

vestment Company Act of 1940 (15 U.S.C. 80a-3(a));

(4) the term "issuer" has the meaning given it in section 2(4) of the Securities Act of 1933 (15 U.S.C. 77b(4)); and

(5) the term "security" has the meaning given to it in section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)), section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)), and section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(36)).

#### LIFE CARE HOME STUDY

SEC. 13. (a) STUDY.—The Federal Trade Commission shall conduct a study of unfair or deceptive acts or practices in the life care home industry, including acts or practices engaged in by life care homes. Within 24 months after the date of enactment of this Act, the Commission shall report the findings and conclusions of the study to Congress. The Commission shall indicate in its report whether it intends to initiate a trade regulation rulemaking under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) respecting unfair or deceptive acts or practices in the life care home industry and the reasons for such determination.

(b) DEFINITIONS.—For purposes of subsection (a), the term—

(1) "life care home" includes the facility or facilities occupied, or planned to be occupied, by residents or prospective residents where a provider undertakes to provide living accommodations and services pursuant to a life care contract, regardless of whether such facilities are operated on a profit or nonprofit basis; and

(2) "life care contract" includes a contract between a resident and a provider to provide the resident, for the duration of such resident's life, living accommodations and related services in a life care home, including nursing care services, medical services, and other health-related services, which is conditioned upon the transfer of an entrance fee to the provider and which may be further conditioned upon the payment of periodic service fees.

#### SUNSET

SEC. 14. The provisions of sections 3, 4, and 5 shall cease to have force and effect on and after the date that is five years following the date of enactment of this Act.

Mr. FORD. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

#### NEW YORK CITY ZEBRA MUSSEL MONITORING ACT OF 1991

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 274, S. 36, relating to zebra mussel monitoring.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 36) entitled "New York City Zebra Mussel Monitoring Act of 1991."

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with amendments; as follows:

(The parts of the bill intended to be stricken are printed in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

#### S. 36

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

#### SECTION 101. SHORT TITLE.

This title may be cited as the "New York City Zebra Mussel Monitoring Act".

#### SEC. 102. DEFINITIONS.

For the purposes of this Act:

(a) The term "Secretary" means the Assistant Secretary of the Army for Civil Works.

(b) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(c) The term "Zebra Mussel" means the species *Dreissena polymorpha*.

#### SEC. 103. FINDINGS.

The Congress finds that—

(1) New York City has operated a public water supply system since the late 1700's;

(2) the current water supply system supplies over 95 per centum of all water used in New York City, providing service to millions of residents;

(3) the water supply system obtains its water from three upstream reservoir systems: the Croton, Catskill, and Delaware systems, which include eighteen reservoirs and three controlled lakes;

(4) it is likely that within the coming two decades, the zebra mussel will have infested the entire surface water system of the United States and Canada and that this migration is irreversible and cannot be quarantined; and

(5) introduction of the zebra mussel into the New York City water supply system poses a unique public health threat to millions of citizens.

#### SEC. 104. PURPOSE.

The purpose of this Act is to establish a program of monitoring and technological development to prevent the introduction and subsequent infestation of Zebra Mussels into the New York City water supply system.

#### SEC. 105. MONITORING AND PREVENTION.

(a) The Secretary, in consultation with the Administrator of the Environmental Protection Agency, the United States Fish and Wildlife Service, the Governor of the State of New York, and the Mayor of the City of New York, shall—

(1) develop a prevention monitoring program for zebra mussels throughout the New York City water supply system.

(2) develop appropriate zebra mussel prevention and removal technologies for the New York City water supply system; and

(3) provide technical assistance to the State of New York and the City of New York on alternative design and maintenance practices for the New York City water supply system in the event of zebra mussel infestation.

#### SEC. 106. COST SHARING.

*The Secretary shall not initiate any monitoring, prevention, and/or technical assistance project or program under section 105 until appropriate non-Federal interests agree, by contract, to contribute 25 per centum of the cost for such projects during the period of such projects.*

#### SEC. 106J. AUTHORIZATION OF APPROPRIATIONS.

(a) For the purposes of carrying out section 105 of this Act, there is authorized to be appropriated to the Secretary of the Army \$2,000,000 for each fiscal years 1991, 1992, 1993,

1994, and 1995. Such sums shall remain available until expended.

#### AMENDMENT NO. 1461

(Purpose: To control certain exotic aquatic organisms)

Mr. FORD. Mr. President, on behalf of Senator GLENN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. GLENN, for himself, Mr. KASTEN, Mr. KOHL, Mr. LEVIN, and Mr. DIXON, proposes an amendment numbered 1461.

Mr. FORD. 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 end of the bill, add the following section:

#### SEC. . EXOTIC AQUATIC ORGANISMS.

(a) IN GENERAL.—Section 1101(b) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711(b)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary, in consultation with the Task Force—

"(A) shall provide that the regulations issued under this subsection shall apply to vessels that carry ballast water and that, after operating on the waters beyond the exclusive economic zone, enter a United States port on the Hudson River where water is characterized as having a salinity less than 18 o/oo, and

"(B) may provide that such regulations apply to vessels operating in other rivers, canals, lakes, and waterways where discharge of ballast water could result in the introduction and spread of aquatic nuisance species into the Great Lakes."

"(b) SHIPPING STUDY.—Section 1102(a)(3) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4712(a)(3)) is amended by striking "other than" and inserting "including".

Mr. GLENN. Mr. President, I rise today to offer an amendment to S. 36, the New York City Zebra Mussel Monitoring Act. I am joined in offering this amendment by Senator KASTEN, and several others from the Senate Great Lakes Task Force, including Senators DIXON, KOHL, and LEVIN. This important amendment expands the geographic scope of the Nonindigenous Aquatic Nuisance Prevention Program contained in Public Law 101-646, the Non-Indigenous Aquatic Nuisance Prevention and Control Act of 1990, to include additional freshwater conduits of exotic species into the Great Lakes.

Title I of the Public Law 101-646, signed into law last year, is a program to prevent exotic species from entering the Great Lakes. As you know, the zebra mussel provides an example of how devastating and destructive nonindigenous species can be. Since it initially established itself in the basin—probably around 5 years ago—the zebra mussel has spread to all five

Great Lakes. It has already wreaked havoc on the ecology and economy of certain portions of the region, including the Ohio shore of Lake Erie. This mollusk from Eastern Europe is crowding out native species of freshwater clams, and has changed the complexion of Great Lakes beaches. In addition, it is costing raw water users in the basin millions of dollars in removal and cleaning costs. Moreover, the zebra mussel is not going to stop with the Great Lakes. It threatens to spread to two-thirds of the Nation's fresh water.

While we manage the problem that is already here, let's prevent the next one from arising. The next nonindigenous invader could be even more destructive than the zebra mussel. Fortunately, prevention is possible. All that is needed to substantially reduce the probability of another infestation by a nonindigenous species is a minimal amount of ballast management by incoming ships, the leading vector of nonindigenous aquatic species.

The prevention program in Public Law 101-646 currently requires that any ship en route to a Great Lakes port from a point of origin outside the U.S. exclusive economic zone must exchange its ballast water in the high seas—with due regard for safety. At the time the bill was passed, it was believed that ships passing through the St. Lawrence Seaway to Great Lakes ports were the sole avenues of entry for nonindigenous hitch-hikers. However, current research shows that nine nonindigenous species have entered the Great Lakes from the Hudson River—via the Erie Canal. These species include such noxious pests as the sea lamprey, the white perch, and the alewife. As a result, ballast dumping at Hudson River ports such as Albany, as well as ports within other connecting freshwater systems, may also threaten the Great Lakes.

The Great Lakes Fishery Commission has recommended that the prevention program established in Public Law 101-646 to protect the Great Lakes be extended to include ships destined for ports on the Hudson River and other freshwater systems connected to the Great Lakes, as needed. The Coast Guard, which is the lead agency responsible for implementing the program, stated that it would need additional statutory authority to expand the geographic scope of its program.

My amendment requires that the Coast Guard extend its ballast management regulations to include ships destined for ports on the Hudson River, and provides statutory authority to the Coast Guard to further increase the geographic scope of the program as needed to protect the Great Lakes from nonindigenous invaders. It also requires that the shipping study required by Public Law 101-646 include an assessment of the need for ballast controls on vessels entering ports other

than Great Lakes ports as a measure to protect the Great Lakes from unintentional introductions of these species.

I wish to thank my colleagues on the Senate Great Lakes Task Force, especially Senator MOYNIHAN and Senator KASTEN, for their support and involvement in this effort. Senator MOYNIHAN's continuing interest in aggressively managing the zebra mussel problem will greatly reduce the cost that infestations by nonindigenous species invariably impose. Senator KASTEN, a member of the Commerce Committee of the Senate, has been a key supporter of forward-thinking prevention efforts. I urge adoption of this amendment.

Mr. HOLLINGS. Mr. President, I rise today to discuss an amendment that is being offered to S. 36, the New York City Zebra Mussel Monitoring Act of 1991. I am speaking of the amendment sponsored by Senators GLENN, KASTEN, DIXON, KOHL, and LEVIN. As such, I would appreciate it if my good friend and chairman of the Committee on Environment and Public Works, Mr. BURDICK, would be willing to discuss the provision.

Mr. BURDICK. Mr. President, it would be a pleasure to discuss this matter with the Senator from South Carolina, the distinguished chairman of the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. I have carefully reviewed S. 36, the New York City Zebra Mussel Monitoring Act of 1991. The legislation directs the Army Corps of Engineers, in consultation with the Environmental Protection Agency and the city of New York, to develop zebra mussel monitoring and removal programs for the New York City water supply system. I congratulate the chairman for the committee's fine work on this important legislation.

Further, let me state that in reviewing the reported bill, I believe it is entirely within the jurisdiction of the Committee on Environment and Public Works. However, the amendment that Senator GLENN and others are offering addresses Coast Guard regulation of marine and ocean navigation and safety. As such, the amendment falls within the jurisdiction of the Committee on Commerce, Science, and Transportation. Nonetheless, I strongly support the provision and urge the chairman to accept it. It will strengthen the Nonindigenous Aquatic Nuisance Prevention and Control Act on which our committees worked last year.

Mr. BURDICK. I agree with the chairman of the Commerce, Science, and Transportation Committee regarding the jurisdictional matters and welcome his support of the legislation. I also support Senator GLENN's amendment and believe it should be adopted.

Mr. HOLLINGS. I thank the Senator. The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1461) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

S. 36

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

**SECTION 101. SHORT TITLE.**

This title may be cited as the "New York City Zebra Mussel Monitoring Act".

**SEC. 102. DEFINITIONS.**

For the purposes of this Act:

(a) The term "Secretary" means the Assistant Secretary of the Army for Civil Works.

(b) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(c) The term "Zebra Mussel" means the species *Dreissena polymorpha*.

**SEC. 103. FINDINGS.**

The Congress finds that—

(1) New York City has operated a public water supply system since the late 1700's;

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(3) the water supply system obtains its water from three upstate reservoir systems: the Croton, Catskill, and Delaware systems, which include eighteen reservoirs and three controlled lakes;

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(5) introduction of the zebra mussel into the New York City water supply system poses a unique public health threat to millions of citizens.

**SEC. 104. PURPOSE.**

The purpose of this Act is to establish a program of monitoring and technological development to prevent the introduction and subsequent infestation of Zebra Mussels into the New York City water supply system.

**SEC. 105. MONITORING AND PREVENTION.**

(a) The Secretary, in consultation with the Administrator of the Environmental Protection Agency, the United States Fish and Wildlife Service, the Governor of the State of New York, and the Mayor of the City of New York, shall—

(1) develop a prevention monitoring program for zebra mussels throughout the New York City water supply system.

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(3) provide technical assistance to the State of New York and the City of New York on alternative design and maintenance practices for the New York City water supply system in the event of zebra mussel infestation.

**SEC. 106. COST SHARING.**

The Secretary shall not initiate any monitoring, prevention, and or technical assistance project or program under section 105 until appropriate non-Federal interests agree, by contract, to contribute 25 per centum of the cost for such projects during the period of such projects.

**SEC. 107. AUTHORIZATION OF APPROPRIATIONS.**

(a) For the purposes of carrying out section 105 of this Act, there is authorized to be appropriated to the Secretary of the Army \$2,000,000 for each fiscal years 1991, 1992, 1993, 1994, and 1995. Such sums shall remain available until expended.

**SEC. 108. EXOTIC AQUATIC ORGANISMS.**

(a) **IN GENERAL.**—Section 1101(b) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711(b)) is amended by adding at the end thereof the following new paragraph:

“(3) The Secretary, in consultation with the Task Force—

“(A) shall provide that the regulations issued under this subsection shall apply to vessels that carry ballast water and that, after operating on the waters beyond the exclusive economic zone, enter a United States port on the Hudson River where water is characterized as having a salinity less than 18 o/oo, and

“(B) may provide that such regulations apply to vessels operating in other rivers, canals, lakes, and waterways where discharge of ballast water could result in the introduction and spread of aquatic nuisance species into the Great Lakes.”

(b) **SHIPPING STUDY.**—Section 1102(a)(3) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4712(a)(3)) is amended by striking “other than” and inserting “including.”

Mr. FORD. I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

**NEZ PERCE HISTORICAL PARK**

Mr. FORD. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 2032 regarding the Nez Perce Historical Park and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2032) to amend the act of 1965 authorizing historic park in the State of Idaho, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

**AMENDMENT NO. 1462**

Mr. FORD. Mr. President on behalf of Senators BUMPERS and CRAIG, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. BUMPERS, for himself and Mr. CRAIG, proposes an amendment numbered 1462.

Mr. FORD. 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:

On page 2, line 26, strike “and”.

On page 3, line 1, strike “Montana;” and insert in lieu thereof: “Montana; and (13) Hasotino Village, Idaho;”.

On page 3, lines 12 through 25, strike paragraph (3) in its entirety and insert in lieu thereof:

“(3) In section 3, strike the proviso in the first sentence and insert in lieu thereof, “: Provided, That lands or interests therein owned by a State or a political subdivision of a State may be acquired only by donation or exchange: Provided further, That with respect to sites designated as components of the Nez Perce National Historical Park after November 1, 1991, no lands or interests therein, or other property, may be acquired without the consent of the owner thereof.”.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1462) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 2032), as amended, was passed.

Mr. FORD. I move to reconsider the vote by which the bill as amended, was passed.

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

The motion to lay on the table was agreed to.

**TELEPHONE CONSUMER PROTECTION ACT**

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1462.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 1462) entitled “An Act to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment”, do pass with the following amendment: Strike out all after the enacting clause, and insert:

**S. 1462****SECTION 1. SHORT TITLE.**

This Act may be cited as the “Telephone Consumer Protection Act of 1991”.

**SEC. 2. FINDINGS.**

The Congress finds that:

(1) The use of the telephone to market goods and services to the home and other businesses is now pervasive due to the increased use of cost-effective telemarketing techniques.

(2) Over 30,000 businesses actively telemarket goods and services to business and residential customers.

(3) More than 300,000 solicitors call more than 18,000,000 Americans every day.

(4) Total United States sales generated through telemarketing amounted to \$435,000,000,000 in 1990, a more than four-fold increase since 1984.

(5) Unrestricted telemarketing, however, can be an intrusive invasion of privacy and, when an emergency or medical assistance telephone line is seized, a risk to public safety.

(6) Many consumers are outraged over the proliferation of intrusive, nuisance calls to their homes from telemarketers.

(7) Over half the States now have statutes restricting various uses of the telephone for marketing, but telemarketers can evade their prohibitions through interstate operations; therefore, Federal law is needed to control residential telemarketing practices.

(8) The Constitution does not prohibit restrictions on commercial telemarketing solicitations.

(9) Individuals' privacy rights, public safety interests, and commercial freedoms of speech and trade must be balanced in a way that protects the privacy of individuals and permits legitimate telemarketing practices.

(10) Evidence compiled by the Congress indicates that residential telephone subscribers consider automated or prerecorded telephone calls, regardless of the content or the initiator of the message, to be a nuisance and an invasion of privacy.

(11) Technologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer.

(12) Banning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

(13) While the evidence presented to the Congress indicates that automated or prerecorded calls are a nuisance and an invasion of privacy, regardless of the type of call, the Federal Communications Commission should have the flexibility to design different rules for those types of automated or prerecorded calls that it finds are not considered a nuisance or invasion of privacy, or for noncommercial calls, consistent with the free speech protections embodied in the First Amendment of the Constitution.

(14) Businesses also have complained to the Congress and the Federal Communications Commission that automated or prerecorded telephone calls are a nuisance, are an invasion of privacy, and interfere with interstate commerce.

(15) The Federal Communications Commission should consider adopting reasonable restrictions on automated or prerecorded calls to businesses as well as to the home, consistent with the constitutional protections of free speech.

**SEC. 3. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT.**

(a) **AMENDMENT.**—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

**“SEC. 227. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT.**

“(a) **DEFINITIONS.**—As used in this section—  
“(1) The term ‘automatic telephone dialing system’ means equipment which has the capacity—