Code, relating to shipping as positive law. The gentleman from Michigan (Mr. CONYERS), ranking member, and I jointly introduced this legislation on May 10, 2004.

The bill was prepared by the Office of the Law Revision Counsel as a part of the program required by 2 U.S.C., section 285(b), to prepare and submit to the Committee on the Judiciary, one title at a time, a complete complication, restatement, and revision of the general and permanent laws of the United States. This bill makes no substantive change in existing law. Rather, the bill removes ambiguities, contradictions, and other imperfections from existing law and it repeals obsolete, superfluous, and superseded provisions.

After introduction, the bill was circulated for comment to interested parties, including committees of the Congress and agencies of the government. All comments were to be submitted no later than 45 days after the bill was introduced. The Federal Maritime Commission and the Department of Transportation provided extensive comments on the bill. Several other agencies and departments of the government also provided comments.

The Office of the Law Revision Counsel reviewed and considered all comments, contacting the interested parties to resolve outstanding questions. Some comments proposing changes to improve the organization and clarity were incorporated in the restatement. Other comments, either suggesting substantive changes to existing law or expressing opposition to the substance of existing law, could not be incorporated in the restatement. This bill makes no substantive change in existing law and is not intended to do so. That is not the function of Law Revision Counsel bills. They reorganize and clean up the law and do not change the substance. Thus, Members should understand that because of the nature of this bill, supporting it does not imply support of the underlying provisions that are being reorganized and cleaned up.

At committee I offered a substitute amendment prepared by the Office of the Law Revision Counsel which incorporated additional changes to the Code which were recommended as a result of the review and comment process. That is the text that is before us today. The Law Revision Counsel has indicated that he is satisfied that the substitute text makes no substantive change to existing law and that no additional cost to the government would be incurred as a result of the enactment of H.R. 4319.

I would like to express the committee's appreciation for the work of the Law Revision Counsel and his staff on this bill. I urge all Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

Today I rise in support of H.R. 4319, the Title 46 Codification Act of 2004. This bill, which is sponsored by the chairman and ranking member of the Committee on the Judiciary, enacts into positive law title 46 of the U.S. Code, entitled ''shipping.'' In addition H.R. 4319 also sets forth organizational and administrative provisions regarding the Federal Maritime Commission.

Title 46 of the U.S. Code has been partially codified and enacted by Congress into law. The partial revision, as it currently exists, was begun in 1983. However, while certain laws concerning marine safety and maritime liability were codified, overall revision of title 46 was not completed. Specifically, the extensive portions of title 46 that have not been codified appear as an appendix to the title, but much of the appendix consists of numerous public laws that have been enacted over the last century with little attention to the organization of maritime law as a single body of law. As a result, the current format of title 46 is disjointed, confusing, and often without apparent logic.

This legislation is necessary largely because of the many laws that comprise the appendix date back to the late 1800s and early 1900s and are written in language that is archaic and difficult to understand. There is also a significant amount of redundancy and obsolete material within the appendix. This bill would eliminate those redundancies, obsolete provisions, and unnecessary archaic verbiage. Overall, H.R. 4319 makes significant improvements to the organization, accuracy, and clarity of title 46. I urge my colleagues to vote ''yes'' on this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 4319, a piece of legislation introduced by Chairman SENSENBRENNER and Ranking Member CONYERS to complete the codification of title 46 of the United States Code.

Codification of this legislation is important because it integrates the myriad of Federal, State, local and private law enforcement agencies overseeing the security of the international borders at our seaports. Furthermore, it authorizes more security officers, more screening equipment, and the building of important security infrastructure at seaports.

U.S. seaports—especially high volume ports such as the Port of Houston with major multimodal hubs—are especially vulnerable to terrorist attacks because we do not have security mechanisms in place between modes, for example the interface between aircraft and ship. We must spend wisely to improve personnel and technology as are called for in the Secure COAST Act.

Terrorists could cause mass casualties and serious damage to the economy if a weapon of mass destruction (WMD) is detonated in a container or if a large passenger vessel is attacked. Ports serve as America's gateways to the global economy. The Nation's economic prosperity rests on the ability of containerized and bulk cargo to arrive at their destination ports unimpeded to support the ''just in time'' delivery system that underpins the manufacturing and retail sectors. In addition, a large majority of America's energy sources arrive in large oil and gas tankers, which are prime targets for the terrorists.

Recent reports state that Al-Qaida may be planning a maritime terrorist attack. The Department of Homeland Security has several initiatives dedicated to preventing terrorists from attacking America's ports. Despite these efforts, many security gaps remain. That is why I have joined my Democratic colleagues in co-sponsoring and introducing the secure Containers from Overseas And Seaports from Terrorism Act—or Secure COAST Act. This new proposal would supplement the Maritime Security Act, which H.R. 4319 codifies.

Seven million containers arrive at U.S. seaports, many times sealed with only a padlock or lead tag, making them vulnerable to tampering. There are currently no sealing standards for containers or a process to verify that seals have not been disturbed. The Secure COAST Act would require DHS to develop sealing standards for containers and a verification process to ensure containers have not been tampered with.

Currently, only two seaports in the entire country have the ability to screen for nuclear material entering our country. One of these ports—the Port of Norfolk—had to purchase the portal monitor itself.

The Coast Guard estimates that ports will need to spend $1.1 billion over the next year to comply with new security regulations put in place by the Bush administration, but the president has requested only $46 million for grant funding since 9/11.

The U.S. Coast Guard fleet is the third oldest naval fleet in the world and its force size is comparable to the manpower level in 1966. We must authorize and implement provisions to supplement H.R. 4319 to accelerate the completion of the Coast Guard's Deepwater program to provide new ships to the fleet from 22 to 10 years and authorize an end-strength to 50,000 people, almost a 25 percent increase from current levels. It is time that the proper funding and appropriate resources are allocated for this vital mission to truly protect the American public.

I support this legislation, H.R. 4319, and I urge my colleagues to do the same.

Mr. SCHIFF. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4319, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PIRACY DETERRENCE AND EDUCATION ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4077) to enhance criminal enforcement of the copyright laws, to educate the public about the application of copyright law to the

Internet, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4077

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

TITLE I—PIRACY DETERRENCE IN EDUCATION

SEC. 101. SHORT TITLE.

This title may be cited as the ''Piracy Deterrence and Education Act of 2004''.

SEC. 102. FINDINGS.

The Congress finds as follows:

(1) The Internet, while changing the way our society communicates, has also changed the nature of many crimes, including the theft of intellectual property.

(2) Trafficking in infringing copyrighted works through increasingly sophisticated electronic means, including peer-to-peer file trading networks, Internet chat rooms, and news groups, threatens lost jobs, lost income for creators, lower tax revenue, and higher prices for honest purchasers.

(3) The most popular peer-to-peer file trading software programs have been downloaded by computer users over 600,000,000 times. At any one time there are over 3,000,000 users simultaneously using just one of these services. Each month, on average, over 2,300,000,000 digital-media files are transferred among users of peer-to-peer systems.

(4) Many computer users simply believe that they will not be caught or prosecuted for their conduct.

(5) The security and privacy threats posed by certain peer-to-peer networks extend beyond users inadvertently enabling a hacker to access files. Millions of copies of one of the most popular peer-to-peer networks contain software that could allow an independent company to take over portions of users' computers and Internet connections and has the capacity to keep track of users' online habits.

(6) In light of these considerations, Federal law enforcement agencies should actively pursue criminals who steal the copyrighted works of others, and prevent such activity through enforcement and awareness. The public should be educated about the security and privacy risks associated with being connected to certain peer-to-peer networks.

SEC. 103. VOLUNTARY PROGRAM OF DEPARTMENT OF JUSTICE.

(a) VOLUNTARY PROGRAM.—The Attorney General is authorized to establish a program under which the Department of Justice, in cases where persons who are subscribers of Internet service providers appear to the Department of Justice to be engaging in copyright infringing conduct in the course of using such Internet service, would send to the Internet service providers warning letters that warn such persons of the penalties for such copyright infringement. The Internet service providers may forward the warning letters to such persons.

(b) LIMITATIONS ON PROGRAM.—

(1) EXTENT AND LENGTH OF PROGRAM.—The program under subsection (a) shall terminate at the end of the 18-month period beginning on the date of the enactment of this Act and shall be limited to not more than 10,000 warning letters.

(2) PRIVACY PROTECTIONS.—No Internet service provider that receives a warning letter from the Department of Justice under subsection (a) may disclose to the Department any identifying information about the subscriber that is the subject of the warning letter except pursuant to court order or other applicable legal process that requires such disclosure.

(c) REIMBURSEMENT OF INTERNET SERVICE PROVIDERS.—The Department of Justice shall reimburse Internet service providers for all reasonable direct costs incurred by such service providers in identifying the proper recipients of the warning letters under subsection (a) and forwarding the letters.

(d) REPORTS TO CONGRESS.—The Attorney General shall submit to the Congress a report on the program established under subsection (a) both at the time the program is initiated and at the conclusion of the program.

(e) INADMISSIBILITY OF EVIDENCE.—The fact that an Internet service provider participated in the program under subsection (a), received a warning letter from the Department of Justice, was aware of the contents of the warning letter, or forwarded the warning letter to a subscriber, shall not be admissible in any legal proceeding brought against the Internet service provider.

(f) CONSTRUCTION.—Nothing in this section shall be construed to affect the ability of a court to consider, in a legal proceeding brought against an Internet service provider, notifications of claimed infringement as described in section 512(c)(3) of title 17, United States Code, or any other relevant evidence, other than that described in subsection (e).

SEC. 104. DESIGNATION AND TRAINING OF AGENTS IN COMPUTER HACKING AND INTELLECTUAL PROPERTY UNITS.

(a) DESIGNATION OF AGENTS IN CHIPS UNITS.—The Attorney General shall ensure that any unit in the Department of Justice responsible for investigating computer hacking or responsible for investigating intellectual property crimes is assigned at least one agent to support such unit for the purpose of investigating crimes relating to the theft of intellectual property.

(b) TRAINING.—The Attorney General shall ensure that each agent assigned under subsection (a) has received training in the investigation and enforcement of intellectual property crimes.

SEC. 105. EDUCATION PROGRAM.

(a) ESTABLISHMENT.—There shall be established within the Office of the Associate Attorney General of the United States an Internet Use Education Program.

(b) PURPOSE.—The purpose of the Internet Use Education Program shall be to—

(1) educate the general public concerning the value of copyrighted works and the effects of the theft of such works on those who create them; and

(2) educate the general public concerning the privacy, security, and other risks of using the Internet to obtain illegal copies of copyrighted works.

(c) SECTOR SPECIFIC MATERIALS.—The Internet Use Educational Program shall, to the extent appropriate, develop materials appropriate to Internet users in different sectors of the general public where criminal copyright infringement is a concern. The Attorney General shall consult with appropriate interested parties in developing such sector-specific materials.

(d) CONSULTATIONS.—The Attorney General shall consult with the Register of Copyrights and the Secretary of Commerce in developing the Internet Use Education Program under this section.

(e) PROHIBITION ON USE OF CERTAIN FUNDS.—The program created under this section shall not use funds or resources of the Department of Justice allocated for criminal investigation or prosecution.

(f) ADDITIONAL PROHIBITION ON THE USE OF FUNDS.—The program created under this section shall not use any funds or resources of the Department of Justice allocated for the Civil Rights Division of the Department, including any funds allocated for the enforcement of civil rights or the Voting Rights Act of 1965.

SEC. 106. ACTIONS BY THE GOVERNMENT OF THE UNITED STATES.

Section 411(a) of title 17, United States Code, is amended in the first sentence by striking ''Except for'' and inserting ''Except for an action brought by the Government of the United States or by any agency or instrumentality thereof, or'' .

SEC. 107. AUTHORIZED APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice for fiscal year 2005 not less than $15,000,000 for the investigation and prosecution of violations of title 17, United States Code.

SEC. 108. CRIMINAL PENALTIES FOR UNAUTHORIZED RECORDING OF MOTION PICTURES IN A MOTION PICTURE EXHIBITION FACILITY.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by adding after section 2319A the following new section:

''§ 2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility

''(a) OFFENSE.—Any person who, without the authorization of the copyright owner, knowingly uses or attempts to use an audiovisual recording device to transmit or make a copy of a motion picture or other audiovisual work protected under title 17, or any part thereof, from a performance of such work in a motion picture exhibition facility, shall—

''(1) be imprisoned for not more than 3 years, fined under this title, or both; or

''(2) if the offense is a second or subsequent offense, be imprisoned for no more than 6 years, fined under this title, or both.

The possession by a person of an audiovisual recording device in a motion picture exhibition facility may be considered as evidence in any proceeding to determine whether that person committed an offense under this subsection, but shall not, by itself, be sufficient to support a conviction of that person for such offense.

''(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of an offense under subsection (a), the court in its judgment of conviction shall, in addition to any penalty provided, order the forfeiture and destruction or other disposition of all unauthorized copies of motion pictures or other audiovisual works protected under title 17, or parts thereof, and any audiovisual recording devices or other equipment used in connection with the offense.

''(c) AUTHORIZED ACTIVITIES.—This section does not prevent any lawfully authorized investigative, protective, or intelligence activity by an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or by a person acting under a contract with the United States, a State, or a political subdivision of a State.

''(d) IMMUNITY FOR THEATERS AND AUTHORIZED PERSONS.—With reasonable cause, the owner or lessee of a motion picture facility where a motion picture is being exhibited, the authorized agent or employee of such owner or lessee, the licensor of the motion picture being exhibited, or the agent or employee of such licensor—

''(1) may detain, in a reasonable manner and for a reasonable time, any person suspected of committing an offense under this section for the purpose of questioning that person or summoning a law enforcement officer; and

''(2) shall not be held liable in any civil or criminal action by reason of a detention under paragraph (1).

''(e) VICTIM IMPACT STATEMENT.—

''(1) IN GENERAL.—During the preparation of the presentence report under rule 32(c) of the Federal Rules of Criminal Procedure,

victims of an offense under this section shall be permitted to submit to the probation officer a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

''(2) CONTENTS.—A victim impact statement submitted under this subsection shall include—

''(A) producers and sellers of legitimate works affected by conduct involved in the offense;

''(B) holders of intellectual property rights in the works described in subparagraph (A); and

''(C) the legal representatives of such producers, sellers, and holders.

''(f) DEFINITIONS.—In this section:

''(1) AUDIOVISUAL WORK, COPY, ETC.—The terms 'audiovisual work', 'copy', 'copyright owner', 'motion picture', and 'transmit' have, respectively, the meanings given those terms in section 101 of title 17.

''(2) AUDIOVISUAL RECORDING DEVICE.—The term 'audiovisual recording device' means a digital or analog photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted motion picture or other audiovisual work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device.

''(3) MOTION PICTURE EXHIBITION FACILITY.—The term 'motion picture exhibition facility' means a movie theater, screening room, or other venue that is being used primarily for the exhibition of a copyrighted motion picture, if such exhibition is open to the public or is made to an assembled group of viewers outside of a normal circle of a family and its social acquaintances.

''(g) STATE LAW NOT PREEMPTED.—Nothing in this section may be construed to annul or limit any rights or remedies under the laws of any State.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2319A the following:

''2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility.''.

SEC. 109. SENSE OF THE CONGRESS ON NEED TO TAKE STEPS TO PREVENT ILLEGAL ACTIVITY ON PEER-TO-PEER SERVICES.

(a) FINDINGS.—The Congress finds as follows:

(1) The most popular publicly accessible peer-to-peer file sharing software programs combined have been downloaded worldwide over 600,000,000 times.

(2) The vast majority of software products, including peer-to-peer technology, do not pose an inherent risk. Responsible persons making software products should be encouraged and commended for the due diligence and reasonable care they take including by providing instructions, relevant information in the documentation, disseminating patches, updates, and other appropriate modifications to the software.

(3) Massive volumes of illegal activity, including the distribution of child pornography, viruses, and confidential personal information, and copyright infringement occur on publicly accessible peer-to-peer file sharing services every day. Some publicly accessible peer-to-peer file sharing services expose consumers, particularly children, to serious risks, including legal liability, loss of privacy, threats to computer security, and exposure to illegal and inappropriate material.

(4) Several studies and reports demonstrate that pornography, including child pornography, is prevalent on publicly available peer-to-peer file sharing services, and children are regularly exposed to pornography when using such peer-to-peer file sharing services.

(5) The full potential of peer-to-peer technology to benefit consumers has yet to be realized and will not be achieved until these problems are adequately addressed.

(6) To date, the businesses that run publicly accessible file-sharing services have refused or failed to voluntarily and sufficiently address these problems.

(7) Many users of publicly available peer-to-peer file-sharing services are drawn to these systems by the lure of obtaining ''free'' music and movies.

(8) While some users use parental controls to protect children from pornography available on the Internet and search engines, not all such controls work on publicly accessible peer-to-peer networks.

(9) Businesses that run publicly accessible peer-to-peer file sharing services have openly acknowledged, and numerous studies and reports have established, that these services facilitate and profit from massive amounts of copyright infringement, causing enormous damage to the economic well-being of the copyright industries whose works are being illegally ''shared'' and downloaded.

(10) The legitimate digital music marketplace offers consumers a wide and growing array of choices for obtaining music legally, without exposure to the risks posed by publicly accessible peer-to-peer file sharing services.

(11) The Federal Trade Commission issued a Consumer Alert in July of 2003 warning consumers that some file-sharing services contain damaging viruses and worms and, without the computer user's knowledge or consent, install spyware to monitor a user's browsing habits and send data to third parties or automatically open network connections.

(12) Publicly available peer-to-peer file-sharing services can and should adopt reasonable business practices and use technology in the marketplace to address the existing risks posed to consumers by their services and facilitate the legitimate use of peer-to-peer file sharing technology and software.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) responsible software developers should be commended, recognized, and encouraged for their efforts to protect consumers;

(2) currently the level of ongoing and persistent illegal and dangerous activity on publicly accessible peer-to-peer file sharing services is harmful to consumers, minors, and the economy; and

(3) therefore, the Congress and the executive branch should consider all appropriate measures to protect consumers and children, and prevent such illegal activity.

SEC. 110. ENHANCEMENT OF CRIMINAL COPYRIGHT INFRINGEMENT.

(a) CRIMINAL INFRINGEMENT.—Section 506 of title 17, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

''(a) CRIMINAL INFRINGEMENT.—Any person who—

''(1) infringes a copyright willfully and for purposes of commercial advantage or private financial gain,

''(2) infringes a copyright willfully by the reproduction or distribution, including by the offering for distribution to the public by electronic means, during any 180-day period, of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than $1,000, or

''(3) infringes a copyright by the knowing distribution, including by the offering for distribution to the public by electronic means, with reckless disregard of the risk of further infringement, during any 180-day period, of—

''(A) 1,000 or more copies or phonorecords of 1 or more copyrighted works,

''(B) 1 or more copies or phonorecords of 1 or more copyrighted works with a total retail value of more than $10,000, or

''(C) 1 or more copies or phonorecords of 1 or more copyrighted pre-release works,

shall be punished as provided under section 2319 of title 18. For purposes of this subsection, evidence of reproduction or distribution of a copyrighted work, by itself, shall not be sufficient to establish the necessary level of intent under this subsection.''; and

(2) by adding at the end the following:

''(g) LIMITATION ON LIABILITY OF SERVICE PROVIDERS.—No legal entity shall be liable for a violation of subsection (a)(3) by reason of performing any function described in subsection (a), (b), (c), or (d) of section 512 if such legal entity would not be liable for monetary relief under section 512 by reason of performing such function. Except for purposes of determining whether an entity qualifies for the limitation on liability under subsection (a)(3) of this section, the legal conclusion of whether an entity qualifies for a limitation on liability under section 512 shall not be considered in a judicial determination of whether the entity violates subsection (a) of this section.

''(h) DEFINITIONS.—In this section:

''(1) PRE-RELEASE WORK.—The term 'pre-release work' refers to a work protected under this title which has a commercial and economic value and which, at the time of the act of infringement that is the basis for the offense under subsection (a)(3), the defendant knew or should have known had not yet been made available by the copyright owner to individual members of the general public in copies or phonorecords for sale, license, or rental.

''(2) RETAIL VALUE.—The 'retail value' of a copyrighted work is the retail price of that work in the market in which it is sold. In the case of an infringement of a copyright by distribution, if the retail price does not adequately reflect the economic value of the infringement, then the retail value may be determined using other factors, including but not limited to suggested retail price, wholesale price, replacement cost of the item, licensing, or distribution-related fees.''.

(b) PENALTIES.—Section 2319 of title 18, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(2) by inserting after subsection (c) the following:

''(d) Any person who commits an offense under section 506(a)(3) of title 17—

''(1) shall be imprisoned not more than 3 years, or fined in the amount set forth in this title, or both, or, if the offense was committed for purposes of commercial advantage or private financial gain, imprisoned for not more than 5 years, or fined in the amount set forth in this title, or both; and

''(2) shall, if the offense is a second or subsequent offense under paragraph (1), be imprisoned not more than 6 years, or fined in the amount set forth in this title, or both, or, if the offense was committed for purposes of commercial advantage or private financial gain, imprisoned for not more than 10 years, or fined in the amount set forth in this title, or both.''; and

(3) in subsection (f), as so redesignated—

(A) in paragraph (1), by striking ''and'' after the semicolon;

(B) in paragraph (2), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(3) the term 'financial gain' has the meaning given that term in section 101 (relating to definitions) of title 17.''.

(c) CIVIL REMEDIES FOR INFRINGEMENT OF A COMMERCIAL PRE-RELEASE COPYRIGHTED WORK.—Section 504(b) of title 17, United States Code, is amended—

(1) by striking ''The copyright owner'' and inserting the following:

''(1) IN GENERAL.—The copyright owner''; and

(2) by adding at the end the following:

''(2) DAMAGES FOR PRE-RELEASE INFRINGEMENT.—

''(A) IN GENERAL.—In the case of any pre-release work, actual damages shall be presumed conclusively to be no less than $10,000 per infringement, if a person—

''(i) distributes such work by making it available on a computer network accessible to members of the public; and

''(ii) knew or should have known that the work was intended for commercial distribution.

''(B) DEFINITION.—For purposes of this subsection, the term 'pre-release work' has the meaning given that term in section 506(h).''.

SEC. 111. AMENDMENT OF FEDERAL SENTENCING GUIDELINES REGARDING THE INFRINGEMENT OF COPYRIGHTED WORKS AND RELATED CRIMES.

(a) AMENDMENT TO THE SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of intellectual property rights crimes, including sections 2318, 2319, 2319A, 2319B, 2320 of title 18, United States Code, and sections 506, 1201, and 1202 of title 17, United States Code.

(b) FACTORS.—In carrying out this section, the Sentencing Commission shall—

(1) take all appropriate measures to ensure that the sentencing guidelines and policy statements applicable to the offenses described in subsection (a) are sufficiently stringent to deter and adequately reflect the nature of such offenses;

(2) consider whether to provide a sentencing enhancement for those convicted of the offenses described in subsection (a) when the conduct involves the display, performance, publication, reproduction, or distribution of a copyrighted work before the time when the copyright owner has authorized the display, performance, publication, reproduction, or distribution of the original work, whether in the media format used by the infringing good or in any other media format;

(3) consider whether the definition of ''uploading'' contained in Application Note 3 to Guideline 2B5.3 is adequate to address the loss attributable to people broadly distributing copyrighted works over the Internet without authorization; and

(4) consider whether the sentencing guidelines and policy statements applicable to the offenses described in subsection (a) adequately reflect any harm to victims from infringement in circumstances where law enforcement cannot determine how many times copyrighted material is reproduced or distributed.

(c) PROMULGATION.—The Commission may promulgate the guidelines or amendments under this section in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

SEC. 112. EXEMPTION FROM INFRINGEMENT FOR SKIPPING AUDIO AND VIDEO CONTENT IN MOTION PICTURES.

(a) SHORT TITLE.—This section may be cited as the ''Family Movie Act of 2004''.

(b) EXEMPTION FROM COPYRIGHT AND TRADEMARK INFRINGEMENT FOR SKIPPING OF AUDIO OR VIDEO CONTENT OF MOTION PICTURES.—Section 110 of title 17, United States Code, is amended—

(1) in paragraph (9), by striking ''and'' after the semicolon at the end;

(2) in paragraph (10), by striking the period at the end and inserting ''; and'';

(3) by inserting after paragraph (10) the following:

''(11) the making imperceptible, by or at the direction of a member of a private household, of limited portions of audio or video content of a motion picture during a performance in or transmitted to that household for private home viewing, from an authorized copy of the motion picture, or the creation or provision of a computer program or other technology that enables such making imperceptible and that is designed and marketed for such use at the direction of a member of a private household, if—

''(A) no fixed copy of the altered version of the motion picture is created by such computer program or other technology; and

''(B) no changes, deletions or additions are made by such computer program or other technology to commercial advertisements, or to network or station promotional announcements, that would otherwise be performed or displayed before, during or after the performance of the motion picture.''; and

(4) by adding at the end the following:

''For purposes of paragraph (11), the term 'making imperceptible' does not include the addition of audio or video content that is performed or displayed over or in place of existing content in a motion picture.''.

(c) EXEMPTION FROM TRADEMARK INFRINGEMENT.—Section 32 of the Trademark Act of 1946 (15 U.S.C. 1114) is amended by adding at the end the following:

(c) EXEMPTION FROM TRADEMARK INFRINGEMENT.—Section 32 of the Trademark Act of 1946 (15 U.S.C. 1114) is amended by adding at the end the following:

''(3)(A) Any person who engages in the conduct described in paragraph (11) of section 110 of title 17, United States Code, and who complies with the requirements set forth in that paragraph is not liable on account of such conduct for a violation of any right under this Act. This subparagraph does not preclude liability of a person for conduct not described in paragraph (11) of section 110 of title 17, United States Code, even if that person also engages in conduct described in paragraph (11) of section 110 of such title.

''(B) A manufacturer, licensee, or licensor of technology that enables the making of limited portions of audio or video content of a motion picture imperceptible that is authorized under subparagraph (A) is not liable on account of such manufacture or license for a violation of any right under this Act, if such manufacturer, licensee, or licensor ensures that the technology provides a clear and conspicuous notice at the beginning of each performance that the performance of the motion picture is altered from the performance intended by the director or copyright holder of the motion picture. Subparagraph (A) shall not apply to a manufacturer, licensee, or licensor of technology that fails to comply with this subparagraph.

''(C) The requirement under subparagraph (B) to provide notice shall apply only with respect to technology manufactured after the end of the 180-day period beginning on the date of the enactment of the Family Movie Act of 2004.''.

(d) DEFINITION.—In this section, the term ''Trademark Act of 1946'' means the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.).

TITLE II—MISCELLANEOUS

SEC. 201. DESIGNATION OF NATIONAL TREE.

(a) DESIGNATION.—Chapter 3 of title 36, United States Code, is amended by adding at the end the following:

''§ 305. National tree

''The tree genus Quercus, commonly known as the oak tree, is the national tree.''.

(b) CONFORMING AMENDMENTS.—Such title is amended—

(1) in the table of contents for part A of subtitle I, by striking ''**, and March**'' and inserting ''**March, and Tree**'';

(2) in the chapter heading for chapter 3, by striking '', AND MARCH'' and inserting ''MARCH, AND TREE''; and

(3) in the table of sections for chapter 3, by adding at the end the following:

''305. National tree.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. SCHIFF) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4077, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation addresses the growing piracy problem facing our Nation's creative community. New technologies have made copyright piracy an even easier activity to undertake than before. The number of pirating files continues to increase. Although the technology is not the problem, our Nation's laws need to be updated to reflect the impact of this new technology.

In response to the increase in piracy, the copyright community has been investing time and money in campaigns to educate America about the need to respect copyrights. The Attorney General and other senior administration officials have spoken publicly about the piracy problem and their efforts to fight it in our court system. Schools and universities have begun requiring incoming freshmen to attend copyright education programs before granting them access to the university computer networks.

Yet there seems to be a belief among America's youth, and even some of their parents, that copyright piracy is either an acceptable activity or one that carries low risk of penalties. This needs to change.

Under existing legal authority, the Department of Justice has identified problems that prevent it from pursuing high-volume file sharers. Section 10 of this legislation provides new legal authority to pursue those making available 1,000 or more files. The content

community sees government-run public service campaigns as an important counterpart to their education effort. Section 5 provides for such a government-run campaign.

Parents want to be able to learn of illegal activity by their children before they are sued by a copyright owner or the Department of Justice. Section 3 of this legislation creates a voluntary warning system that will allow parents to receive a warning like the kind that still occurs in small towns today. When a child is doing something wrong, the local cop on the beat tells his or her parents about it. Once alerted to their child's behavior by a friendly warning from the local cop, the parents can put a stop to behavior then and there. I believe that a DOJ warning letter sent to the parents will have the same impact on them and their child's behavior as the policeman's friendly warning.

Finally, H.R. 4077 contains the Family Movie Act that clarifies that existing copyright and trademark law cannot be used to prevent a parent from deciding what their children see in the privacy of their own home. I do not take kindly to those who would presume to tell parents how they decide what is best for their children.

In addition, because of the limited floor time at this time of year, the bill also includes the text of H.R. 1775. This bill designates the oak tree as the national tree.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 4077, the Piracy Deterrence and Education Act of 2004, as amended today by the chairman of the Committee on the Judiciary. I urge my colleagues to join me in voting to pass this important and worthy piece of legislation.

Prior to reporting H.R. 4077 by voice vote earlier this month, the Committee on the Judiciary gave this bill great deliberation. This bill and its precursors, H.R. 2517 and H.R. 2752, were the subject of several subcommittee hearings and a subcommittee markup. Through the extensive process given to this bill, the Committee on the Judiciary crafted a measure that makes important contributions and advances in the fight against widespread electronic theft of copyrighted works.

Intellectual property theft has become a rampant and serious threat to the livelihoods of all copyright creators. Digital technologies like the CD burner, the Internet, and the MP3 audio-compression standard, while enhancing the consumer experience, have greatly facilitated copyright theft and led to an explosion in its prevalence. Studies indicate that at any given time more than 850 million copyright-infringing files are being illegally offered for distribution through just one peer-to-peer, file-swapping network. Innumerable Web sites, file transfer protocol servers, Internet affinity groups, and Internet relay chat channels also constitute havens for copyright theft.

Copyright theft injures copyright creators of all types, whether they are songwriters, photojournalists, graphic designers, software engineers, or musicians. On the human level, illegal downloads of songs supplant legal downloads and thus deny songwriters the 8 cents they are due for each legal download. At the macro level, the worldwide software industry alone is estimated to have suffered $29 billion in packaged software loss due to piracy during 2003.

While not a panacea, the changes made by H.R. 4077 will play an important role in addressing the piracy problem. It has become clear that law enforcement authorities need additional resources, statutory authority, and incentives to become productive participants in the antipiracy battle. H.R. 4077 is designed to address these needs.

Specifically, sections 103 and 105 of the bill engage Federal law enforcement agencies in the effort to deter and educate the public about copyright crimes. Section 103 establishes a voluntary program through which the FBI, with cooperation from Internet service providers, can inform Internet users about suspected infringement. Section 105 directs the Department of Justice, in conjunction with the U.S. Copyright Office, to establish an Internet use education program. Section 106 enables criminal prosecution of copyright infringement involving unregistered works.

□ 1445

This will assist copyright owners, such as photographers, who generally cannot register their copyrighted works, and, as a result, effectively cannot afford to bring civil actions against infringers. By raising the possibility of criminal prosecution, section 106 would create a credible deterrent against the theft of unregistered works.

Section 108 deals with the growing phenomenon of copyright thieves who use portable digital video recorders to record movies off theater screens during public exhibitions. I was recently in Pakistan, and on the hotel TVs they showed ''Catwoman,'' still out in theaters; and as you watched, you could hear people coughing in the background, or indeed standing up to get popcorn. Plainly, not a legitimately copyrighted exhibition.

Organized piracy rings widely distribute copies of these surreptitious recordings, both online and on the street. Section 108 clarifies that it is a felony to surreptitiously record a move in a theater.

Section 110 makes the potential criminal prosecution a more credible deterrent to egregious infringements by otherwise judgment-proof infringers. Section 110 does this by ensuring that criminal copyright prosecutions can be brought against copyright infringers who knowingly distribute massive amounts of copyrighted works or enormously valuable copyrighted works with reckless disregard of the risk of further infringement.

Section 112 of H.R. 4077 did generate some concern during the Committee on the Judiciary consideration because it resolves a legal question at the heart of a pending Federal litigation. While many members of the Committee on the Judiciary believe section 112 inappropriately intervenes in this Federal legislation, support for the balance of H.R. 4077 convinced these members to support the bill as a whole.

Thus, H.R. 4077 is, on balance, a well-crafted bill that will provide valuable and targeted assistance in the battle against copyright piracy.

It is worth noting that while not universally embraced, H.R. 4077 has garnered widespread consensus support. Groups as diverse as the Professional Photographers Association, the Video Software Dealers Association, and needlepoint designers have written in support.

The widespread support is a credit to its sponsors, who worked assiduously during committee consideration to address many of the concerns raised. In fact, H.R. 4077 itself was introduced as a replacement for H.R. 2517 and H.R. 2752, both of which contained several more controversial provisions.

During consideration of this bill, it has been amended to include changes sought by Internet service providers, universities, theater owners, broadcast networks, consumer groups, parallel importers, the Department of Justice, and the Bureau of Immigration and Customs Enforcement. While I would not go so far as to say that H.R. 4077 has the affirmative endorsement of all concerned, I do believe that most of the legitimate concerns have been accommodated.

In summary, this bill as amended today advances important and necessary objectives, and I encourage my colleagues to join me in supporting it.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. SMITH), the Chair of the subcommittee and the principal author of the bill.

Mr. SMITH of Texas. Mr. Speaker, first of all I want to thank the gentleman from Wisconsin, the chairman of the Committee on the Judiciary, for yielding me time.

Also at the outset I want to acknowledge that this legislation represents a genuine bipartisan and cooperative effort. The gentleman from California (Mr. BERMAN), who I understand is on his way to the House floor from the airport, was a partner in the effort to write this legislation and has contributed many good ideas to the final product. So I want to acknowledge his good work as well as his input and say that I appreciate his support.

Mr. Speaker, piracy of intellectual property over the Internet, especially on peer-to-peer networks, has reached alarming levels. Millions of pirated movies, music, software, game and other copyrighted files are now available for free download from suspect

peer-to-peer networks. This piracy harms everyone, from those looking for legitimate sources of content, to those who create it.

I have heard from songwriters, video store owners, software publishers, and game developers who feel the impact of such piracy every day. They have urged Congress to help them educate the public about the harms of piracy while also warning and penalizing those who continue to steal from others.

Peer-to-peer technology is an essential development of our Nation's high-tech economy. However, like all new technologies, peer-to-peer technologies have been abused by those who want to commit crimes. Our Nation's laws need to be updated to reflect the harms that can be caused by this new technology, without penalizing the technology itself.

This legislation addresses P2P piracy by better educating the public about copyright law, authorizing the creation of a system to warn online users of potential infringement, penalizing those who bring camcorders into movie theaters for the purpose of making pirated DVDs, assisting Federal law enforcement authorities in their efforts to investigate and prosecute intellectual property crimes, and designating designated intellectual crime agents within DOJ Computer Hacking and Intellectual Property Sections to prosecute cybercrimes. The Internet has revolutionized how Americans locate information, shop and communicate. We must not let new Internet technologies become a haven for criminals.

Mr. Speaker, also included in H.R. 4077 is an updated version of H.R. 4586, the Family Movie Act of 2004, which the committee reported out in July. Parents should have the right to watch any movie they want and to skip over or mute any content they find objectionable. This legislation ensures that parents have the final say in what their children watch in the privacy of their own home and that parents can act in the best interests of their children. Parents need all the help they can get in protecting their children from the sex, violence, and profanity found in many movies; and parents should be able to determine what their children see on the screen. Technology that helps parents accomplish this should be applauded, and H.R. 4077 ensures that this technology will not face continued legal challenges.

Mr. Speaker, I urge my colleagues to pass this important piece of legislation.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wanted to join my colleague in congratulating my colleague, the gentleman from California (Mr. BERMAN), who I know wanted to be here to manage the floor time on our side of the aisle, for his great contributions to this legislation and protection of intellectual property.

I also want to thank the chairman of the subcommittee, the gentleman from Texas (Mr. SMITH), for his extraordinary job during these 2 years in advancing the cause of protecting, really, the one industry that has a positive balance of trade with every other country in the world, and that is the intellectual property industry.

So I want to thank our subcommittee chairman and thank our full committee chairman for their work on this bill today and more generally on the issue of protecting intellectual property theft.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the bill, H.R. 4077, the Piracy Deterrence and Education Act of 2004; however, I join my colleagues in the Committee on the Judiciary in raising serious concerns about Section 12 as reported. Section 12 adds to H.R. 4077 the text of H.R. 4586, the ''Family Movie Act of 2004.'' With the purported goal of sanitizing undesired content in motion pictures, section 12 immunizes from copyright and trademark liability any for-profit companies that develop movie-editing software to make content imperceptible without permission from the movies' creators. Section 12 favors one party in a private lawsuit, interferes with marketplace negotiations, fails to achieve its goal, is unnecessary and overbroad, may increase the level of undesired content, and impinges on artistic freedom and rights.

As Chair of the Congressional Children's Caucus, I appreciate the fact that one of the drafter's intentions was to protect children. Purportedly, parts of Section 12 are about whether children should be forced to watch undesired content. However, the issue in this debate is about who should make editorial decisions about what movie content children should see: parents or a for-profit company.

Supporters of Section 12 believe companies should be allowed to do the editing for profit, and without permission of film creators, while opponents believe parents are the best qualified to know what their children should not see. The legislation would accomplish little beyond inflaming the debate over indecent content in popular media and interfering with marketplace solutions to parental concerns.

Regardless of the outcome of the pending litigation, this legislation should not be brought before the House because it is unnecessary. Its supposed rationale is to make it easier for parents and children to avoid watching motion pictures with undesired content, but parents and children already have such options.

At the outset, there is an obvious marketplace solution to undesired content in that consumers can merely elect not to view it. As the Register of Copyrights testified at a hearing on the bill underlying the amendment:

> I cannot accept the proposition that not to permit parents to use such products means that they are somehow forced to expose their children (or themselves) to unwanted depictions of violence, sex and profanity. There is an obvious choice—one which any parent can and should make: don't let your children watch a movie unless you approve of the content of the entire movie.

The motion picture industry has even enhanced the ability of consumers to exercise this choice. For decades and on a voluntary basis, it has implemented a rating system for its products that indicates the level of sexual or violent content and the target audience age. Each and every major motion picture released in theaters or on DVD or VHS bears such a rating. Such ratings effectively enable parents to steer their children away from movies they consider inappropriate.

Mr. Speaker, for the reasons stated above, I support this legislation, but reserve my comments regarding Section 12 as issues that should be addressed alternatively.

Mr. GREEN of Texas. Mr. Speaker, I rise in support of H.R. 4077 today because I feel it is important for Congress to keep pace with those who use new technology to defraud consumers.

As a co-sponsor with our colleague HEATHER WILSON of the Anti-SPAM bill, I'd like to also thank my colleagues on the Energy and Commerce and Judiciary Committees for taking action on this legislation.

We live in an age when technological breakthroughs bring us better, more efficient lives. However, these breakthroughs also entice people to take advantage of others for personal and financial gain.

Congress needs to address these types of issues quickly because as we all know, the fast pace of technological growth will always bring with it new issues for Congress.

During our experience with the Anti-SPAM bill, we all came to an understanding that technology itself is not the problem—it is the way some entities use technology that is harmful to consumers.

This legislation balances consumer protections against Spyware with the need to allow industry to use software technology to provide useful products and services to consumers.

I'm glad to stand with colleagues from both sides of the isle on this issue and rise to support this legislation. This bill will protect us from spy ware and get our law enforcement agencies involved in helping make the internet a more secure place to conduct business, communicate and learn.

Mr. CONYERS. Mr. Speaker, I rise in support of the bill but with strong opposition to section 112. While the bill contains numerous anti-copyright piracy provisions that I helped draft, I oppose section 112 because it is an anti-copyright, special interest provision that will interfere in a pending lawsuit.

The content industries provide this country's number one export; in fact, copyrighted content provides a positive trade balance of approximately $89 billion. Clearly, our content is a valuable resource that deserves protection.

Unfortunately, the same technologies that have enhanced our lives and globalized trade have made it possible to obtain digital content for free; the same technology that enhanced the lives of so many is harming the lives of people—the artists, musicians, writers, etc.—whose work we value so much.

While there are laws on the books that protect copyrighted content from theft, they do not go quite far enough. New file swapping programs and sites appear every day on the Internet, each one better than its predecessor. These sites do not develop their own content but rely upon the popularity of content created by others and allow that content to be distributed to millions with the click of a mouse. These sites also create security and privacy risks, in that they open up the entire hard drives of average consumers for the world to see, financial and personal information included.

I was a cosponsor of Chairman SMITH's bill, H.R. 2517, but felt that we could do even

more to thwart piracy. That is why Ranking Member BERMAN and I introduced H.R. 2752, which provided for increased enforcement of the piracy laws. For the past several months, we have been working in bipartisan fashion to craft language that is non-controversial and workable.

In that regard, I am pleased that the compromise bill incorporates numerous provisions from the original Conyers-Berman bill. H.R. 4077 clarifies that it is a federal offense to camcord a movie in a theater. This is a major means by which movies end up on the Internet for free. I think we can all agree there is little legitimate reason for engaging in this conduct and need to send a clear message that we will not tolerate this theft. It also ensures that theaters owners are exempt from liability if they attempt to enforce this prohibition.

The bill contains a sense of the Congress recognizing the potential dangers of misused peer-to-peer services (such as spreading worms, viruses, making personal computer files available to the public).

Third, the bill provides additional tools to prosecute those who upload copyrighted content to the Internet unlawfully, and I was pleased the content and Internet industries were able to compromise on this provision. It also provides an authorization of $15 million for the Justice Department's piracy fighting efforts, an increase over the traditional $10 million.

Finally, the legislation includes language similar to a provision in an earlier bill of mine, H.R. 4643 from the 107th Congress, saying the distribution of unpublished or pre-release works can constitute infringement. This is important for industries whose content ends up on the Internet before it is even released to the public.

Unfortunately, I am disappointed that our year-long bipartisan effort has been tainted by the addition of section 112, which is identical to H.R. 4586. H.R. 4586, the "Family Movie Act of 2004," is an anti-content creator proposal that interferes in a private lawsuit. It puts Congress on one side of a private business dispute that is properly left to the litigants and the court.

I urge my colleagues to vote "yes" on this legislation.

Mr. SCHIFF. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISSA). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4077, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RADANOVICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 752, H.R. 3954, H.R. 4066, H.R. 4469, H.R. 4579, H.R. 4596, H.R. 4683, H.R. 4808, S. 643, S. 1687, S. 2052, H.R. 3247, H.R. 4617, H.R. 4827, H.R. 4838, S. 1537, S. 1778, S. 2180, H.R. 3210, H.R. 3597, H.R. 4606, H.R. 5009, H.R. 5016, S. 2508, H.J. Res. 102, H. Res. 737, H.R. 2941, and H.R. 3479.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

EXPRESSING CONTINUED SUPPORT FOR CONSTRUCTION OF VICTIMS OF COMMUNISM MEMORIAL

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 752) expressing continued support for the construction of the Victims of Communism Memorial.

The Clerk read as follows:

H. RES. 752

Whereas section 905 of the FRIENDSHIP Act (40 U.S.C. 1003 note) authorizes the construction of a memorial to honor the victims of communism;

Whereas in 2004, a location for the Victims of Communism Memorial is to be selected and construction of the Memorial in the District of Columbia is scheduled to begin;

Whereas construction of the Memorial is supported by the Baltic-American community and other ethnic communities in the United States; and

Whereas it is necessary for the people of the United States to be reminded of the importance of the Memorial and continue to support its progression: Now, therefore, be it

Resolved, That the House of Representatives expresses continued support for the construction of the Victims of Communism Memorial.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from Guam (Ms. BORDALLO) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. RADANOVICH).

Mr. RADANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 752 introduced by the gentleman from Illinois (Mr. SHIMKUS) would express the continued support of the House of Representatives for the construction for the Victims of Communism Memorial in the Nation's capital. I urge adoption of the resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. BORDALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the consideration of this measure.

Mr. SOUDER. Mr. Speaker, today I rise in support of H. Res. 752, expressing continued support for the construction of the Victims of Communism Memorial.

In 1993, recognizing "the deaths of over 100,000,000 victims in an unprecedented imperial communist holocaust," Congress authorized the construction of the Victims of Communism Memorial in our Nation's capital, "so that never again will nations and peoples allow so evil a tyranny to terrorize the world."

Today, H. Res. 752 reaffirms the importance of the Victims of Communism Memorial and reminds our nation that the men and women whose sacrifice the memorial honors must not be forgotten.

Over the past year, significant strides have been made toward the realization of the memorial, including the consideration of a potential location. Several months ago, the National Park Service recommended a site for the Victims of Communism Memorial at Maryland and Constitution Avenues, NE. In July, I and 26 other Members of Congress wrote to the chairman of the National Capital Memorial Commission, encouraging the commission to approve this site for the memorial. Later that month, the commission met to consider this location for the memorial. Citizens representing the Baltic-American, Vietnamese-American and Polish-American communities expressed their strong support for the memorial. They spoke of its importance both for their own communities in commemorating those who have suffered under communist oppression and for our whole nation, which has shared in the struggle against communism.

That day, the commission unanimously approved the site for the Victims of Communism Memorial.

The Victims of Communism Memorial continues to make its way through the approved process for its site and design. Now that the National Capital Memorial Commission has approved a location, the site must also be approved by Neighborhood Advisory Commission 6–C for Capitol Hill, the Commission on Fine Arts, and the National Capital Planning Commission. The Memorial must then go through the same procedure for design approval.

These are important and exciting steps on the way to establishing the memorial to honor over 100 million victims of communism. It is vital that we as Americans remember the sacrifice so many brave men and women have made in the hope of achieving freedom from communist tyranny. Our Nation has long struggled along with them as the leader in fighting communism. This history is also very personal for the estimated 26 million Americans who trace their heritage to former communist countries. When the Victims of Communism Memorial is constructed, it will provide our Nation with a place to commemorate the lives and heroism of those the memorial honors, and to remember the terrible cost of communism. This is a message that neither we nor future generations of Americans can afford to forget.

I urge my colleagues to support the efforts to establish the Victims of Communism Memorial and H. Res. 752.

Ms. BORDALLO. Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and agree to the resolution, H. Res. 752.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.