

create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

S. 881

At the request of Ms. CANTWELL, the names of the Senator from Arizona (Mr. McCAIN) and the Senator from North Dakota (Mr. DORGAN) were withdrawn as cosponsors of S. 881, a bill to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydro-power by the Grand Coulee Dam, and for other purposes.

S. RES. 117

At the request of Mrs. FEINSTEIN, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from Michigan (Ms. STABENOW) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. Res. 117, a resolution designating the week of May 9, 2005, as "National Hepatitis B Awareness Week".

AMENDMENT NO. 517

At the request of Mr. CORZINE, the names of the Senator from Ohio (Mr. DEWINE), the Senator from Florida (Mr. NELSON), the Senator from Maryland (Ms. MIKULSKI), the Senator from Massachusetts (Mr. KERRY), the Senator from South Dakota (Mr. JOHNSON), the Senator from New Mexico (Mr. BINGAMAN), the Senator from New York (Mr. SCHUMER), the Senator from Minnesota (Mr. COLEMAN), the Senator from Vermont (Mr. LEAHY), the Senator from Oregon (Mr. WYDEN), the Senator from California (Mrs. FEINSTEIN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Washington (Mrs. MURRAY), the Senator from Vermont (Mr. JEFFORDS), the Senator from Illinois (Mr. OBAMA), the Senator from Nebraska (Mr. NELSON), the Senator from California (Mrs. BOXER), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Wisconsin (Mr. KOHL), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Indiana (Mr. BAYH), the Senator from Michigan (Mr. LEVIN), the Senator from Illinois (Mr. DURBIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New York (Mrs. CLINTON), the Senator from Colorado (Mr. SALAZAR) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of amendment No. 517 proposed to H.R. 1268, an act making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN (for himself, Mr. HARKIN, Mr. STEVENS, and Mr. SMITH):

S. 900. A bill to reinstate the Federal Communications Commission's rules

for the description of video programming; to the Committee on Commerce, Science, and Transportation.

Mr. McCAIN. Mr. President, today I am introducing the Television Information-Enhancement for the Visually Impaired (TIVI) Act of 2005. This bill would require television broadcasters, during at least 50 hours of their prime time or children's programming every quarter, to insert verbal descriptions of actions or settings not contained in the normal audio track of a program. This can be accomplished through technology commonly referred to as "video description services," which allows television programming to be more accessible and enjoyable for the visually impaired.

This bill is necessary due to a 2002 decision by District of Columbia Circuit Court of Appeals. In 2000, the Federal Communications Commission ("FCC" or "Commission"), recognizing the need to make television programming accessible to the visually impaired, promulgated rules that mandated television broadcast stations and their affiliates, which met certain market requirements, provide 50 hours of video descriptions during prime time or children's programming every calendar quarter. Television programmers challenged the Commission's authority to promulgate such rules. The Circuit Court held that the Commission did not have authority to issue the regulations.

This bill would provide the Commission the authority to promulgate such regulations and reinstate the FCC's video description rules issued in 2000. Additionally, the bill would require the FCC to consider whether it is economically and technically feasible and consistent with the public interest to include "accessible information" in its video description rules, which may include written information displayed on a screen, hazardous warnings and other emergency information, and local and national news bulletins.

Since the spectrum that television broadcasters utilize is a public asset, one would expect that programming over the public airwaves is accessible to all Americans. Unfortunately, that is not the case today and that is why we must pass the TIVI Act. I sincerely hope that television broadcasters will work with us to provide video descriptions for individuals with visual disabilities.

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 904. A bill to designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, as the "Brian P. Parrello Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to and remember Lance Cpl Brian P. Parrello, a resident of West Milford, NJ, who died January 1, 2005, while serving with the

U.S. Marines in Iraq. I was privileged to attend this brave young man's funeral in West Milford on January 8, 2005, and I was moved by the outpouring of grief for LCpl Parrello.

In honor of this young Marine's life, I have introduced a bill to rename the facility at 1560 Union Valley Road in West Milford, NJ as the "Brian P. Parrello Post Office Building." Senator CORZINE is a cosponsor of this legislation.

I would like to note that the renaming of this postal facility as the "Brian P. Parrello Post Office Building" was initiated by the West Milford Township Council, who wished to honor LCpl Parrello in this way. This is especially fitting since LCpl Parrello's father, Nino Parrello, is a letter carrier in West Milford. I am proud to be able to assist in the commemoration of his life by helping with the renaming process.

LCpl Parrello served in the Small Craft Company of the 2nd Marine Division's II Marine Expeditionary Force, which was based at Camp Lejeune, NC. During his service in Iraq, he was attached to a Marine Swift Boat unit that patrolled the Tigris and Euphrates rivers. He was killed New Year's Day as a result of hostile action in Hadithah, northwest of Baghdad.

During his too-short life, LCpl Parrello made a lasting impression on those around him. A graduate of West Milford High School in 2003, he was an athlete who played hockey and football, and he was voted to have "Most School Spirit" by his classmates. As those who knew him have attested, LCpl Parrello was a history buff who dreamed of becoming a history teacher.

LCpl Parrello's route to military service is the result of an admirable choice. He felt such a sense of duty after the September 11 attacks that he delayed going to college, and instead he enlisted in the Marines before his graduation from West Milford High School.

Tragically, LCpl Parrello died just a few days before his 19th birthday. We can commemorate the life of this extraordinary young man by quickly passing this bill to rename the postal facility in his hometown after him.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 904

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

#### SECTION 1. BRIAN P. PARRELLO POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, shall be known and designated as the "Brian P. Parrello Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Brian P. Parrello Post Office Building".

By Mr. HATCH:

S. 905. A bill for the relief of Heilit Martinez; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce a private relief bill for Miss Heilit Martinez. As my colleagues know, private relief is available in rare instances. I believe that the circumstances surrounding Miss Martinez's case are extraordinary and merit the introduction of private legislation. Therefore, I am pleased to introduce this legislation today.

Miss Martinez was brought into the U.S. with her parents when she was about two years of age and has lived in Utah since that time. It is important to note that Miss Martinez did not make the decision to enter this country as a young child nor did she decide to overstay a visa, and she was led to believe that she had legal status. Miss Martinez was raised and educated in the United States and is currently a straight A student at Utah State University.

Last year, Miss Martinez and a group of her college friends traveled into Mexico for a short day of sightseeing. When questioned at the port of entry, Miss Martinez declared that she had not been born in the United States but had legal immigration status. However, when she could not produce legal documentation, it was discovered that Miss Martinez was undocumented. She was detained for some days prior to her release.

For all intents and purposes, Miss Martinez does not have a country to which to return. The United States is her home. Therefore, I urge my colleagues to support the passage of this legislation to help Miss Martinez on the path of becoming a lawful, permanent resident.

Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 906. A bill to promote wildland firefighter safety; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, Governor Gregoire has already declared a drought in Washington State and I know my colleagues and I remain very concerned about what appears to be yet another year of devastating drought throughout the West, and the hazards this could pose in terms of increased fire risk and threats to public safety.

But today, I want to focus the majority of my comments on a topic that I have focused on and hope my colleagues will pay close attention to as the 2005 fire season approaches. That's the issue of wildland firefighter safety.

Many of my colleagues are probably aware of the fact that every summer, we send thousands of our constituents—many of them brave young men and women, college students on summer break—into harm's way to protect our Nation's rural communities and public lands. These men and women serve our Nation bravely.

Since 1910, more than 900 wildland firefighters have lost their lives in the

line of duty. These firefighters represented a mix of Federal and State employees, volunteers and independent contractors. And they lost their lives for an array of reasons. We all realize that fighting fires on our Nation's public lands is an inherently dangerous business. But what we cannot and must not abide are the preventable deaths—losing firefighters because rules were broken, policies ignored and no one was held accountable.

A number of my colleagues will recall that, in 2001, this issue was pushed to the fore in the State of Washington, because of a horrible tragedy. On July 10, 2001, near Winthrop in Okanogan County, in the midst of the second worst drought in the history of our State, the Thirtymile fire burned out of control.

Four courageous young firefighters were killed. Their names: Tom Craven, 30 years old; Karen FitzPatrick, 18; Jessica Johnson, 19; and Devin Weaver, 21.

Sadly, as subsequent investigations revealed, these young men and women did not have to die. In the words of the Forest Service's own report on the Thirtymile fire, the tragedy "could have been prevented." At that time, I said that I believe we in Congress and management within the firefighting agencies have a responsibility to ensure that no preventable tragedy like Thirtymile fire ever happened again.

I would like to thank my colleague Senator BINGAMAN, the distinguished Ranking Member of the Senate Energy Committee, as well as Senator WYDEN, who was then chair of the Subcommittee on Public Lands and Forests. In the wake of the Thirtymile fire, they agreed to convene hearings on precisely what went wrong that tragic day. We heard from the grief-stricken families.

In particular, the powerful testimony of Ken Weaver—the father of one of the lost firefighters—put into focus precisely what's at stake when we send these men and women into harm's way.

I can think of no worse tragedy than a parent confronting the loss of a child, especially when that loss could have been prevented by better practices on the part of federal agencies.

At the Senate Energy Committee hearing, we also discussed with experts and the Forest Service itself ways in which we could improve the agency's safety performance. And almost a year to the day after those young people lost their lives, we passed a bill—ensuring an independent review of tragic incidents such as Thirtymile that lead to unnecessary fatalities.

Based on subsequent briefings by the Forest Service, revisions to the agency's training and safety protocols, and what I've heard when I have visited with firefighters over the past 2 years, I do believe the courage of the Thirtymile families to stand up and demand change has had a positive impact on the safety of the young men and women who are preparing to battle blazes as wildland firefighters.

Yet, I'm deeply saddened by the fact that it's clear we haven't done nearly enough. In July 2003—2 years after Thirtymile—two more firefighters perished, this time at the Cramer fire within Idaho's Salmon-Challis National Forest. Jeff Allen and Shane Heath were killed when the fire burned over an area where they were attempting to construct a landing spot for firefighting helicopters.

After the Thirtymile fire, however, I told the Weavers and the Cravens, the families of Karen FitzPatrick and Jessica Johnson that I believed we owed it to their children to identify the causes and learn from the mistakes that were made in the Okanogan, to make wildland firefighting safer for those who would follow. That is why the findings associated with the Cramer fire simply boggle my mind.

We learned at Thirtymile that all ten of the agencies' Standing Fire Orders and many of the 18 Watch Out Situations—the most basic safety rules—were violated or disregarded. The same thing happened at Cramer, where Heath and Allen lost their lives 2 years later.

After the Thirtymile Fire, the Occupational Safety and Health Administration (OSHA) conducted an investigation and levied against the Forest Service five citations for Serious and Willful violations of safety rules. It was eerie, then, when just in March 2004 OSHA concluded its investigation of Cramer. The result: another five OSHA citations, for Serious, Willful and Repeat violations.

Reading through the list of causal and contributing factors for Cramer and putting them next to those associated with the Thirtymile fire, my colleagues would be struck by the many disturbing similarities. Even more haunting are the parallels between these lists and the factors cited in the investigation of 1994's South Canyon Fire on Storm King Mountain in Colorado.

It's been more than a decade since those 14 firefighters lost their lives on Storm King Mountain—and yet, the same mistakes are being made over and over again.

These facts have also been documented by an audit and memorandum issued last September by the Department of Agriculture's Inspector General. The IG found that "accidents on the South Canyon, Thirtymile, and Cramer Fires, all of which involved fatalities, could have been avoided if certain individuals had followed standard safety practices and procedures in place at the time."

The IG also noted that the Forest Service "has not timely implemented actions to improve its safety programs." Some 27 of 81 action items identified as a result of the Storm King and Thirtymile Fires—or roughly a third—had not been fully implemented years later. While I know that the IG is monitoring implementation of some of these items, the stark similarities between Storm King, Thirtymile, and

Cramer make it seem positively astounding that the Forest Service still finds my bill “not necessary.”

I don’t believe that’s acceptable. The firefighters we send into harm’s way this year—and the ones we’ve already lost—deserve better.

Training, leadership and management problems have been cited in all of the incidents I’ve discussed. Frankly, I have believed since the Thirtymile tragedy that the Forest Service has on its hands a cultural problem. What can we do, from the legislative branch, to provide this agency with enough motivation to change? I believe the first step we can take is to equip ourselves with improved oversight tools, so these agencies know that Congress is paying attention. Today I’m re-introducing legislation—the Wildland Firefighter Safety Act of 2005—that would do just that.

I believe this is a modest yet important proposal. It was already passed once by the Senate, as an amendment to the 2003 Healthy Forests legislation. However, I was disappointed that it was not included in the conference version of the bill. But it is absolutely clear to me—particularly in light of OSHA’s review of the Cramer Fire—that these provisions are needed now more than ever.

First, the Wildland Firefighter Safety Act of 2005 will require the Secretaries of Agriculture and Interior to track the funds the agencies expend for firefighter safety and training.

Today, these sums are lumped into the agencies’ “wildfire preparedness” account. But as I have discussed with various officials in hearings before the Senate Energy and Natural Resources Committee, it is difficult for Congress to play its rightful oversight role—ensuring that these programs are funded in times of wildfire emergency, and measuring the agencies’ commitment to these programs over time—without a separate break-down of these funds.

Second, it will require the Secretaries to report to Congress annually on the implementation and effectiveness of its safety and training programs.

Congress has the responsibility to ensure needed reforms are implemented. As such, I believe that Congress and the agencies alike would benefit from an annual check-in on these programs. I would also hope that this would serve as a vehicle for an ongoing and healthy dialogue between the Senate and agencies on these issues.

Third, my bill would stipulate that federal contracts with private firefighting crews require training consistent with the training of federal wildland firefighters. It would also direct those agencies to monitor compliance with this requirement.

This is important not just for the private contractor employees’ themselves—but for the Federal, State and tribal employees who stand shoulder-to-shoulder with them on the fire line.

The Wildland Firefighter Safety Act of 2005 is a modest beginning in ad-

dressing the challenges posed by integrating private and federal contract crews—and doing it in a manner that maximizes everyone’s safety on the fire line.

I hope my colleagues will support this simple legislation. Ultimately, the safety of our Federal firefighters is a critical component of how well prepared our agencies are to deal with the threat of catastrophic wildfire.

Congress owes it to the families of those brave firefighters we send into harm’s way to provide oversight of these safety and training programs.

We owe it to our Federal wildland firefighters, their families and their State partners—and to future wildland firefighters.

My bill will provide this body with the additional tools it needs to do the job.

By Mr. McCONNELL:

**S. 908.** A bill to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity; to the Committee on the Judiciary.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 908

*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 “Commonsense Consumption Act of 2005”.

**SEC. 2. FINDINGS; PURPOSE.**

(a) FINDINGS.—Congress finds that—

(1) the food and beverage industries are a significant part of our national economy;

(2) the activities of manufacturers and sellers of foods and beverages substantially affect interstate and foreign commerce;

(3) a person’s weight gain, obesity, or a health condition associated with a person’s weight gain or obesity is based on a multitude of factors, including genetic factors and the lifestyle and physical fitness decisions of individuals, such that a person’s weight gain, obesity, or a health condition associated with a person’s weight gain or obesity cannot be attributed solely to the consumption of any specific food or beverage; and

(4) because fostering a culture of acceptance of personal responsibility is one of the most important ways to promote a healthier society, lawsuits seeking to blame individual food and beverage providers for a person’s weight gain, obesity, or a health condition associated with a person’s weight gain or obesity are not only legally frivolous and economically damaging, but also harmful to a healthy America.

(b) PURPOSE.—The purpose of this Act is to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

**SEC. 3. PRESERVATION OF SEPARATION OF POWERS.**

(a) IN GENERAL.—A qualified civil liability action may not be brought in any Federal or State court.

(b) DISMISSAL OF PENDING ACTIONS.—A qualified civil liability action that is pending on the date of the enactment of this Act shall be dismissed immediately by the court in which the action was brought or is currently pending.

(c) DISCOVERY.—

(1) STAY.—In any action that is allegedly of the type described in section 4(5)(B) seeking to impose liability of any kind based on accumulative acts of consumption of a qualified product, the obligation of any party or non-party to make disclosures of any kind under any applicable rule or order, or to respond to discovery requests of any kind, as well as all proceedings unrelated to a motion to dismiss, shall be stayed prior to the time for filing a motion to dismiss and during the pendency of any such motion, unless the court finds upon motion of any party that a response to a particularized discovery request is necessary to preserve evidence or to prevent undue prejudice to that party.

(2) RESPONSIBILITY OF PARTIES.—During the pendency of any stay of discovery under paragraph (1), the responsibilities of the parties with regard to the treatment of all documents, data compilations (including electronically recorded or stored data), and tangible objects shall be governed by applicable Federal or State rules of civil procedure. A party aggrieved by the failure of an opposing party to comply with this paragraph shall have the applicable remedies made available by such applicable rules, provided that no remedy shall be afforded that conflicts with the terms of paragraph (1).

(d) PLEADINGS.—In any action that is allegedly of the type described in section 4(5)(B) seeking to impose liability of any kind based on accumulative acts of consumption of a qualified product, the complaint initiating such action shall state with particularity—

(1) each element of the cause of action;

(2) the Federal and State statutes or other laws that were allegedly violated;

(3) the specific facts alleged to constitute the claimed violation of law; and

(4) the specific facts alleged to have caused the claimed injury.

(e) RULE OF CONSTRUCTION.—No provision of this Act shall be construed to create a public or private cause of action or remedy.

**SEC. 4. DEFINITIONS.**

In this Act:

(1) **ENGAGED IN THE BUSINESS.**—The term “engaged in the business” means a person who manufactures, markets, distributes, advertises, or sells a qualified product in the person’s regular course of trade or business.

(2) **MANUFACTURER.**—The term “manufacturer” means, with respect to a qualified product, a person who is lawfully engaged in the business of manufacturing the product.

(3) **PERSON.**—The term “person” means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(4) **QUALIFIED PRODUCT.**—The term “qualified product” means a food (as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f))).

(5) **QUALIFIED CIVIL LIABILITY ACTION.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the term “qualified civil liability action” means a civil action brought by any person against a manufacturer, marketer, distributor, advertiser, or seller of a qualified product, or a trade association, for damages, penalties, declaratory judgment, injunctive or declaratory relief, restitution, or

other relief arising out of, or related to a person's accumulated acts of consumption of a qualified product and weight gain, obesity, or a health condition that is associated with a person's weight gain or obesity, including an action brought by a person other than the person on whose weight gain, obesity, or health condition the action is based, and any derivative action brought by or on behalf of any person or any representative, spouse, parent, child, or other relative of that person.

(B) EXCEPTION.—A qualified civil liability action shall not include—

(i) an action based on allegations of breach of express contract or express warranty, provided that the grounds for recovery being alleged in such action are unrelated to a person's weight gain, obesity, or a health condition associated with a person's weight gain or obesity;

(ii) an action based on allegations that—

(I) a manufacturer or seller of a qualified product knowingly violated a Federal or State statute applicable to the marketing, advertisement, or labeling of the qualified product with intent for a person to rely on that violation;

(II) such person individually and justifiably relied on that violation; and

(III) such reliance was the proximate cause of injury related to that person's weight gain, obesity, or a health condition associated with that person's weight gain or obesity; or

(iii) an action brought by the Federal Trade Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or by the Federal Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(6) SELLER.—The term "seller" means, with respect to a qualified product, a person lawfully engaged in the business of marketing, distributing, advertising, or selling a qualified product.

(7) STATE.—The term "State" includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(8) TRADE ASSOCIATION.—The term "trade association" means any association or business organization (whether or not incorporated under Federal or State law) that is not operated for profit, and 2 or more members of which are manufacturers, marketers, distributors, advertisers, or sellers of a qualified product.

By Mr. DODD:

S. 909. A bill to expand eligibility for governmental markers for marked graves of veterans at private cemeteries; to the Committee on Veterans' Affairs.

Mr. DODD. Mr. President, I rise today to introduce a bill that will restore the rights of all veterans and their families to receive an official grave marker of the Department of Veterans Affairs. This legislation addresses an unfortunate inequity that exists for veterans who passed away during the period between November 1, 1990 and September 11, 2001.

It may come as a shock to my colleagues to learn that while all other veterans are entitled to the VA's official grave markers, current law forbids veterans who passed away during this

eleven year period from being so honored.

This situation is unacceptable and must be remedied.

Nearly one year ago today, the National World War II Memorial was unveiled to the public. Countless Americans who have passed its 50 stone pillars since that time have been reminded of the courage and sacrifice of the men and women who served our country at its time of greatest need.

But as Senator Bob Dole stated at its dedication ceremony, the World War II Memorial is not a tribute to war and conflict. Rather, he said, "it's a tribute to the physical and moral courage that makes heroes out of farm and city boys and that inspires Americans in every generation to lay down their lives for people they will never meet, for ideals that make life itself worth living."

Indeed, monuments like the World War II Memorial serve as a reminder of the service, sacrifice and dedication of our veterans. The 4,000 stars resting on the Wall of Freedom remind us that too many paid the ultimate price.

Many Americans have a similar experience when they visit the grave of a former veteran—often a friend or relative. Most of these grave sites have markers paying tribute to the veteran's service. We place flags by their side on Memorial Day. Until 1990, moreover, the family of a deceased Veteran could receive reimbursement for a VA headstone, a VA marker, or a private headstone. However, in the name of cost-cutting, measures were taken to prevent the VA from providing markers to those families that had purchased gravestones out of their own pockets.

In my view, this measure was a serious injustice. Nearly all families today provide for some gravestone or other privately purchased marker following the death of a relative. Yet most were unaware of the new VA regulation. Many veterans were buried without any official recognition of their service to our country. As of 2001, the VA estimated that it was forced to deny nearly 20,000 requests for such markers every year.

This body first endorsed a provision restoring the right of every veteran to receive a grave marker as early as June 7, 2000 as part of the fiscal year 2001 Defense Authorization Bill. This body approved this language again on December 8, 2001. But it was not until December 6, 2002 that legislation was signed into law as part of the Veterans Improvement Act allowing VA markers to be provided to deceased veterans retroactively. Unfortunately, however, when the bill went to a conference with the House of Representatives, this benefit was only applied retroactively to September 11, 2001 rather than to November 1, 1990, the date at which the new VA regulation came into effect. Veterans who passed away between those two dates were cut out.

That decision has never satisfied me or many veterans and their families.

Why should one veteran receive recognition, while the family of another is told that there is nothing our government can do simply because of the date of their passing?

My legislation will correct this inequity. This bill is simple. It ensures that all veterans who have passed away since 1990 are able to receive a VA grave marker.

It is inexpensive. In 2001, the Congressional Budget Office estimated that providing such a benefit to all veterans would cost no more than \$3 million per year for the first 5 years. Since most of the families of veterans who passed away between 1990 and 2001 have already completed their burial plans, it is safe to assume that a substantially smaller number of individuals would require this benefit.

Today is the seventh anniversary of the passing of Agostino Guzzo, a Connecticut resident who bravely served in the United States Armed Forces in the Philippines during World War II. His family interred his body in a mausoleum at the Cedar Hill Cemetery in Hartford, Connecticut. The family was not aware of the VA's restrictions on grave markers, and was told by the VA that there was no way to receive an official recognition.

Agostino's son, Thomas Guzzo, brought the matter to my attention, and, along with Representative NANCY JOHNSON, we were able pass to legislation granting Agostino the memorial he deserves. But too many families are still denied such markers. This legislation honors the memory of Agostino Guzzo and all of the veterans who have served their country in war and in peace. Thomas Guzzo's commitment to this issue has not ended. The commitment of this Congress to the issue should continue as well.

I hope our colleagues will give this important legislation their favorable consideration.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 909

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

**SECTION 1. PROVISION OF GOVERNMENT MARKERS FOR MARKED GRAVES OF VETERANS AT PRIVATE CEMETERIES.**

(a) IN GENERAL.—Section 502(d) of the Veterans Education and Benefits Expansion Act of 2001 (38 U.S.C. 2306 note) is amended by striking "September 11, 2001" and inserting "November 1, 1990".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 502 of the Veterans Education and Benefits Expansion Act of 2001.

By Ms. SNOWE (for herself, Ms. LANDRIEU, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MURRAY, Mr. CORZINE, Mr. DURBIN, and Mr. COCHRAN):

S. 910. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today to introduce the Breast Cancer Patient Protection Act of 2005. I am pleased to be joined today by Senator LANDRIEU in introducing this legislation to assure women of a higher standard of breast cancer treatment. We are joined today by colleagues who have supported our efforts in the past—Senator FEINSTEIN, Senator BOXER, Senator MURRAY, Senator CORZINE, and Senator DURBIN. Today in the House, Representatives KELLY and DELAUR are introducing identical legislation. Working together in this bipartisan, bicameral effort—supported by so many breast cancer advocates—we should at last achieve for American women the protections they so deserve.

A woman in the United States has a 1 in 7 chance of developing breast cancer in her lifetime. This year over 216,000 women will receive a life-altering diagnosis of invasive breast cancer. At some point in their lives, nearly every American will have a family member or friend who must battle breast cancer. Yet current standards of health care coverage have created a situation in which thousands of women each year undergo mastectomies needlessly, and women have even undergone breast cancer surgery as an outpatient—the “drive through mastectomy” as it has been called—being sent home without critical support for their recovery.

Our legislation empowers women and their doctors to make treatment decisions based on what is medically prudent, not simply what will achieve short-term savings. The stress of a cancer diagnosis is debilitating. To compound that stress, to leave a woman with the knowledge that she must undergo a disfiguring procedure due only to her financial position, or to undergo surgery without proper hospitalization, is absolutely unconscionable.

This bill achieves three important objectives. First, it assures a patient of a second opinion for any cancer diagnosis. A cancer diagnosis simply must be reliable.

Second, this legislation assures a patient of a reasonable minimum length of hospital stay for invasive treatment of breast cancer. Many of us have heard of women receiving outpatient mastectomies, being sent home without the necessary support. Such treatment is unconscionable. This legislation establishes a 48 hour minimum stay assurance for mastectomy and lumpectomy. I must point out that this assurance does not require a woman remain hospitalized that long if she and her doctor concur that she goes home

earlier—nor does it prevent a longer hospitalization if her medical condition warrants it.

However, this provision will protect women from that small fraction of insurance plans which will not allow such reasonable treatment. This assurance is offered regardless of whether the patient's plan is regulated by ERISA or State regulations.

Finally, this legislation does more than simply ensure a patient of reasonable hospitalization. It assures her of support in making the best choices about her treatment.

It is not hard to understand why the words “you have breast cancer” are some of the most frightening in the English language. For the woman who hears them, everything changes from that moment forward. No wonder, then, that it is a diagnosis not only accompanied by fear, but also by uncertainty. What will become of me? What will they have to do to me? What will I have to endure? What's the next step?

For many women, the answer to that last question is a mastectomy or lumpectomy. But despite the fact that studies are demonstrating that lumpectomy often is just as effective as mastectomy for treating breast cancer, an insurance coverage bias causes too many to unnecessarily undergo mastectomy. By ensuring a reasonable hospital stay, as well as coverage for radiation therapy, this legislation removes much of the financial incentive that has caused women to receive a mastectomy when a lumpectomy would have been just as effective.

In fact, when the pain, trauma, and cost of breast reconstruction is considered, together with the frequent need for follow-up surgeries, and when we consider the additional health risks which implants may pose, it is clear that mastectomy can entail greater health and economic costs. Decisions about treatment simply must be based on sound science and a long term view, not what is most financially expedient at that very moment. A woman must have the ability to make a choice with their physician which considers what is in her best long term interest. This legislation ensures that choice is not influenced by a short term outlook.

I urge my colleagues to join me in supporting this bill and work towards passing it this year.

Ms. LANDRIEU. Mr. President, approximately 211,300 women will be diagnosed with breast cancer this year. No doubt, you know one of these women. In fact, they may be your sister, mother, aunt, cousin or dear friend. In most cases, the doctor will prescribe immediate and often times aggressive treatment in the hopes of stalling further progression of the disease. The quality of care that breast cancer patients receive is critically important to their survival. Despite the urgent need for Federal protections to ensure that breast cancer sufferers receive appropriate treatment, very few exist.

It may shock you to learn that women who have undergone surgical treatments such as breast removal mastectomy—or lymph node dissections are being sent home within hours of having surgery because insurance companies are unwilling to reimburse recovery time in hospitals, a practice referred to as “Drive-Through Mastectomies.” These women have reported being sent home still drowsy from anesthesia, weakened from hours of surgery, and with drainage tubes attached to their bodies, while simultaneously experiencing the immense emotional trauma associated with the removal of a breast or lymph nodes.

To this end, I am pleased to have worked with Senator SNOWE to introduce the Breast Cancer Patient Protection Act of 2005. This legislation will prevent insurance companies from restricting hospital stays resulting from mastectomies to less than 48 hours and hospital stays resulting from lymph node dissections to less than 24 hours. This bill does not prevent a doctor from discharging a woman prior to these minimum requirements, if he/she determines, in consultation with the patient, that this is the best treatment option. The Breast Cancer Patient Protection Act simply ensures that these types of medical decisions are made by doctors, not insurance companies. The legislation also prohibits insurance companies from circumventing the legislation through practices such as providing incentives to doctors or patients to reduce length of stays associated with mastectomies or lymph node dissections.

To be fair, we must acknowledge that this legislation will not change the nature of mastectomies and lymph node dissections for the majority of women. Over 19 States have already put State laws in place that work to the same end as the Breast Cancer Patient Protection Act, and the vast majority of insurance companies have already responded on their own to this problem. However, this is a case in which the injustice, while small in number of women it affects, is clear. And just as the injustice is apparent, the solution is simple. It is high time that the Federal Government took action. Yes, many states have already done so, and yes, many insurance companies have, too, but if even one woman is forced to go home too soon after such an invasive surgery, that is one woman too many. It is not the fact that this is happening to many women, it is the fact that it is happening to any women. For all of our sisters, mothers, daughters, aunts, friends, and loved ones, it is time for us to provide the needed protections. I ask for your support of the Breast Cancer Patient Protection Act of 2005.