

AMENDMENT NO. 3065

(Purpose: To express the sense of Congress that the entertainment industry take certain steps to assist in the national war against illegal drugs)

Mr. HARKIN. Mr. President, there is an amendment at the desk. I assume that it is going to be voted on and that there will be a rush of judgment to show our strength and determination to stop drug use. In that sense, I send to the desk an amendment in the nature of a substitute.

The PRESIDING OFFICER (Mr. McCONNELL). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 3065 to amendment numbered 3062:

On page , line , after , insert the following:

It is the sense of Congress that, whereas illegal drug consumption and alcohol consumption and the trafficking in those legal and illegal drugs is a major problem in the United States; whereas the problem of alcoholism is particularly prevalent among and harmful to the Nation's young people; and whereas the values and mores portrayed in various forms of commercially produced entertainment have a profound effect on the attitudes of young people in this country, the entertainment and written media industry should voluntarily refrain from producing material meant for general or encourages the use of illegal drugs and alcohol and the entertainment which in any way glamorizes industry and written media further is encouraged to develop films, television programs, records, and videos and advertising which encourages the rejection of illegal drug usage and alcohol use.

SEVERAL SENATORS. Vote! Vote!

Mr. DOMENICI. Mr. President, as I understand it, the amendment adds the written industry and adds alcohol wherever the Domenici amendment referred to the entertainment industry and drugs. I think the amendment is a good amendment. I accept it, and I hope the Senate will adopt this substitute.

Mr. THURMOND. Mr. President, we accept the amendment on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 3062), as modified by amendment No. 3065 was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3066

Mr. LEAHY. Mr. President, I have an amendment on behalf of myself, Senator HATCH, and Senator DENTON, which I send to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. HATCH, and Mr. DENTON, proposes an amendment numbered 3066.

Mr. LEAHY. 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 section 1802 of the bill and insert in lieu thereof the following:

SEC. 1802. CRIMINAL ORGANIZATIONS, FEES AND FEE WAIVERS.

(a) Section 552 of title 5, United States Code, is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c)(1) Whenever a request is made which involves access to records described in subsection (b)(7)(A) and—

"(A) the investigation or proceeding involves a possible violation of criminal law; and

"(B) there is reason to believe that (i) the subject of the investigation or proceeding is not aware of its pendency, and (ii) disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings,

the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

"(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

"(3) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence [(as defined in Executive Order 12333)], or international terrorism [(as defined in the Foreign Intelligence Surveillance Act)], and the existence of the records is classified information as provided in subsection (b)(1), the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section."

(b) Paragraph (4)(A) of section 552(a) of title 5, United States Code, is amended to read as follows:

"(4)(A)(i) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests under this section and establishing procedures and guidelines for determining when such fees should be waived or reduced. Such schedule shall conform to the guidelines which shall be promulgated, pursuant to notice and receipt of public comment, by the Director of the Office of Management and Budget and which shall provide for a uniform schedule of fees for all agencies.

"(ii) Such agency regulations shall provide that—

"(I) fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use;

"(II) fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educa-

tional or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media; and

"(III) for any request not described in (I) or (II), fees shall be limited to reasonable standard charges for document search and duplication.

"(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester; or a requester is indigent and can demonstrate a compelling need for the documents.

"(iv) Fee schedules shall provide for the recovery of only the direct costs of search, duplication, or review. No fee may be charged by any agency under this section—

"(I) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee; or

"(II) or (III) of this subparagraph for the first two hours of search time or for the first one hundred pages of duplication.

"(v) No agency may require advance payment of any fee unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed \$250.

"(vi) Nothing in this subparagraph shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.

"(vii) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo provided that the court's review of the matter shall be limited to the record before the agency.

Mr. LEAHY. Mr. President, the bill contains language concerning release of law enforcement records under the Freedom of Information Act which passed the Senate in 1984. The language of our amendment addresses the problem which was the concern of the original proposal, the use of FOIA by sophisticated criminal enterprises to learn about ongoing criminal investigations. But, it is narrower and more acceptable to legitimate users of FOIA, especially the news media.

In addition, our amendment addresses the problem of FOIA fees and fee waivers so that more of the costs of FOIA will be recouped, and at the same time relieve the news media of the need to pay a high cost for access to Government records.

Mr. MATHIAS. Mr. President, will the Senator yield so that I may offer an amendment to the amendment?

Mr. LEAHY. I yield.

AMENDMENT NO. 3067

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Maryland [Mr. MATHIAS] for Mr. LEAHY, himself, and Mr. THURMOND, proposes an amendment numbered 3067 to amendment No. 3066.