiative of the Department of Veterans Affairs for purposes of enhanced services while limiting the use of funds for the initiative for purposes of the closure or reduction of services pending a modification of the initiative to take into account long-term care, domiciliary care, and mental health services and other matters.

Mr. REID. Mr. President, I ask unanimous consent that the only amendments in order on this bill be the Dayton amendment on the Wellstone Center; Durbin amendment on senior discount; Jeffords amendment on new source review study; Bingaman sense-of-the-Senate amendment on DOD smallpox vaccine; Schumer, EPA clean air amendment; Feingold, VA health care fairs/outreach; Reid-Graham, Iraq prisoners; Daschle, Agent Orange; and the managers' amendments that are approved by Senators MIKULSKI and BOND.

Mr. BOND. Mr. President, I have no objection on this side.

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

Mr. BOND. Mr. President, I appreciate the actions taken by the distinguished minority whip, the Senator from Nevada, and also the agreement by the Senator from California to withdraw her amendment.

All I can say about it is, No. 1, we had an agreement, we thought, with the floor staff when we debated this last week—requested by the minority floor staff—that there not be a vote because they did not want a vote. Our condition was we needed to move on to other things. We would have a brief time schedule. As you can see, there is no way that we can restart, in the 45 minutes we have left, this entire debate.

I will state that I categorically disagree with the views reached by the Senator from California. If we are successful in including the measure in the final VA-HUD amendment, all these issues will be resolved by the EPA.

Mr. President, we had an oversight. Senator MCCAIN has an amendment that he was promised the other day. I ask the minority leader if he would agree to adding that since we told Senator MCCAIN he could bring his amendment up.

Mr. REID. Yes, I agree that he should be able to do so.

I ask unanimous consent that the McCain amendment be added to the list.

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

Mr. BOND. Mr. President, we are open for business. 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. BOND. 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. 2194 TO AMENDMENT NO. 2150

Mr. BOND. Mr. President, I send an amendment to the desk on behalf of Senator REID of Nevada and Senator GRAHAM of Florida, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment?

Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. REID, for himself, and Mr. GRAHAM of Florida, proposes an amendment numbered 2194 to amendment No. 2150.

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

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

The amendment is as follows:

(Purpose: To express the sense of Congress on damages caused by the regime of Saddam Hussein during the First Gulf War)

On page 125, between lines 7 and 8, insert the following new section:

SEC. 418. (a) Congress makes the following findings:

(1) During Operation Desert Shield and Operation Desert Storm (in this section, collectively referred to as the "First Gulf War"), the regime of Saddam Hussein committed grave human rights abuses and acts of terrorism against the people of Iraq and citizens of the United States.

(2) United States citizens who were taken prisoner by the regime of Saddam Hussein during the First Gulf War were brutally tortured and forced to endure severe physical trauma and emotional abuse.

(3) The regime of Saddam Hussein used civilian citizens of the United States who were working in the Persian Gulf region before and during the First Gulf War as so-called human shields, threatening the personal safety and emotional well-being of such civilians.

(4) Congress has recognized and authorized the right of United States citizens, including prisoners of war, to hold terrorist states, such as Iraq during the regime of Saddam Hussein, liable for injuries caused by such states.

(5) The United States district courts are authorized to adjudicate cases brought by individuals injured by terrorist states.

(b) It is the sense of Congress that—

(1) notwithstanding section 1503 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108-11; 117 Stat. 579) and any other provision of law, a citizen of the United States who was a prisoner of war or who was used by the regime of Saddam Hussein and by Iraq as a so-called human shield during the First Gulf War should have the opportunity to have any claim for damages caused by the regime of Saddam Hussein and by Iraq incurred by such citizen fully adjudicated in the appropriate United States district court;

(2) any judgment for such damages awarded to such citizen, or the family of such citizen, should be fully enforced; and

(3) the Attorney General should enter into negotiations with each such citizen, or the family of each such citizen, to develop a fair and reasonable method of providing compensation for the damages each such citizen