

subsection against a payment system or person described in paragraph (2)(B), the Federal functional regulators and the Federal Trade Commission shall consider the following factors:

“(I) The extent to which the payment system or person knowingly permits restricted transactions.

“(II) The history of the payment system or person in connection with permitting restricted transactions.

“(III) The extent to which the payment system or person has established and is maintaining policies and procedures in compliance with regulations prescribed under this subsection.

“(8) TRANSACTIONS PERMITTED.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, is authorized to engage in transactions with foreign pharmacies in connection with investigating violations or potential violations of any rule or requirement adopted by the payment system or person in connection with complying with paragraph (7). A payment system, or such a person, and its agents and employees shall not be found to be in violation of, or liable under, any Federal, State or other law by virtue of engaging in any such transaction.

“(9) RELATION TO STATE LAWS.—No requirement, prohibition, or liability may be imposed on a payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, under the laws of any state with respect to any payment transaction by an individual because the payment transaction involves a payment to a foreign pharmacy.

“(10) TIMING OF REQUIREMENTS.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, must adopt policies and procedures reasonably designed to comply with any regulations required under paragraph (7) within 60 days after such regulations are issued in final form.

“(11) COMPLIANCE.—A payment system, and any person described in paragraph (2)(B), shall not be deemed to be in violation of paragraph (1)—

“(A)(i) if an alleged violation of paragraph (1) occurs prior to the mandatory compliance date of the regulations issued under paragraph (7); and

“(ii) such entity has adopted or relied on policies and procedures that are reasonably designed to prevent the introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system; or

“(B)(i) if an alleged violation of paragraph (1) occurs after the mandatory compliance date of such regulations; and

“(ii) such entity is in compliance with such regulations.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day that is 90 days after the date of enactment of this Act.

(c) IMPLEMENTATION.—The Board of Governors of the Federal Reserve System shall promulgate regulations as required by subsection (h)(7) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333), as added by subsection (a), not later than 90 days after the date of enactment of this Act.

SEC. 10009. IMPORTATION EXEMPTION UNDER CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1006(a)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 956(a)(2)) is amended by striking “not import the controlled substance into the United States in an amount that exceeds 50 dosage units of the controlled substance.” and inserting “import into the United States not

more than 10 dosage units combined of all such controlled substances.”.

SEC. 10010. SEVERABILITY.

If any provision of this title, an amendment by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 10011. SENSE OF THE SENATE REGARDING REPORTING.

(a) IN GENERAL.—It is the sense of the Senate that, beginning 180 days after the date of enactment of this Act, and every 180 days thereafter, the Secretary of Health and Human Services should report to Congress on the status of the progress of the provisions of this title (and the amendments made by this title) to permit the importation from certain approved countries of safe and affordable prescription drugs approved by the Food and Drug Administration.

(b) CONTENTS.—Any report submitted under subsection (a) should include a description of the steps being taken by such Secretary to ensure that the implementation of this title (and the amendments made by this title) results in—

(1) the effective oversight of drugs, pharmacies, manufacturers, and registration of importers and exporters in accordance with this title (and such amendments);

(2) a safe prescription drug supply for American consumers; and

(3) cost savings to American consumers.

ORDERS FOR SUNDAY, DECEMBER 13, 2009

Mr. BEGICH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1:30 p.m., Sunday, December 13; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the conference report accompanying H.R. 3288, the consolidated appropriations bill, as provided for under the previous order; and that following any leader remarks, the time until 2 p.m. be equally divided and controlled between the two leaders or their designees.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

PROGRAM

Mr. BEGICH. Mr. President, at 2 p.m., the Senate will proceed to a roll-call vote on the adoption of the conference report to accompany H.R. 3288, the consolidated appropriations bill.

ORDER FOR ADJOURNMENT

Mr. BEGICH. Finally, Mr. President, I ask unanimous consent that following the remarks of Senator THUNE and Senator ENZI, the Senate adjourn under the previous order.

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

The Senator from South Dakota.

OMNIBUS APPROPRIATIONS AND HEALTH CARE REFORM

Mr. THUNE. Mr. President, I want to address the issue of health care reform, of course, which is the main reason Congress is here this weekend and was here last weekend, and in all likelihood will be here next weekend. But I also think it is important we put these things into an overall context and take a look at the bill we are voting on right now.

We are going to have a vote on final passage tomorrow. We had a cloture vote this morning on a spending bill, and the spending bill—which represents six, I think, appropriations bills that did not get done earlier this year—represents a package of spending that overall increases by 12 percent over last year.

That is an interesting number, given the fact that the Consumer Price Index—which is the sort of, if you will, conduit to which a lot of these decisions that are made around here is tied; in other words, the CPI is what we view to be inflation; and sometimes we say we mark up bills at inflation or inflation plus this or inflation plus that—where the CPI was, ending on October 1 of this year, about two-tenths of 1 percent but in the negative column.

So you have a CPI that is actually negative, an inflation index that is actually negative for most Americans. This, again, is representative of the totality of our economy and what things cost, and that is a lot of times how appropriations bills are measured.

So you have a CPI, Consumer Price Index, that is running in the negative, and yet you have appropriations bills—this one representing, again, as I said earlier, six appropriations bills, individual appropriations bills that did not get done earlier—packaged into one big spending bill that is a 12-percent increase over the previous year.

How can we go to the American people and justify year-over-year spending increases that are 12 percent, when they are having to balance their budgets and tighten their belts and live in an economy where some people are losing their jobs? But certainly everybody is trying, struggling to survive out there. That is true for small businesses. That is true for families. That is true for pretty much everybody, it seems, except the Congress.

Here in Washington, DC, we seem not to be listening to what is happening in America. We are marking up spending bills at 12 percent over last year's level, at a time when the CPI is actually running in the negative—when you have negative cost-of-living increase. Yet we are marking up appropriations bills that represent a 12-percent increase over last year's spending level?

Put that on top of a stimulus bill that passed earlier this year that, with interest, is a \$1 trillion spending bill. So you have a \$1 trillion spending bill with interest passed earlier this year, much of which went to the very same