Committee on Environment and Public Works.

By Mr. LEAHY (for himself and Mr. KYL):

S. 1044. A bill to amend the provisions of titles 17 and 18, United States Code, to provide greater copyright protection by amending criminal copyright infringment provisions, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAIG (for himself, Mrs. MURRAY, Mr. MURKOWSKI, Mr. KEMPTHORNE, Mr. WYDEN, Mr. GORTON, and Mr. SMITH of Oregon):

S.J. Res. 35. A joint resolution granting the consent of Congress to the Pacific Northwest Emergency Management Arrangement; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAMS (for himself and Ms. MOSELEY-BRAUN):

S. 1038. A bill to provide for the minting and circulation of one dollar coins, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE EFFICIENT CURRENCY ACT OF 1997

Mr. GRAMS. Mr. President, today Senator MOSELEY-BRAUN and I are introducing the Efficient Currency Act of 1997. The bill calls for a newly designated, golden-colored $1 coin to replace the Susan B. Anthony dollar coin.

The argument for a $1 coin is simple: it saves money. According to estimates of the General Accounting Office and the Federal Reserve, replacing the $1 bill with a coin saves the Government $2.28 billion during the first 5 years it circulates. As we consider plans to balance the budget and eliminate Government waste, I believe that carrying a $1 coin along with $2 bills is a relatively painless option compared to the alternatives of raising taxes or cutting important programs.

A public opinion poll conducted in May 1997 reveals that 58 percent of the American public favors replacing the $1 bill with a coin when informed that such a change would save the Government $456 million annually.

I want to stress that the Efficiency Currency Act of 1997 does not call for a phase out of the $1 bill until 1 billion $1 coins authorized under this legislation are in circulation. If the public rejects the new coin, the phase-out will not occur.

Unless this legislation is approved in the near future, the U.S. Mint will begin the process of minting more of the unpopular Susan B. Anthony coins by 1999. The supply of Anthony coins in Government inventories fell by a total of 137 million coins in 1995 and 1996. Only 146 million remains as of May 30. The inventory has been falling at the rate of about 5 million per month, because Anthony dollars are used at hundreds of vending locations, by more than a dozen major transit systems, and by the U.S. Postal Service. Contrary to reports by opponents of the dollar coin, the U.S. Postal Service has no plans to discontinue the use of the Anthony dollar in their self-service operations. The timeframe for a decision by Congress is short, because the U.S. Mint has stated that it needs 30 months to design and fabricate a new $1 coin.

I think one of the most compelling reasons to replace a $1 bill with a $1 coin is the cost savings. First, the Treasury Department will save money. A $1 coin lasts about 30 years while costing about 8 cents. A $1 bill is significantly more expensive, as it lasts only 1 year and 1 month at a cost of 4 cents per bill.

Second, the private sector will save money. A $1 coin is easier to process than a $1 bill. Paper money received on buses must be hand-straightened at a cost of over $20 per 1,000, or about 2 cents for each dollar. Coins can be processed for less than one-tenth of the cost. The change to a $1 coin is estimated to save the mass transit industry $124 million annually.

Furthermore, vending operators could avoid placing dollar bill acceptors, which cost between $300 and $400 each, on each vending machine. The additional cost of these machines eventually must be passed on to customers. In addition, bill acceptors frequently do not work and are more expensive to maintain than coin mechanisms.

Another benefit is that many consumers will actually have less, not more, change in their pocket. Instead of having to use 4, 8, or 12 quarters to pay for mass transit, parking meters, phone calls, and car washes, they will use dollar coins weighing a fraction the weight of many quarters.

The visually impaired support the introduction of a $1 coin because the $1 bill can be confused with bills of higher denominations. A useable $2 coin will permit them to complete small transactions without ever having to use paper money.

This legislation is called the Efficiency Currency Act because passage would bring efficiencies to the private sector as well as to Government. This commonsense approach to modernizing our currency is not an original idea. In fact, the United States is the only major industrialized country that does not have high denomination coins.

Mr. President, I ask unanimous consent that both a copy of the Efficient Currency Act of 1997 and a summary of its contents be entered into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1038

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Efficient Currency Act of 1997''.

SEC. 2. ONE DOLLAR COINS.

(a) COLOR AND CONTENT.—Section 5112(b) of title 31, United States Code, is amended—

(1) in the first sentence, by striking ''dollar,''; and

(2) by inserting after the fourth sentence, the following: ''The dollar coin shall be golden in color, have a distinctive edge, have tactile and visual features that make the denomination of the coin readily discernible, be minted and fabricated in the United States, and have similar metallic, anticounterfeiting properties as United States clad coinage in circulation on the date of enactment of the Efficient Currency Act of 1997.''.

(b) DESIGN.—Section 5112(d)(1) of title 31, United States Code, is amended—

(1) in the third sentence, by striking ''the dollar, half dollar,'' and inserting ''half dollar''; and

(2) by striking ''The eagle'' and all that follows through ''Anthony.'' and inserting the following: ''The Secretary of the Treasury, in consultation with Congress, shall select appropriate designs for the reverse and obverse sides of the dollar coin.''.

(c) EFFECTIVE DATE.—Before the date on which the Government inventory of Susan B. Anthony $1 coins is depleted, the Secretary of the Treasury shall place into circulation $1 coins authorized under section 5112(a)(1) of title 31, United States Code, that comply with the requirements of subsections (b) and (d)(1) of that section 5112 (as amended by this section). The Secretary may include such coins in any numismatic set produced by the United States Mint before the date on which the coins are placed in circulation.

(d) INCREASE CAPACITY.—The Secretary of the Treasury shall increase capacity at United States Mint facilities to a level that would permit the replacement of $1 Federal Reserve notes with $1 coins minted in accordance with section 5112 of title 31, United States Code, as amended by this Act.

SEC. 3. CEASING ISSUANCE OF ONE DOLLAR NOTES.

(a) IN GENERAL.—Federal Reserve banks may continue to place into circulation $1 Federal Reserve notes in accordance with section 5115 of title 31, United States Code, until Susan B. Anthony coins and coins minted in accordance with this Act and the amendments made by this Act total 1,000,000,000 coins in circulation, at which time no Federal Reserve bank may order or place into circulation any $1 Federal Reserve note.

(b) EXCEPTION.—Notwithstanding subsection (a), the Secretary of the Treasury shall produce only such number of $1 Federal Reserve notes as the Board of Governors of the Federal Reserve System orders from time to time to meet the needs of collectors of that denomination. Such notes shall be issued by 1 or more Federal Reserve banks in accordance with section 16 of the Federal Reserve Act and sold by the Secretary, in whole or in part, under procedures prescribed by the Secretary.

SEC. 4. REGULATORY AUTHORITY.

The Secretary of the Treasury shall issue appropriate rules and regulations to carry out this Act and the amendments made by this Act.

SUMMARY OF THE EFFICIENT CURRENCY ACT OF 1997

New and Unique Coin: Section 2(a) of the bill authorizes production of a new dollar coin that (1) is golden in color, (2) has a distinctive edge, (3) has tactile and visual features that make the denomination of the coin readily discernible, and (4) has similar metallic anti-counterfeiting properties of U.S. clad coinage. This will make the dollar coin easily distinguishable from a quarter.

Images on the Coin: Section 2(b) authorizes the Treasury Department to select new designs, in consultation with Congress, for the obverse and reverse sides of the dollar coin.

Timetable for Circulation: It is expected that the mint will have to issue new Susan

B. Anthony coins by September 1999. Section 2(c) of the bill requires that the Treasury Department must replace the Susan B. Anthony dollar coin with a new (and more usable) dollar coin before the mint's inventory of Susan B. Anthony coins are depleted.

Termination of $1 Bill: The Efficient Currency Act effectively lets the public decide whether the Treasury Department should retain or terminate the dollar bill. Section 3(a) states that if the use of the new dollar coins dramatically increases so that there are at least one billion coins in circulation, then the dollar bill shall be terminated.

By Mr. DOMENICI:

S. 1039. A bill to designate a commercial zone within which the transportation of certain passengers or property in commerce is exempt from certain provisions of chapter 135, of title 49, United States Code; to the Committee on Commerce, Science, and Transportation.

THE NEW MEXICO COMMERCIAL ZONE ACT

Mr. DOMENICI. Mr. President, today I rise to introduce the New Mexico Commercial Zone Act of 1997. This legislation will establish a much needed zone in New Mexico to facilitate the trade and transportation of raw materials and merchandise across our border with Mexico.

Mr. President, now that America is witnessing the economic benefits of the North American Free Trade Agreement [NAFTA] and trade with Mexico is growing at a record pace, it has become clear to New Mexico that we must establish a commercial zone to take full advantage of the economic possibilities available to border States.

Mr. President, this legislation has the support of New Mexico's Governor, Gary Johnson, the State Economic Development Department, the New Mexico Border Authority, the United States-Mexico Chamber of Commerce, the New Mexico food processing industry, the New Mexico Motor Carriers Association, and the Cities of Las Cruces and Deming.

In the past, commercial zones were created by the Interstate Commerce Commission in numerous States to facilitate local border trade and transportation activities. They also serve to control movement and uphold American vehicle safety requirements for foreign vehicles operating within the United States.

It is within the limits of these zones that commercial vehicles of either Mexican or Canadian registry are authorized to deliver products from their country to a United States distribution point or warehousing facility. In addition to permitting these vehicles to pick up loads of products which are destined for export into their respective countries.

Mr. President, commercial zones similar to the one I propose today have been established in the States of: New York, South Carolina, West Virginia, Louisiana, Pennsylvania, Washington, Illinois, Colorado, Kentucky, Minnesota, California, Texas, Arizona, and the District of Columbia.

Since the passage of NAFTA, these zones have been very important to border States because they are serving as the transition boundaries for all Mexican commercial traffic.

Mr. President, it is clear that if we do not establish a commercial zone in New Mexico, my State will remain at a tremendous disadvantage to other border States. We will continue to be one step behind in attracting NAFTA-related businesses and building upon our current trade relationship with Mexico.

Despite the fact that New Mexico does not yet have a commercial zone, we are taking steps to increase trade with our neighbors. We have began to put the necessary border infrastructure in place and are laying the foundation for a winning partnership with Mexico.

We have moved to develop a state-of-the-art Port of Entry at Santa Teresa which will facilitate efficient border crossings and will soon begin construction on a intermodal transportation center. This center will help expedite international cargo transfers not only for New Mexico, but for the rest of the country once its construction has been completed.

Since the passage of NAFTA, New Mexico has witnessed its exports to Mexico increase by over 1,000 percent—a percentage which represents one of the largest explosions in exports by any State in the Nation.

Unfortunately, New Mexico still lags behind 35 other States in the amount of exports being sent to Mexico. It is becoming increasingly clear to the people of New Mexico that one component is still missing. The establishment of a New Mexico commercial zone.

Mr. President, this dilemma will not be more apparent than late this summer when the Mexican chili crops are ready for harvest. Because without a commercial zone, these farmers will not be able to process their chili crops in the many food processors located in southern New Mexico.

For a Mexican farmer to sell chili to our food processors, that farmer must transport the chili crop to the border station, unload the cargo, and then reload it onto an American carrier to travel the remaining 30 miles to the processing plant.

Mr. President, this is clearly not an economic incentive for conducting business with New Mexico food processors.

Mr. President, we passed NAFTA to begin creating new jobs and business opportunities for American businesses.

Unfortunately, what we are seeing in New Mexico, is one of the first opportunities for new business, just slip through our finger tips—because we do not have a commercial zone.

Mr. President, this issue will not only affect the owners of these processors, but also the 3,000 New Mexicans who work at these plants and rely on that income to survive.

The apprehension among these workers is growing everyday because if Congress does not resolve this issue, there will not be enough work to go around this summer in southern New Mexico.

Mr. President, I believe that by establishing this commercial zone we will not only be helping New Mexico but also the American consumer. Because as trade with Mexico continues to increase, so will the demand for more efficient border crossings. And if you have ever traveled to any of the busier border crossings, you would quickly notice the long lines of commercial trucks sitting idle and waiting for hours to cross into the United States.

By establishing this commercial zone in New Mexico, we can help alleviate some of this traffic and make the process more efficient.

Mr. President, this is the economic reality we are facing in New Mexico unless this legislation is passed. I believe New Mexico has laid the foundation for developing a winning trade partnership with Mexico.

Simply put, this legislation puts New Mexico on a level playing field with other border States so that we can continue our efforts to make a brighter future for New Mexico residents.

In closing, I have three letters supporting this legislation, and I would ask unanimous consent to submit for the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

M.A. & SONS,
CHILE PRODUCTS,
Derry, NM, June 9, 1997.

Senator PETE DOMENICI,
Building D, Suite 1,
Las Cruces, NM.

DEAR SENATOR DOMENICI: We are writing to thank you for your leadership in working to resolve the D.O.T. enforcement of the ''Commercial Zone'' at the Port of Columbus, New Mexico. Your sponsorship of legislation to address this problem is very much appreciated and will ensure that the Port of Columbus will remain a viable Port of Entry for New Mexico.

We, as importers of red chile from Mexico for processing, need the Port of Columbus ''Commercial Zone'' to be expanded as your legislation is proposing in order to remain competitive and continue to employ people in the State of New Mexico at our chile processing plant. We have found the Port of Entry at Columbus to be efficient and able to provide the service that we need. We want to continue to use this Port instead of other Ports of Entry that are located further away from the origin of the chile in Mexico. Using other Ports of Entry would add time and money to the product and this can be avoided by using the Port of Columbus.

Thank you again for your leadership in this issue that is important to us and the State of New Mexico. If you need any additional information please feel free to contact me.

Sincerely,

MARY ALICE GARAY,
Owner.

STATE OF NEW MEXICO,
ECONOMIC DEVELOPMENT DEPARTMENT,
Santa Fe, NM, June 18, 1997.

Senator PETE V. DOMENICI,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR: The New Mexico Economic Development Department and the New Mexico Border Authority wish to express their

support for a Southern New Mexico Border Commercial Zone.

The establishment of a commercial zone to cover portions of two counties (Dona Ana and Luna) will encourage warehouses and manufacturing plants in New Mexico's border areas. The historical means of establishing Commercial Zones has been to use a population formula which does not work for sparsely populated Southern New Mexico. New Mexico is poised for industrial and commercial growth in the border area, and needs a Commercial Zone to avoid being at a competitive disadvantage with other border states. Of particular and immediate interest is the use of a Commercial Zone for produce from Mexico moving to food processing plants in New Mexico.

We strongly applaud your efforts to establish a New Mexico Commecial Zone.

Sincerely,

GARY D. BRATCHER,
Cabinet Secretary.

UNITED STATES-MEXICO CHAMBER OF COMMERCE, CAMARA DE COMERCIO MEXICO-ESTADOS UNIDOS,
Washington, DC, July 9, 1997.

Hon. PETE DOMENICI,
U.S. Senate,
Washington, DC,

DEAR SENATOR DOMENICI: The United States-Mexico Chamber of Commerce is happy to hear of your sponsorship of the New Mexico Commercial Zone Act of 1997. The legislation will certainly benefit the economic development of your state while supporting jobs on both sides of the border. Regional prosperity is crucial to an economically and environmentally stable border region.

Until NAFTA's cross-border trucking provisions take effect, the extension of commercial zones at the state level is both commercially and politically viable. In the case of New Mexico, it is especially crucial because it does not have the same ''twin city'' arrangements as other border states and, therefore, cannot take advantage of existing commercial zones. Economic development and jobs in Las Cruces and Deming are left vulnerable to transportation inefficiency.

As NAFTA continues to benefit its three signatory nations, it would be unfortunate to keep regions, states or cities from enjoying its full benefits. Current trucking provisions amount to non-tariff barriers. The Chamber supports removal of those barriers and we support your initiative.

Sincerely,

ALBERT C. ZAPANTA,
President.

By Mr. SHELBY (for himself, Mr. CRAIG, and Mr. HELMS):

S. 1040. A bill to promote freedom, fairness, and economic opportunity for families by reducing the power and reach of the Federal establishment; to the Committee on Finance.

THE FREEDOM AND FAIRNESS RESTORATION ACT OF 1997

Mr. SHELBY. Mr. President, although the tax reconciliation bill promises to cut taxes by approximately $76 billion over 5 years and $238 billion over 10 years, it should be viewed as only a small step forward in providing tax relief to the American people.

I remind my colleagues this afternoon that we must not forsake our broader agenda to seek comprehensive reform of our tax system. Piecemeal tax cuts are not, and I want to say it again, are not a substitute for broad-based tax reform. Therefore, I rise today to offer the Freedom and Fairness Restoration Act which will scrap the entire Income Tax Code as we know it and replace it with a system that taxes all income once and only once at one low, flat rate of 17 percent.

A flat tax, I believe, will correct the vast and pervasive problems of the current system. As illustrated before here, the complexity of Federal tax laws costs taxpayers approximately 5.3 billion hours to comply with the current Internal Revenue Code. The Tax Code is so complicated that even the IRS doesn't understand it.

In 1993, the IRS gave 8.5 million wrong answers to taxpayers seeking assistance, and the IRS sent out 5 million correction notices which turned out to be wrong.

In 1996, this past year, taxpayers spent a staggering $225 billion trying to comply with the Tax Code. Think about it—$225 billion in America spent by the taxpayers trying to comply with the Tax Code. This is a deadweight loss to the economy that is, as the Presiding Officer knows as a member of the Armed Services Committee, about equal to our national defense budget.

We live in a society that accepts the notion that some level of taxation is necessary to finance the cost of Government, but it is important that it does no more harm than is necessary to achieve the stated goal. The current Tax Code is the product of a 40-year experiment with social engineering that has hampered the effort of the American people to be free, bear the fruit of their labor and ultimately live the American dream.

Recently, the bipartisan national commission on restructuring the IRS came out with a report laying out their vision for a new and improved IRS. One of the key recommendations of this commission that was made was that simplification of the tax law is necessary to reduce taxpayer burden and to facilitate improved tax administration.

We need to address significant tax policy changes that will not only provide taxpayers with relief, but will simplify and equalize the tax collection in this country. Taxation is bad enough without administering that tax through the inefficient, inequitable, and oppressive tax system that we have today.

Rather than wading through stacks of complicated IRS forms and instruction manuals, under a flat tax taxpayers would file a simple, postcard-size return. When fully phased in, the family allowance would be $11,600 for a single person, $23,200 for a married couple filing jointly and $5,300 for each dependent child.

These allowances will be indexed to inflation under our bill. For a family of four, this will mean that their first $33,800 of income would be exempt from taxation by the Federal Government, which will assure a progressive average rate for low-income households.

The flat tax, I believe, will restore fairness to tax laws by treating everyone alike, regardless of what business they are in, whether or not they have a lobbyist in Washington or how much money they make. If you earn more, under the flat rate tax, you would pay more. Under the current system, one taxpayer may pay little or no taxes because they have paid an accountant or tax attorney to figure out the Tax Code for them. At the same time, another person with the same exact income but who does not have the professional assistance may pay much more in taxes. I say that is not fair.

Under a flat tax, this would end. People would not have to hire an accountant or tax attorney simply to comply with the law. Everyone would fill out the same simple, postcard-size return. Everyone will be taxed at the same rate. And, yes, everyone will pay their fair share.

Furthermore, the flat tax will eliminate the double taxation of savings and promote jobs and higher wages in this country. Because the flat tax applies a single low rate to all Americans, I feel it is the best replacement of the current system. I do not think that Americans should have to jump through hoops just to keep the money they have earned through their hard work. The current Tax Code basically says you can keep your money only if you do what we think you should do. This is not freedom; it is serfdom. The flat tax does away with Government micromanagement of people's personal lives and allows them to spend their hard-earned money as they see fit.

But perhaps the most important virtue of the flat tax is that it supports the basic value of work, savings, and individual liberty. It has been a commitment to these principles that has made America the most successful economy in the world. In recent years, we have watched as the private sector has streamlined itself. I think it is now time for us to streamline the Tax Code.

By Mr. KERRY:

S. 1041. A bill to amend section 5314 of title 49, United States Code, to assist compliance with the transit provisions of the Americans with Disabilities Act of 1990; to the Committee on Banking, Housing, and Urban Affairs.

THE ACCESSIBLE TRANSPORTATION ACTION ACT OF 1997

Mr. KERRY. Mr. President, today I am introducing the Accessible Transportation Act of 1997. This legislation will continue the progress we have made improving access to transportation services for individuals with disabilities.

There are 25 million Americans with disabilities who are transit dependent. Access to transportation for these Americans is the critical factor that determines whether they can pursue opportunities in employment, education, housing, and recreation. I believe that assuring access to transportation is critical to promoting maximum independence and achieving

meaningful integration for persons with disabilities.

In 1987, Congress created Project Action to promote transportation accessibility and to enhance cooperation between transit providers and the disability community.

In 1990, Congress passed the Americans With Disabilities Act [ADA] to ensure that every American has access to transportation, buildings and other necessary locations, services, and activities which are essential to lead an active life. The ADA guarantees equality of accessibility for all Americans regardless of the challenges that their disabilities present.

In order to facilitate the implementation of the transportation provisions included in ADA, I sponsored the Accessible Transportation Action Act of 1991 which was included in the Intermodal Surface Transportation Efficiency Act of 1991. This legislation authorized funding of $2 million each year for the Easter Seals Society to undertake a national program of research, demonstrations, and technical assistance to provide new solutions to the problems of providing transportation for persons with disabilities. Project Action has become the Nation's foremost resource for information and guidance on implementing the transportation provisions of ADA.

The National Easter Seals Society has administered Project Action and has assisted in building strong working relationships between transit operators, disability organizations, and the U.S. Department of Transportation in order to find cost-effective ways to promote transportation accessibility.

Project Action has developed an impressive resource center of informational materials for a wide variety of transit and disability community audiences on the nature and progress of ADA implementation. It has initiated consumer campaigns to insure that people with disabilities are aware of their rights.

The positive effects that have developed from Project Action activities have been impressive. Nationwide bus fleet accessibility has grown. Rail station access has increased. Paratransit services have improved and expanded. And the disability and transit communities have learned how to work together to promote accessible transportation.

However, there are a number of challenges which remain in order to assure that the disabled have full access to transportation services. The chief concern is how to insure the implementation of ADA in the most cost-effective manner. Paratransit costs are high and resources are limited. At the same time, overall Federal assistance for transportation and mass transit has been limited. America needs Project Action to continue to find innovative ways to allow every disabled person to gain equal access to our Nation's public transportation systems.

Therefore, I am today introducing legislation which will continue the Project Action for the next 5 fiscal years to continue the vital process of implementing the transportation facets of the Americans with Disabilities Act.

By Mr. CRAIG (for himself, Mr. GRAHAM and Mr. JOHNSON):

S. 1042. A bill to require country of origin labeling of perishable agricultural commodities imported into the United States and to establish penalties for violations of the labeling requirements; to the Committee on Agriculture, Nutrition, and Forestry.

THE IMPORTED PRODUCE LABELING ACT

Mr. CRAIG. Mr. President, I rise today with my colleague, Senator GRAHAM, to introduce the Imported Produce Labeling Act of 1997.

For the past 67 years, since Congress passed the Tariff Act of 1930, almost everything imported from abroad has been labeled as to its country of origin. Guidelines now exist for products of virtually every kind—from clothing and toys to prepared food. Pick up almost anything in your local supermarket or department store and you're likely to see its country of origin clearly displayed.

This is sound trade policy, which has served our Nation well. It is now time, Mr. President, to extend these same labeling requirements to imported produce.

Currently, containers carrying imported produce from abroad are required, by the same Tariff Act of 1930, to be labeled as to where that produce was grown and packed. This information makes it possible for American importers, shippers, and retailers to know the produce's country of origin. However, that information is never revealed to the consumer.

What this legislation would require, Mr. President, is for this important information, already in the hands of our retailers and shippers, be passed on to those who ultimately purchase and consume the imported produce. We're asking, quite simply, for retailers to let the American consumer know what they're eating and where it was produced.

The United States imports approximately 1.7 billion dollars' worth of fruit and vegetables every year. Almost all of this produce is purchased and consumed by unsuspecting shoppers who have no idea where, or under what conditions, it was grown.

While some might claim these new labeling requirements are unfair or burdensome, these claims are simply not true, and aim to distract the real issue: the consumer's right to know.

I would point out to these critics, Mr. President, that most of our international trading partners already require such labeling. While I won't take the time to read the names of all these nations now, I would like to draw your attention to two of those with the strictest labeling requirements, Canada and Mexico—our two closest trading partners.

Mr. President, I ask unanimous consent that a list of countries which currently require country of origin labeling for produce to be printed in the RECORD.

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

PRODUCE LABELING REQUIREMENTS ABROAD

(From the National Food and Agriculture Policy Project/Arizona State University)

Countries which require country of origin labeling on all produce, including bulk produce: Bulgaria, Canada, Costa Rica, Egypt, Germany, Greece, India, Ireland, Malaysia, Mexico, Romania, Spain, Tunisia, and the United Kingdom.

Countries which require country of origin labeling only on prepackaged products: Austria, Brazil, Ecuador, Hong Kong, Israel, Iraq, Portugal, South Africa, Switzerland, and Venezuela.

Countries where country of origin labeling is an industry practice, though not required: Denmark, Finland, Italy, Japan, New Zealand, Singapore, and Sweden.

Mr. CRAIG. Mr. President, it is about time we start giving American consumers the same information granted in these other nations.

Likewise, this legislation is not overly burdensome. The bill provides for a wide variety of labeling options, any number of which might be easily employed by American retailers to display information they already know.

Mr. President, I ask my colleagues to consider this legislation seriously. It is time to close the gap of knowledge that currently exists relative to where imported produce is grown. American consumers have the right to know where their food came from and, given the opportunity, will use that information to protect and provide for their families.

Mr. GRAHAM. Mr. President, I rise today to introduce legislation that will both support our national agricultural industries and bolster the abilities of American consumers to make educated choices about the fruits and vegetables that they purchase for their families: the Imported Produce Labeling Act of 1997.

This important legislation extends our current country-of-origin labeling laws—enacted as part of the Tariff Act of 1930—to require country-of-origin labeling of imported produce at the final point of sale, which for most Americans is the grocery store. It would bolster food safety, give consumers more information, and allow American growers to achieve some benefit from the heavy investment they make in complying with health, labor, and environmental laws.

Mr. President, country-of-origin labeling is not a new idea. For decades, European nations, Japan, and Canada have informed consumers about the origins of the produce available for purchase.

One need only to walk through a supermarket in Paris to notice the international nature of the produce sold. Shoppers can purchase apples from the United States, tomatoes from Holland, grapes from Spain, pears from France,

peaches from Italy, and oranges from Israel.

Our American supermarkets also carry agricultural products from a wide range of exporting nations. Why, then, do our consumers lack the advantage that their French, Japanese, and Canadian counterparts enjoy: the ability to make informed choices about the food they feed to their families?

It doesn't have to be that way. For 18 years, Florida grocery store customers have enjoyed the benefits of a law very similar to what I am proposing today.

In 1979, during my first term as Governor, the Florida State Legislature enacted the Produce Labeling Act, a law that is now administered by the Florida Department of Agriculture and Consumer Services.

The law has been implemented with almost no additional regulation and at extremely small cost to Florida taxpayers.

Extra supermarket inspections are not required. Department of Agriculture inspectors verify compliance with the law as a part of their already planned, routine inspections of all retail food stores in the State.

Florida's policy also expends limited time and money. A standard inspection takes approximately 15 minutes, the time needed to review displays and document discrepancies. And enforcement costs are estimated to be less than $40,000 annually for the department's inspection of over 23,000 retail food establishments.

While costs are low, the benefits that Floridians have enjoyed as a result of this policy are significant.

Most importantly, consumers are armed with important information about the products upon which they spend their hard-earned paycheck. Here's what that means:

The ''Made In The USA'' label can draw more customers to domestic produce, thus supporting American farmers and the U.S. economy as a whole.

Consumers have the ability to seek out foreign produce that is known for its high quality.

Shoppers have the information needed to boycott products from countries that exploit workers with low pay, poor working conditions, or child labor.

American families can protect their own health from products subjected to unsafe or unsanitary produce-handling practices.

The Florida Department of Agriculture reports that the State's labeling law has been both well-received and cost-effective. It costs a store only $5 to $10 per week to implement, and the estimated industry compliance costs statewide are less than $200,000 annually.

In plain terms, this means that for less than $200,000, consumers in a State that has 14 million residents and each year welcomes over 30 million visitors have the basic information regarding the origins of the produce on their supermarket shelves. That's a small price to pay for the ability to make educated choices in the marketplace.

It is my goal—and that of my cosponsors, Senator CRAIG of Idaho and Senator JOHNSON of South Dakota—to ensure that all American consumers are armed with the same ability to make informed choices as their counterparts in Florida, Europe, and Japan.

We are introducing this legislation because the changing nature of the agriculture market demands changes in our Nation's trade policy.

Sixty-seven years ago, when the Tariff Act of 1930 was enacted, fresh fruits and vegetables were exempt from labeling laws.

The Tariff Act dictates that items are required to be labeled with their country of origin only on their outermost container. In the case of fresh fruit and vegetables, the outermost container is the shipping container, from which produce is removed long before it ever reaches the consumer.

Obviously, the consumer market has changed dramatically since 1930. Whereas imported produce was once almost nonexistent in the United States, it now constitutes a $1.7 billion industry. In fact, 60 percent of our winter fruits and vegetables come from Mexico alone.

As imports have become a fixture in the domestic marketplace, our growers and their associations have argued for country of origin labeling. But this is an issue that unites producers and consumers. Research has shown that an overwhelming number of American consumers would like to know where their produce is grown—and they want that information made readily available.

Our bill is not cumbersome. It simply says that a retailer of a perishable agricultural product imported into the United States shall inform consumers as to the national origins of that product.

Nor is it designed to give American products an unfair advantage in the marketplace. In fact, foreign growers who believe that they grow a superior product to ours see this legislation as a prime opportunity to sell more of their goods in American supermarkets.

And finally, this bill does not suppress free trade or the free market system. It simply seeks to level the regulatory playing field. Shoppers in the European Union and Canada benefit from a county-of-origin labeling requirement. American consumers should have access to the same kind of information.

The Imported Produce Labeling Act constitutes one of the most important agriculture trade initiatives that will come before us during this Congress. It is a vital part of efforts to bolster one of the most critical elements of our free-enterprise system: informed choice. I urge its speedy passage.

By Mr. LEAHY (for himself and Mr. KYL):

S. 1044. A bill to amend the provisions of titles 17 and 18, United States Code, to provide greater copyright protection by amending criminal copyright infringement provisions, and for other purposes; to the Committee on the Judiciary.

THE CRIMINAL COPYRIGHT IMPROVEMENT ACT OF 1997

Mr. LEAHY. Mr. President, I am pleased to introduce on behalf of Senator KYL and myself, the Criminal Copyright Improvement Act of 1997. This bill would close a significant loophole in our copyright law and remove a significant hurdle in the Government's ability to bring criminal charges in certain cases of willful copyright infringement. By insuring better protection of the creative works available online, this bill will also encourage the continued growth of the Internet and our national information infrastructure.

This bill reflects the recommendations and hard work of the Department of Justice, which worked with me to introduce a version of this legislation in the 104th Congress. I want to commend the Department for recognizing the need for action on this important problem. This bill was noted with approval in the September, 1995 ''Report of the Working Group on Intellectual Property Rights,'' chaired by Bruce Lehman, Commissioner of Patents and Trademarks, and has been cited by the Business Software Alliance as one of its major legislative priorities.

For a criminal prosecution under current copyright law a defendant's willful copyright infringement must be ''for purposes of commercial advantage or private financial gain.'' Not-for-profit or noncommercial copyright infringement is not subject to criminal law enforcement, no matter how egregious the infringement or how great the loss to the copyright holder. This presents an enormous loophole in criminal liability for willful infringers who can use digital technology to make exact copies of copyrighted software and other digitally encoded works, and then use computer networks for quick, inexpensive and mass distribution of pirated, infringing works. This bill would close this loophole.

United States v. *LaMacchia*, 871 F. Supp. 535 (D. Mass. 1994), is an example of the problem this criminal copyright bill would fix. In that case, an MIT student set up computer bulletin board systems on the Internet. Users posted and downloaded copyrighted software programs. This resulted in an estimated loss to the copyright holders of over $1 million over a 6-week period. Since the student apparently did not profit from the software piracy, the Government could not prosecute him under criminal copyright law and instead charged him with wire fraud. The district court described the student's conduct ''at best * * * as irresponsible, and at worst as nihilistic, self-indulgent, and lacking in any fundamental sense of values.''

Nevertheless, the Court dismissed the indictment in LaMacchia because it viewed copyright law as the exclusive remedy for protecting intellectual property rights. The Court expressly invited Congress to revisit the copyright law and make any necessary adjustments, stating:

Criminal as well as civil penalties should probably attach to willful, multiple infringements of copyrighted software even absent a commercial motive on the part of the infringer. One can envision ways that the copyright law could be modified to permit such prosecution. But, ''[i]t is the legislature, not the Court which is to define a crime, and ordain its punishment.''

This bill would ensure redress in the future for flagrant, willful copyright infringements in the following ways: First, serious acts of willful copyright infringement that result in multiple copies over a limited time period and cause significant loss to the copyright holders, would be subject to criminal prosecution.

The bill would add a new offense prohibiting willful copyright infringement by reproduction or distributing, including by electronic means, during a 180-day period of 10 or more copies of 1 or more copyrighted works when the total retail value of the copyrighted work or the total retail value of the copies of such work is $5,000 or more. The bill makes clear that to meet the monetary threshold either the infringing copies or the copyrighted works must have a total retail value of $5,000 or more. The penalty would be a misdemeanor if the total retail value of the infringed or infringing works is between $5,000 and $10,000, and up to 3 years' imprisonment if the total retail value is $10,000 or more.

By contrast, the penalties proposed for for-profit infringement are much stiffer. Specifically, under the existing 17 U.S.C. section 506(a)(1), for-profit infringements in which the retail value of the infringing works is less than $2,500, would constitute a misdemeanor; and, if the retail value of the infringing works is $2,500 or more, the penalty is up to 5 years' imprisonment. As discussed below, this bill would change the monetary threshold amount for felony liability under section 506(a)(1) from $2,500 to $5,000.

The monetary, time period and number of copies thresholds for the new offense, under 17 U.S.C. section 506(a)(2), for not-for-profit infringements, combined with the scienter requirement, would insure that criminal charges would only apply to willful infringements, not merely casual or careless conduct, that result in a significant level of harm to the copyright holder's rights. De minimis, not-for-profit violations, including making a single pirated copy or distributing pirated copies of works worth less than a total of $5,000, would not be subject to criminal prosecution.

This bill would require that at least 10 or more copies of the infringed work be made, which is a quantity requirement that was not present for the new not-for-profit infringement offense in the version of the bill introduced in the 104th Congress. Thus, it would not be a crime under the bill to make a single copy of a copyrighted work, even if that work were very valuable and worth over $10,000. Such valuable intellectual property, whether or not copyrighted, that is stolen could be protected under the Economic Espionage Act of 1996, if it is a trade secret, or under the National Information Infrastructure Protection Act of 1996, which Senator KYL and I sponsored, if the means used to complete the theft involved unauthorized computer access.

Second, the bill would increase the monetary threshold for the existing criminal copyright offense, which makes it a misdemeanor to commit any willful infringement for commercial advantage or private financial gain, and a felony if 10 or more copies of works with a retail value of over $2,500 are made during a 180-day period. The bill would increase the monetary threshold in this offense from $2,500 to $5,000 for felony liability.

Third, the bill would add a provision to treat more harshly recidivists who commit a second or subsequent felony criminal copyright offense. Under existing law, repeat offenders who commit a second or subsequent offense of copyright infringement for commercial advantage or private financial gain are subject to imprisonment for up to 10 years. The bill would also double the term of imprisonment from 3 years to 6 years for a repeat offense for noncommercial copyright infringement. Such a calibration of penalties takes an important step in ensuring adequate deterrence of repeated willful copyright infringements.

Fourth, the bill would extend the statute of limitations for criminal copyright infringement actions from 3 to 5 years, which is the norm for violations of criminal laws under title 18, including those protecting intellectual property.

Finally, the bill would strengthen victims' rights by giving victimized copyright holders the opportunity to provide a victim impact statement to the sentencing court. In addition, the bill would direct the Sentencing Commission to set sufficiently stringent sentencing guideline ranges for defendants convicted of intellectual property offenses to deter these crimes.

Technological developments and the emergence of the national information infrastructure in this country and the global information infrastructure worldwide hold enormous promise and present significant challenges for protecting creative works. Increasing accessibility and affordability of information and entertainment services are important goals that oftentimes require prudent balancing of public and private interests. In the area of creative rights, that balance has rested on encouraging creativity by ensuring rights that reward it while encouraging its public availability.

The Copyright Act is grounded in the copyright clause of the Constitution and assures that ''contributors to the store of knowledge [receive] a fair return for their labors.'' Harper & Row ''The Nation Enterprises'', 471 U.S. 539, 546 (1985). I am mindful, however, that when we exercise our power to make criminal certain forms of copyright infringement, we should act with ''exceeding caution'' to protect the public's first amendment interest in the dissemination of ideas. *Dowling* v. *United States*, 473 U.S. 207, 221 (1985). I look forward to continuing to work with interested parties to make any necessary refinements to this bill to insure that we have struck the appropriate balance.

I ask unanimous consent that my full statement be placed in the RECORD together with the bill and a sectional summary.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 1044

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Criminal Copyright Improvement Act of 1997''.

SEC. 2. CRIMINAL INFRINGEMENT OF COPYRIGHTS.

(a) DEFINITION OF FINANCIAL GAIN.—Section 101 of title 17, United States Code, is amended by inserting after the undesignated paragraph relating to the term ''display'', the following new paragraph:

''The term 'financial gain' includes receipt of anything of value, including the receipt of other copyrighted works.''.

(b) CRIMINAL OFFENSES.—Section 506(a) of title 17, United States Code, is amended to read as follows:

''(a) CRIMINAL INFRINGEMENT.—Any person who infringes a copyright willfully either—

''(1) for purposes of commercial advantage or private financial gain; or

''(2) by the reproduction or distribution, including by electronic means, during any 180-day period, of 10 or more copies, of 1 or more copyrighted works, and the total retail value of the copyrighted work or the total retail value of the copies of such work is $5,000 or more,

shall be punished as provided under section 2319 of title 18.''.

(c) LIMITATION ON CRIMINAL PROCEEDINGS.—Section 507(a) of title 17, United States Code, is amended by striking ''three'' and inserting ''five''.

(d) CRIMINAL INFRINGEMENT OF A COPYRIGHT.—Section 2319 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''subsection (a) of this section'' and inserting ''section 506(a)(1) of title 17'';

(B) in paragraph (1)—

(i) by inserting ''including by electronic means,'' after ''if the offense consists of the reproduction or distribution,''; and

(ii) by striking ''with a retail value of more than $2,500'' and inserting ''which have a total retail value of more than $5,000''; and

(C) in paragraph (3) by inserting before the semicolon ''under this subsection''; and

(2) by redesignating subsection (c) as subsection (e) and inserting after subsection (b) the following:

''(c) Any person who commits an offense under section 506(a)(2) of title 17—

''(1) shall be imprisoned not more than 3 years, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution, including by electronic means, during any 180-day period, of 10 or more copies of 1 or more copyrighted works, and the total retail value of the copyrighted work or the total retail value of the copies of such work is $10,000 or more;

''(2) shall be imprisoned not more than 1 year or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution, including by electronic means during any 180-day period, of 10 or more copies of 1 or more copyrighted works, and the total retail value of the copyrighted works or the total retail value of the copies of such works is $5,000 or more; and

''(3) shall be imprisoned not more than 6 years, or fined in the amount set forth in this title, or both, if the offense is a second or subsequent felony offense under paragraph (1).

''(d)(1) During preparation of the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, 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) Persons permitted to submit victim impact statements shall include—

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

''(B) holders of intellectual property rights in such works; and

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

(e) UNAUTHORIZED FIXATION AND TRAFFICKING OF LIVE MUSICAL PERFORMANCES.—Section 2319A of title 18, United States Code, is amended—

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

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

''(d) VICTIM IMPACT STATEMENT.—(1) During preparation of the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, 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) Persons permitted to submit victim impact statements shall include—

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

''(B) holders of intellectual property rights in such works; and

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

(f) TRAFFICKING IN COUNTERFEIT GOODS OR SERVICES.—Section 2320 of title 18, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (f) and transferring such subsection to the end of the section;

(2) by redesignating subsection (e) as subsection (d); and

(3) by inserting after subsection (d) (as redesignated by paragraph (2) of this subsection) the following:

''(e)(1) During preparation of the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, 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) Persons permitted to submit victim impact statements shall include—

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

''(B) holders of intellectual property rights in such goods or services; and

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

(g) DIRECTIVE TO SENTENCING COMMISSION.—

(1) IN GENERAL.—Under the authority of the Sentencing Reform Act of 1984 (Public Law 98–473; 98 Stat. 1987) and section 21 of the Sentencing Act of 1987 (Public Law 100–182; 101 Stat. 1271; 18 U.S.C. 994 note) (including the authority to amend the sentencing guidelines and policy statements), the United States Sentencing Commission shall ensure that the applicable guideline range for a defendant convicted of a crime against intellectual property (including offenses set forth at section 506(a) of title 17, United States Code, and sections 2319, 2319A and 2320 of title 18, United States Code)—

(A) is sufficiently stringent to deter such a crime;

(B) adequately reflects the additional considerations set forth in paragraph (2) of this subsection; and

(C) takes into account more than minimal planning and other aggravating factors.

(2) IMPLEMENTATION.—In implementing paragraph (1), the Sentencing Commission shall ensure that the guidelines provide for consideration of the retail value of the legitimate items that are infringed upon and the quantity of items so infringed.

CRIMINAL COPYRIGHT IMPROVEMENT ACT OF 1997—SUMMARY

Sec. 1. Short Title. The Act may be cited as the ''Criminal Copyright Improvement Act of 1997.''

Sec. 2. Criminal Infringement of Copyrights. As outlined below, the bill adds a new definition for ''financial gain'' to 17 U.S.C. § 101, and amends the criminal copyright infringement provisions in titles 17 and 18. The bill also ensures that victims of criminal copyright infringement have an opportunity to provide victim impact statements to the court about the impact of the offense. Finally, the bill directs the Sentencing Commission to ensure that guideline ranges are sufficiently stringent to deter criminal infringement of intellectual property rights, and provide for consideration of the retail value and quantity of the legitimate, infringed-upon items and other aggravating factors.

(a) Definition of Financial Gain. Current copyright law provides criminal penalties when a copyright is willfully infringed for purposes of ''commercial advantage or private financial gain.'' The bill would add a definition of ''financial gain'' to the copyright law, 17 U.S.C. § 101, and clarify that this term means the ''receipt of anything of value, including the receipt of other copyrighted works.'' This definition would make clear that ''financial gain'' includes bartering for, and the trading of, pirated software.

(b) Criminal Offenses. The requirement in criminal copyright infringement actions under 17 U.S.C. § 506(a) that the defendant's willful copyright infringement be ''for purposes of commercial advantage or private financial gain,'' has allowed serious incidents of copyright infringement to escape successful criminal prosecution.

For example, in *United States* v. *LaMacchia,* 871 F. Supp. 535 (D. Mass. 1994), the defendant allegedly solicited users of a computer bulletin board system on the Internet to submit copies of copyrighted software programs for posting on the system, and then encouraged users to download copies of the illegally copied programs, resulting in an estimated loss of revenue to the copyright holders of over one million dollars over a six week period. Absent evidence of ''commercial advantage or private financial gain,'' the defendant was charged with conspiracy to violate the wire fraud statute, 18 U.S.C. § 1343. The district court described the defendant's conduct as ''heedlessly irresponsible, and at worst as nihilistic, self-indulgent, and lacking in any fundamental sense of values,'' but nevertheless dismissed the indictment on the grounds that acts of copyright infringement may not be prosecuted under the wire fraud statute.

The bill would add a new criminal copyright violation to close this loophole in circumstances where no commercial advantage or private financial gain may be shown. New section 17 U.S.C. § 506(a)(2) would prohibit willfully infringing a copyright by reproducing or distributing, including by electronic means, during any 180-day period, 10 or more copies of 1 or more copyrighted works when the total retail value of the copyrighted works or of the copies of such works is $5,000 or more. The penalty would be a misdemeanor if the total retail value of the infringed or infringing works is between $5,000 and $10,000, and up to 3 years' imprisonment if the total retail value is $10,000 or more.

Not-for-profit willful infringement would thus be subject to similar threshold requirements as for a felony offense of willful infringement for commercial advantage or private financial gain under 17 U.S.C. § 506(a)(1), which requires that 10 or more copies of copyrighted works with a total retail value of more than $5000 be made during a 180-day period. The penalties applicable to an offense under 17 U.S.C. § 506(a)(1) are more stringent than for the new offense under 17 U.S.C. § 506(a)(2). Specifically, under 17 U.S.C. § 506(a)(1), if the retail value of the infringing works is less than $5,000, the penalty is a misdemeanor; and, if the retail value of the infringing works is $5,000 or more, the penalty is up to 5 years' imprisonment.

The monetary, timing, and number of copies prerequisites for the new offense under 17 U.S.C. § 506(a)(2), combined with the scienter requirement, insure that merely casual or careless conduct resulting in distribution of only a few infringing copies would not be subject to criminal prosecution. In other words, criminal charges would only apply to not-for-profit willful infringements of 10 or more copies during a limited time period resulting in a significant level of harm of over $5,000 to the copyright holder's rights. De minimis violations would not be subject to criminal prosecution.

The offenses under § 506(a)(1) and (a)(2) would overlap. For example, someone selling 10 or more copies of a copyrighted work during a 180-day period may violate both provisions if the value of those copyrighted works is $5,000 or more. The key, however, is that the new provision in § 506(a)(2) requires that the infringement involve, at a minimum, harm in the amount of $5,000. By contrast, any offense, regardless of value, involving private financial gain or commercial advantage constitutes at least a misdemeanor, and the crime reaches felony level under the bill once the retail value of the copyrighted or infringing material exceeds $5,000.

The new crime would also require that at least 10 or more copies of the infringed work be made. It would not be a crime under the bill to make a single copy of a copyrighted work, even if it were very valuable and worth over $10,000. Such valuable intellectual property, whether or not copyrighted,

that is stolen could be protected under the Economic Espionage Act of 1996 (if it is a trade secret), or under the National Information Infrastructure Protection Act of 1996, if the means used to complete the theft involved unauthorized computer access.

(c) Limitation on Criminal Procedures. The bill would amend 17 U.S.C. § 507(a) to extend the statute of limitations for criminal copyright infringement actions from three to five years. A five year statute of limitations is the norm for violations of criminal laws under Title 18, including those that relate to protecting intellectual property. See, e.g., 18 U.S.C. § 2319A (Unauthorized fixation of and Trafficking in sound recordings) and § 2320 (Trafficking in counterfeit goods or services).

(d) Criminal Infringement of a Copyright. The bill would amend the penalty provisions in 18 U.S.C. § 2319 to comport with the proposed amendments to 17 U.S.C. § 506(a), and would also add a new subsection providing for a victim impact statement.

First, under current law, willful copyright infringement for commercial advantage or private financial gain is a felony punishable by up to five years' imprisonment only when the offense consists of the reproduction or distribution during a 180-day period of ten or more copies with a retail value of over $2500. Willful infringements for commercial advantage, which do not satisfy the monetary threshold or quantity requirement during the statutory time period, are misdemeanor offenses. The bill would modify the felony penalty provision for willful copyright infringement for commercial advantage or private financial gain to cover reproductions or distributions ''including by electronic means''. The bill would also change the monetary threshold from $2,500 to $5,000.

Second, the bill would provide a new penalty in 18 U.S.C. § 2319(c) for the new offense in 17 U.S.C. § 506(a)(2) of willfully infringing a copyright by reproduction or distribution, including by electronic means, during a 180-day period of 10 or more copies of copyright works when the total retail value of the copyrighted work or of the copies of such work is $5,000 or more. Violations would be punishable by up to 1 year imprisonment and fine if the total retail value of the infringed or infringing works is between $5,000 and $10,000, and by up to 3 years' imprisonment and a fine if the total retail value is $10,000 or more.

The penalty structure under the bill is as follows:

Infringed work values—	Under $5,000	$5,000 to $10,000	Over $10,000
Willful infringement for commercial advantage/private financial gain [17 U.S.C. § 506(a)(1)].	Misdemeanor	FELONY (up to 5 years), if 10 or more copies within 180-day period.	FELONY (up to 5 years), if 10 or more copies within 180-day period.
Willful infringement by reproduction or distribution of works with value over $10,000 for any reason [17 U.S.C. § 506(a)(2)].	No criminal liability	Misdemeanor, if 10 or more copies within 180-day period	FELONY (up to 3 years), if 10 or more copies within 180-day period.

Third, the bill would add a provision to treat more harshly recidivists who commit a second or subsequent felony offense under new 18 U.S.C. 2319(c), which refers to new 17 U.S.C. § 506(a)(2). Under existing law, 18 U.S.C. 2319(b)(2), recidivists are subject to up to ten years' imprisonment and a fine for a second felony offense for willful copyright infringement for commercial advantage or private financial gain. The bill would double the penalty to up to six years' imprisonment and a fine for a second felony offense under new 17 U.S.C. § 506(a)(2) for not-for-profit willful copyright infringement.

Finally, the bill would add new subsection § 2319(d), requiring that victims of the offense, including producers and sellers of legitimate, infringed-upon goods or services, holders of intellectual property rights and their legal representatives, be given the opportunity to provide a victim impact statement to the probation officer preparing the presentence report. The bill directs that the statement identify the victim of the offense and the extent and scope of the injury and loss suffered, including the estimated economic impact of the offense on that victim.

(e) Unauthorized Fixation and Trafficking of Live Musical Performances. The bill would add new subsection 18 U.S.C. § 2319A(d) requiring that victims of the offense, including producers and sellers of legitimate, infringed-upon goods or services, holders of intellectual property rights and their legal representatives, be given the opportunity to provide a victim impact statement to the probation officer preparing the presentence report. The bill directs that the statement identify the victim of the offense and the extent and scope of the injury and loss suffered, including the estimated economic impact of the offense on that victim.

(f) Trafficking in Counterfeit Goods or Services. The bill would add new subsection 18 U.S.C. § 2320(e) requiring that victims of the offense, including producers and sellers of legitimate, infringed-upon goods or services, holders of intellectual property rights and their legal representatives, be given the opportunity to provide a victim impact statement to the probation officer preparing the presentence report. The bill directs that the statement identify the victim of the offense and the extent and scope of the injury and loss suffered, including the estimated economic impact of the offense on that victim.

(g) Directive to Sentencing Commission. The Sentencing Commission currently takes the view that criminal copyright infringement and trademark counterfeiting are analogous to fraud-related offenses, and that appropriate sentences are to be calculated according to the retail value of the infringing items, rather than of the legitimate copyrighted items which are infringed. This may understate the harm. The bill would direct the Sentencing Commission to ensure that applicable guideline ranges for criminal copyright infringement and violations of 18 U.S.C. §§ 2319, 2319A and 2320 are sufficiently stringent to deter such crimes, provide for consideration of the retail value and quantity of the legitimate, infringed-upon items, and take into account more than minimal planning and other aggravating factors.

By Mr. CRAIG (for himself, Mrs. MURRAY, Mr. MURKOWSKI, Mr. KEMPTHORNE, Mr. WYDEN, and Mr. GORTON):

S.J. Res. 35. A joint resolution granting the consent of Congress to the Pacific Northwest Emergency Management Arrangement; to the Committee on the Judiciary.

THE PACIFIC NORTHWEST EMERGENCY MANAGEMENT ARRANGEMENT

Mr. CRAIG. Mr. President, I rise today to introduce legislation to grant congressional consent to the Pacific Northwest Emergency Management Arrangement entered into between the States of Alaska, Idaho, Oregon, and Washington and the Provinces of British Columbia and the Yukon Territory.

Mr. President, I am pleased that so many of my colleagues from the Pacific Northwest have joined me in cosponsoring this important legislation.

This agreement, negotiated and signed by the Governors of the four Pacific Northwest States and their colleagues in Canada, would significantly improve multi-State and binational cooperation during the response phase of natural disasters in the Northwest. In addition, it would provide for region-wide civil defense coordination and guarantee residents of each State emergency services. The agreement does this while protecting the individual sovereignty of each State and Province.

Mr. President, given the impact of recent natural disasters across the Pacific Northwest, my colleagues can easily understand why this measure is so important. I hope the Senate will act quickly in seeing this measure approved without delay.

Mr. President, I ask unanimous consent that a copy of this legislation be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 35

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled.

SECTION 1. CONGRESSIONAL CONSENT.

Congress consents to the Pacific Northwest Emergency Management Arrangement entered into between the State of Alaska, Idaho, Oregon, and Washington, and the Province of British Columbia and the Yukon Territory. The arrangement is substantially as follows:

''PACIFIC NORTHWEST EMERGENCY MANAGEMENT ARRANGEMENT

''Whereas, Pacific Northwest emergency management arrangement between the government of the States of Alaska, the government of the State of Idaho, the government of the State of Oregon, the government of the State of Washington, the government of the State of the Providence of British Columbia, and the government of Yukon Territory hereinafter referred to collectively as the 'Signatories' and separately as a 'Signatory';

''Whereas, the Signatories recognize the importance of comprehensive and coordinated civil emergency preparedness, response and recovery measures for natural and technological emergencies or disasters, and for declared or undeclared hostilities including enemy attack;

''Whereas, the Signatories further recognize the benefits of coordinating their separate emergency preparedness, response and recovery measures with that of contiguous jurisdictions for those emergencies, disasters, or hostilities affecting or potentially affecting any one or more of the Signatories in the Pacific Northwest; and

''Whereas, the Signatories further recognize that regionally based emergency preparedness, response and recovery measures

will benefit all jurisdictions within the Pacific Northwest, and best serve their respective national interests in cooperative and coordinated emergency preparedness as facilitated by the Consultative Group on Comprehensive Civil Emergency and Management established in the Agreement Between the government of the United States of America and the government of Canada on Cooperation and Comprehensive Civil Emergency Planning and Management signed at Ottawa, Ontario, Canada on April 28, 1986: Now, therefore, be it is hereby agreed by and between each and all of the Signatories hereto as follows:

''ADVISORY COMMITTEE

''(1) An advisory committee named the Western Regional Emergency Management Advisory Committee (W–REMAC) shall be established which will include one member appointed by each Signatory.

''(2) The W–REMAC will be guided by the agreed-upon Terms of Reference-Annex A.

''PRINCIPLES OF COOPERATION

''(3) Subject to the laws of each Signatory, the following cooperative principles are to be used as a guide by the Signatories in civil emergency matters which may affect more than one Signatory:

''(A) The authorities of each Signatory may seek the advice, cooperation, or assistance of any other Signatory in any civil emergency matter.

''(B) Nothing in the arrangement shall derogate from the applicable laws within the jurisdiction of any Signatory. However, the authorities of any Signatory may request from the authorities of any other signatory appropriate alleviation of such laws if their normal application might lead to delay or difficulty in the rapid execution of necessary civil emergency measures.

''(C) Each Signatory will use its best efforts to facilitate the movement of evacuees, refugees, civil emergency personnel, equipment or other resources into or across its territory, or to a designated staging area when it is agreed that such movement or staging will facilitate civil emergency operations by the affected or participating Signatories.

''(D) In times of emergency, each Signatory will use its best efforts to ensure that the citizens or residents of any other Signatory present in its territory are provided emergency health services and emergency social services in a manner no less favorable than that provided to its own citizens.

''(E) Each Signatory will use discretionary power as far as possible to avoid levy of any tax, tariff, business license, or user fees on the services, equipment, and supplies of any other Signatory which is engaged in civil emergency activities in the territory of another Signatory, and will use its best efforts to encourage local governments or other jurisdictions within its territory to do likewise.

''(F) When civil emergency personnel, contracted firms or personnel, vehicles, equipment, or other services from any Signatory are made available to or are employed to assist any other Signatory, all providing Signatories will use best efforts to ensure that charges, levies, or costs for such use or assistance will not exceed those paid for similar use of such resources within their own territory.

''(G) Each Signatory will exchange contact lists, warning and notification plans, and selected emergency plans and will call to the attention of their respective local governments and other jurisdictional authorities in areas adjacent to intersignatory boundaries, the desirability of compatibility of civil emergency plans and the exchange of contact lists, warning and notification plans, and selected emergency plans.

''(H) The authority of any Signatory conducting an exercise will ensure that all other signatories are provided an opportunity to observe, and/or participate in such exercises.

''COMPREHENSIVE NATURE

''(4) This document is a comprehensive arrangement on civil emergency planning and management. To this end and from time to time as necessary, all Signatories shall—

''(A) review and exchange their respective contact lists, warning and notification plans, and selected emergency plans; and

''(B) as appropriate, provide such plans and procedures to local governments, and other emergency agencies within their respective territories.

''ARRANGEMENT NOT EXCLUSIVE

''(5) This is not an exclusive arrangement and shall not prevent or limit other civil emergency arrangements of any nature between Signatories to this arrangement. In the event of any conflicts between the provisions of this arrangement and any other arrangement regarding emergency service entered into by two or more States of the United States who are Signatories to this arrangement, the provisions of that other arrangement shall apply, with respect to the obligations of those States to each other, and not the conflicting provisions of this arrangement.

''AMENDMENTS

''(6) This Arrangement and the Annex may be amended (and additional Annexes may be added) by arrangement of the Signatories.

''CANCELLATION OR SUBSTITUTION

''(7) Any Signatory to this Arrangement may withdraw from or cancel their participation in this Arrangement by giving sixty days, written notice in advance of this effective date to all other Signatories.

''AUTHORITY

''(8) All Signatories to this Arrangement warrant they have the power and capacity to accept, execute, and deliver this Arrangement.

''EFFECTIVE DATE

''(9) Notwithstanding any dates noted elsewhere, this Arrangement shall commence April 1, 1996.''.

SEC. 2. INCONSISTENCY OF LANGUAGE.

The validity of the arrangements consented to by this Act shall not be affected by any insubstantial difference in their form or language as adopted by the States and provinces.

SEC. 3. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this Act is hereby expressly reserved.

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. MOYNIHAN, the names of the Senator from Connecticut [Mr. DODD], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 22, a bill to establish a bipartisan national commission to address the year 2000 computer problem.

S. 89

At the request of Ms. SNOWE, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 194

At the request of Mr. CHAFEE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 194, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded stock to certain private foundations and for other purposes.

S. 364

At the request of Mr. LIEBERMAN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 364, a bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices.

S. 428

At the request of Mr. KOHL, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 428, a bill to amend chapter 44 of title 18, United States Code, to improve the safety of handguns.

S. 484

At the request of Mr. DEWINE, the names of the Senator from Minnesota [Mr. WELLSTONE], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Washington [Mrs. MURRAY], the Senator from Wyoming [Mr. ENZI], the Senator from Florida [Mr. MACK], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 484, a bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative.

S. 493

At the request of Mr. KYL, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 493, a bill to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia.

S. 766

At the request of Ms. SNOWE, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 781

At the request of Mr. HATCH, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 781, a bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment.

S. 810

At the request of Mr. ABRAHAM, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 810, a bill to impose certain sanctions on the People's Republic of China, and for other purposes.

S. 980

At the request of Mr. DURBIN, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 980, a bill to require the Secretary of the Army to close the United States Army School of the Americas.