

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
July 14, 2004

"Examining the Implications of Drug Importation"
Senate Judiciary Committee
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Mr. Chairman, I agree that this is an issue with profound implications for the American public. Vermonters were among the first to throw a spotlight on the issue of prescription drug importation, and we have followed this issue closely for many years and have pushed for consumer-friendly solutions. I am pleased that now, we in this Committee, have the opportunity to restate the very compelling case for the establishment of a safe, legal system to import affordable drugs into the United States. I regret that the Senate Republican leadership has obstructed the path to a solution for so long.

A Lifeline, Not A Luxury

Americans pay some of the highest prices for prescription drugs of any country in the world - despite the fact that many of these drugs are made right here, and they are often made with the benefit of taxpayer supported research. Prescription drugs are a lifeline, not a luxury. Faced with this dilemma, and with Washington's unwillingness to help, many Vermonters and other Northern Border citizens were among the first to take matters into their own hands. On buses, Congressman Sanders started leading trips to Canada five years ago to let Vermonters safely buy affordable medicines on the other side of the border, where struggling seniors are able to find savings of anywhere from 50 percent to 70 percent. Buses like this were powerful early symbols in opening this debate. And they have been effective, much like Senator Dorgan's use of his famous orange rubber pylon in demonstrating the lack of security along the Northern Border.

Voting With Their Bus Tickets

American consumers didn't take long to figure out that the deck is heavily stacked against them, and they have found ways like this to vote with their pocketbooks and with their bus tickets. Meanwhile, the White House, big drug companies and many in Congress have done all they can to thwart each consumer breakthrough.

Those trips worked for awhile, but for seniors who couldn't easily make the trek across the border, there had to be another option. That is where mail order entered this equation, and by now mail order has drastically transformed the importation of medicine, and it has also become a powerful new catalyst for reform. The fact is a bus trip across the border is not the way Americans should have to get affordable medicine prescribed by their doctors. And the fact that

American consumers have had to resort to creative solutions like this long ago should have shamed Congress and the White House into action.

In my home state of Vermont, our Republican Governor, our Democratic Attorney General and the Mayor of our largest city have all spoken out on the unmet needs of the people of our state, and to offer their help to the federal government in designing workable systems for prescription drug importation. But their pleas, and those of state and local government officials all across the country, have been met with obstinate resistance.

Raw Deals, Life-And-Death Choices

At the same time, American consumers are moving ahead with or without us. They know when they have been dealt a raw deal. They see this raw deal in black and white each month when they sit down at their kitchen tables to pay the bills. The issue boils down to access: A prescription drug is neither safe nor effective if you cannot afford to buy it.

We have to recognize that this imposes real dangers on American consumers when they cannot follow their doctor's treatment plan because they can't afford their medicine. While we must do more to bring affordable healthcare to the millions of Americans who are currently uninsured or who do not have good coverage, we cannot continue to deny them this immediate market-based solution.

For many Vermonters, purchasing drugs from Canada literally means the difference between following their doctors' orders or having to throw the dice with their health and sometimes even with their lives by doing without their prescription medicines. It makes the difference for the woman who has maxed out her health plan's annual prescription drug benefit only three months into the year and is then faced with purchasing the other nine months worth of medicine at U.S. prices on her own. It makes the difference for the elderly man on a fixed income who is unable to afford both the heart medicine he needs to live, and the gas bill he needs to keep warm. As regulators and policymakers sit idly by in Washington, the pharmaceutical industry is moving to cut off supplies to Canadian pharmacies in order to prevent Americans from purchasing their drugs at affordable prices. Are we prepared to tell those in dire need that they must go back to choosing between paying gas, food, and heating bills, or their medicine?

We owe it to American consumers to stop asking whether we can set up a system to provide safe and affordable prescription drugs from Canada and to promptly devise a system that answers the question of how we do that. Fortunately, we can do it and we have a bill before us that will do it. It comes down to a matter of political will. American consumers were ahead of their Government. They have already proven that importation works. We should be coming together without further delay to establish a self-financed system that will give FDA and Customs the resources they need to afford Vermonters and all Americans access to legally imported safe, FDA-approved prescription drugs from Canada.

We in Congress have put our stamp of approval on allowing American consumers to purchase prescription drugs from Canada three times over the past four years and yet each time those efforts have come up short because of the objections by many in the Executive Branch and their friends in the drug industry. I am hopeful that this hearing and the long awaited markup before

the Senate HELP Committee scheduled for next week will finally move us toward a workable solution.

Leverage For Average Consumers

At every turn, American consumers are finding that the big pharmaceutical firms have all the leverage. The Bush Administration fought every effort we made during debate on the Medicare prescription drug bill to give some leverage to consumers and taxpayers. And the critical issues of safe and reasonable drug importation are not being played out just at the FDA and in Congress. Now the White House's trade negotiators have become involved, and I am concerned that they have not acted to improve the situation.

New Trouble In A Trade Agreement

In the last few days, some very troubling - and unpublicized - provisions in the proposed free trade agreement with Australia have come to light. That agreement, as negotiated by the Administration, seems to pose real threats to drug importation. It contains new provisions, not found in earlier agreements with other countries, that would appear to give new rights to pharmaceutical companies at the expense of American families. It may also allow for the creation of new barriers to the importation of low-cost prescription drugs. And it gives giant drug companies the opportunity to delay the availability of generic alternatives to their patented products. These provisions raise serious concerns, and they threaten new and more dangerous precedents for subsequent trade agreements regarding prescription drugs being negotiated by this Administration. On behalf of America's consumers, we need to fight for the availability of low-cost generic drugs and for the importation of low-cost prescription drugs -- in the Senate, before administrative agencies and in this Administration's trade negotiations.

We have a number of capable witnesses this morning. I welcome Senator Dorgan and Senator Breaux. We appreciate your leadership Senator Dorgan on this issue and the work you have done with Senator Stabenow, and we are always delighted to hear from the senior Senator from Louisiana. It should be no surprise that I am a cosponsor of Senator Dorgan's legislation on drug importation, as are a number of this Committee's members and, I believe, a large portion of the Senate. I look forward to hearing from a leader on this important issue in the House of Representatives, the distinguished Congressman from the State of Vermont, my friend Bernie Sanders. Those of you on the Committee who have not had the pleasure of working with Congressman Sanders are in for a treat.

Mr. Hubbard, Mr. Taylor, and Ms. Durant, thank you for coming up to the Hill today. Mr. Mayor, welcome, it is good to see you again. I also look forward to hearing from Mr. Catizone and Ms. Jaeger and I am pleased that Ms. Disch of AARP and Professor Schondelmeyer could be here with us this morning as well.

Finally, I want to extend a particularly warm welcome to a fellow Vermonter who is here to testify on our third panel. Dr. Elizabeth Wennar is the CEO and Executive Director of United Health Alliance of Bennington, Vermont. Her organization, which is made up of community physicians, a rural hospital, a nursing home and a home health agency in Southwestern Vermont, was a pioneer in importing prescription drugs from Canada by mail. She has also done extensive

research on prescription drug importation and has previously testified before Congress on this issue. Dr. Wennar, I appreciate your coming to Washington today to share your considerable expertise.