The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONSUMER PRODUCT SAFETY

Mr. PRYOR. Mr. President, again today, we hope it is going to be a short day for the Senate. We hope we will be able to pass the Consumer Product Safety Commission Reform Act on which we have all worked so hard. I thank my colleagues for the fact that every single amendment that has been offered has been germane. That is great. The fact that everybody stayed focused on the subject matter has helped.

I know Senator STEVENS, who is on the floor now, will concur that it has been exemplary how Senators have conducted themselves on this bill. We thank everyone, all the Senators and the staff, for keeping the amendments germane. It is very important to getting this bill done this week.

The other good news is, our staffs burned the midnight oil last night, Democrats and Republicans. We have been putting together a managers' package, to give a quick status report on that. We think there are about 12 or so amendments in that managers' package right now that have been agreed to. It looks as if maybe we have around eight amendments that are pending. We are hoping we can work out some issues on some of those amendments. We understand there may be a small number of amendments still coming, but we have run our traps here, so to speak.

Again, the good news is we think we have a manageable number of amendments. We know we are going to have a vote in about 15 minutes. It will be on an amendment that is pending. Again, that is great. We will try to dispense with that amendment, however it comes out. Then we will move on to have further amendments throughout the day.

We are very encouraged. I thank Senator STEVENS for his leadership and his staff. They have been great. We appreciate their efforts to try to shepherd this bill through.

I do not want to make a prediction because I don't know and I don't pretend to know how this is going to turn out, but it appears to me that it is possible we could easily finish this bill today. It is possible—I don't want to jinx myself—but maybe even this afternoon. Instead of going into the late evening hours tonight, it is conceivable we might be able to finish it this afternoon if we work hard and stay on task.

I wanted to give the Senate an update. We look forward to the collegial spirit everyone has shown so far. We hope it continues today. I thank everybody for their cooperation and assistance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my understanding we are scheduled for a vote at 11 o'clock; is that correct?

The PRESIDING OFFICER. There will be 15 minutes of debate once the Senate lays down the bill.

Mr. INHOFE. I ask unanimous consent that I be recognized for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I do believe we have an agreement, Mr. President, to vote at a time certain. Does the Senator wish to postpone that vote?

Mr. INHOFE. I inquire of the Chair, is there a time certain for a vote?

CPSC REFORM ACT—RESUMED

Mr. STEVENS. Mr. President, I ask that the bill be laid before the Senate.

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 2663) to reform the Consumer Product Safety Commission to provide greater protection for children's products, to improve the screening of noncompliant consumer products, to improve the effectiveness of consumer product recall programs, and for other purposes.

Pending:

Pryor amendment No. 4090, of a technical nature.

Feinstein amendment No. 4104, to prohibit the manufacture, sale, or distribution in commerce of certain children's products and child care articles that contain specified phthalates.

Cornyn amendment No. 4108, to provide appropriate procedures for individual actions by whistleblowers, to provide for the appropriate assessment of costs and expenses in whistleblower cases.

Vitter amendment No. 4097, to allow the prevailing party in certain civil actions related to consumer product safety rules to recover attorney fees.

Casey amendment No. 4109, to require the Consumer Product Safety Commission to study the use of formaldehyde in the manufacturing of textiles and apparel articles and to prescribe consumer product safety standards with respect to such articles.

Dorgan amendment No. 4122, to strike the provision allowing the Commission to certify a proprietary laboratory for third party testing.

Dorgan amendment No. 4098, to ban the importation of toys made by companies that have a persistent pattern of violating consumer product safety standards.

Cardin amendment No. 4103, to require the Consumer Product Safety Commission to develop training standards for product safety inspectors.

DeMint amendment No. 4124, to strike section 31, relating to garage door opener standards.

AMENDMENT NO. 4097

The PRESIDING OFFICER. There is now 15 minutes equally divided on the Vitter amendment.

Mr. STEVENS. Mr. President, under the circumstances now, I control 7½ minutes?

The PRESIDING OFFICER. The time is divided between Senators VITTER and PRYOR.

Mr. STEVENS. I will be pleased to yield that time to the Senator from Oklahoma. I only control half of the time.

Mr. INHOFE. I will postpone my remarks until after the vote.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

The Senator from Louisiana.

Mr. VITTER. Mr. President, I rise again today in strong support of my amendment No. 4097. My amendment is very simple and very straightforward and, in fact, it conforms to present law, as well as to provisions in the House bill, with regard to the awarding of reasonable costs and attorney's fees.

My amendment simply says that a judge can award reasonable costs and attorney's fees from the loser to the winner no matter which side wins and loses. So if an attorney general brings an action and prevails on that consumer product safety action, then it is in the judge's discretion to award costs and attorney's fees from the losing private party to the attorney general. But fairly, if the opposite happens, if the private party is vindicated, if the private party goes through this litigation, which is always significant, lengthy, and costly, and wins and is vindicated, then it is also within the discretion of the judge—it is not mandatory—it is within the discretion of the judge that the private party be awarded reasonable costs and attorney's fees from the losing side; in that case, the attorney general.

That, again, is essentially present law. It can go in either direction. It is up to the court. The words are a little different, but that is essentially the policy embodied by the House bill. I think that is even and that is fair. That does not create an undue push in either direction.

Unfortunately, the underlying bill, the bill before the Senate is very different. It says that only the attorney general in prevailing can get reasonable costs and attorney's fees. The private party, even if it goes through very lengthy, very protracted, and very expensive litigation and is completely vindicated, can never get reasonable costs and attorney's fees, even if the judge thinks that is appropriate.

I think that is wrong. I think it is imbalanced and unfair. It is very important that we act to promote consumer safety. It is very important that we pass some of the measures in this bill and many of the measures in the House bill which I supported as an alternative. In doing that, we need to not make certain problems worse, and one of the problems that has existed is a clog of activity before the Consumer Product Safety Commission and also in the courts.

I feel this underlying provision in the Senate bill, which is all in one direction, could make that clog worse, could