''(4) LOCAL DETERMINATION OF CONTENT.—For purposes of paragraphs (2) and (3), the determination of what matter is inappropriate for minors shall be made by the school, school board, library or other authority responsible for making the required certification. No agency or instrumentality of the United States Government may—

''(A) establish criteria for making that determination;

''(B) review the determination made by the certifying school, school board, library, or other authority; or

''(C) consider the criteria employed by the certifying school, school board, library, or other authority in the administration of subsection (h)(1)(B).''.

(b) CONFORMING CHANGE.—Section 254(h)(1)(B) of the Communications Act of 1934 (47 U.S.C. 254(h)(1)(B)) is amended by striking ''All telecommunications'' and inserting ''Except as provided by subsection (l), all telecommunications''.

Mr. MCCAIN. Mr. President, I know the hour of 12:30 has arrived, but I ask unanimous consent to speak for 1 minute past the recess time.

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

Mr. MCCAIN. Mr. President, I thank the manager and the Democrat ranking member for allowing us to lay down these two amendments. We will be glad to discuss and debate them at a time most convenient for the managers of the bill.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROBERTS).

DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3228

The PRESIDING OFFICER. The business before the Senate is Amendment No. 3228 offered by Senator MCCAIN of Arizona.

Mr. SMITH of Oregon. Mr. President, I thank Senator GREGG for giving me a few minutes to speak in morning business. I ask unanimous consent that I might do so.

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

(The remarks of Mr. SMITH of Oregon pertaining to the introduction of the legislation are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Several Senators addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the McCain No. 3228 amendment to Amendment No. 3227.

Mrs. MURRAY. Mr. President, I come to the floor today to join my colleague from Arizona, Senator MCCAIN, in urging the Senate to adopt our Internet filtering amendment, the Childsafe Internet bill.

We come here today for one simple reason: to find a way to protect children on the Internet. The Internet is growing and expanding faster than we ever thought possible. It has become a daily tool for many Americans. As the Internet continues to grow, I believe it is our responsibility to do something to protect children from harmful material.

I have worked hard over the last 6 years to get computers and technology into our schools. I have sponsored legislation to allow surplus Government computers to be put into schools. The Senate, in fact, just passed my Teacher Technology Training Act, to make sure teachers can incorporate technology into their curriculum.

I have worked hard to establish the e-rate to help our schools get connected to the Internet. I have been out in schools, and I know personally what a great educational tool the Internet can be. And I represent a state that is leading the way in many of these new technologies.

I want our students and I want our teachers to have access to this information. But, as we continue to see, there is a small amount of information on the Internet to which children should simply not have access.

In fact, a 1997 national survey of U.S. public libraries and the Internet revealed that students often unintentionally download pornography while on the Net. Mr. President, 22 percent of the children surveyed admitted that this had happened in school, while 25 percent admitted it had occurred in a public library.

I understand no solution is perfect. Technology alone won't filter every objectionable item on the Internet. We must remember, though, that this technology has made enormous strides in just a short amount of time.

I have heard from people who say health information, such as breast cancer, would be blocked from viewing. That may have been the case, but filtering companies have developed new technologies and are employing new procedures that do protect children while allowing more and more educational information to be used.

Our legislation is a first step. It is the right thing to do. The Childsafe Internet bill would simply require any school or library that gets reduced Internet access, the e-rate, to install some technology on their computers that keeps inappropriate material away from young children.

What is great about our bill is that it gives power to local school districts and libraries to determine which filtering device to use and what constitutes inappropriate material. Decisions must remain at the local level with those who best know their students.

Mr. President, let me give a few examples I have heard of the need for the Childsafe Internet Act.

Last month, a seventh grade teacher in Washington state told me that it was impossible to watch 30 young students at their computers all of the time. She did not want a situation in which a child found inappropriate material, complained to their parents, and then have a parent come screaming back to the classroom, where the teacher was ultimately responsible. She turned off the Internet.

I do not want that to happen. I ask unanimous consent to have printed in the RECORD a number of letters I have received from parents about the need for this bill.

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

APRIL 19, 1998.

DEAR SENATORS: You were both in Vancouver this week, and I wasn't able to reach you through your office. Would you please update me on the status of SB 1619 the Internet School Filtering Act? In SW Washington, the regional group reported that they are the state internet provider service is looking at filtering at the state level as a result of SB 1619. As you can see from this report, filtering isn't perfect. However, without any filtering, far more youth at much younger ages come up with inappropriate material.

In Camas, pop. 9000, elementary students are not allowed to do searches on the internet for this reason. There is no reason to allow technology to serve as an excuse for lowering standards of acceptable material in publicly funded institutions. The Camas library continues to fight filtering, and points to the schools lack of one as justification. The Ft. Vancouver library board most recently on Monday April 13 though optional filtering was a good idea. That defeats the whole purpose and keeps the porn option wide open to kids. I hope you got my report of abuses noted. If they had a log like this, I'm sure the number of accesses reported would be much higher. Please continue to work so that our tax dollars do not found porn and inappropriate material to children. Thank you for your time to reply please. E-mail is best, since it is faster, and a number of meetings are coming up the first week in May.

Sincerely,

MARGARET TWEET.

MAY 29, 1998.

Senator Patty Murray,

Attn: Kay

DEAR KAY: This also came out today. Ft. Vancouver records show one employee who quit rather than provide porn to minors with that as the stated reason. At the KOMO Town Hall, another Washington librarian announced she made the same decision after 6 months of wrangling over whether providing access to internet porn to a 14 year old patron was a part of her job she could live with. Adult businesses cannot sell pornography to children, an indication of public policy. It should not be an option for youth in libraries either. Thank you again for your time.

Sincerely,

MARGARET TWEET.

MAY 17, 1998.

To: Senator Murray,
Subject: Filtering Library Internet Access.

DEAR SENATOR MURRAY: I just finished watching Town Meeting on ABC. You go girl! I am a parent of a 17 month old. I am horrified that she could go to the library in 4 years and pull up pornography or any other sexual sites. Yes, the library is a public place, that does not mean they have to provide information about such things. Why protect the bad guys when children are our future. And people wonder how this world came to what it is now with these kind of issues. If someone wants to look at pornography let them buy their own computer and do it in the privacy of their own home, not expose our kids to it, that's just what the sickos want. I'm with you all the way. Even if the filtering isn't perfect, software companies will continue to upgrade and patch their software, and why not do what we can now to protect our children!!!!

Good luck June 9th, you have our prayers.

SHELTON, WA,
May 30, 1998.

To: Senator Murray.
Subject: Cyber porn.

SENATOR MURRAY: You and I disagree on most issues, but on the issues of limiting access to highly graphic pornography to children on the Internet is something we do agree upon.

I support the concept of schools mandated to utilize an electronic block to preclude elementary, middle school, and high school students from entering pornographic websites. There isn't any defensible reason why these websites should be available for the children to explore. I am certain most parents do not allow their children to surf porn sites so at home, and the same expectation is needed to protect the children while they are in school.

The technology is currently available for school districts to block out websites which are deemed pornographic. This does not in anyway impede the purveyors and pimps of this demeaning material of their First Amendment rights. You would defend these children if some individual were to turn the school into a toxic waste dump. The same fervor is needed to prevent pornographic pollutants from being introduced into the minds of impressionable children.

Since the educational establishment benefits from taxpayer dollars, it is not an onerous request to have this country's school system voluntarily act upon this issue in a responsible manner. School districts which are non-compliant may have their federal funding significantly impacted until compliance is gained.

Thank you for taking this time to read my this piece of email.

JEFFREY K. MEYERS.

BELLEVUE, WA,
February 11, 1998.

Hon. PATTY MURRAY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MURRAY: My family has a concern regarding pornography on the Internet that is dramatically different than you may have been asked to look into or even aware of. A few days ago, our fifteen year old daughter was doing school work using the Internet. The address for one of the most popular search engines is, ''www.infoseek.com.'' She made a one adjacent character key typing error and typed, ''www.infoseel.com.''

She was shocked, stunned, and nauseated at the vile explicit pictures that instantly were presented on the screen. Enclosed are black and white print outs. As you can see the first shows anal intercourse with the text, ''Free Live Fucking, Now With Sound.'' The second is a gynecological close-up with the text, ''hot hole, enter free.'' This brought our traumatized daughter running out of the room in tears.

This kind of revolting garbage has no place in our home and no place in American society. There are two aspects of this issue that warrant federal action. One, the people behind this website, by their intentional choice of their URL address, were seeking to put their pornography in front of those who made reasonably foreseeable typing errors. This amounts to intentional interstate delivery of pornography to minors. It should be immediately prosecuted as such.

Second, the National Science Foundation assigns the Internet URL addresses. It should be a simple matter for Congress to legislate the denial of URL addresses to people and organizations who engage in this kind of malicious perversion.

The apologists for the present laissez faire state of affairs on the Internet are fond of telling us parents that it's our responsibility to supervise our own children. This disgusting incident proves that to be a totally inadequate approach, and is in fact a self serving ruse. My family sees this as nothing less than visual child rape. Please let me know what actions you can take to quickly curtail this abuse and protect our children from this kind of intrusive filth.

Sincerely,

DOCK BROWN.

BOTHELL, WA,
February 26, 1998.

Subject: Childsafe Internet Bill.

I am writing to urge your support of the Childsafe Internet Bill being pushed by Senators JOHN MCCAIN, PATTY MURRAY and others which will limit the right of access by children to smut on the internet when federally funded commuters are used in classrooms.

This one is a ''no-brainer''. Institutions who want federal money to buy computers must agree to block and/or filter pornography when children are using computers in the classroom.

Will you support the Childsafe Bill?

Respectfully,

VINCENT T. SAULIN.

OAK HARBOR, WA,
November 4, 1997.

TOM MAYER,
Director,
Marysville, WA.

DEAR MR. MAYER: For over a year people in our community have been doing research on children's access to pornography on the Internet at public libraries. Among other material such as feature articles in ''The Wall Street Journal,'' and ''New York Times, '' and numerous news magazines, we have studied the ''Report and Recommendation on Internet Filtering Software and Its Use in Public Libraries, July 1997'', prepared by the Sno-Isle Regional Library System.

We sincerely hope that we can persuade the Sno-Isle Library system to install filters on the juvenile computers. We believe that the filters are a sensible and reasonable way of copying with the problem.

A list of our concerns is attached, but the basis of our decision is as follows:

1. Public libraries have always been held accountable for their resource material, especially where children's sections are concerned.

2. The Internet should pass the same criteria as all other material.

3. Filtering software is available to block child pornography and other smut sites, and libraries all across the country have installed this software without any legal challenges so far.

We urge the Sno-Isle Library system to follow the advice of your internal staff report of July 1997, which recommended filtering software on juvenile computers.

Someone has to speak for our children. We the parents, grandparents, teachers, law enforcement officers and social service workers are doing just that.

May we hear from you soon?

Sincerely yours,

TRUDY J. SUNDBERG,
Founder, Save Our Kids Crusade.

Mrs. MURRAY. My concern is if we don't act now to do something about this issue, teachers and librarians across the country will begin turning computers off, preventing children access to this valuable educational tool. None of us wants that to happen.

The Childsafe Internet bill is the right way to go. It allows local schools districts to make important decisions about Internet content. It is a common sense solution. We have provided this Internet access through the E-rate. Now we must finish the job by providing our teachers and parents with the right tools to help educate our children.

Most parents would not send a child to a playground in their local community unsupervised. We cannot allow our young children to be in the Internet unsupervised.

Lets give our teachers and librarians some help, our parents some control, and truly pass legislation that will protect America's next generation.

I yield the floor.

Mr. LEAHY. Mr. President, I oppose Senator MCCAIN's amendment, originally introduced as S. 1619, to require schools and libraries wired with federal funds to install Internet filtering software. Congress has wisely seen fit to make the Internet widely available to young people throughout the country by subsidizing school and library access to the Internet through ''E-rate'' discounts. The McCain amendment would undermine the benefits of that access by forcing schools and libraries to use filtering technologies to remove a significant percentage of material available on-line. Internet filtering issues should be discussed and implemented locally, not nationally, and certainly not by piggybacking a filtering bill onto a crime bill and spiriting them to the Senate floor as amendments to an appropriations bill.

While we can all agree that some material available on the Internet may be unsuitable for certain age groups, there is serious disagreement concerning the best approach to the challenge of protecting our children from exposure to unsuitable material. Fundamentally, this is a decision that should be made at the local level, by families and school boards, librarians and educators in their own communities. Although I share the deep concerns about children's access to obscenity and other harmful materials on the Internet, in the rush to protect children, we should

not unnecessarily chill the freedom of expression that occurs on-line.

The intention of this amendment is good. But good intentions do not always make for the best policy. The primary problem with this amendment is that it usurps local authority on whether to use filtering technologies on computers with Internet access. That's why educators oppose it. The National Education Association and the American Association of School Administrators testified before the Commerce Committee that they opposed making E-rate discounts contingent upon installation of blocking or filtering software. Imposing a top-down mandate requiring schools to install filtering software as a condition for accessing E-rate discounts violates the principle of local control of curricular matters.

Placing the burden on libraries, schools, and other public institutions to supervise our children's access to information is also counterproductive. Schools have already been forced to comply with extensive congressional and FCC requirements to participate in the E-rate program. Forcing schools to comply with further requirements would strain the already overburdened financial and staff resources of the nation's schools. Although at first blush this requirement does not appear to be overburdensome, given the number of federal requirements with which schools and libraries receiving Federal assistance already must comply, the mandate would require extensive research, installation and implementation. Some of our local schools already have their own systems in place to monitor Internet access. The McCain amendment could force them to scrap these systems and start from scratch. A number of schools and libraries have not yet even received the computers and technologies to gain access to the Internet, and are in the process of applying for E-rate funding to obtain infrastructure, such as wiring and connectivity. Schools may be unable to make the requisite demonstration as to how the filtering software will be implemented if their computers are not yet in place.

The goal of the federal Internet subsidies is to give our schools, libraries and public institutions open and universal access to the technology and information that will help prepare our children and young adults for the challenges that lie ahead in the next century. By making the subsidy available, we are helping to bridge the gap between wealthier and poorer communities' access to information. The McCain amendment would widen the gap. Wealthier schools that do not receive the subsidy are permitted, within First Amendment bounds, to decide for themselves whether or not to place limits on Internet use. Requiring use restrictions is one more way of telling subsidized schools that they are not trusted to make these decisions for themselves. This is precisely the type of access inequality that the federal E-rate subsidy was designed to cure, not foster.

Wresting control of educational and informational access from the local communities that are best equipped to make these decisions is not going to solve the problem of inappropriate material on the Internet. Filtering software is one way of restricting the access by minors to such material, but other options exist. Local school boards, administrators, and librarians more familiar with their own systems and culture are the proper people to decide how best to implement any programs restricting access to information.

I would support efforts to address these issues that allow more flexibility at the local level. Instead of a blanket mandate requiring filtering and blocking technology in all schools and libraries that receive E-rate subsidies, we should have more research into how to combat the problem of minors receiving inappropriate information over the Internet in e-mail messages and in chatrooms. We should encourage schools and libraries to distribute their policies to parents, educators, children, and community members, and to state whether they use any technological means to block access to inappropriate materials.

There are more sensible approaches. We should alert our communities to the potential problems of inappropriate materials on the Internet, and allow and encourage informed decision-making at the local level. That is why I have created a page on my website dedicated to providing guidance to parents and educators on how to protect children from inappropriate material online. But above all, we should support the mission behind the E-rate subsidy: open and universal access to technology and information.

Our children and our schools need as much support as we can possibly offer to help prepare the next generation to meet the challenges that lie ahead.

Mr. President, with reference to the amendment offered by Senator COATS, less than three years ago, during the 104th Congress, the Senate voted overwhelmingly to adopt the Communications Decency Act as part of the telecommunications deregulation bill. The CDA, like the current amendment, sought to criminalize the transmission of constitutionally protected speech over the Internet. I opposed the CDA from the start as fatally flawed and flagrantly unconstitutional. I predicted that the CDA would not pass constitutional muster and, along with Senator FEINGOLD, I introduced a bill to repeal the CDA so that we would not have to wait for the Supreme Court to fix our mistake.

We did not fix the mistake and so, as I predicted, the Supreme Court eventually did our work for us. All nine Justices agreed that the CDA was, at least in part, unconstitutional. Justice Stevens, writing for seven members of the Court, called the CDA ''patently invalid'' and warned that it cast ''dark shadow over free speech'' and ''threaten[ed] to torch a large segment of the Internet community.''

The Court's decision came as no surprise to me, and it should have come as no surprise to the 84 Senators who supported the legislation. One of the sponsors of the current amendment said in a floor statement last Friday that the Supreme Court should have approved the CDA because the law used the same indecency standard that the Court had previously approved in connection with the dial-a-porn statute. This statement puzzled me because, as I recall, the Court did not approve the indecency standard in the dial-a-porn statute. The Court approved that statute only insofar as it applied to obscene communication, which can be banned totally because it is not protected by the First Amendment. The Court invalidated the dial-a-porn statute as it applied to indecent communication, which does enjoy First Amendment protection. This is precisely the same distinction that the Court drew in the CDA case, where it struck down the restrictions on indecent material, but left the restrictions on obscene material standing. The CDA decision followed the dial-a-porn decision; it did not break new ground in that regard.

Now here we are, again, taking another stab at censoring constitutionally protected speech on the Internet, again, in the name of protecting children. Of course, we all want to protect children from harm. I prosecuted child abusers as State's Attorney in Vermont, and have worked my entire professional life to protect children from those who would prey on them. But we have a duty to ensure that the means we use to protect our children do not do more harm than good. As the Supreme Court made clear when it struck down the CDA, laws that prohibit protected speech do not become constitutional merely because they were enacted for the important purpose of protecting children.

The amendment makes a valiant effort to address many of the Supreme Court's technical objections to the CDA. But while it is more narrowly drawn, it still raises substantial constitutional questions. The core holding of the CDA case was that ''the vast democratic fora of the Internet'' deserves the highest level of protection from government intrusion—the highest level of First Amendment scrutiny. Courts will assess the constitutionality of laws that regulate speech over the Internet by the same demanding standards that have traditionally applied to laws affecting the press.

The current amendment does not meet those standards. For one thing, it calls for a single, national definition of the ''harmful to minors'' standard, which until now has always been defined at the State or local community level. We should not forget the Supreme Court's admonition in Miller

versus California that: ''our Nation is simply too big and too diverse . . . to reasonably expect that such standards could be articulated for all 50 States in a single formulation. . . . It is neither realistic nor constitutionally sound to read the First Amendment as requiring that the people of Maine or Mississippi accept public depiction of conduct found tolerable in Las Vegas, or New York City.''

In addition, the way in which the amendment defines ''material that is harmful to minors'' is not altogether consistent with prior law. The sponsor says that the definition was taken ''word for word'' from the Ginsberg case, but the fact is that several important terms were altered or omitted. This could be confusing, and it could well have the unintended consequence of limiting the meaning of state ''harmful to minors'' laws.

The strict liability provisions of the amendment are another matter of concern. The amendment imposes criminal liability and authorizes severe criminal and civil sanctions on anyone who fails to take affirmative steps to restrict access of certain materials by minors. There is no requirement that the person acted knowingly, willfully, or even with criminal intent. The strict liability imposed by the amendment would chill content on the Web. Also, since this amendment only applies to the Web, I am concerned that if it becomes law it would pressure Internet content providers and users to use or develop other protocols with which they would be able to exercise their First Amendment rights unfettered by the threat of strict liability criminal prosecution.

There are other problems with the scope of the amendment. It does not define who would be covered by the crucial phrase ''engaged in the business of the commercial distribution of material.'' Would the amendment cover companies that offer free Web sites, but charge for their off-line services? Also, if we restrict coverage to commercial distributions, are we just encouraging people to post the very same obnoxious materials on the Web for free? Is that what we want?

Further, it is entirely unclear whether the amendment's affirmative defense provision can be used in the civil context, since it states that it is a defense to ''prosecution'' under the amendment. Would companies that restrict access to their Web sites in accordance with FCC procedures nonetheless be exposed to the stiff civil penalties established by the amendment?

We can and must do better. There are other more effective and less restrictive solutions—solutions like filtering technology, which empower individual Internet users without reducing the level of discourse over the Web to what would be suitable for a sandbox. This amendment, like its predecessor, places an unacceptably heavy burden on protected speech. We should not run another ambiguous speech regulation up the flagpole and expect the courts to salute. We owe it to the millions of Americans who use the Web not to make the same mistake a second time.

Finally, I note that the Senate is considering this important measure, including its creation of new federal crimes, as part of an annual appropriations bill. Until recently the Senate had rules and precedent against this kind of legislating on an appropriations bill. Under Republican leadership, that discipline has been lost and we are left to consider significant legislative proposals as amendments to annual appropriations. These matters are far-reaching. They deserve full debate and Senate consideration before good intentions lead the Senate to take another misstep in haste.

Mr. BURNS. Mr. President, I would like to state for the record that I continue to have serious reservations about the federal government mandating the use of specific technologies to solve the problem of schoolchildren's access to inappropriate material on the Internet. I believe that school boards are much more effective in making decisions about appropriate policy or technology when dealing with Internet access for students than Washington. Advances in technology have brought wonderful opportunities, but we must not rely on technology to deal with complex public policy questions. Congress sets a dangerous precedent by stamping its ''seal of approval'' on software that may be obsolete next year or even next week.

I initially expressed my reservations about a bill which would require mandated filtering systems, S. 1619, during the Commerce Committee markup that was held this past March. I considered offering an amendment during the markup that would have required schools and libraries to certify that they had appropriate Internet Acceptable Use Policies in place in order to receive universal service funding. The Chairman of the Commerce Committee assured me that if I were to pull my amendment he would be open to working with me to reach a compromise on the issue. Upon receiving this assurance, I withdrew my amendment.

Over the last several months, I have held numerous meetings among all of the parties involved in the markup in an effort to reach consensus. My office has had an open door policy and had significantly altered the original language to expand its scope to reflect the concerns of my colleagues. The draft compromise amendment I was prepared to offer required that schools have Internet use policies in place that address not only access to the World Wide Web, but also the security of schoolchildren when using E-mail and chat rooms. These policies would have to be public, widely distributed and effective. Furthermore, the compromise amendment would significantly expand criminal penalties on ''cyberstalkers''—criminals who use computers to exploit or abuse children.

The compromise amendment has achieved significant support because of its inclusion of these vital matters and its reliance on local communities rather than federal mandates.

I am deeply disappointed that the Chairman of the Commerce Committee chose not to compromise on this very important issue. I had anticipated that this issue would be dealt with in its own right and that we would have several hours of debate to deal with S. 1619 and the amendment I had planned to offer along with several of my colleagues. Instead, it was attached to the Commerce-Justice-State appropriations bill today. I did not express my opposition to the inclusion of S. 1619 because I did not want to hold up the passage of crucial Commerce-State-Justice appropriations. However, I want to make it very clear that I remain steadfastly opposed to big government mandates on the filtering issue and I will work closely with my colleagues as S. 2260 heads to conference to perfect the bill to reflect these concerns.

I continue to believe that local communities acting through their school and library boards, rather than software programs that are at best questionable or the federal government, are in the best position to make decisions on this critical issue.

The PRESIDING OFFICER. The distinguished Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I urge the pending amendment to the amendment, by Senator MCCAIN, be accepted.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I think the distinguished Senator from Washington has really outlined the concerns of both sides of the aisle. The Senator from Arizona has a good initiative here. Without further comment on our side we accept the amendment.

The PRESIDING OFFICER. Without objection, the second-degree and first-degree amendments are agreed to.

The amendment (No. 3228) was agreed to.

The amendment (No. 3227), as amended, was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The distinguished Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I do not want to interfere with the managers and their schedule. I wonder if the manager would be in disagreement if I sent an amendment to the desk at this time or did he have other plans?

I ask unanimous consent to yield to the distinguished manager.

Mr. GREGG. I understood the Senator from California was going to offer an amendment, and the Senator from Minnesota was going to offer an amendment. We were going to alternate. I ask the Democratic floor manager how he feels about it.

Mr. HOLLINGS. I think the Senator from Arizona should proceed.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 3229

(Purpose: To amend the Communications Act of 1934 to promote competition in the market for delivery of multi-channel video programming and for other purposes)

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN), for himself and Mr. BURNS, proposes an amendment numbered 3229.

Mr. MCCAIN. 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:

At the appropriate place, insert the following:

SEC. . MULTICHANNEL VIDEO PROGRAMMING.

(a) FINDINGS.—

(1) The Congress finds that:

(A) Signal theft represents a serious threat to direct-to-home satellite television. In the Telecommunications Act of 1996, Congress confirmed the applicability of penalties for unauthorized decryption of direct-to-home satellite services. Nevertheless, concerns remain about civil liability for such unauthorized decryption.

(B) In view of the desire to establish competition to the cable television industry, Congress authorized consumers to utilize direct-to-home satellite systems for viewing video programming through the Cable Communications Policy Act of 1984.

(C) Congress found in the Cable Television Consumer Protection and Competition Act of 1992 that without the presence of another multichannel video programming distributor, a cable television operator faces no local competition and that the result is undue market power for the cable operator as compared to that of consumers and other video programmers.

(D) The Federal Communications Commission, under the Cable Television Consumer Protection and Competition Act of 1992, has the responsibility for reporting annually to the Congress on the state of competition in the market for delivery of multichannel video programming.

(E) In the Cable Television Consumer Protection and Competition Act of 1992, Congress stated its policy of promoting the availability to the public of a diversity of views and information through cable television and other video distribution media.

(F) Direct-to-home satellite television service is the fastest growing multichannel video programming service with approximately 8 million households subscribing to video programming delivered by satellite carriers.

(G) Direct-to-home satellite television service is the service that most likely can provide effective competition to cable television service.

(H) Through the compulsory copyright license created by section 119 of the Satellite Home Viewer Act of 1988, satellite carriers have paid a royalty fee per subscriber, per month to retransmit network and superstation signals by satellite to subscribers for private home viewing.

(I) Congress set the 1988 fees to equal the average fees paid by cable television operators for the same superstation and network signals.

(J) Effective May 1, 1992, the royalty fees payable by satellite carriers were increased through compulsory arbitration to $0.06 per subscriber per month for retransmission of network signals and $0.175 per subscriber per month for retransmission of superstation signals, unless all of the programming contained in the superstation signal is free from syndicated exclusivity protection under the rules of the Federal Communications Commission, in which case the fee was decreased to $0.14 per subscriber per month. These fees were 40–70 percent higher than the royalty fees paid by cable television operators to retransmit the same signals.

(K) On October 27, 1997, the Librarian of Congress adopted the recommendation of the Copyright Arbitration Royalty Panel and approved raising the royalty fees of satellite carriers to $0.27 per subscriber per month for both superstation and network signals, effective January 1, 1998.

(L) The fees adopted by the Librarian are 270 percent higher for superstations and 900 percent higher for network signals than the royalty fees paid by cable television operators for the exact same signals.

(M) To be an effective competitor to cable, direct-to-home satellite television must have access to the same programming carried by its competitors and at comparable rates. In addition, consumers living in areas where over-the-air network signals are not available rely upon satellite carriers for access to important news and entertainment.

(N) The Copyright Arbitration Royalty Panel did not adequately consider the adverse competitive effect of the differential in satellite and cable royalty fees on promoting competition among multichannel video programming providers and the importance of evaluating the fees satellite carriers pay in the context of the competitive nature of the multichannel video programming marketplace.

(O) If the recommendation of the Copyright Arbitration Royalty Panel is allowed to stand, the direct-to-home satellite industry, whose total subscriber base is equivalent in size to approximately 11 percent of all cable households, will be paying royalties that equal half the size of the cable royalty pool, thus giving satellite subscribers a disproportionate burden for paying copyright royalties when compared to cable television subscribers.

(b) DBS SIGNAL SECURITY.—Section 605(d) of the Communications Act of 1934 (47 U.S.C. 605) is amended by adding after ''satellite cable programming,'' the following: ''or direct-to-home satellite services,''.

(c) NOTICE OF INQUIRY; REPORT.—Section 628 of the Communications Act of 1934 (47 U.S.C. 548) is amended by adding at the end of subsection (g): ''The Commission shall, within 180 days after enactment of the Act making appropriations for the Department of Commerce, Justice, and State, the Judiciary and related agencies for the fiscal year evolving September 30, 1998, initiate a notice of inquiry to determine the best way in which to facilitate the retransmission of distant broadcast signals such that it is more consistent with the 1992 Cable Act's goal of promoting competition in the market for delivery of multichannel video programming and the public interest. The Commission also shall within 180 days after such date of enactment report to Congress on the effect of the increase in royalty fees paid by satellite carriers pursuant to the decision by the Librarian of Congress on competition in the market for delivery of multichannel video programming and the ability of the direct-to-home satellite industry to compete.''.

(d) EFFECTIVE DATE.—Notwithstanding any other provision of law, the Copyright Office is prohibited from implementing, enforceing collecting or awarding copyright royalty fees, and no obligation or liability for copyright royalty fees shall accrue pursuant to the decision of the Librarian of Congress on October 27, 1997, which established a royalty fee of $0.27 per subscriber per month for the retransmission of distant broadcast signals by satellite carriers, before January 1, 2000.

Mr. MCCAIN. Mr. President, today I offer an amendment to H.R. 2260 that will keep consumer prices for satellite TV service from abruptly increasing and, thereby, promote competition in the market for delivery of multichannel video programming. This amendment was originally introduced as S. 1422, the Federal Communications Commission Satellite Carrier Oversight Act. Twenty-seven Members of the Senate are cosponsors of S. 1422. I ask unanimous consent that the list of cosponsors be printed.

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

S. 1422

SPONSOR

Senator McCain (introduced 11/07/97)

27 COSPONSORS

Senator Burns—11/07/97
Senator Dorgan—11/07/97
Senator Collins—01/28/98
Senator Craig—01/28/98
Senator Hutchinson—01/28/98
Senator Murkowski—01/28/98
Senator Inouye—02/03/98
Senator Bryan—02/09/98
Senator Hollings—02/23/98
Senator Gorton—02/23/98
Senator Baucus—02/24/98
Senator Kerrey—02/27/98
Senator Enzi—03/11/98
Senator Cleland—05/07/98
Senator Conrad—11/07/97
Senator Brownback—01/28/98
Senator Coverdell—01/28/98
Senator Hagel—01/28/98
Senator Inhofe—01/28/98
Senator Roberts—01/28/98
Senator Allard—02/04/98
Senator Snowe—02/11/98
Senator Robb—02/23/98
Senator Johnson—02/24/98
Senator Kerry—02/24/98 (withdrawn—02/27/98)
Senator Sessions—03/09/98
Senator Chafee—03/31/98
Senator Smith, Bob—06/01/98

Mr. MCCAIN. Mr. President, the bill was reported unanimously by the Commerce Committee.

Mr. President, with cable television rates increasing at seven times the Consumer Price Index and three times the rate of inflation, Congress has an urgent interest in assuring that consumers have a choice of video providers at competitive rates. However, recent regulatory action threatens to raise the rates consumers pay for satellite television service, and therefore will hurt the ability of satellite television operators to compete effectively with cable operators.

On October 27, 1997, the Librarian of Congress adopted a precipitous and unjustified increase in the copyright fees satellite carriers pay for superstation and network affiliate signals delivered to satellite TV households.

Before this increase, satellite copyright rates were 14 cents per subscriber per month for each superstation signal and 6 cents per subscriber per month for each network signal. Cable operators, by comparison, pay much less for the same signals—an average of 9.7 cents for the exact same superstations and 2.7 cents for the exact same network signals. But, under the new copyright rates adopted last October, satellite carriers are forced to pay almost 270% more than cable pays for superstation signals, and 900% more than cable pays for network signals.

These new copyright rates would add substantially to the regulatory and technical barriers satellite carriers already face in providing service that customer consider a fair substitute for cable television. They will hit consumers in rural areas particularly hard, because residents in those areas have traditionally relied on reasonably-priced satellite TV service as their only source of multichannel TV.

This amendment rolls this unreasonable satellite TV copyright rate increase back to the rates in effect prior to January 1st of this year, and it delays the effective date of the rate increase to January 1, 2000.

Mr. President, the 7.5 million U.S. households who currently subscribe to satellite television deserve to have the effect of this copyright fee increase on video competition reconsidered to ensure a less arbitrary and more consumer friendly result. This delay will give the FCC an opportunity to analyze the impact increased copyright fees would have on satellite's ability to compete with cable, and it will give Congress an opportunity to evaluate the FCC's report and respond accordingly.

The bill also addresses an issue of continuing concern to the satellite TV industry. Signal theft represents a serious threat to satellite TV operators. In the Telecommunications Act of 1996, Congress confirmed the applicability of penalties for unauthorized decryption of satellite TV services. The amendment we propose would confirm the judicial interpretation that civil suits may be brought by satellite TV operators for signal theft.

I thank the 27 Senators who co-sponsored this bill which affects every single consumer of multichannel video service.

Mr. President, I thank the managers for allowing me to propose this amendment. Let me say briefly, we all know that cable rates are on the rise, that the American consumers are very angry about it and they want competition. This will provide more competition.

There are other areas where we can provide more competition, such as the ability to broadcast local news and local weather. Even the cable industry does not oppose this move, because they know that in the interest of fairness, we need to have a better equalization of these copyright fees.

I hope we can have the amendment adopted. I thank the managers of the bill. I thank the Senator from California if I went ahead of her in the queue. Mr. President, I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I am not sure if the Senator from South Carolina wants to make a statement, but we are ready to accept this amendment.

Mr. HOLLINGS. I urge adoption of the amendment.

Mr. GREGG. I ask unanimous consent that the amendment be adopted.

The PRESIDING OFFICER. Is there further debate on the amendment? Hearing none, without objection, the amendment is agreed to.

The amendment (No. 3229) was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from California is recognized.

Mrs. BOXER. Thank you very much, Mr. President.

AMENDMENT NO. 3230

(Purpose: To amend chapter 44 of title 18, United States Code, to improve the safety of handguns)

Mrs. BOXER. Mr. President, I send an amendment to the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself and Mr. KOHL, proposes an amendment numbered 3230.

Mrs. BOXER. 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:

At the appropriate place in title I of the bill, insert the following:

SEC. 1___. CHILD SAFETY LOCKS.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(34) The term 'locking device' means a device or locking mechanism—

''(A) that—

''(i) if installed on a firearm and secured by means of a key or a mechanically, electronically, or electromechanically operated combination lock, is designed to prevent the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electromechanically operated combination lock;

''(ii) if incorporated into the design of a firearm, is designed to prevent discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm; or

''(iii) is a safe, gun safe, gun case, lock box, or other device that is designed—

''(I) to store a firearm; and

''(II) to be unlocked only by means of a key, a combination, or other similar means; and

''(B) that is approved by a licensed firearms manufacturer for use on the handgun with which the device or locking mechanism is sold, delivered, or transferred.''.

(b) UNLAWFUL ACTS.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by inserting after subsection (x) the following:

''(y) LOCKING DEVICES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee is provided with a locking device for that handgun.

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

''(A) the—

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

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

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

(2) EFFECTIVE DATE.—Section 922(y) of title 18, United States Code, as added by this subsection, shall take effect 150 days after the date of enactment of this Act.

(c) LIABILITY; EVIDENCE.—

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

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

(B) establish any standard of care.

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

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

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

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

(2) by adding at the end the following:

''(p) PENALTIES RELATING TO LOCKING DEVICES.—

''(1) IN GENERAL.—

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

''(i) suspend or revoke any license issued to the licensee under this chapter; or

''(ii) subject the licensee to a civil penalty in an amount equal to not more than $10,000.

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

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

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 150 days after the date of enactment of this Act.

Mrs. BOXER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3231 TO AMENDMENT NO. 3230

(Purpose: To provide that the amendments made to title 18, United States Code, shall take effect 180 days after enactment)

Mrs. BOXER. Mr. President, I send a second-degree amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California (Mrs. BOXER) proposes an amendment numbered 3231 to amendment No. 3230.

Mrs. BOXER. 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:

Strike all after the first word and insert the following:

1___. CHILD SAFETY LOCKS.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(34) The term 'locking device' means a device or locking mechanism—

''(A) that—

''(i) if installed on a firearm and secured by means of a key or a mechanically, electronically, or electromechanically operated combination lock, is designed to prevent the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electromechanically operated combination lock;

''(ii) if incorporated into the design of a firearm, is designed to prevent discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm; or

''(iii) is a safe, gun safe, gun case, lock box, or other device that is designed—

''(I) to store a firearm; and

''(II) to be unlocked only by means of a key, a combination, or other similar means; and

''(B) that is approved by a licensed firearms manufacturer for use on the handgun with which the device or locking mechanism is sold, delivered, or transferred.''.

(b) UNLAWFUL ACTS.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by inserting after subsection (x) the following:

''(y) LOCKING DEVICES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee is provided with a locking device for that handgun.

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

''(A) the—

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

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

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

(2) EFFECTIVE DATE.—Section 922(y) of title 18, United States Code, as added by this subsection, shall take effect 180 days after the date of enactment of this Act.

(c) LIABILITY; EVIDENCE.—

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

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

(B) establish any standard of care.

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

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

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

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

(2) by adding at the end the following:

''(p) PENALTIES RELATING TO LOCKING DEVICES.—

''(1) IN GENERAL.—

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

''(i) suspend or revoke any license issued to the licensee under this chapter; or

''(ii) subject the licensee to a civil penalty in an amount equal to not more than $10,000.

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

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

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. BOXER. Thank you very much, Mr. President.

The amendment in the second degree I have just sent to the desk requires that all handguns sold in the United States include a child safety lock. I am offering this amendment for one extremely simple reason: to keep our children safe.

The Centers for Disease Control reports that 1.2 million children have access to guns in the home, and a survey sponsored by the National Institutes of Justice found that 34 percent of handgun owners store their guns unlocked and loaded. As long as this continues to be the case, our children are not safe.

I have on this chart just some numbers. In one year, firearms killed no children in Japan—no children; 19 in Great Britain; 57 in Germany; 109 children were killed in France; 153 children were killed in Canada; and in the United States of America, the greatest democracy in the world, the greatest nation in the world, 5,285 children have been killed.

I know that some of my colleagues prefer that I not offer this amendment at this time. They will argue that my amendment is not germane under a strict definition of the term ''germane,'' and I should wait until an authorization bill reaches the floor.

To those colleagues I say today that I have tried. For more than a year, I have waited for the Senate to consider a firearms bill or a crime bill, a juvenile justice bill, any bill to which I could attach this amendment.

As the Senate waited, our schools have exploded in an unprecedented series of shootings, many of which involved unlocked handguns stolen from the home of a friend or family member. As we waited, Mr. President, children across the country have died violent deaths.

I see my colleague from Illinois is here. He has worked on so many important issues, and he is working hard on this issue.

We were together just a few weeks ago with a mother who lost a child in the Arkansas shootout. She approached the microphone and, barely audibly, told us that we have to act. She understands, better than any of us, that our kids are dying. More kids are dying in this country than any other country. And it would be so simple to lower those numbers if we could get these safety locks on these weapons.

So we have waited. I think it is time that we stopped waiting. We have to ask ourselves, How many children must die before we decide it is time to act? We cannot wait. We cannot delay. We must act now. The safety of our children depend on it. I do not think any American wants to turn on the television and witness another one of these shootings that could have been prevented had there been a safety lock on the gun. I am not saying it would prevent every single accident. But, Mr. President, we know it would definitely prevent many of those shootings. We cannot delay.

Of these 5,285 children who were killed by firearms, Mr. President, 440 died as a result of accidental shootings—kids, little kids, usually shot by other little kids, playing with a gun, found in their parents' bedroom or at a friend's home. That is over one child per day.

Look at this chart, Mr. President.

''Boy paralyzed in a gun accident. Cousin, 9, mistakenly thought he removed the bullets from the gun, police say.''

''Avra Valley boy shot to death as his best friend handled handgun.''

''3-year-old finds gun, kills sister.''

You know, we cannot be so jaded that we forget about the personal tragedies every family goes through when this happens. The mother from Arkansas, Suzann Wilson, told us, ''I taught my daughter so many things,'' because she said that ''it's a dangerous world.'' She said, ''I taught her never to take a ride from a stranger. I told her, when you walk down the street at night, be with a friend.'' She said, ''I taught her everything I thought I had to. But,'' she said, ''I never taught her, 'Don't go outside when the fire alarm rings in school because some kid may have triggered the alarm and has a gun and is going to kill you.' ''

And just listening to her words, we knew we had to act as soon as we could. I know my colleague from Illinois has been a leader in the area of the Brady bill and in the area of making parents responsible when children use a gun. All of these things together are important. And this is very important.

Mr. President, over one child a day—more than one child a day—dies by accident because they are doing what normal children do. Normal children, they explore, they are curious; they find a gun, and they shoot it.

I want to put back the other chart which shows those numbers one more time, because I hope Senators will take a look at these. I am going to expand on some of the stories that I talked about here.

The 3-year-old who found a gun and killed his sister from Fort Myers, FL. Colton Hinke and his 2-year-old sister Kaile were playing in their parents' bedroom when Colton found an unlocked, loaded handgun in a drawer. A neighbor who heard the shot rushed to the scene, found Kaile on her back—her face pale, her lips blue, a small hole in her chest. She was in shock. She was rushed to the hospital, but it was too late.

The neighbor told the Fort Myers News:

> She was a beautiful little girl. She had the biggest blue eyes. . . . The boy didn't even know what was going on. The hardest thing is that they are both innocent victims.

A little 3-year-old brother—it is unbelievable, an accidental shooting of probably the little human being in his life he loved more than anything else.

From Kansas City, KS, a 1-year-old Kansas City girl, shot in the head. Here it is. ''1-year-old Kansas City, Kansas, girl shot in the head.'' This article tells the story of a 1-year-old girl critically injured when shot in the head by her 3-year-old brother.

Mr. President, something is desperately wrong. Their mother kept an unlocked, loaded handgun under her mattress to protect her family against intruders. But one evening, when she was changing the linens on her bed, she removed the handgun and placed it on a nightstand. It took a few seconds for the 3-year-old son to pick up the gun and shoot his little sister.

A neighbor took the baby to the hospital and later said that the mother ''had the baby all covered up, but I could see a lot of blood. I haven't seen that much blood for a long, long time.'' Miraculously, Mr. President, the little girl survived.

And from Salt Lake City, UT, ''Boy Playing With Gun Shoots and Kills 13-year-old Friend.'' Here it is—Salt Lake City. Three boys were playing in a Salt Lake City home when one found a loaded, unlocked handgun hidden behind the headboard in the master bedroom. You know, kids are very smart. You think you are hiding something from them, but they can find these things. They were horsing around in the bedroom and the gun fired. The victim was transported by helicopter to the hospital too late—he was declared dead an hour later.

Mr. President, I could go on and on. I am not going to take the time of the Senate to repeat all of these stories, because to repeat a story, behind every headline, it would just take too much of the Senate's time. And the other reason is that when you keep telling these stories, you get so sad that you do not want to keep on focusing on the past. But let us talk about what we can do, what we can do to prevent similar tragedies in the future.

My amendment does that. Again, it was carefully crafted by Senator KOHL, Senator DURBIN, and myself. Just think, if the parents of those children, whose terrible stories I have told, were given a safety lock when they bought their handguns, these senseless tragedies—every one of them that I cited here—could have been avoided.

So what is a child safety lock? And how does it work? A child safety lock is simple; it is inexpensive device, designed to prevent the use of a firearm by unauthorized users—very simple. The most common are trigger locks, which fit over the trigger of a gun; and chamber locks, which fit into a firearm's chamber, preventing it from discharging. I have seen these locks. I have used these locks. They are very, very simple to use.

My amendment also defines lockboxes—which are storage cases designed to hold guns securely—as child safety locks. If someone does not want to put a lock physically on the gun, they can lock it in a lockbox and it will qualify under the amendment. These devices are generally locked with a key, although combination and other kinds of locks are acceptable.

Safety locks work. But do not take my word for it. Listen to what Gun Tests magazine, a publication for gun enthusiasts, said about safety locks:

> If a lock is properly designed, it will ward off the curious fingers of those too young to handle firearms responsibly, while conveniently preserving access to guns used for self protection.

So if you need to have the gun for self-protection, it is there.

Even Charlton Heston, president of the National Rifle Association, expressed qualified support for safety locks during an appearance on ''Meet the Press'' last month.

It is important. We all love children here. Most of us are parents; many are grandparents. I think of my 3-year-old grandson. As responsible parents we ought to make sure that these lethal weapons cannot be used by children.

This amendment is not about taking people's guns away. It aims only to protect children while preserving a citizen's right to keep a firearm in the home for self-defense or any other legitimate purpose.

Again, Senator KOHL actually authored this bill and many of us are cosponsors. The good news is that many of the handgun makers have decided to do this voluntarily, about 75 percent of them. This is good news. The bad news is, 25 percent have not. That means there will be 350,000 guns sold which will not be sold with a safety lock.

If we pass this legislation, the voluntary agreement will move forward and we will make sure that those 350,000 guns that will not be covered by the voluntary agreement will be covered by a child safety lock.

If we pass this amendment, children will live who would otherwise die as a result of accidental gun shootings. Exactly how many? I don't know; let's look at those numbers again. Out of the 5,000 deaths of children, 440 were accidents. Mr. President, I believe of those accidents, we could stop the majority.

I am proud to stand here for the children, to protect them from safety and harm. Child safety locks will do that. I hope we will get an overwhelming vote.

I am happy to yield to my colleague.

Mr. DURBIN. I thank the Senator from California.

I rise in support of the Senator's amendment, first and second degree.

Mr. President, at this point, does the Senator from California retain the floor or is the correct procedure for me to ask for recognition under my own right?

The PRESIDING OFFICER. If the Senator from California is not going to yield the floor, the Senator can respond; if the Senator from California chooses to yield the floor, the Senator may rise and seek recognition.

Mrs. BOXER. I yield for a question to my friend so I can retain the right to the floor at this time.

Mr. DURBIN. I certainly rise in strong support of what the Senator from California is setting out to do. I want to acknowledge that she shares the important position that the Senator from Wisconsin, Senator KOHL, has taken on this legislation.

I have a query of the Senator from California. Many of the critics who come here saying this is unnecessary,

it is impractical, are the same people who have lamented, along with all of America, the tragic loss of life involved in children picking up guns. I will offer another amendment later on dealing with what I believe to be the responsibility of gun owners when they have a gun in the presence of a child.

The Senator from California, though, really raises this question about a very important mechanical part of this equation: Shall we put on each handgun in America a device which will protect it so that if the gun owner is not present and a child picks it up, the child can't hurt himself?

I brought with me evidence of that, which I am happy to share with the Senator from California, to show exactly what we are talking about. This is a trigger lock. And this trigger lock, as the Senator from California has noted, is easily disengaged, just with the turn of the key, and opened.

I first saw one of these when I went to Elgin, IL, and the chief of police showed me that every officer going home in the evening takes a trigger lock and puts it on the gun. Of course, the officer may need the gun for self-defense or law enforcement; they don't think a trigger lock is an impediment. With the key not in it, that gun can't be used.

I pose this question to the Senator from California: Is the Senator from California aware that the Federal Bureau of Investigation requires that all of its agents have trigger locks on the guns that they take home in the evening?

Mrs. BOXER. I answer my friend in this way. I heard that is their advice. I was unaware it was a rule. Is my friend saying it is a rule?

Mr. DURBIN. Yes, it is. As a matter of fact, is the Senator aware of the fact that when Mr. Freeh, the Director of the Federal Bureau of Investigation, testified before the Senate Judiciary Committee last year, I asked point blank, ''What has your experience been at the FBI with this policy that requires child safety locks or trigger locks to be used by every FBI agent?'' And Director Freeh said, ''I think it has worked very well. I think it hasn't impeded any readiness or ability to protect. I think it is a very simple but very wholesome requirement. Having five small boys myself, I think it is a very good idea, whether or not it is mandated.''

I just ask the Senator from California, is she aware of any of the critics of this legislation who can overcome this testimony from the Director of the Federal Bureau of Investigation that they already use these trigger locks for law enforcement agents who take the guns home in an evening?

Mrs. BOXER. I think it is very difficult to take the other side of this issue. I am sure we will hear it, but try as I might, I can't understand one reason why we shouldn't do this. Seventy-five percent of the makers of guns, I say to my friend, have agreed to do this voluntarily, but still there are 25 percent of the guns that will come on to the market with no safety lock.

Mr. DURBIN. Can the Senator from California tell me what is the cost of one of these trigger locks?

Mrs. BOXER. Five to ten dollars each.

Mr. DURBIN. In my home State of Illinois, the City of Elgin, which has decided to pass a local law, actually subsidized the trigger lock sales so anyone coming to the police department could buy one for $3. So anywhere from $3 for a subsidized trigger lock to a maximum of $10 buys this peace of mind that I think is so important when we consider this trigger lock legislation.

I might ask the Senator from California, your legislation would require, then, a trigger lock be sold with each handgun?

Mrs. BOXER. That is correct. It would be part of the purchase, yes.

Mr. DURBIN. At this point, I yield the floor back to the Senator from California, and at such time as she is finished, I will address it myself.

Mrs. BOXER. I ask unanimous consent that at the conclusion of my remarks the Senator from Illinois be recognized for 15 minutes.

Mr. GREGG. Reserving the right to object, I believe there are other people who wish to address this issue. It would seem fair that we alternate from side to side.

There is nobody on our side now who wants to address it right now. How much longer does the Senator from California plan to talk?

Mrs. BOXER. I have completed my remarks at this time. I am happy to enter into a time agreement on this issue if the managers would like. It is not my intention to hold up this bill as a member of the Appropriations Committee, so if you want to put together a time agreement, it would be excellent.

I know my colleague has been trying to get the floor; we can continue to do questions and answers, because that is another way we could go, but I would prefer if he had an opportunity to speak, following my remarks.

Mr. GREGG. I have no objection.

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

Mrs. BOXER. Mr. President, I will get ready to yield the floor to my colleague from Illinois for 15 minutes of his remarks, but I want to take this opportunity to thank him and again to thank Senator KOHL, who I know will be coming to the floor at some point to talk about this.

I ask unanimous consent that Senator TORRICELLI be added as a cosponsor of my amendment.

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

Mrs. BOXER. I simply say this: If ever there was a matter that was a commonsense matter, this is it. We are losing kids; 5,000 kids are dying. In my State, gunshot wounds are the No. 1 cause of death among children. So anything we can do to prevent that is worth doing.

My colleague has shown a typical safety lock. It is not expensive. Many companies have agreed to do this voluntarily. It seems to me we need to give a boost to those others to join. This law would not adversely impact those who are voluntarily moving forward with these locks.

I am interested to hear the argument against this because it will be hard for me to understand how we could look at this figure, say that we love our children, say that we should be protectors of our children, and still not stand up for our children. We can do it with this amendment. It isn't rocket science, it is a simple child safety lock. Just as we would keep out of the reach of our children anything dangerous, this is the only way to keep guns out of the reach of children.

I want to thank my colleagues for their patience. I am looking forward to an overwhelming vote on this.

I ask unanimous consent Senator MIKULSKI be added as a cosponsor.

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

The Senator from Illinois is recognized for 15 minutes.

Mr. DURBIN. Mr. President, can I say something at the outset? There are people on the floor who oppose this amendment. I will be happy to yield during the course of my statement to debate it. I know they have strong feelings on the other side. I think we can add something to this issue if we have a real debate instead of just monologues on both sides. I invite any Senator on the floor who opposes the Boxer-Durbin-Kohl-Torricelli amendment to feel free at any moment to engage us in a question and debate. I think that would help the public in the galleries and those watching television to follow this debate and to understand the simplicity and the honesty of the amendment offered by the Senator from California.

Let me say that we should look at the scope of this challenge. We are a Nation of 265 million people. We are a Nation of 300 million guns—300 million guns. As we stand here today in the midst of this debate, approximately half of those guns at this moment in time are accessible to children. They are accessible in the drawer behind the socks, in the closet up on the shelf, down in the bottom of the closet behind the shoes—accessible to kids.

As the Senator from California will tell you—and I can attest to it having been a father and now a grandparent—children will always find Christmas gifts and guns. I don't care where you hide them, they are going to find them. When they find a loaded gun, tragic occurrences happen. In fact, in this Nation that we live in, 14 times a day we lose a child to a gun—14 times a day.

What the Senator from California is suggesting is something that is so simple and practical that I think this Senate should go on the record with a vote in support of our amendment. This little trigger lock can save a life. It can save the life of that baby who you love so dearly—the grandchild who means so much to you.

I am going to make a little confession here. I have a conflict of interest in this case, as does the Senator from California. She is the proud grandmother of 3-year-old Zack. I am the proud grandfather of 2-year-old Alex. I am reminded every time we get in this debate of how much of a heartbreak it must have been for the parents and grandparents of those children who came home to find they had lost this baby they loved so much because of a tragic accident. Could it have been avoided? Yes. For the lack of a trigger lock like this one, lives were lost.

Let me tell you something else that troubles me about this debate. The National Rifle Association, to no one's surprise, opposes this. The gun lobby opposes this. Yet, I have spoken to gun owners about this issue, and I get an interesting response from them. How concerned are they about children who are being injured with guns? They are very concerned. They are also troubled that these gun lobby spokesmen stand up in Washington and say, ''This is none of your business, you should not be passing laws to do this,'' because the gun owners I speak to say, to a person, ''We never want a single firearm that we own to ever harm anybody in our household or any innocent victim, regardless of their age.'' These are responsible gun owners who understand their responsibility under the law when they exercise their right to use guns safely and legally.

What the Senator from California is trying to do——

Mr. GREGG. Will the Senator yield?

Mr. DURBIN. Yes.

Mr. GREGG. Mr. President, I bring to the Senator's attention that it is inappropriate under the Rules Committee's rules to bring an item for demonstration to the floor. So I say that if this debate is going to continue, we will not proceed with the demonstration.

Mr. DURBIN. The Senator objects to my showing a trigger lock on the floor?

Mr. GREGG. That is correct. The Senate rules object to your showing that on the floor.

Mr. DURBIN. I am relatively new here, and I am happy to be advised. I will try not to violate the rules.

I ask unanimous consent to display a trigger lock during the course of this debate.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. I object.

Mr. DURBIN. All right. I think you saw what I showed you, in violation of the rules, a few minutes ago. I think you understand that this tiny object, which could fit in my hand, which I can't pick up under the rules of the Senate and under objection on the floor, is something that is not a major investment by any gun owner, but could bring peace of mind not only to the gun owner, but to other people.

When I held a press conference in Chicago, IL, and invited a friend of mine who had been, unfortunately, a statistic in this debate, he told a story that chilled me about his 10-year-old son. He said, ''My wife and I never had a gun in our house because we were afraid that with children around something might happen. We thought we were a safe family. Our son went next door to play with another child. . .'' and I guess you can come to a conclusion as to what happened. His child was killed when the neighbor boy picked up a gun, playing with it, shot his son and killed him.

Suzanne Wilson, who testified 2 weeks ago, a mother from Jonesboro, AR, who would have faded into the background of all of the American people who do their duty and raise their families, now has become a national spokesperson. She will not let the death of her daughter in Jonesboro, AR, be forgotten. She is supporting this legislation by Senator BOXER, as well as many other efforts to reduce the likelihood that guns will be fired accidentally or will harm some young person.

I will tell you what. I cannot believe the opponents of this legislation could stand and look this woman in the eye—a woman who sent her daughter to grade school, who loved her with all her heart, kissed her good-bye in the morning, and never saw her alive again. I don't know if we will avoid the tragedy in Springfield, OR, or Pearl, MS, or Jonesboro, AR, or somebody else's hometown, tomorrow if we pass this law, but I know it is the right step forward.

I know this Senate is capable of coming to the conclusion that we can pass laws that will save lives. I know that we are willing to say to certain special interest groups, ''No, you have gone too far.'' We have to use a trigger lock—which I can't show you—to protect our kids. I think that is something that is just basic. How many people in America now buy these clubs that they put on their steering wheels to protect their cars? This is a club to be put on a gun that is easily accessible. I can't show it to you, but you can turn the key and pull it off. Under the rules of the Senate, I can't show you that anymore.

I think you understand what I am saying. This is not a major investment, nor a complicated issue for people who dearly love these children and understand what is at stake. Believe me, this debate is about you, not about States rights, not about the Bill of Rights. This debate is about our children and their lives. That is what is at stake here. This U.S. Senate can come together in a bipartisan fashion and do the right thing for families across America. We will all join in lamenting any gun violence. We will give speeches on the floor, and at home we will send letters of regret and condolences, as we should. But when it comes to the bottom line, how are we going to vote? Representing the people of Illinois, I will vote in favor of this Boxer amendment. I think she is right that we need a new day in this country, which says that we are not going to take guns away but we are going to take guns seriously, and guns not taken seriously become, unfortunately, the objects of crime and the objects of accidents, which break hearts and destroy families forever.

This is not too much to ask. What the Senator from California has proposed should be supported. I have been waiting for those who oppose the amendment to engage me in debate. I hope they will. I am still waiting. Even without my trigger lock, I am waiting. I would be happy to engage any of them in a debate on this issue. I see they are not ready to do so.

I yield the remainder of my time.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we have before us this afternoon an amendment offered by the Senator from California that is one of those feel-good amendments. Obviously, the Senator from Illinois has taken the feel-good debate to its ultimate. All of us are dramatically concerned and frustrated when anyone dies in this country accidentally. There is no question that there is always a quick rush to mind saying that there ought to be a law against that—especially if it appears to be an accidental death that occurred because somebody was negligent. Even more reason to want to do something to disallow that kind of an accident from happening.

Now, I do not apologize for the fact that I am an active member of the National Rifle Association, and I believe in trigger locks. I agree with the Senator from Illinois and the Senator from California that trigger locks ought to be employed in the storage of a gun for safekeeping reasons, but I do not believe trigger locks ought to be used on loaded guns.

The gun that killed the child that the Senator from California so dramatically spoke of was a loaded gun, and therein lies the difference. No FBI agent, no Federal agent of law enforcement in our country or State or local law enforcement agent with proper firearm training ever puts a trigger lock on a loaded gun. Why? Because the manufacturer says don't do it. And why does the manufacturer say don't do it? Because trigger locks are not a guarantee of safety—a jostling of the trigger lock, a dropping of the gun, a jamming of the trigger lock object that surrounds the encasing for the trigger could cause it to fire.

That is the reality. I know. I am a pistol shooter. I know about which I speak. But I am for trigger locks. I am for gun safes. I am for drawers with

locks on them because I want firearms safely stored in this country so that the citizens who use firearms legally under the second amendment can be guaranteed that that right will never be abridged.

What the Senator from Illinois talks about this afternoon is, in fact, tragic, and, of course, the Judiciary Committee spoke to this issue and said that everyone ought to be made aware of them. Certainly everyone who purchases a gun ought to have a full understanding and knowledge of the use of trigger locks for safekeeping. Should it be a Federal mandate? I don't think so.

Most importantly, it should not offer a sense of false security. That is what is important. And yet I will tell you that the Senator from California speaks of panaceas: But for the trigger lock no child will die. The Senator from Illinois: But for a trigger lock the world will be safer. No, it won't be if the gun is loaded. Now, if the person who owns the firearm is responsible, if the person who owns the firearm does not plan to use it for personal protection and needs it immediately for their access or personal protection, that gun ought to be unloaded. The ammunition ought to be stored separately from the firearm. That is the rule of the game. That is what you are supposed to do as a law-abiding citizen. That is how you properly handle a firearm.

Well, let's talk about tragedies in this country. There is no question that when a small child finds a firearm which a parent has left loaded, and that small child plays with it and either kills him or herself or kills a brother or sister, oh, my goodness, what a phenomenal tragedy. I mourn; we all mourn. Parents who have acted so irresponsibly as to cause their child to die under those circumstances are the responsible parties. The gun should have been unloaded. The gun should have been properly stored. If it were unloaded, it should have a trigger lock on it. But it does not happen that way all the time. Cars are never intended to kill people, but they kill people every day. Teenagers should drive safely, but they don't. They are very irresponsible at that age. Dramatic accidents happen such as just happened on the East-West Highway locally and teenagers are killed by a very safe car. They acted irresponsibly. They should not have done what they did.

While the number of privately owned firearms in this country has quadrupled since 1930, the annual number of accidental fatalities—and that is what the Senator from Illinois is talking about, accidents—not intentional shootings, accidents—the number of accidents involving fatalities with firearms has declined 56 percent nationwide, against a phenomenal increase in the number of firearms owned by citizens, law-abiding citizens. We don't count the criminals.

Firearms are involved in 1.5 percent of accidental fatalities nationwide, and they are oftentimes the most dramatic or they are oftentimes the most dramatized on the front page of a local, State or national newspaper. And I know why. Because the Senators from Illinois and California speak with the same emotion I do, especially when it is a small child who is involved in that kind of a situation. But let me tell you what is going to kill small children this summer on a 5-to-1, 6-to-1, 10-to-1 basis. It is not going to be a gun. It is not going to be a gun. It is going to be the very thing that the Senator from Illinois has in his drinking glass right now. It is going to be water. More children are going to drown this summer in neighborhood pools and backyard swimming pools—by the hundreds—than will die by a gunshot. And yet the Senator from Illinois is not proposing to outlaw or put locks on swimming pools.

Now, all of those deaths are just as accidental. But, you know, one size fits all and if we have a Federal law, it is going to take care of everybody, and everybody will be safe and the world will be better, and politics will be more clear.

It does not work that way. It should not work that way. We are supposed to be a land without Federal mandates, and yet this year more children are going to die by drowning. Remember, accidental fatalities this year: 4.8 percent by drowning, 1.5 percent by a firearm. But if you really want to get big numbers, more children are going to die this year by falling, probably out of the high chair under the supervision of a careful mother who accidentally turns away or inadvertently turns away or momentarily turns away from her infant child, or maybe the father, and that number is going to be about 13.5 percent, but that does include older people, too. In other words, the reality with which we speak this afternoon is not all black and white, not at all. Death by falling, 13.5 percent; vehicles, cars, 47 percent; poisoning, 11 percent.

When somebody dies by poisoning or by accidental poisoning, it isn't as dramatic because the national media isn't as intent on getting rid of our second amendment rights, so they don't publicize that as much. And they really don't have anything against backyard swimming pools so that only usually is covered by the local or the State media simply because of the tragedy of the loss.

Well, those are the realities with which we speak on this issue. Proper storage of firearms is the responsibility of every gun owner, and also education, safety, training and careful consideration.

All factors that relate to an individual's particular needs are key to this responsibility. That is really the issue here. And I know the Senator from Illinois and I would wish that everybody was appropriately educated on gun ownership, had been through the right schooling or the right training, would always unload their firearm and store it a long way away from its ammunition.

That is not what happens. People oftentimes become not careless, but they just assume. We have seen teenagers breaking into homes. That is stealing. That is theft. And yet we pass laws on that. We have laws against teenagers breaking into homes and stealing things, including guns, and yet they still do it. That is why it is important that we talk about this issue this afternoon. Oh, it is politically very popular. It is the right thing to do in an election year, but it may be the wrong thing to do when it comes to safety and security if it isn't appropriately handled. I recommend trigger locks. If I owned a pistol—and I don't—I would have a trigger lock on it. And it would be empty with a trigger lock on it. But that is the reality of the kind of issues that we debate here.

A general firearm safety rule that must be applied to all conditions is that a firearm should be stored so that it is not accessible to untrained or unauthorized people.

That is the right rule. That is the one that really fits. That is the one that really works well. And then you don't have the accidents to talk about.

Antigun groups overstate the number of firearm-related deaths among children by defining ''children'' to include anyone through the age of 19. The statistics that have been talked about here on the floor include teenagers acting violently. The reason is, 84 percent of firearm-related deaths—that includes homicide, suicides, and accidents among persons zero to 19 years of age—are accounted for by adolescents and young adults from 15 to 19; 84 percent, 15 to 19 years of age.

No; the examples cited by the Senator from California, while very dramatic and very emotional, are clearly the exception, the horrible exception, and not the rule. So, when we talk statistics this afternoon, and we talk about children, we are talking about zero to 19, by those statistics. At least that is what I am told.

The anti-firearm Children's Defense Fund and other gun control advocates have applied, if you will, the trick to all of the national statistics and data relating to that 1 child for every 90-odd minutes, 10 children out of 5,000—all of those figures. The reality is zero to 19, if anyone listening is interested in those kinds of statistics.

So a few moments ago I was giving you figures about these dramatic deaths that occur when a firearm is misused. The annual number of firearm accidents among children in 1995 fell to an all-time low in 1995—181 children. That is below the age of 15. We are pleased about that number, although terribly saddened, because I think some of the educational programs that some independent groups are using out there right now are helping educate young people to stay away from firearms if they don't understand them

and if they have not been properly trained to use them.

Other types of accidental fatalities among children—children of the same category—where there were 181 killed by firearms, there were 3,095 killed in auto accidents. The Senator who is presiding at this moment has worked to dramatically lessen the impact of airbags when they are deployed because mishandled, and the child in an improper seat can be killed by an airbag in a car. I am not sure this Congress has responded to that in a timely and appropriate fashion, although Senator KEMPTHORNE has worked over time to make that happen. It just so happens, it is a 30-to-1 relationship of children who will be killed in auto accidents every year compared to those young people who might be killed by the mishandling of a gun.

I mentioned the local swimming pool. It is a hot day out there. We are fortunate being in an air-conditioned building. Tragically enough, there will probably be more children drowned today across this country accidentally than will be killed by a firearm. The statistics bear it out—1,024 in 1995 killed by drowning.

Fires, suffocation, falling—I have talked percentagewise. Let's talk statistics. Fires: 833 children burned to death in 1995; suffocation, ingestion of an object—we have all—not all of us, many of us—have raised small children. We know how frightened we are about a child's choking on an object, getting something in that mouth, picking up something and swallowing it. Mr. President, 213 will die, on an average basis, annually because of that. We haven't outlawed small objects, I guess because we cannot, although some here might want to try. But that is the reality of what we deal with.

And the statistics go on and on. There were 44,583 deaths amongst children in 1995; .04 percent firearms. All the rest were the kinds of things that we can do very little about. We should try where we can. We can change the deployment impact of airbags. We probably cannot outlaw backyard swimming pools. We probably cannot mandate better caretakership at the community swimming pool. And somehow, we just can't teach moms and dads about child safety seats and not putting young children in the front seats of their cars. And that still goes on.

So, those are some of the facts and statistics that we will talk about today, probably more than once, as we deal with this issue.

I do not in any way try to misrepresent the intent of the Senators who have offered the amendment. But I will speak to reality based on knowledge. Manufacturers and anyone else knowledgeable in the use of a firearm will say not a trigger lock on a loaded gun—no, no, not at all—because you risk even a greater chance of accidental death. Trigger locks are recommended and should be used on unloaded guns. But that is the reality. So if we mandate it by Federal law, we risk even greater numbers of accidents. You even risk a great number of people violating laws because of the inability to accommodate or live up to this. That is the issue we deal with. That is the issue we will debate for a substantial period of time today.

It is very important that we understand it, because, try as we may as a Congress with good intent, as a Senate and Senators who care a great deal, we cannot legislate out of this life of ours accidental death or we wouldn't have any of the 44,000 children who will die this year die, be it by gun or by car or by drowning or by falling or by choking.

Let me close by saying I forgot to talk about the bicycle and the tricycle and the accidents that occur when children use those in an unsupervised way. We read about that on a regular basis, tragically enough. But I don't think the Senate is going to try to outlaw the tricycle or bicycle today—only the gun—or at least legislate it being mandated as to its management, its handling. That is the issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I come to the floor to support this amendment which would require the sale of a child safety lock with every handgun. This amendment is based on the Child Safety Lock Act which we produced last year with bipartisan support from Senators CHAFEE, DURBIN, and BOXER.

It is a commonsense measure, obviously, and it is not an extreme measure. It is a measure that will reduce gun-related accidents, suicides, and homicides by young people. It will make children safer and it will make mothers and fathers feel more secure in dropping off their children at their neighbors' homes after school.

In brief, all it will do is bring all the industry up to the level of most manufacturers who have already agreed to include safety locks with their guns. Our amendment is simple, effective, and it is straightforward. It requires that whenever a handgun is sold, a child safety device—or a trigger lock—also be sold.

These devices vary in form, but the most common resemble a padlock that wraps around the gun trigger and immobilizes it.

While we want people to use safety locks, we do not require it. In that sense, we treat safety locks like States used to treat seatbelts: You have to buy them, but you don't have to use them.

This amendment is sorely needed. Mr. President, 2,000 young people are killed each year in firearms accidents and suicides. This is not only wrong, it is unacceptable.

While our proposal is not a panacea, it will prevent many of these tragedies. Just today, in the Washington Post there is a story about a Prince George's boy of 4 who shot himself while playing with a handgun that was left laying around by his grandfather. Had that handgun been secured by a child-safety-lock device, this needless tragedy just yesterday would not have occurred.

Safety locks will also reduce violent crime. Juveniles commit more than 7,000 crimes each year with guns taken from their own homes. That doesn't include incidents like the school shooting in Jonesboro, AR, where the guns were taken from the home of one student's grandfather, again, because most of ''dad's guns were locked up.''

If parents and relatives would use safety locks on these guns, then at least some of these incidents will be prevented. To be sure not all, but some. The fact is that a child with a handgun is an accident or a crime just waiting to happen. Of course, we should commend the gun manufacturers who already have voluntarily agreed to comply with this proposal. But we still need this legislation because too many manufacturers still resist common sense.

The voluntary agreement covers about 77 percent of all new handguns manufactured in the U.S. each year, which is an impressive number. But it still leaves at least 350,000 handguns for sale each year without safety locks. This proposal brings hundreds of thousands more handguns up to the industry standard.

Mr. President, this amendment deserves our support. I thank you, and I yield my time back.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President. I thank the Senator from Wisconsin who, in the Judiciary Committee, has shown exceptional leadership on this issue, along with the Senator from California.

I defer to my friend from Idaho who spoke earlier about the member of the National Rifle Association executive board. I am certain his knowledge of firearms and handguns surpasses mine. But I will say that his statement, ''No one should use a trigger lock on a loaded gun'' apparently depends on the type of lock involved.

I have in my hand from the Safety Lock Company an advertisement that says:

> Lock for life. Hopefully, the garden hose is your kid's most powerful weapon. You no longer have to choose between your home security and your children's safety. Safety Lock is the only child safety lock for guns that can be locked safely while the gun is loaded, permanently installed on a handgun, unlocked in a few seconds, even in total darkness.

It appears it depends on the type of trigger lock or safety lock we are discussing as to whether or not the gun should be loaded.

I would like to address what I think is the more central argument made against this amendment by the Senator from Idaho. I am not surprised by

the argument, because we hear it all the time. In legislative circles, it is known as the argument that the best is always the enemy of the good. Someone will come in and say, ''Yes, you may save, oh, 5,000 kids' lives a year, but there are 44,000 other lives out there that you ought to try to save, too.'' I am not going to argue with the Senator from Idaho. I think we should take every reasonable step we can to protect all children in all circumstances.

In this particular case, though, the Senator from California and the Senator from Wisconsin come forward with a practical answer to a problem which haunts families across America with the proliferation of guns in our Nation. They have suggested trigger locks be sold with handguns. It is not an outrageous and radical idea. Law enforcement in America, including the Federal Bureau of Investigation, already uses these trigger locks, and they work.

For the Senator from Idaho to say, well, kids drown in swimming pools, that is a sad reality, too, but we are not about to close down swimming pools. We talk about children being trained, but we also talk about lifeguards and parents' responsibility.

I say to my colleagues, this is about a parent's responsibility, too. No parent is going to take a 2-year-old toddler who has never been in the water and toss him in the swimming pool and walk away. They would never consider it.

Would that parent leave a loaded gun where a 2 or 3-year-old can grab it? Sadly, that is happening time and time again. What we are saying is put a device on that gun that lessens the likelihood that a child is going to be injured.

The National Rifle Association's opposition to this seems to be that it means there is too much Government—too much Government—to ask that we put a safety trigger lock, a child-safety device with each handgun. In States across the United States now, we are adopting laws to mandate children's car seats to protect kids riding in a car. We don't consider that too much Government. We consider that common sense. It is common sense when we are talking about seatbelts, children's car seats, children's seats in airplanes. It is common sense—protect the children. They are too young and immature to protect themselves. A trigger lock does that, too. It is not a matter of too much Government.

The other argument from the National Rifle Association and others is this is too much to ask. You are asking a gun owner to spend another $3, $5 or even $10 to make their gun safe at home?

I don't think that is too much to ask. I really don't. I think this is a reasonable suggestion. I think what you will find is as it becomes commonplace across America, the cost will go down and quality will go up on these trigger locks. That is something that is a reality of life. It is something that is not too much to ask.

The seatbelt analogy, I think, is a good one. The Senator from Idaho made reference to it earlier. What we are talking about here is not putting every gun owner in jail who doesn't have a trigger lock. We are talking about creating an environment of thinking in America.

Let me confess here that when I grew up, the first car I owned didn't have seatbelts in it. I guess you know how old I am. Then for a number of years, I bought cars with seatbelts and promptly sat on them every time I got in the car. Then somebody in my State said, ''Let's pass a law and say you have to buckle your seatbelt.'' I never got arrested for that, and I started using seatbelts. I don't feel all that comfortable without it.

What we are trying to do is say to gun owners across America, ''Please join us. This is not taking your guns away. It is trying to create an environment of safety around children.'' What the Senator from California and the Senator from Wisconsin are suggesting is taking guns seriously. I will offer an amendment later along the same lines, but much like seatbelts, we want people to think twice about those guns.

The Senator from Idaho criticized the bill and said, ''Oh, there are so many teenagers who are misusing guns.'' He is right. There are so many things we need to do about it, and he and I will join in increasing criminal penalties and so many other things that can be done.

In most instances, we are talking about immature children, children who pick up a gun and don't have a clue as to the danger of this weapon, turn it on a playmate, turn it on a sister or brother and tragedy follows.

I think the American people don't believe this is an unreasonable intrusion in their lives. They think it is common sense.

I salute both Senators from California and Wisconsin for their leadership on this. I am happy to stand as a cosponsor of this amendment, and I hope Members of the Senate, gun owners and those who are not gun owners—Democrats and Republicans—will step back for a minute and say this just makes sense. Let us at least save some of these children's lives. Let us put safety into the equation. Let us understand that an industry that has basically fought off every effort to put safety standards on the guns they manufacture should at least not stand in the way of trigger locks to save lives.

I yield back the remainder of my time.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senators KOHL and DURBIN for their eloquent remarks and, again, say to my colleagues, it is Senator KOHL's bill that we essentially have here with very few changes. It almost passed the Judiciary Committee. It was defeated by a very narrow margin.

We are going to get a vote up or down on this amendment. I am very pleased about that.

Every single one of us on both sides of this issue absolutely love children. It is just very hard for me to understand that we cannot come together on this commonsense approach.

This amendment does no violence to the right to own a gun, to the right to buy a gun, to the right to use a gun lawfully. It merely says that we are going to make sure that parents, when they buy a gun, have with it a safety lock that is easy to put. And I have to tell my friends and colleagues here, I know if you could meet with just one of the parents of these children who were killed accidentally, you support this amendment.

Of the 5,285 children killed every year by gunfire, more than 440 are completely accidental deaths. And let us think about 400 kids dying accidentally every year and what that means—kids who would have grown up and had families of their own and given joy to their parents and grown to be grandparents. This is a small thing to do. I am always amazed, I say to my friends, that we cannot come together and reach across the party lines on these issues.

I want to put into the RECORD a letter that I received today from the International Brotherhood of Police Officers, or IBPO. And this is what they write. This is important because these are the law enforcement officers:

> On behalf of the entire membership of the IBPO, I want to thank you for the amendment that will require that all licensed manufacturers, importers or dealers must include a separate child safety lock or locking device with each handgun purchased. The IBPO strongly endorses your legislation and looks forward to working with you on this important matter.
>
> The IBPO represents street cops.

So these are cops who are on the beat and on the street.

Police officers, the letter goes on are out in the community every day.

> By far, the most difficult part of their job is to arrive at home where a gun is left out, unsecured and tragedy has occurred. This legislation simply put will save lives. Each day in America, 16 children, age 19 and under are killed with firearms. Many of these deaths could have been avoided with a simple trigger lock attached to the gun.

My colleagues have shown those trigger locks here. They are very inexpensive. They are very easy to use. And, yes, there is one company that makes them so you could place it on a loaded handgun. So the argument you would have to leave your gun unloaded is simply not correct. However, it should be noted that all law enforcement agencies recommend storing firearms locked, unloaded, and out of the reach of children.

The letter from Kenneth Lyons, the National President of the IBPO, goes on to say: The Centers for Disease Control estimates that nearly 1.2 million unsupervised children have access to

loaded and unlocked firearms in the home.

Let me repeat what he writes to us: ''1.2 million unsupervised children have access to loaded and unlocked firearms in the home.''

It is because of these numbers that this legislation is needed.

I ask unanimous consent that this letter be printed in the RECORD.

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

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS,
Alexandria, VA, July 21, 1998.

Hon. BARBARA BOXER,
U.S. Senate, Washington, DC.

DEAR SENATOR BOXER: The International Brotherhood of Police Officers (IBPO) is an affiliate of the Service Employees International Union, the third largest union in the AFL–CIO. The IBPO is the largest police union in the AFL–CIO representing over 50,000 police officers nationwide.

On behalf of the entire membership of the IBPO, I want to thank you for amendment that will require that all licensed manufacturer, importer or dealer must include a separate child safety or locking device with each handgun purchase. The IBPO strongly endorses your legislation and looks forward to working with you on this important matter.

The IBPO represents street cops. Police officers who are out in the community every day. By far, the most difficult part of their job is to arrive at home where a gun is left out, unsecured and tragedy has occurred. This legislation simply put will save lives. Each day in America, 16 children, age 19 and under are killed with firearms. Many of these deaths could have been avoided with a simple trigger lock attached to the gun.

I must note for those opponents of child safety locks that the Center for Disease Control estimate that nearly 1.2 million unsupervised children have access to loaded and unlocked firearms in the home. It is because of these numbers that this legislation is needed.

Sincerely,

KENNETH T. LYONS,
National President.

Mrs. BOXER. Another letter comes to us from a heroine of mine, Sarah Brady, whose husband Jim, as you remember, was gunned down when he was the press secretary to President Reagan. She is the head of Handgun Control and writes us a letter today.

Dear Senator BOXER: I am writing to commend you for all your efforts to ensure that every handgun sold in the United States be sold with a child safety lock or other safety device designed to prevent unauthorized use. Jim and I urge all Senators to support this amendment to the Commerce, State, Justice Appropriations.

And she reiterates the facts that we have gone over today.

Every day in America, 14 children, age 19 and under, are killed with firearms. Many of those deaths—accidents, suicides, and homicides—are preventable. One of the best ways of preventing these tragedies is to keep children from gaining access to a gun in the home. Public opinion surveys reveal that almost half of all households own firearms. Regrettably, a substantial number of gun owners improperly store their weapons, leaving them loaded, unlocked or both. A National Institute of Justice survey showed that 55% of all handgun owners keep their handguns loaded, and 34% keep a handgun that is loaded and unlocked.

As Senator KOHL has said—this is recipe for disaster. Unfortunately, we know this isn't a disaster just waiting to happen at some time in the future. If you look at this collage of headlines, this is a disaster that is happening in every city in every town in every suburb. There isn't a day that goes by that I do not get something in a clip from California. And these are from around the country. So this is a disaster that is happening now. Sarah Brady quite understands this. She goes on to write:

. . . the rate of firearm deaths among children 0 to 14 years of age is nearly twelve times higher in the U.S. than in 25 other industrialized countries combined.

So let us look at the other chart one more time, because you can see these numbers: Zero children killed in Japan; 19 in Great Britain; 57 in Germany; 109 in France; 153 in Canada; and 5,285 children killed by handguns in a year in the United States.

We can sit back and say, ''So what.'' We could sit back and say, ''Oh, we just have to give another piece of paper that talks about it.'' Or we can vote for this important amendment and make sure that when the parents buy the gun, it includes a child safety lock.

Now, I think it is important to laud some of the gun companies that have decided to volunteer to put these locks on guns and sell them with those locks without a law. I think it is wonderful that they have done it. They came to the White House and they reached an agreement with the President, and we are going to see more handguns sold with these locks.

However, the problem we have is that about 25 percent of handguns will not have these locks because the companies, including several in my state, have not agreed to this voluntary agreement. This means that about 350,000 guns every year will not be covered—350,000 guns—will not be covered by the voluntary agreement. So we are saying, good for the companies that volunteered to do this. Now let us make sure that everybody does it.

I ask unanimous consent that Sarah Brady's letter be printed in the RECORD.

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

HANDGUN CONTROL, INC.,
Washington, DC, July 21, 1998.

Hon. BARBARA BOXER,
U.S. Senate, Washington, DC.

DEAR SENATOR BOXER: I am writing to commend you for all your efforts to ensure that every handgun sold in the United States be sold with a child safety lock or other safety device designed to prevent unauthorized use. Jim and I urge all Senators to support the Boxer Amendment to. S.2260, the Fiscal Year 1999 Commerce, State, Justice Appropriations.

Every day in America, 14 children, age 19 and under, are killed with firearms. Many of those deaths—accidents, suicides, and homicides—are preventable. One of the best ways of preventing them is to keep children from gaining access to a gun in the home. Public opinion surveys reveal that almost half of all households own firearms and that, regrettably, a substantial number of gun owners improperly store their weapons, leaving them loaded, unlocked or both. A May 1997 study sponsored by the National Institute of Justice showed that 55% of all handgun owners keep their handguns loaded, and 34% keep a handgun that is loaded and unlocked.

The Centers for Disease Control and Prevention (CDC) estimate that nearly 1.2 million latch key children have access to loaded and unlocked firearms. It is no surprise, therefore, that children and teenagers cause over 10,000 unintentional shootings each year in which at least 800 people die.

According to a February 1997 CDC study, the rate of firearm deaths among children 0 to 14 years of age is nearly twelve times higher in the U.S. than in 25 other industrialized countries combined. Mandating the sale of trigger locks or other safety devices with each handgun purchase is an important first step toward preventing these senseless tragedies.

Yes, great progress has been made. As you know, in October, President Clinton reached agreement with most, but not all, handgun manufacturers that they would voluntarily include a child safety lock with the weapon that they manufacture and sell. Your legislation will ensure that all handguns sold in the United States include this important safety device.

Again, thank you for your efforts to ensure that our children are safe from unintentional gun violence.

Sincerely,

SARAH BRADY,
Chair.

Mrs. BOXER. Mr. President, what we have here is a very straightforward amendment. It simply says, when a handgun is sold, include a lock. If a customer prefers a lockbox, that is acceptable to us, that is fine. And it is endorsed by the police, one of the largest organizations of cops on the beat, Handgun Control, and Sarah Brady. This is something that we can do.

We don't want to wake up in the morning and see these headlines anymore, we don't: ''6-year-old Boy Shot at Friend's House.'' That is in Allentown, Pennsylvania. In New Orleans: ''Boy, 6, Shot by his Brother.'' ''Boy Accidentally Shot by Cousin.'' ''17-month-old Shot Accidentally by Boy.'' ''9-year-old Oasis Boy Accidentally Shot.'' That is in California. ''Boy Paralyzed in a Gun Accident.''

There is something I want to point out. When we look at the statistics, we don't show the wounded, we show only the fatalities. For every death, up to eight victims are wounded and often live their lives nursing chronic injuries. So what we do here just doesn't deal with preventing deaths, but also with preventing debilitating injuries.

I think I have stated the case as best as I can. I don't know if my colleague from New Hampshire is going to take to the floor, but I do know that Senator BIDEN will be here at 4 o'clock, I say to the chairman. He would like to have an opportunity to speak. If Chairman GREGG would like to enter into unanimous consent that we can set this aside until Senator BIDEN comes, I am happy to do that. That would be, I think, a good way.

Mr. GREGG. That is up to other Members who wish to take the floor. I have no objection.

Mrs. BOXER. There are no other colleagues here.

I ask unanimous consent that Senator SMITH be recognized for 20 minutes, and at that time Senator BIDEN immediately follow.

Mr. GREGG. Reserving the right to object, I just noticed the Senator from Idaho. Did the Senator desire further time? There is a unanimous consent request by the Senator from California. The essence of the request was that this amendment be set aside, that Senator SMITH from New Hampshire go forward for 20 minutes, then Senator BIDEN would be next, and we would be back on your amendment, with Senator BIDEN speaking at the conclusion.

Mrs. BOXER. And if Senator CRAIG wants to come in at that point, that is fine, and Senator KOHL has some time.

Mr. CRAIG. I have no objection.

Mrs. BOXER. If I could amend the request, Senator KOHL wanted 2 minutes, and then Senator SMITH for 20 minutes, and then Senator BIDEN, and then go back on the bill.

Mr. SMITH of New Hampshire. Reserving the right to object, just to clarify. I have remarks that would not be more than 15 or 20 minutes. The only thing is, I don't know if there are others who may wish to speak for or against the amendment. I didn't want to preclude that opportunity. I certainly have no objection to going back to your amendment. That is perfectly appropriate, and I appreciate your offer—if we could somehow get the timeframe to make my remarks but not to preclude other people coming back to speak for or against my amendment.

Mrs. BOXER. Does the Senator have a different amendment he is about to offer? Is that what this is about?

Mr. SMITH of New Hampshire. I have a separate amendment.

Mrs. BOXER. I am trying to accommodate my friend because I thought he had a statement to make, a 20-minute statement to make.

Mr. SMITH of New Hampshire. No; I have an amendment.

Mrs. BOXER. Is it an amendment that would be accepted?

Mr. SMITH of New Hampshire. No.

Mrs. BOXER. I was trying to accommodate my colleague, but I think it is better to go with the flow of this amendment. I know Senator KOHL wants to speak, Senator DURBIN, Senator CRAIG, so I suggest we stay on this amendment.

I am trying to accommodate my colleague.

Mr. GREGG. The Senator has the floor. When the Senator yields the floor, it will be up to the Chair as to who gets recognized. At this time there doesn't seem to be a unanimous consent that is agreeable.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. I object.

Mr. SMITH of New Hampshire. Could I suggest a unanimous consent request. Let me make one and see if it is acceptable.

I make a unanimous consent request that I be allowed to offer my amendment to speak not more than 20 minutes, after which time we would go back to the amendment of the Senator from California.

Mrs. BOXER. I have no objection, but I would ask my friend if he could give just one minute to Senator KOHL, then set aside the BOXER amendment, go to the SMITH amendment, and then return for Senator BIDEN's discussion of the BOXER amendment.

Mr. SMITH of New Hampshire. But not to preclude additional time after your amendment is completed.

Mrs. BOXER. Absolutely not.

The PRESIDING OFFICER. Does the Senator from California withdraw the unanimous consent?

Mrs. BOXER. I will go along with Senator SMITH's unanimous consent request, as I modified, so Senator KOHL can speak for 1 minute.

The PRESIDING OFFICER. The Senator withdraws.

Mrs. BOXER. I withdraw.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from New Hampshire?

Without objection, it is so ordered.

The Senator from Wisconsin is recognized for 1 minute.

Mr. KOHL. Thank you, Mr. President.

Just a couple of brief points. Even though Senator CRAIG and those of us on the other side differ on this amendment, I have no doubt that Senator CRAIG is committed to ensuring gun safety. In fact, he was instrumental in passing our 1994 law, the Youth Handgun Safety Act that prohibits kids from having handguns.

Second, we have really come a long way in the last few years. Today everybody, from the NRA to the gun manufacturers to police advocates, is advocating for handgun control because all believe that trigger locks, child safety locks, are helpful in preventing gun-related harm.

No matter what the outcome is on this vote, I am sure we will continue to work for a consensus. Someday, I believe we will reach one on the issue of kids and guns.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

AMENDMENT NO. 3233

Mr. SMITH of New Hampshire. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 3233.

Mr. SMITH of New Hampshire. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

''SEC. . None of the funds appropriated pursuant to this Act or any other provision of law may be used for (1) any system to implement 18 U.S.C. 922(t) that does not require and result in the immediate destruction of all information, in any form whatsoever, submitted by or on behalf of any person who has been determined not to be prohibited from owning a firearm; (2) the implementation of any tax or fee in connection with the implementation of 18 U.S.C. 922(t); provided, that any person aggrieved by a violation of this provision may bring an action in the federal district court for the district in which the person resides; provided, further, that any person who is successful with respect to any such action shall receive damages, punitive damages, and such other remedies as the court may determine to be appropriate, including a reasonable attorney's fee. The provisions of this section shall become effective one day after enactment.''

Mr. SMITH of New Hampshire. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3234 TO AMENDMENT NO. 3233

Mr. SMITH of New Hampshire. Mr. President, I send a second-degree to my own amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 3234 to amendment No. 3233.

Mr. SMITH of New Hampshire. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

In the pending amendment, strike all after the word ''SEC.'' and insert in lieu thereof the following:

''SEC. .None of the funds appropriated pursuant to this Act or any other provision of law may be used for (1) any system to implement 18 U.S.C. 922(t) that does not require and result in the immediate destruction of all information, in any form whatsoever, submitted by or on behalf of any person who has been determined not to be prohibited from owning a firearm; (2) the implementation of any tax or fee in connection with the implementation of 18 U.S.C. 922(t); provided, that any person aggrieved by a violation of this provision may bring an action in the federal district court for the district in which the person resides; provided, further, that any person who is successful with respect to any such action shall receive damages, punitive damages, and such other remedies as the court may determine to be appropriate, including a reasonable attorney's fee. The provisions of this section shall become effective upon enactment.''

Mr. SMITH of New Hampshire. Mr. President, this amendment relates to

the Federal Bureau of Investigation's new National Instant Criminal Background Check System, otherwise known as the NICS, which is scheduled to take effect on December 1 of this year.

The so-called Brady Act had two provisions. One of those provisions was an interim provision, and the other was a permanent provision. In the interim provision is the waiting period for gun purchases that is now in effect but which will expire on November 29 of this year.

Now, the permanent provision, which takes effect on December 1, mandates—I emphasize the word ''mandate''—mandates the establishment of a National Instant Criminal Background Check System, known as the NICS, which is to be operated by the Department of Justice.

The purpose of this National Instant Criminal Background Check is to prevent the purchase of guns by persons with criminal backgrounds who are prohibited otherwise from owning firearms. Under this new system, persons seeking to buy guns will be required to submit certain identifying information for clearance through this NICS.

Now, this raises serious concerns. I have concerns here that the FBI has stated that in cases where the NICS background check does not locate a disqualifying record, information about that individual, according to the language, will only be retained temporarily for audit purposes and will be destroyed after 18 months.

My question to my colleagues is this: Why hold on to this information for 18 months? These are innocent people who have no disqualifying record. They are entitled, under the second amendment, to own their firearms. I don't think any records ought to be kept for 18 minutes, let alone 18 months. There is simply no reason that the FBI needs to retain private information on law-abiding American citizens—in this case, gun owners—for any time at all, let alone for 18 months.

There are no legitimate audit purposes for retaining private information on law-abiding gun owners in the FBI. Now, we have seen abuses. We have seen files turning up from the FBI on individuals who happen to appear in the White House, and on and on and on. This is an opportunity to abuse the privacy rights of millions of American gun owners. It is simply wrong if you didn't do anything. If your record is clear and there is no disqualifying information, then there should be no record kept, period.

I have heard a lot from law-abiding gun owners in the country who view this FBI gun owners ID record retention scheme as an ominous step toward national gun registration, which I believe is probably the ultimate goal here. Justifiably, in my view, they see this plan as a threat to their second amendment right under the Constitution of the United States. I agree with them. I feel deeply about this. I emphasize again that FBI files have been abused, and to keep, for any period of time—especially as long as 18 months—files on people who have done nothing wrong, in the FBI, is wrong.

Stated simply, my legislation will put a stop to the FBI's plan to keep records of private identifying information on law-abiding citizens who buy guns. My amendment will require the immediate destruction of all information submitted by or on behalf of any person who has been determined not to be prohibited from owning a firearm.

Mr. President, my amendment has another purpose as well. The Department of Justice has proposed to charge fees—a gun tax, if you will—for the NICS, using the authority of a provision in the 1991 Commerce, Justice, State Appropriations Act.

As Appropriations Committee Chairman STEVENS noted when he introduced the No Gun Tax Act of 1998 earlier this year, the 1991 Appropriations Act was passed 2 years before the law establishing the National Instant Criminal Background Check System.

Moreover, as Chairman STEVENS properly observed, the 1991 act ''was never intended to allow fees under the NICS program.'' ''This limited 1991 authority,'' Senator STEVENS noted, ''allowed fees only 'to process fingerprint identification records and name checks for noncriminal justice * * * and licensing purposes.'''' ''It was not intended,'' concluded Senator STEVENS, ''to apply to programs like the NICS program, which checks the criminal background of purchasers and has nothing to do with licensing.''

In introducing his No Gun Tax Act of 1998, which I was honored to cosponsor, Senator STEVENS also aptly observed that, ''The imposition of a fee would encourage some to try to obtain firearms on the black market.'' ''No matter how you feel about gun control,'' Senator STEVENS said, ''we should all do what we can to make sure that the new background check system works.''

My amendment would prevent the use of funds by the Department of Justice for the ''implementation of any tax or fee'' in connection with the implementation of this new National Instant Criminal Background Check System.

Under the second amendment, law-abiding American citizens have the right to own a firearm. And if the Congress, in its wisdom, decides that we are going to have this background check and a person is not disqualified, he or she should not have to pay for it. It is their constitutional right to have a weapon if they are honest, law-abiding citizens, and they should not have to pay a fee because somebody said they needed to check to find out if they were honest people or not. It is wrong. This is ''big brother,'' Mr. President, and it is wrong.

So my amendment would create a civil cause of action, as well, on behalf of any person who is aggrieved by a violation of this act, which can be brought in the Federal district court for the district in which the person resides. So if your rights are violated, then you have a right to take this matter to court, as any citizen would. If successful, such a lawsuit would entitle the gun owner wronged by a violation of the provisions of my amendment to an award of damages and any other remedies deemed to be appropriate by the court, including attorney's fees.

We must not allow a trampling of the second amendment. We must not allow fees to be charged to people who have done nothing except own a firearm and be legal, law-abiding citizens. They should not have to pay a fee. I hope this amendment will have broad support. The sound operation of the new National Instant Criminal Background Check requires neither the retention of ID records on law-abiding gun purchasers nor the imposition of a user-fee gun tax.

So, in conclusion, let me just say, No. 1, my amendment says if the background check is conducted, no record is kept if you have done nothing wrong, you are a law-abiding person, and you are entitled to that gun. No record is kept, period. Secondly, no fee is charged. Thirdly, if records are kept in violation of this act, then you have a remedy in court.

That is the amendment, Mr. President. So I say to my colleagues, if you support the second amendment and the rights of law-abiding people not to be harassed, you will support my amendment. We have seen harassment by the IRS, and this will invite harassment by the FBI if we do not stop this process. How many files will be retained? What information will be used on these people in these files? When I think of the FBI and I think of a file held in the FBI on somebody, I think of someone perhaps doing something wrong or being accused of doing something wrong. These people have done nothing wrong, except own a gun. That is not wrong; that is legal under the Constitution of the United States.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER (Mr. GORTON). Is there a sufficient second?

There is not a sufficient second.

Mr. GREGG. Mr. President, is the Senator asking for the yeas and nays on the second-degree amendment?

Mr. SMITH of New Hampshire. Yes.

Mr. GREGG. You are going to want yeas and nays on both?

Mr. SMITH of New Hampshire. The second-degree amendment will be the first one voted on. I would be happy to vitiate them on the second vote, but I need to have a vote on the second-degree amendment.

Again, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, we will go back to the Boxer amendment.

Mrs. BOXER. Mr. President, Senator BIDEN has sent word over that his time can be taken by Senator KOHL and myself. Senator BIDEN was going to talk for 15 minutes. I ask that that time be divided between Senator KOHL and myself.

The PRESIDING OFFICER. There is no order to that effect.

Mrs. BOXER. I want to give some time to Senator KOHL. I have no need to talk on and on.

The PRESIDING OFFICER. Does the Senator from Wisconsin seek recognition?

Mr. KOHL. Yes, I do.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I oppose this amendment for two reasons. First, while I have a great deal of respect for Senator SMITH—I was in the room when we wrote the Brady Act—along with Senators Dole, Mitchell and Metzenbaum. Certainly no one in that room believed that you couldn't charge fees under Brady. If anything, we expected that fees would be charged for doing checks. Nothing in Brady's legislative history leads me to change my mind.

Fees for background checks are nothing new. In fact, when we negotiated Brady, all of us were aware that the FBI charged fees for other background checks. And no one was surprised that, once Brady became law, 39 States authorized fees for State-run Brady checks. No one is questioning these other fees.

Second, prohibiting fees—without otherwise providing the funding necessary to support the instant check system—would endanger the Brady Act. The instant check system, which was originally proposed by the NRA itself, is an essential part of Brady that is scheduled to replace the State-run system at the end of this year.

Of course, these instant checks will cost money. The FBI believes it will need about $75 million to pay for additional staff and resources. Unless the instant check system gets funded, these checks will not happen. No funding, no checks. And no checks means more criminals with guns and more violence.

Now, in my opinion, it doesn't matter whether the funding for instant checks comes from fees or from a separate appropriation, but we need funding from somewhere, and we should not make the FBI choose between cracking down on violent gangs and doing instant checks. But this amendment provides no alternative funding.

Mr. President, the real issue before us is this. We can pay for instant checks and build on the Brady Act's record of stopping nearly 150,000 criminals from buying guns, or we can leave Brady's future up in the air and risk putting more guns in the hands of dangerous felons. In my view, the choice is easy. I do not want to see the FBI make a ''profit'' on these fees, but we need to make sure that background checks continue saving lives by defeating this amendment.

I thank the Chair. I yield for the Senator from California.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank the Chair.

AMENDMENT NO. 3231

I assume we are getting close to a vote on this amendment. I want to make a point here. I do not believe that this child safety lock amendment is a panacea—the cure-all, which will stop all kids from dying. But it will help. And I believe we must do whatever we can to help.

I want to talk to you about a survey that was done by the Violence Policy Center called ''Kids Shooting Kids.'' These are stories from across the Nation of unintentional shootings among children and youth. This is a 9-month period in 1996. You read a story and you think, ''This is horrible,'' and you don't realize the extent to which this is affecting our families and hurting our children.

So what I would like to do is read a number of these cases with this point in mind, to show you how widespread this crisis truly is. It is not a panacea, but I believe it will save children's lives—maybe 100, maybe 200, a year.

As you hear these stories, what I want you to do is ask yourself a question, I say to my colleagues: If there was a lock on that gun, would this accident have happened? That is what I am asking you to do. Put the commonsense test to it.

''Two boys hurt when pistol fires.'' This one is in Mobile, AL.

Two boys looking under a mattress for loose change found a pistol instead. When the weapon discharged, Jacob Lewis, 7, lost a finger. His friend, Michael Moore, was hit in the face, the neck and the abdomen. Jacob's grandfather, Art Lewis, kept spare change under his mattress, along with a handgun. ''They knew I kept some change there, but they had no business going back into that bedroom,'' Jacob's grandfather said.

Jacob was treated and released. Michael was still in the hospital listed in stable condition. Lewis said his son gave him the gun two weeks ago for protection because he was alone. He said, ''I have never had a pistol.'' He kept the handgun loaded. He says, ''I don't want a pistol. I don't want anything like this in my life.''

That is what happened after the accident.

Valdez, AK. This is a picture of this little child, 8 years old. Front page story:

An 8-year-old Valdez boy died Saturday of a gun shot wound after he and his 10-year-old brother had been playing with a handgun in their Aleutian village home. Steven Lind Johanson was pronounced dead at Valdez Community Hospital of a single shot to the head.

They said the results would be known later. ''All we know at this point is they were playing with guns.'' For whatever reason, the little boy got shot.

So here you have this cute little boy with a little space in between his teeth. He hadn't even gotten all of his teeth yet. He is dead:

Boy 15, shot in the face with a .357 in stable condition.

This is in Alaska. He was playing with a gun.

My understanding is he may lose some of his hearing. The boy thought the chamber was empty and happened to pull the trigger. The gun was stolen.

It goes on: A 14-year-old Amber Valley boy shot in the head and killed while he and his best friend were handling a handgun.

These are not kids in gangs. These are not kids who are vicious. These are ordinary children who are doing what ordinary children do, which is to be curious, which is to imitate what they see in the movies. Had there been a safety lock, these little children might be alive today.

These stories go on and on:

Glendale boy finds gun. Accidentally shot, .22 caliber revolver.

9-year-old Oasis boy accidentally shot. Victim in serious condition.

3-year-old finds gun, kills sister.

Unbelievable.

Boy paralyzed in gun accident.

That is in Atlanta, GA.

17-month-old shot accidentally by boy, 3.

Accidentally shot by a playmate.

Boy, 11, dies in a gun mishap.

It just goes on and on.

So we can say there is nothing we can do, and we could say let's pass a sense-of-the-Senate that parents should be shown all of this. That is fine. I don't have any problem with that. But we have to do something real, and that thing is to put locks on guns.

So I was hoping against hope that we could, Senator CRAIG and I, join hands on this one, that we could agree on this one, because I know we have certainly argued on other issues. I am quite surprised that we can't reach agreement on this. I think it is common sense. I think it is good law.

Mr. President, I hope we can have a vote on this. I hope we will succeed on this. It is not my hope to speak much longer, only to respond if there is something that is put out that I think is merits a response. But I ask unanimous consent that the rest of these stories be printed in the RECORD, not the entire group but a representative sample of stories that I have shared with my colleagues.

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

[From the Macon Telegraph, Dec. 17, 1995]

17-MONTH-OLD SHOT ACCIDENTALLY BY BOY, 3

(By Joe Kovac, Jr.)

A 17-month-old girl who was accidentally shot in her arm was recovering in a Macon hospital Saturday night. The shooter, police said, was a 3-year-old playmate.

The victim, Yanita Grier, was shot one time with a .38-caliber revolver apparently left lying out in a bedroom, detectives said.

The child was in ''stable'' condition at The Medical Center of Central Georgia late Saturday.

The 3-year-old boy who'd been handling the gun told an investigator he'd picked it up and that it fired when he dropped it.

''My heart dropped when I went in and saw (what had happened),'' said officer Cornelius Pendleton. ''There shouldn't have been a gun there like that.''

The 7 p.m. shooting happened in a two-bedroom apartment at 709–A Patton Ave., a block east of Henderson Stadium, where between 10 and 13 children were living with three adults, police said.

The wounded girl's mother, Denita Grier, 28, along with other adults there, told police she didn't know there was a gun in the apartment.

''They were shocked to hear the shot,'' said detective Capt. Henry Gibson.

He said the gun belonged to the boyfriend of one of the residents.

Initially, police were trying to figure out how the 3-year-old, whose name was not released, managed to squeeze the trigger.

Only when a detective was able to talk to the child did the shooting become more comprehensible.

''It was very disturbing, kind of nerve-racking, when you arrive on the scene and they tell you a 17-month-old has been shot with a .38,'' Gibson said. ''When we asked who the suspect was, they said it was a 3-year-old child.''

No charges are expected to be filed in the incident.

[From the Okawville (IL) Times, Mar. 6, 1996]

CHILD SHOT WHILE PLAYING WITH GUN

Zach Muncy, 12, was shot in the chest as he and friend Josh Mathews were playing with a small gun at the home of his grandmother, Voneda Impastato, Thursday evening.

The bullet hit Muncy's sternum. He was taken by ambulance to the Washington County Hospital, where he underwent emergency surgery to have the bullet removed. He was released the next day, and was able to return to school Tuesday.

The bullet struck only a half-inch from Muncy's heart, which would have proved fatal.

Mathews received only minor injuries on his chest from fragments of the ammunition that exploded. He was treated and released at the hospital the same evening.

According to the Okawville Police report, the youths were handling a small caliber pistol. They had apparently placed old (and perhaps ammunition not designed for the gun) in the chamber. A round was fired and exploded in the weapon itself.

Voneda Impastato said that the boys had found the gun. She was not at home when the accident occurred.

Zach Muncy moved in February from Taylorville to live with his grandmother at the Senior Apartments in Okawville. He had formerly lived in Okawville with his parents, Dennis Muncy and Jean Muncy Gaynor, who have since divorced and live in Taylorville.

Mathews lives with his father, Randy Mathews in Okawville.

No charges are pending in the incident.

[From the Chicago Daily Southtown, Apr. 27, 1996]

BOY, 11, DIES IN GUN MISHAP

(By Stephanie Gehring and Janis Parker)

A 15-year-old Auburn-Gresham neighborhood boy was charged with involuntary manslaughter Thursday after he accidentally shot and killed an 11-year-old friend while playing with a handgun.

Bryant Suttles, 7842 S. Winchester Ave., was shot once in the head with a 9mm semiautomatic handgun while the two boys were in Suttles' basement about 5:30 p.m. Thursday.

The 15-year-old, whom police would not identify, first told police he and his friend had found the gun in a drawer. The 11-year-old took it out, pointed it at his head and shot himself. But the 15-year-old later admitted he was the one handling the gun, Calumet Area violent crimes Sgt. Larry Augustine said.

[From the Atlanta (GA) Constitution, Feb. 16, 1996]

BOY PARALYZED IN GUN ACCIDENT—COUSIN, 9, MISTAKENLY THOUGHT HE REMOVED BULLETS, POLICE SAY

(By Bill Montgomery)

A 10-year-old College Park boy was paralyzed when shot accidentally by a 9-year-old cousin playing with a handgun he thought was unloaded, police said.

Somari Smith was paralyzed from the chest down in the shooting Wednesday at his home at Harbour Towne Apartments on Riverdale Road, Clayton County police said.

Somari was listed in critical but stable condition at Eggleston Children's Hospital on Thursday evening.

Clayton County police Lt. Doug Jewett would not identify the boy who fired the shot, pending further investigation. Jewett said the shooting apparently was an accident.

The 9-year-old thought he had unloaded the .25-caliber semiautomatic pistol by removing the magazine and did not realize a round remained in the chamber, Jewett said.

Somari's stepfather, Michael Williams, 32, had left the boys and a 2-year-old cousin alone at the apartment while he went to pick up his wife from her job in Atlanta, Jewett said.

The 9-year-old called 911 for help, police said, and met the officer who responded at the door. Officer B.E. Kelley found Somari lying in an upstairs bathroom. The officer saw blood on Somari's chest, arms and the rug beneath him, and the boy complained he had no feeling in his legs.

[From the Fort Myers, FL News-Press, Jan. 15, 1995]

3-YEAR-OLD FINDS GUN, KILLS SISTER—PARENTS COULD FACE CHARGES

(By Bob Norman)

Three-year-old Colton Hinke was sitting in the corner of his parent's dark bedroom Sunday night, silent and trembling, a .25-caliber pistol having just gone off in his hand.

His 2-year-old sister, Kaile Hinke, was on her back on the apartment's family room floor at Player's Club, staring upward, her lips blue, her face pale, a little hole in her upper right chest.

Kaile was in shock after being shot by Colton at about 7:15 p.m. Thirty minutes later she would be declared dead at Lee Memorial Hospital, surrounded by her grieving parents, who under state law could be charged in her death.

Colton had pulled the loaded gun out of a drawer in the bedroom, said Chris Robbins, a neighbor who heard the gunshot and discovered the little girl.

''The boy didn't even know what was going on,'' Robbins said, ''The hardest thing is that they are both innocent victims.''

Colton and Kaile were in their parents' bedroom playing while their mother, Sherri Hinke, 24, was in another room, according to police. The father, 27-year-old Michael Hinke, was at work at Domino's Pizza.

When Robbins heard the gunshot, he ran to the apartment and found the mother in hysterics, kneeling over her daughter, who still was breathing.

''Where has she been shot?'' he asked her.

''I don't know,'' cried the mother.

''Lift up her shirt,'' he instructed.

When she did so, he saw the little hole in her chest. Robbins then ran into the bedroom to see Colton.

''I just picked him up and took him outside,'' Robbins said, ''He was just scared, shaking. I rubbed his back and told him everything's going to be OK and that he had to be a good boy.''

Michael Hinke rushed from his job to the apartment off Colonial and Evans avenues, and he and his wife were taken by police to the hospital.

''My daughter is dying,'' Sherri Hinke said, overcome with emotion.

Robbins, 33, a former Army Ranger who was visibly shaken by the tragedy, followed the family to the hospital.

''She was a beautiful little girl,'' a red-eyed Robbins said after leaving Kaile's bedside. ''She had big . . . she had the biggest blue eyes. But I'm so worried about the little boy. I hope he gets help.''

Colton was put in his grandmother's care after the shooting, Robbins said, adding that he apparently had realized what had happened.

''The family told me that he said, 'Nana, I shot my sister,' '' he said.

Under a state law passed in June 1989, parents can be charged with a misdemeanor if they leave loaded firearms where children can get to them. If a child injures or kills someone with a gun, the parents could be charged with a felony punishable by five years in prison.

Fort Myers police hadn't filed any charges as of Sunday night.

''Until they get done with all the interviewing and find out all the facts of the case, there won't be any charges,'' Sgt. Kevin Anderson said.

Accidental gunfire deaths have been a leading cause of death of children aged 5–14 for years. It is rare, however, for children younger than 5 to die in accidental gunfire, according to state statistics.

Neightors, many of whom heard the gunshot, were shocked when they heard what had happened.

''Maybe you just might want to part with your firearms when you have children in the house,'' said neighbor Chris Marsella, 29. ''Or at least keep them locked up somewhere.''

[From the Palm Springs, CA Desert Sun, Feb. 19, 1996]

9-YEAR-OLD OASIS BOY ACCIDENTALLY SHOT

(By Kenny Klein)

OASIS—A 9-year-old boy was shot in the chest Sunday while he and a 14-year-old friend played with a loaded handgun in the older boy's home, sheriff's deputies reported. No adults were in the mobile home when the shooting occurred, deputies said.

The younger boy, Angel Gomez of Oasis, was listed in serious condition at Desert Hospital in Palm Springs late Sunday after having surgery to remove the bullet, which entered his left arm and passed into his chest, Riverside County sheriff's deputies said.

The 14-year-old Oasis boy who deputies would not identify, was detained and turned over to Riverside County Child Protective Services because his guardians, believed to be an aunt and uncle, could not be located Sunday afternoon.

''He's not walking away from this,'' sheriff's Sgt. John Carlson said. The boy is ''terrified and scared out of his wits.''

The shooting, which deputies believe was accidental, happened about noon inside the

mobile home in the 72–7090 block of Pierce Street, deputies said. The two boys apparently found the medium- to large-caliber handgun and began playing with it, deputies said.

The gun went off and struck the 9-year-old, Carlson said. The 14-year-old boy ran to a nearby mobile home where the neighbor called 911, Carlson said.

''When questioned, the 14-year-old said that the other boy shot himself,'' Carlson said. ''The location of the wound makes that story extremely unlikely.''

Deputies and an investigator waited at the mobile home for the older boy's aunt and uncle to return, but hadn't located them by 9 p.m. Investigators planned to search the mobile home for the weapon, they said, because the older boy refused to tell them where it was.

The aunt and uncle could face a felony charge of leaving a loaded firearm where a child can obtain and improperly use it, Carlson said. The maximum sentence for a conviction would be three years, he said.

The 9-year-old boy lives near the park and often hangs around the area, deputies said.

''Angel is such a nice boy but the other boy is a little wild,'' said trailer park resident Raquel Sanchez, 39. ''I can't believe this happened.''

Angel's family feared for his life.

''I hope my brother is going to be OK,'' said 13-year-old Blanca Gomez, the boy's sister. ''I'm so worried.''

Both boys attend Oasis School, she said.

Mrs. BOXER. I yield the floor at this time.

Mr. CRAIG. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MOTION TO COMMIT WITH AMENDMENT NO. 3235

(Purpose: To provide for firearms safety, and for other purposes)

Mr. LOTT. Mr. President, I move to commit the pending legislation to the Judiciary Committee to report back forthwith in status quo with an amendment as follows.

I send the text to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] moves to commit the pending bill to the Judiciary Committee with instructions to report back forthwith in status quo and with the following amendment, No. 3235.

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

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

The amendment (No. 3235) is as follows:

In the appropriate place insert the following:

SEC. . FIREARMS SAFETY.

(a) SECURE GUN STORAGE DEVICE.—

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(34) The term 'secure gun storage or safety device' means—

''(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

''(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

''(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.''.

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).''.

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: ''or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)''.

(d) STATUTORY CONSTRUCTION; EVIDENCE.—

(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(B) as establishing any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. . FIREARM SAFETY EDUCATION GRANTS.

(a) IN GENERAL.—Section 510 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

''(1) undertaking educational and training programs for—

''(A) criminal justice personnel; and

''(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;'';

(2) in the first sentence of subsection (b), by inserting before the period the following: ''and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c)''; and

(3) by adding at the end the following:

''(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

''(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

''(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

''(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

''(A) is not of a sufficient size to justify an evaluation; or

''(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3236 TO INSTRUCTIONS

(Purpose: To provide for firearms safety, and for other purposes)

Mr. LOTT. I send an amendment to the desk to the instructions and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 3236 to the instructions.

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

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

The amendment is as follows:

Strike all after the first word of the amendment, and insert the following:

SEC. . FIREARMS SAFETY.

(a) SECURE GUN STORAGE DEVICE.—

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(34) The term 'secure gun storage or safety device' means—

''(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

''(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

''(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.''.

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).''.

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: ''or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)''.

(d) STATUTORY CONSTRUCTION; EVIDENCE.—

(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(B) as establishing any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. . FIREARM SAFETY EDUCATION GRANTS.

(a) IN GENERAL.—Section 510 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

''(1) undertaking educational and training programs for—

''(A) criminal justice personnel; and

''(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;'';

(2) in the first sentence of subsection (b), by inserting before the period the following: ''and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c)''; and

(3) by adding at the end the following:

''(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

''(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

''(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

''(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

''(A) is not of a sufficient size to justify an evaluation; or

''(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) October 2, 1998; or

(2) the date of enactment of this Act.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3237 TO AMENDMENT NO. 3236

(Purpose: To provide for firearms safety, and for other purposes)

Mr. LOTT. I now send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 3237 to amendment No. 3236.

The amendment is as follows:

Strike all after the word ''Firearms'' and insert the following:

SAFETY.

(a) SECURE GUN STORAGE DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(34) The term 'secure gun storage or safety device' means—

''(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

''(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

''(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.''.

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).''.

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: ''or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)''.

(d) STATUTORY CONSTRUCTION; EVIDENCE.—

(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(B) as establishing any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. . FIREARM SAFETY EDUCATION GRANTS.

(a) IN GENERAL.—Section 510 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

''(1) undertaking educational and training programs for—

''(A) criminal justice personnel; and

''(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;'';

(2) in the first sentence of subsection (b), by inserting before the period the following: ''and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c)''; and

(3) by adding at the end the following:

''(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a

firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

''(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

''(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

''(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

''(A) is not of a sufficient size to justify an evaluation; or

''(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.''.

UNANIMOUS CONSENT REQUEST

Mr. LOTT. Mr. President, I will be happy to withdraw this action just taken if the Senator from California would be willing to agree to the following consent, which I will now propound. This consent would allow for a vote in relation to the Craig gun safety issue as well as the Boxer trigger lock issue. I hope the Senator would consider and would agree to the consent.

I ask unanimous consent, then, that the pending Boxer second-degree amendment be withdrawn and the motion to commit be withdrawn and the first-degree amendment be laid aside and Senator CRAIG be immediately recognized to offer a first-degree amendment relative to gun safety.

I further ask that there be 90 minutes for debate on both the Boxer and the Craig amendments combined, to be equally divided between Senators CRAIG and BOXER, with no second-degree amendments in order to either amendment, and following the conclusion or yielding back of time, the Senate proceed to a vote on or in relation to the Craig amendment, to be followed immediately by a vote on or in relation to the Boxer amendment.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Mr. President, reserving the right to object, this may work out fine, I say to the majority leader. We just want a little time to share it with a few Senators here who are very involved in this amendment. So at the moment I will object, keeping the door wide open to eventual agreement, but we would like to have about 15 minutes to look it over.

Mr. LOTT. If I might say to the Senator's objection, I think this is a fair way to consider this issue. The Senators have time to state their position on both sides of the issue and we could then come to a vote on both of them. My effort here is to try to get it set up in that way where each side gets a fair vote, each side gets a fair time to debate it. I hope the Senator will give consideration to that. If the Senator likes, until we can decide exactly how we might proceed, 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. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that the pending Boxer second-degree amendment be withdrawn and the motion to commit be withdrawn and the first-degree amendment be laid aside and Senator CRAIG be immediately recognized to offer a first-degree amendment relative to gun safety.

I further ask unanimous consent that there be time between now and 4:45 for debate on both the Boxer and the Craig amendments combined, to be equally divided between Senators CRAIG and BOXER, with no second-degree amendments in order to either amendment; that following the conclusion or yielding back of time, the Senate proceed to a vote on, or in relation to, the Craig amendment, to be followed immediately by a vote on, or in relation to, the Boxer amendment; further, that there be 2 minutes of debate prior to the vote in relation to the Boxer amendment.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object, and I shall not object, I ask the majority leader if he will be willing to allow a straight up-or-down vote on both measures and rule out the tabling motion. Will he be willing to incorporate that in the UC?

Mr. LOTT. First of all, I thank the Senator for working with us to get what I believe to be a fair amount of time and a vote on each issue. We will not be able to amend it to allow for that vote. We have to have the option for a motion to table.

Mrs. BOXER. I am disappointed, because I think it is a very clear vote: Either you are for child safety locks or not. I would have preferred that, but in the interest of moving this bill forward, I do not object to the unanimous consent request.

Mr. CRAIG. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I will be offering a first-degree amendment in a few moments if this is accepted. I think for the sake of all Senators understanding what is in that amendment, I will require an additional 5 minutes of time for the explanation of that amendment.

Mr. LOTT. Mr. President, can we amend the unanimous consent request to take it then to 4:50 p.m.?

Mrs. BOXER. As long as it is equally divided—you get the extra time, and we get the extra time—that is fine with us.

Mr. LOTT. I make that request then.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Idaho is recognized.

(Amendment No. 3231, Lott motion to commit with amendment No. 3235, Amendment Nos. 3236 and 3237 were withdrawn.)

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 3238

(Purpose: To provide for firearms safety, and for other purposes)

Mr. CRAIG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for himself and Mr. HATCH, proposes an amendment numbered 3238.

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

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

The amendment is as follows:

At the appropriate place insert the following:

SEC. . FIREARMS SAFETY.

(a) SECURE GUN STORAGE DEVICE.—

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(34) The term 'secure gun storage or safety device' means—

''(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

''(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

''(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.''.

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of

the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).''.

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: ''or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)''.

(d) STATUTORY CONSTRUCTION; EVIDENCE.—

(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(B) as establishing any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. . FIREARM SAFETY EDUCATION GRANTS.

(a) IN GENERAL.—Section 510 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

''(1) undertaking educational and training programs for—

''(A) criminal justice personnel; and

''(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;'';

(2) in the first sentence of subsection (b), by inserting before the period the following: ''and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c)''; and

(3) by adding at the end the following:

''(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

''(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

''(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

''(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

''(A) is not of a sufficient size to justify an evaluation; or

''(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

Mr. CRAIG. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CRAIG. Mr. President, I have sent the amendment to the desk. I thank my colleagues from California and Illinois for raising the issue of firearms safety. All of us are concerned about it. We should be. There is no question that this Senate should express itself. But I think it is wrong to suggest that one size fits all and that Washington has the right answer. Even as the Senator from California was speaking, she was talking about local community and State law that was changing the character of gun ownership and the management or the safe handling of guns. And that is exactly what my amendment offers.

It recognizes that there is no quick fix to the tragedy of juvenile crime and firearm accidents. But it does recognize the importance of making available safety devices of all kinds to fit all circumstances, not just a trigger lock but a safe, a box, a lockbox, all of those kinds of things that should be required and made available to gun purchasers by the community of interests that sells guns and small business people who offer those types of firearms to the public.

First, it expands the definition of ''safety devices'' to include, as I have mentioned, a variety of devices besides just trigger locks. I think it is important that we do that.

My amendment requires that vendors have these safety devices available for sale, but it does not require that a vendor sell a safety device along with every firearm. It certainly does say that a vendor must make these available and that the purchasing public become aware of it.

It is also important that my amendment helps to ensure that this new requirement is entirely tort neutral. The amendment provides that it does not establish a standard of care or it further states that evidence regarding compliance or noncompliance with this requirement is inadmissible in court. The amendment, therefore, does not hurt nor help a plaintiff or a defendant.

Finally, my amendment helps to ensure that State and local authorities are prepared to train members of the public in the safe possession, carrying, and use of firearms. As you know, 34 States have now passed and empowered our citizens to carry concealed weapons for protection. Therefore, it is critical that we as a citizenry advance the cause of education.

My amendment allows for Byrne grant funds to be used by State and local law enforcement agencies to train the public in the safe handling of firearms and to make a positive contribution in that education. The statistics that are real that I have spoken to this afternoon and that the Senator from California has spoken to can be dramatically reduced by education, by training, and by understanding. It is evident because we see the decline in gun accidents today.

We also know that there are a variety of organizations out there that are actively involved in working to train our citizens as it relates to the safe use of firearms. So my amendment is much broader. It is not a mandate, but it certainly requires the full complement of gun safety equipment and necessary attributes to be sold and made available to gun owners, and it provides education and educational moneys for local and State law enforcement agencies to begin to train and educate our citizenry as it relates to this important issue.

More and more States are moving to the right of citizens to carry guns. Thirty-four States have now said, by their action, that the citizen is empowered to carry a weapon for the purpose of protection; yet there is a decline in the number of accidental deaths by guns. That can come, as it is coming, by education. We are empowering, by this amendment, our State and local governments to do just that.

Let me close by saying this: The provision that I offer is an amendment that was offered and adopted by the Judiciary Committee last year during its markup on S. 10, the juvenile crime bill. I urge my colleagues to agree with the consideration and the judgment of the Judiciary Committee. Senator ORRIN HATCH, the chairman of the Judiciary Committee, is a cosponsor with me of this amendment. It has had full consideration and acceptance by that committee.

So it is not something that is quick to judge. It is something to recognize that as we debate the safety of the use of firearms, that we assure the public the availability of equipment and devices to ensure and broaden that safety and, most importantly, it provide the necessary educational components to offer that.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from California.

Mrs. BOXER. Mr. President, it is my understanding that I will be controlling 5 minutes at this time, correct?

The PRESIDING OFFICER. Five-and-a-half minutes.

Mrs. BOXER. Five-and-a-half minutes.

It is my intention to yield most of my time to my colleague from Illinois. When I first heard about the Craig amendment and looked it over, without getting into the details, I thought this looked like something I could support. Now I am having doubts about it due to the enforcement provisions.

I am going to turn it over to my friend and colleague from Illinois.

I yield 4 minutes to the Senator from Illinois.

Mr. DURBIN. I thank the Senator from California.

For those who missed a few innings and would like to know what the score is, what happened, the Senator from California offered an amendment which requires a trigger lock be sold with each handgun in America. And she does a few things procedurally so we are going to have an up-or-down vote. And, of course, there are people who do not want to vote on that. They are afraid of—well, let us not say that. There are people who disagree with her. There are people who don't want to vote on it.

The Senator from Idaho, who openly opposes her amendment, comes in with what he considers to be a substitute amendment. That is what we are debating now. The good part is, when it is all over, we get to vote on both of them: The proposal of the Senator from Idaho, which I have in my hand, that he just described, and then the proposal of the Senator from California, which says, ''Sell a handgun in America, sell with it a trigger lock.''

Originally, the Senator from California and I thought: No harm, no foul; we will take the Craig amendment and get a vote on her important trigger lock amendment. And then we took a closer look. Do you know what this says? This says to comply with the law in America, a federally licensed firearm dealer must have available on the premises for sale a trigger lock or safety device—available on the premises.

Then it has some words, some escape-hatch words in there that says, ''unless it is tough for you to buy them.'' If you cannot get them on the market, and such, then you do not have to have them on the premises. Do you have to sell them with the handguns? No; you just have to have them on the premises. I have to tell you, quite frankly, most of them probably have them on the premises now, but if people aren't buying them, then there is no safety aspect to this. We aren't protecting anybody.

So what it boils down to is, we are putting a requirement in the law that really does nothing. Then there is an interesting provision in here—and I do not know why the Senator from Idaho included it—but I might call him to reference page 4 of his amendment, section (2). It says, incidentally, if the federally licensed firearm dealer does not live up to the requirements of this law and keep trigger locks on the premises for sale, and you find evidence of that and want to use it against him to remove his license—guess what?—under section (2) you can't—you can't. ''Notwithstanding any other provision of law, [any] evidence regarding compliance or noncompliance with the amendments . . . [none of it is] admissible as evidence in [the court or any agency.]''

Mr. CRAIG. Will the Senator yield?

Mr. DURBIN. I will yield when I have completed. I thank the Senator.

I think that really tells the story. First, there is no requirement, and if there were, it is unenforceable. So this really is eyewash. This is an opportunity to have something to vote for, but the real something is coming. It is the amendment by the Senator from California.

Basically, what we are talking about now is whether or not we are for trigger locks to protect children. I am in favor of firearms safety and education. But the bottom line is that little trigger lock put on a revolver or a handgun keeps it from destroying another child's life.

We can vote for or against the amendment of the Senator from Idaho, but after it is all said and done, the real deal here is the amendment by the Senator from California, Senator BOXER. She is the one who says, you do not just have to have trigger locks on the premises, you have to sell them with the gun. You have to make sure the gun owner walks out with a trigger lock, not just a nod and a shelf with a trigger lock on it. I am afraid that nod is all we get from the Senator from Idaho. It is not good enough. It will not save a life. It is, in fact, an effort by some to find something for which to vote. I hope they will find in their hearts enough empathy for the real problems facing America to support the Senator from California.

Mr. HATCH. Mr. President, I rise to oppose this amendment offered by the Senator from California, and to join Senator CRAIG in offering our own amendment on this issue. I want to commend my colleague for raising the issue of firearms safety, but I believe that there is a better approach to this issue than the one size fits all, Washington knows best proposal offered by the Senator from California.

At the outset, let me say that I understand the strongly held views of my colleagues. My colleagues who are offering this amendment are searching for easy answers and quick fixes to the tragedies of juvenile crime and firearms accidents. I would tell them this: there are no easy answers, and there are no quick fixes. In the face of difficult problems, it is always tempting to look for easy answers. I do not believe that we should succumb to this temptation.

We can pass another federal law adding this gun control measure or that, but the problem won't go away. Because, Mr. President, the problem isn't guns, or a lack of safety devices, or the lack of any other gun control measure.

We are faced, I believe, with a problem which cannot be solved by the enactment of more federal gun control laws. It is at its core a moral problem. Somehow, in too many instances, we have failed as a society to pass along to the next generation the moral compass that differentiates right from wrong. This cannot be legislated. It will not be restored by the enactment of a new law or the implementation of a new program. But it can be achieved by communities working together to teach accountability by example and by early intervention when the signs clearly point to violent and antisocial behavior, as seems to be the case in some of these tragedies.

Now, I would like to debate this issue. I think the Senate should be debating juvenile crime legislation. The Judiciary Committee spent eight weeks last summer marking up the most comprehensive reform of the Juvenile Justice and Delinquency Prevention Act in that law's twenty-five year history. We could debate how to restore accountability to a broken juvenile justice system. We could debate how to fix a broken system that fails too many of our young people, so that it protects society. But we are not doing that. Instead, we will debate more gun control.

I should note for my colleagues that this particular provision has already been debated. The Judiciary Committee considered it last summer, and defeated it. Well, here it is again. So, we will debate it yet again.

This amendment would require a particular safety device to be sold with every firearm. My colleagues who are considering supporting this amendment should understand that no safety device is a substitute for firearm safety training and responsible firearm handling. Relying on a trigger lock as a panacea for firearm safety is irresponsible and short-sighted.

As an initial matter, there is no locking device that can be placed on a loaded firearm which can render it failsafe. Most locking device manufacturers specifically advise against the use of locking devices on a loaded gun. Requiring firearm manufacturers and licensed gun dealers to provide locking devices may send a dangerous message to the American public that it is ''OK'' to use the locking device on a loaded firearm. In fact, tests show that a loaded firearm affixed with a locking device can still fire. Requiring manufacturers to provide trigger locks with each firearm, therefore, takes a ''one size fits all'' approach to firearm safety. Because of firearm design differences, not all firearms can be properly safeguarded with a trigger lock.

Firearms safety training emphasizes personal responsibility in handling a firearm. Education and safety training has been instrumental in lowering firearm accidents and accidental deaths to its lowest point since 1904 (National Safety Council, Accidental Facts, 1996).

In 1995 alone, accidental firearm fatalities fell 7%. Due in large part to firearms education, promoted by organizations like the National Rifle Association, the Hunter Education Association, and other volunteer groups, firearms were involved in 1.5% of all accidental deaths nationwide. This percentage is lower than deaths due to motor vehicle accidents (47%), falling (13.5%), poisoning (11.4%), fire 4.4%), and choking (3%) (National Safety Council, National Center for Health Statistics).

Additionally, different circumstances dictate how an individual stores his firearm. While some people may choose to lock their firearms in a safe, someone else may choose to keep their firearm readily accessible for self-protection. Thus, locking devices may or may not be compatible with a person's lifestyle and reason for owning a firearm.

Mr. President, safety locks are already widely available, as are a wide range of other firearms safety devices. Industry is already making strides in offering these devices for sale. We do not need yet another federal mandate imposing a one size fits all safety ''solution'' on America's law abiding gun owners.

Instead, I offer my colleagues an alternative. My proposal will do far more to promote true firearms safety, and it is far more respectful of the common sense of the American people, than my friend's proposal. My amendment does three things. First, it expands the definition of safety devices to include not only devices that render a firearm temporarily unusable, but also temporarily inaccessible. As a result, my second degree amendment includes safety devices, such as safes and lock boxes, that do not disable a firearm, but make it at least temporarily inaccessible to a person.

Second, my amendment requires that vendors have safety devices available for sale, but it does not require that a vendor sell a safety device along with every firearm. Having them available for sale will help to ensure that purchasers will obtain, and thereafter will use, a safety device, without necessarily increasing the cost of the purchase. The Administration's provision embodied in my colleague's proposal would increase the cost of purchasing a firearm, which is unnecessary. Some safety devices, such as a safe or lock box, can hold more than one firearm, so there is no need to require that a person buy a new safety device if buying a second firearm.

Third, my amendment helps to ensure that this new requirement is entirely tort neutral. The amendment provides that it does not establish a standard of care, and it further states that evidence regarding compliance or noncompliance with this requirement is inadmissible in court. The amendment therefore does not help or hurt a plaintiff or a defendant.

Finally, my amendment helps to ensure that state and local law enforcement authorities can train members of the public in the safe possession, carry, and use of firearms. This is valuable. Training is the best way to ensure that firearms are treated with respect, but not with fear. Firearms handling is an important part of the training process for every soldier and every law enforcement officer, and it can be a valuable tool for private citizens. After all, about 34 States—including my home state of Utah—now empower citizens to carry concealed firearms for protection. Allowing Byrne grant funds to be used by state and local law enforcement agencies to train the public in the safe handling of firearms will make a positive contribution to safety and to crime prevention.

Taken together, all of these provisions deal with the issue of firearms safety in a far better manner than the amendment offered by my colleague. Moreover, this is the provision adopted by the Judiciary Committee last year, during the mark-up of S. 10, the Juvenile crime bill. I urge my colleagues to agree with the considered judgment of the Judiciary Committee, and support my alternative to this amendment.

Mrs. BOXER. Mr. President, it is very hard for me to vote for something that has so many loopholes in it. Maybe during the time in the well the Senator from Idaho can convince me of this, but basically you can't use evidence as evidence. That is what the words say. Here it is:

> Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence.

So you can't use evidence as evidence. I don't know—this is confusing.

I just say to my friends and colleagues, there is only one reason we have taken so much time on this. I was wondering what was going on here, because I came to the floor very early this morning and said let's vote up or down to require that child safety locks be put on handguns, because 5,000 kids are dying in America in a year and no kids are dying in Japan of gunshots. As you look at this chart, you can see that.

This is a figleaf, a cover. I don't think it does anything. People can vote the way they want. The next vote is the key vote.

The PRESIDING OFFICER. All time has expired. Under the previous order, the question is on agreeing to the Craig amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 72, nays 28, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—72

Abraham	Bond	Coats
Allard	Breaux	Cochran
Ashcroft	Brownback	Collins
Baucus	Bryan	Conrad
Bennett	Burns	Coverdell
Bingaman	Campbell	Craig
D'Amato	Helms	Murkowski
Daschle	Hollings	Murray
DeWine	Hutchinson	Nickles
Domenici	Hutchison	Reid
Dorgan	Inhofe	Roberts
Enzi	Jeffords	Roth
Faircloth	Johnson	Santorum
Feingold	Kempthorne	Sessions
Ford	Kerrey	Shelby
Frist	Kyl	Smith (NH)
Gorton	Leahy	Smith (OR)
Graham	Lieberman	Snowe
Gramm	Lott	Specter
Grams	Lugar	Stevens
Grassley	Mack	Thomas
Gregg	McCain	Thompson
Hagel	McConnell	Thurmond
Hatch	Moseley-Braun	Warner

NAYS—28

Akaka	Glenn	Moynihan
Biden	Harkin	Reed
Boxer	Inouye	Robb
Bumpers	Kennedy	Rockefeller
Byrd	Kerry	Sarbanes
Chafee	Kohl	Torricelli
Cleland	Landrieu	Wellstone
Dodd	Lautenberg	Wyden
Durbin	Levin	
Feinstein	Mikulski	

The amendment (No. 3238) was agreed to.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent that following the next vote, the Senate resume consideration of the Smith amendment No. 3234, and there be 20 minutes equally divided, with the vote occurring on or in relation to the amendment at 6 o'clock this evening.

Mr. HOLLINGS. Mr. President, I have no objection, with the understanding that 10 minutes on this side be reserved for the distinguished Senator from Illinois, Mr. DURBIN. I have no objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3230

Mr. CRAIG. Mr. President, I move to table the Boxer amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There are 2 minutes evenly divided.

Who yields time?

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, colleagues, please vote for this regardless of how you voted before. Too many children are dying in America because we are not——

The PRESIDING OFFICER. Will the Senator please suspend for a moment.

The Senate will be in order.

The Senator from California is recognized.

Mrs. BOXER. We are not acting to make sure that there are these safety locks placed for children, specifically to stop their deaths from handguns sold in America.

Look at these numbers. Look at this collage of headlines. How many more deaths do we need to see before we act?

I yield the remainder of my time to Senator BIDEN.

Mr. BIDEN. Mr. President, let's stop being hypocritical. We just passed an amendment saying safety is important; the NRA is eligible for Federal funds to teach safety. If the ultimate safety of children is what we are concerned about, why are we so upset about the idea that trigger locks will be placed on guns? How can you vote, as I will and have, to give the NRA eligibility to teach gun safety, which I want them to do, and say that is important, but it is not important to take the one step we can that will at least incrementally increase safety of children in the United States of America?

Please vote no on the motion to table.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Idaho.

Mr. CRAIG. Mr. President, 72 of you have just said that gun safety is important, and that we ought to educate, and we ought to use Byrne funds to do so—local law enforcement, State law enforcement, and private entities that teach licensed gun safety.

We have also said that gun dealers ought to have safety devices available. But we have also said there is a States rights issue here. Thirty-four States now have consent to carry. Safety is an issue. And guess what. Accidental deaths are declining, and they are declining because of education, not because of Federal mandates. Even manufacturers say you put a trigger lock on a loaded gun and it is dangerous.

Trigger locks I agree with. They are for empty guns. They are for stored guns. They are not called child locks, they are called safety locks. We believe in that. But why should it be a Federal mandate? It should not be.

The vote you just cast is the right vote. It mandates certain requirements at the local level be provided, and it allows education, and, more importantly, it says train and educate, don't control from the Federal level. Do the right thing. Vote to table. You have cast a sound vote; 72 Senators have said that the right action was the action you have just taken.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to the motion to table. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 61, nays 39, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—61

Abraham	Coats	Frist
Allard	Cochran	Gorton
Ashcroft	Collins	Gramm
Baucus	Conrad	Grams
Bennett	Coverdell	Grassley
Bond	Craig	Gregg
Breaux	D'Amato	Hagel
Brownback	Domenici	Hatch
Bryan	Dorgan	Helms
Burns	Enzi	Hollings
Campbell	Faircloth	Hutchinson
Hutchison	McConnell	Smith (NH)
Inhofe	Murkowski	Smith (OR)
Jeffords	Nickles	Snowe
Kempthorne	Reid	Specter
Kyl	Robb	Stevens
Leahy	Roberts	Thomas
Lott	Roth	Thompson
Lugar	Santorum	Thurmond
Mack	Sessions	
McCain	Shelby	

NAYS—39

Akaka	Feinstein	Levin
Biden	Ford	Lieberman
Bingaman	Glenn	Mikulski
Boxer	Graham	Moseley-Braun
Bumpers	Harkin	Moynihan
Byrd	Inouye	Murray
Chafee	Johnson	Reed
Cleland	Kennedy	Rockefeller
Daschle	Kerrey	Sarbanes
DeWine	Kerry	Torricelli
Dodd	Kohl	Warner
Durbin	Landrieu	Wellstone
Feingold	Lautenberg	Wyden

The motion to lay on the table the amendment (No. 3230) was agreed to.

Mr. GREGG. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, there will now be 20 minutes of debate divided evenly on amendment No. 3234.

Who seeks recognition? Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Is there an order established at this point?

The PRESIDING OFFICER. There is a time limit. Time is controlled by the Senator from New Hampshire.

Mr. HOLLINGS. And the Senator from Illinois.

The PRESIDING OFFICER. And the Senator from Illinois.

Mr. DOMENICI. I ask unanimous consent that I be permitted to speak for 2 minutes as in morning business.

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

APPROPRIATIONS BILLS

Mr. DOMENICI. Mr. President, the last couple of weeks we have all been on the floor trying to get appropriations bills completed. I would just like to submit to the U.S. Senate that we ought not be doing this every year.

Don't we have enough knowledge and wisdom and information to appropriate every 2 years instead of every year? Don't we have enough information about budgets and estimating that we could do a budget that lasted for 2 years and make automatic economic adjustments? Of course we do.

Mr. President, if the authorizing committees are wondering why they do not have a chance to do things around here, this is one reason. Because we hardly have enough time to do the appropriations bills. Because they are up every year as if we were in constant motion. In fact, I defy even Senators with the best recollection to recall one appropriations bill from another year by year. They are so often that they are all one big glob of votes.

Frankly, the Senator from New Mexico had made a mistake this year, because there is a bill at the desk saying we ought to do this every 2 years. We would get our job done better and we would have oversight time and the Senate would be a better place to work in and could do its business better. I should have started 4 months ago insisting that that bill for 2-year budgets and 2-year appropriations be voted on by the U.S. Senate.

But I can tell the Senate, it will be voted on the next opportunity when our leader has some time, and it may be early next year. We are going to get that bill out of committee, and we are going to vote on this issue of whether we have to do this every single year.

Frankly, we now have evidence that these bills are 90 to 95 percent similar one year over another. I know chairmen feel they have made dramatic changes year over year; and, yes, they may have. They also passed the appropriated money for bills that have not been authorized, and they know that. And their response is, ''Nobody's doing it, so we have to do it.'' Well, nobody is doing it because there is no time for anybody to do it.

Mr. President, I believe many Senators agree with this. I have talked to them at length on it. Frankly, we are going to decide in the Senate pretty soon whether we are going to keep on doing this. I am not sure we will win, but surely we are going to present this issue.

I thank the Chair and yield the floor.

DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 3234

Mr. DURBIN. Could I have a clarification? I want to make sure the Senator from New Hampshire and I have an understanding about the pending amendment. It is my understanding—I hope the Senator from New Hampshire would follow me in this—that we have some 20 minutes left in debate, equally divided between the Senator from New Hampshire and myself, at which point at the end of that debate there will be a vote. Is that the Chair's understanding?

The PRESIDING OFFICER. The Senator is correct.

Mr. DURBIN. I thank the Chair and ask the Senator from New Hampshire——

Mr. GREGG. Will the Senator yield?

Mr. DURBIN. Yes.

Mr. GREGG. I understand the vote is to occur at 6 o'clock.

The PRESIDING OFFICER. That was the order, but Senator DOMENICI took 2