

"§7506. Monitoring responsibilities of the Comptroller General"

"(a) The Comptroller General shall review provisions requiring financial audits of non-Federal entities that receive Federal awards that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives.

"(b) If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chapter, the Comptroller General shall, at the earliest practicable date, notify in writing—

"(1) the committee that reported such bill or resolution; and

"(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

"(B) the Committee on Government Reform and Oversight of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

"§7507. Effective date"

"This chapter shall apply to any non-Federal entity with respect to any of its fiscal years which begin after June 30, 1996."

SEC. 3. TRANSITIONAL APPLICATION.

Subject to section 7507 of title 31, United States Code (as amended by section 2 of this Act) the provisions of chapter 75 of such title (before amendment by section 2 of this Act) shall continue to apply to any State or local government with respect to any of its fiscal years beginning before July 1, 1996.

ANTICOUNTERFEITING CONSUMER PROTECTION ACT OF 1995

Mr. MACK. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House to accompany S. 1136.

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

Resolved, That the bill from the Senate (S. 1136) entitled "An Act to control and prevent commercial counterfeiting, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anticounterfeiting Consumer Protection Act of 1996".

SEC. 2. FINDINGS.

The counterfeiting of trademarked and copyrighted merchandise—

(1) has been connected with organized crime;

(2) deprives legitimate trademark and copyright owners of substantial revenues and consumer goodwill;

(3) poses health and safety threats to United States consumers;

(4) eliminates United States jobs; and

(5) is a multibillion-dollar drain on the United States economy.

SEC. 3. COUNTERFEITING AS RACKETEERING.

Section 1961(1)(B) of title 18, United States Code, is amended by inserting " ", section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical per-

formances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks)" after "sections 2314 and 2315 (relating to interstate transportation of stolen property)".

SEC. 4. APPLICATION TO COMPUTER PROGRAMS, COMPUTER PROGRAM DOCUMENTATION, OR PACKAGING.

(a) IN GENERAL.—Section 2318 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "a motion picture or other audiovisual work," and inserting "a computer program or documentation or packaging for a computer program, or a copy of a motion picture or other audiovisual work, and whoever, in any of the circumstances described in subsection (c) of this section, knowingly traffics in counterfeit documentation or packaging for a computer program,";

(2) in subsection (b)(3) by inserting "'computer program'," after "'motion picture'"; and

(3) in subsection (c)—

(A) by striking "or" at the end of paragraph (2);

(B) in paragraph (3)—

(i) by inserting "a copy of a copyrighted computer program or copyrighted documentation or packaging for a computer program," after "enclose,"; and

(ii) by striking the period at the end and inserting "or"; and

(C) by adding after paragraph (3) the following:

"(4) the counterfeited documentation or packaging for a computer program is copyrighted."

(b) CONFORMING AMENDMENTS.—(1) The section caption for section 2318 of title 18, United States Code, is amended to read as follows:

"§2318. Trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, and copies of motion pictures or other audio visual works, and trafficking in counterfeit computer program documentation or packaging"

(2) The item relating to section 2318 in the table of sections for chapter 113 of such title is amended to read as follows:

"2318. Trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, and copies of motion pictures or other audio visual works, and trafficking in counterfeit computer program documentation or packaging."

SEC. 5. TRAFFICKING IN COUNTERFEIT GOODS OR SERVICES.

Section 2320 of title 18, United States Code, is amended by adding at the end the following:

"(e) Beginning with the first year after the date of enactment of this subsection, the Attorney General shall include in the report of the Attorney General to Congress on the business of the Department of Justice prepared pursuant to section 522 of title 28, an accounting, on a district by district basis, of the following with respect to all actions taken by the Department of Justice that involve trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, copies of motion pictures or other audiovisual works (as defined in section 2318 of title 18), criminal infringement of copyrights (as defined in section 2319 of title 18), unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances (as defined in section 2319A of title 18), or trafficking in goods or services bearing counterfeit marks (as defined in section 2320 of title 18):

"(1) The number of open investigations.

"(2) The number of cases referred by the United States Customs Service.

"(3) The number of cases referred by other agencies or sources.

"(4) The number and outcome, including settlements, sentences, recoveries, and penalties, of

all prosecutions brought under sections 2318, 2319, 2319A, and 2320 of title 18."

SEC. 6. SEIZURE OF COUNTERFEIT GOODS.

Section 34(d)(9) of the Act of July 5, 1946 (60 Stat. 427, chapter 540; 15 U.S.C. 1116(d)(9)), is amended by striking the first sentence and inserting the following: "The court shall order that service of a copy of the order under this subsection shall be made by a Federal law enforcement officer (such as a United States marshal or an officer or agent of the United States Customs Service, Secret Service, Federal Bureau of Investigation, or Post Office) or may be made by a State or local law enforcement officer, who, upon making service, shall carry out the seizure under the order."

SEC. 7. RECOVERY FOR VIOLATION OF RIGHTS.

Section 35 of the Act of July 5, 1946 (60 Stat. 427, chapter 540; 15 U.S.C. 1117), is amended by adding at the end the following new subsection:

"(c) In a case involving the use of a counterfeit mark (as defined in section 34(d) (15 U.S.C. 1116(d)) in connection with the sale, offering for sale, or distribution of goods or services, the plaintiff may elect, at any time before final judgment is rendered by the trial court, to recover, instead of actual damages and profits under subsection (a), an award of statutory damages for any such use in connection with the sale, offering for sale, or distribution of goods or services in the amount of—

"(1) not less than \$500 or more than \$100,000 per counterfeit mark per type of goods or services sold, offered for sale, or distributed, as the court considers just; or

"(2) if the court finds that the use of the counterfeit mark was willful, not more than \$1,000,000 per counterfeit mark per type of goods or services sold, offered for sale, or distributed, as the court considers just."

SEC. 8. DISPOSITION OF EXCLUDED ARTICLES.

Section 603(c) of title 17, United States Code, is amended in the second sentence by striking "as the case may be;" and all that follows through the end and inserting "as the case may be."

SEC. 9. DISPOSITION OF MERCHANDISE BEARING AMERICAN TRADEMARK.

Section 526(e) of the Tariff Act of 1930 (19 U.S.C. 1526(e)) is amended—

(1) in the second sentence, by inserting "destroy the merchandise. Alternatively, if the merchandise is not unsafe or a hazard to health, and the Secretary has the consent of the trademark owner, the Secretary may" after "shall, after forfeiture,";

(2) by inserting "or" at the end of paragraph (2);

(3) by striking " ", or" at the end of paragraph (3) and inserting a period; and

(4) by striking paragraph (4).

SEC. 10. CIVIL PENALTIES.

Section 526 of the Tariff Act of 1930 (19 U.S.C. 1526) is amended by adding at the end the following new subsection:

"(f) CIVIL PENALTIES.—(1) Any person who directs, assists financially or otherwise, or aids and abets the importation of merchandise for sale or public distribution that is seized under subsection (e) shall be subject to a civil fine.

"(2) For the first such seizure, the fine shall be not more than the value that the merchandise would have had if it were genuine, according to the manufacturer's suggested retail price, determined under regulations promulgated by the Secretary.

"(3) For the second seizure and thereafter, the fine shall be not more than twice the value that the merchandise would have had if it were genuine, as determined under regulations promulgated by the Secretary.

"(4) The imposition of a fine under this subsection shall be within the discretion of the Customs Service, and shall be in addition to any other civil or criminal penalty or other remedy authorized by law."

SEC. 11. PUBLIC DISCLOSURE OF AIRCRAFT MANIFESTS.

Section 431(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(1)) is amended—

(1) in the matter preceding subparagraph (A), by inserting "vessel or aircraft" before "manifest";

(2) by amending subparagraph (D) to read as follows:

"(D) The name of the vessel, aircraft, or carrier.;"

(3) by amending subparagraph (E) to read as follows:

"(E) The seaport or airport of loading.;"

(4) by amending subparagraph (F) to read as follows:

"(F) The seaport or airport of discharge.;" and

(5) by adding after subparagraph (G) the following new subparagraph:

"(H) The trademarks appearing on the goods or packages.;"

SEC. 12. CUSTOMS ENTRY DOCUMENTATION.

Section 484(d) of the Tariff Act of 1930 (19 U.S.C. 1484(d)) is amended—

(1) by striking "Entries" and inserting "(1) Entries"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary, in prescribing regulations governing the content of entry documentation, shall require that entry documentation contain such information as may be necessary to determine whether the imported merchandise bears an infringing trademark in violation of section 42 of the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946'; 15 U.S.C. 1124), or any other applicable law, including a trademark appearing on the goods or packaging.;"

SEC. 13. UNLAWFUL USE OF VESSELS, VEHICLES, AND AIRCRAFT IN AID OF COMMERCIAL COUNTERFEITING.

Section 80302(a) of title 49, United States Code, is amended—

(1) by striking "or" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(6)(A) a counterfeit label for a phonorecord, copy of a computer program or computer program documentation or packaging, or copy of a motion picture or other audiovisual work (as defined in section 2318 of title 18);

"(B) a phonorecord or copy in violation of section 2319 of title 18;

"(C) a fixation of a sound recording or music video of a live musical performance in violation of section 2319A of title 18; or

"(D) any good bearing a counterfeit mark (as defined in section 2320 of title 18).;"

SEC. 14. REGULATIONS.

Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe such regulations or amendments to existing regulations that may be necessary to carry out the amendments made by sections 9, 10, 11, 12, and 13 of this Act.

Mr. MACK. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House.

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

MESSAGE FROM THE PRESIDENT

A message from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a mes-

sage from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:23 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2754. An act to approve and implement the OECD Shipbuilding Trade Agreement.

H.R. 3610. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 187. Concurrent resolution expressing the sense of Congress with respect to recent church burnings.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 2754. An act to approve and implement the OECD Shipbuilding Trade Agreement; to the Committee on Finance.

H.R. 3610. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes; to the Committee on Appropriations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-595. A concurrent resolution adopted by the Legislature of the State of Arizona to the Committee on Environment and Public Works.

"SENATE CONCURRENT MEMORIAL 1002

"Whereas, it is essential that new federal highway reauthorization legislation be enacted before the expiration of the federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) to allow states to make transportation programming decisions based on solid estimates of federal highway trust funding; and

"Whereas, the current equity program ensures, at a minimum, a ninety per cent return to all states; and

"Whereas, a fundamental premise of ISTEA is that each state's authorized highway spending levels be fully funded; and

"Whereas, the Congress of the United States violated the premise of fully funded authorization levels by establishing obligation authority limits on states to artificially reduce the federal deficit; and

"Whereas, ISTEA was designed to give states greater flexibility in determining the distribution of federal highway monies for their transportation systems, but in practice, the federal program contains numerous funding "set-aside" mandates such as high-

way safety programs and enhancement programs that have considerably reduced the amount of actual monies available for significant surface transportation needs; and

"Whereas, ISTEA and annual federal appropriation bills have historically funded numerous demonstration projects that significantly reduced federal highway funds that this state and other states would have received under established highway funding formulas; and

"Whereas, a 1995 Federal Highway Administration report indicated that in federal fiscal years 1994-1995, congressional funding of transportation demonstration projects totaled over \$2.7 billion, thereby reducing this state's share of federal highway funds by more than \$29 million.

"Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

"1. That the Congress of the United States begin the process of establishing a new surface transportation act during the 1996 congressional session so that this vital legislation can be enacted before the expiration of ISTEA.

"2. That the President and Congress of the United States make the highway trust fund and the user fees accruing to it a permanent fund to ensure that reliable funding sources are available to the states for constructing, rehabilitating and otherwise improving the highways and bridges that are so essential to the vigor of the States of Arizona and the national economy.

"3. That the President and Congress of the United States protect the highway trust fund from legislative proposals that divert highway user revenues to programs entirely unrelated to the transportation purposes for which this fund was established.

"4. That the Congress of the United States remove the federal highway trust fund from the federal unified budget, release sequestered transportation fund and remove forever the specter of using dedicated highway funds for budget reducing measures, thus making these funds available for the purpose for which they were collected and intended, the nation's highway infrastructure.

"5. That the Congress of the United States not impose obligation authority limits in the future so that each state's highway authorization levels will be fully funded.

"6. That the Congress of the United States ceases to fund so-called demonstration projects and that all highway trust fund revenues be distributed to the states through an equitable and fair highway funding formula.

"7. That the Congress of the United States eliminate mandatory "set-aside" programs in the next surface transportation act, thereby giving states more monies for actual highway construction and maintenance projects.

"8. That the Congress of the United States ensure that all states receive at least a ninety-five percent return on payments made to the Federal Highway Trust Fund.

"9. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States and to each member of the Arizona Congressional Delegation."

POM-596. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Environment and Public Works.

"HOUSE JOINT MEMORIAL NO. 6

"Whereas, during the settlement of what is now the state of Idaho and the years immediately following, grizzly bear and human