

due to a technical change made by the other body. I support this change, as do the majority and minority of the Committee on Resources and the administration.

Mr. Speaker, I understand the Senate amendment has a technical error. It references line 17, but it should be line 15. We are very clear that we are correcting a page reference to a deed book in the underlying bill. Rather than send the House bill back to the other body, we will pass it today and make any technical changes later in the session the Senate enrolling Clerk determines necessary.

I urge my colleagues to support this legislation.

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

(Mrs. CHRISTENSEN asked and was given permission to revise and extend her remarks.)

Mrs. CHRISTENSEN. Mr. Speaker, this is a technical matter that will clear title to property owned by several of the gentleman from California's (Chairman POMBO) constituents. The cloud on their title arises out of Federal rights-of-way granted more than a century ago. It is unfortunate that Federal legislation is required to resolve this issue, but there is no other solution.

I join the gentleman from West Virginia (Mr. RAHALL), ranking Democrat, in commending the gentleman from California (Chairman POMBO) for his work on this bill. While this is a simply technical matter, working to address the problems facing our districts one constituent at a time is the essence of our job as Representatives. We urge our colleagues to support the gentleman from California (Chairman POMBO) as he works on behalf of these land owners.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1658.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

#### INTELLECTUAL PROPERTY PROTECTION AND COURTS AMENDMENTS ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3632) to prevent and punish counterfeiting of copyrighted copies and phonorecords, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3632

*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 "Intellectual Property Protection and Courts Amendments Act of 2004".

#### TITLE I—ANTI-COUNTERFEITING PROVISIONS

##### SEC. 101. SHORT TITLE.

This title may be cited as the "Anti-counterfeiting Amendments Act of 2004".

##### SEC. 102. PROHIBITION AGAINST TRAFFICKING IN COUNTERFEIT COMPONENTS.

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

(1) by striking the section heading and inserting the following:

**"§2318. Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging";**

(2) by striking subsection (a) and inserting the following:

"(a) Whoever, in any of the circumstances described in subsection (c), knowingly traffics in—

"(1) a counterfeit label or illicit label affixed to, enclosing, or accompanying, or designed to be affixed to, enclose, or accompany—

"(A) a phonorecord;

"(B) a copy of a computer program;

"(C) a copy of a motion picture or other audiovisual work;

"(D) a copy of a literary work;

"(E) a copy of a pictorial, graphic, or sculptural work;

"(F) a work of visual art; or

"(G) documentation or packaging; or

"(2) counterfeit documentation or packaging,

shall be fined under this title or imprisoned for not more than 5 years, or both."

(3) in subsection (b)—

(A) in paragraph (2), by striking "and" after the semicolon;

(B) in paragraph (3)—

(i) by striking "and 'audiovisual work' have" and inserting the following: "'audiovisual work', 'literary work', 'pictorial, graphic, or sculptural work', 'sound recording', 'work of visual art', and 'copyright owner' have"; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(4) the term 'illicit label' means a genuine certificate, licensing document, registration card, or similar labeling component—

"(A) that is used by the copyright owner to verify that a phonorecord, a copy of a computer program, a copy of a motion picture or other audiovisual work, a copy of a literary work, a copy of a pictorial, graphic, or sculptural work, a work of visual art, or documentation or packaging is not counterfeit or infringing of any copyright; and

"(B) that is, without the authorization of the copyright owner—

"(i) distributed or intended for distribution not in connection with the copy, phonorecord, or work of visual art to which such labeling component was intended to be affixed by the respective copyright owner; or

"(ii) in connection with a genuine certificate or licensing document, knowingly falsified in order to designate a higher number of licensed users or copies than authorized by the copyright owner, unless that certificate or document is used by the copyright owner solely for the purpose of monitoring or tracking the copyright owner's distribution channel and not for the purpose of verifying that a copy or phonorecord is non-infringing;

"(5) the term 'documentation or packaging' means documentation or packaging, in physical form, for a phonorecord, copy of a computer program, copy of a motion picture or other audiovisual work, copy of a literary work, copy of a pictorial, graphic, or sculptural work, or work of visual art; and

"(6) the term 'counterfeit documentation or packaging' means documentation or packaging that appears to be genuine, but is not."

(4) in subsection (c)—

(A) by striking paragraph (3) and inserting the following:

"(3) the counterfeit label or illicit label is affixed to, encloses, or accompanies, or is designed to be affixed to, enclose, or accompany—

"(A) a phonorecord of a copyrighted sound recording or copyrighted musical work;

"(B) a copy of a copyrighted computer program;

"(C) a copy of a copyrighted motion picture or other audiovisual work;

"(D) a copy of a literary work;

"(E) a copy of a pictorial, graphic, or sculptural work;

"(F) a work of visual art; or

"(G) copyrighted documentation or packaging; or"; and

(B) in paragraph (4), by striking "for a computer program"; and

(5) in subsection (d)—

(A) by inserting "or illicit labels" after "counterfeit labels" each place it appears; and

(B) by inserting before the period at the end the following: ", and of any equipment, device, or material used to manufacture, reproduce, or assemble the counterfeit labels or illicit labels".

(b) CIVIL REMEDIES.—Section 2318 of title 18, United States Code, is further amended by adding at the end the following:

"(f) CIVIL REMEDIES.—

"(1) IN GENERAL.—Any copyright owner who is injured, or is threatened with injury, by a violation of subsection (a) may bring a civil action in an appropriate United States district court.

"(2) DISCRETION OF COURT.—In any action brought under paragraph (1), the court—

"(A) may grant 1 or more temporary or permanent injunctions on such terms as the court determines to be reasonable to prevent or restrain a violation of subsection (a);

"(B) at any time while the action is pending, may order the impounding, on such terms as the court determines to be reasonable, of any article that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation of subsection (a); and

"(C) may award to the injured party—

"(i) reasonable attorney fees and costs; and

"(ii) (I) actual damages and any additional profits of the violator, as provided in paragraph (3); or

"(II) statutory damages, as provided in paragraph (4).

"(3) ACTUAL DAMAGES AND PROFITS.—

"(A) IN GENERAL.—The injured party is entitled to recover—

"(i) the actual damages suffered by the injured party as a result of a violation of subsection (a), as provided in subparagraph (B) of this paragraph; and

"(ii) any profits of the violator that are attributable to a violation of subsection (a) and are not taken into account in computing the actual damages.

"(B) CALCULATION OF DAMAGES.—The court shall calculate actual damages by multiplying—

"(i) the value of the phonorecords, copies, or works of visual art which are, or are intended to be, affixed with, enclosed in, or accompanied by any counterfeit labels, illicit

labels, or counterfeit documentation or packaging, by

“(ii) the number of phonorecords, copies, or works of visual art which are, or are intended to be, affixed with, enclosed in, or accompanied by any counterfeit labels, illicit labels, or counterfeit documentation or packaging.

“(C) DEFINITION.—For purposes of this paragraph, the ‘value’ of a phonorecord, copy, or work of visual art is—

“(i) in the case of a copyrighted sound recording or copyrighted musical work, the retail value of an authorized phonorecord of that sound recording or musical work;

“(ii) in the case of a copyrighted computer program, the retail value of an authorized copy of that computer program;

“(iii) in the case of a copyrighted motion picture or other audiovisual work, the retail value of an authorized copy of that motion picture or audiovisual work;

“(iv) in the case of a copyrighted literary work, the retail value of an authorized copy of that literary work;

“(v) in the case of a pictorial, graphic, or sculptural work, the retail value of an authorized copy of that work; and

“(vi) in the case of a work of visual art, the retail value of that work.

“(4) STATUTORY DAMAGES.—The injured party may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for each violation of subsection (a) in a sum of not less than \$2,500 or more than \$25,000, as the court considers appropriate.

“(5) SUBSEQUENT VIOLATION.—The court may increase an award of damages under this subsection by 3 times the amount that would otherwise be awarded, as the court considers appropriate, if the court finds that a person has subsequently violated subsection (a) within 3 years after a final judgment was entered against that person for a violation of that subsection.

“(6) LIMITATION ON ACTIONS.—A civil action may not be commenced under section unless it is commenced within 3 years after the date on which the claimant discovers the violation of subsection (a).”

(c) CONFORMING AMENDMENT.—The item relating to section 2318 in the table of sections for chapter 113 of title 18, United States Code, is amended to read as follows:

“2318. Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging.”.

#### SEC. 103. OTHER RIGHTS NOT AFFECTED.

(a) CHAPTERS 5 AND 12 OF TITLE 17; ELECTRONIC TRANSMISSIONS.—The amendments made by this title—

(1) shall not enlarge, diminish, or otherwise affect any liability or limitations on liability under sections 512, 1201 or 1202 of title 17, United States Code; and

(2) shall not be construed to apply—

(A) in any case, to the electronic transmission of a genuine certificate, licensing document, registration card, similar labeling component, or documentation or packaging described in paragraph (4) or (5) of section 2318(b) of title 18, United States Code, as amended by this title; and

(B) in the case of a civil action under section 2318(f) of title 18, United States Code, to the electronic transmission of a counterfeit label or counterfeit documentation or packaging defined in paragraph (1) or (6) of section 2318(b) of title 18, United States Code.

(b) FAIR USE.—The amendments made by this title shall not affect the fair use, under section 107 of title 17, United States Code, of a genuine certificate, licensing document, registration card, similar labeling component, or documentation or packaging de-

scribed in paragraph (4) or (5) of section 2318(b) of title 18, United States Code, as amended by this title.

#### TITLE II—FRAUDULENT ONLINE IDENTITY SANCTIONS

##### SEC. 201. SHORT TITLE.

This title may be cited as the “Fraudulent Online Identity Sanctions Act”.

##### SEC. 202. AMENDMENT TO TRADEMARK ACT OF 1946.

Section 35 of the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (commonly referred to as the “Trademark Act of 1946”; 15 U.S.C. 1117), is amended by adding at the end the following new subsection:

“(e) In the case of a violation referred to in this section, it shall be a rebuttable presumption that the violation is willful for purposes of determining relief if the violator, or a person acting in concert with the violator, knowingly provided or knowingly caused to be provided materially false contact information to a domain name registrar, domain name registry, or other domain name registration authority in registering, maintaining, or renewing a domain name used in connection with the violation. Nothing in this subsection limits what may be considered a willful violation under this section.”.

##### SEC. 203. AMENDMENT TO TITLE 17, UNITED STATES CODE.

Section 504(c) of title 17, United States Code, is amended by adding at the end the following new paragraph:

“(3) (A) In a case of infringement, it shall be a rebuttable presumption that the infringement was committed willfully for purposes of determining relief if the violator, or a person acting in concert with the violator, knowingly provided or knowingly caused to be provided materially false contact information to a domain name registrar, domain name registry, or other domain name registration authority in registering, maintaining, or renewing a domain name used in connection with the infringement.

“(B) Nothing in this paragraph limits what may be considered willful infringement under this subsection.

“(C) For purposes of this paragraph, the term ‘domain name’ has the meaning given that term in section 45 of the Act entitled ‘An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes’, approved July 5, 1946 (commonly referred to as the ‘Trademark Act of 1946’; 15 U.S.C. 1127).”.

##### SEC. 204. AMENDMENT TO TITLE 18, UNITED STATES CODE.

(a) SENTENCING ENHANCEMENT.—Section 3559 of title 18, United States Code, is amended by adding at the end the following:

“(f)(1) If a defendant who is convicted of a felony offense (other than offense of which an element is the false registration of a domain name) knowingly falsely registered a domain name and knowingly used that domain name in the course of that offense, the maximum imprisonment otherwise provided by law for that offense shall be doubled or increased by 7 years, whichever is less.

“(2) As used in this section—

“(A) the term ‘falsely registers’ means registers in a manner that prevents the effective identification of or contact with the person who registers; and

“(B) the term ‘domain name’ has the meaning given that term in section 45 of the Act entitled ‘An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of

certain international conventions, and for other purposes’ approved July 5, 1946 (commonly referred to as the ‘Trademark Act of 1946’; 15 U.S.C. 1127).”.

(b) UNITED STATES SENTENCING COMMISSION.—

(1) DIRECTIVE.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend the sentencing guidelines and policy statements to ensure that the applicable guideline range for a defendant convicted of any felony offense carried out online that may be facilitated through the use of a domain name registered with materially false contact information is sufficiently stringent to deter commission of such acts.

(2) REQUIREMENTS.—In carrying out this subsection, the Sentencing Commission shall provide sentencing enhancements for anyone convicted of any felony offense furthered through knowingly providing or knowingly causing to be provided materially false contact information to a domain name registrar, domain name registry, or other domain name registration authority in registering, maintaining, or renewing a domain name used in connection with the violation.

(3) DEFINITION.—For purposes of this subsection, the term “domain name” has the meaning given that term in section 45 of the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (commonly referred to as the “Trademark Act of 1946”; 15 U.S.C. 1127).

##### SEC. 205. CONSTRUCTION.

(a) FREE SPEECH AND PRESS.—Nothing in this title shall enlarge or diminish any rights of free speech or of the press for activities related to the registration or use of domain names.

(b) DISCRETION OF COURTS IN DETERMINING RELIEF.—Nothing in this title shall restrict the discretion of a court in determining damages or other relief to be assessed against a person found liable for the infringement of intellectual property rights.

(c) DISCRETION OF COURTS IN DETERMINING TERMS OF IMPRISONMENT.—Nothing in this title shall be construed to limit the discretion of a court to determine the appropriate term of imprisonment for an offense under applicable law.

#### TITLE III—COURTS

##### SEC. 301. ADDITIONAL PLACE OF HOLDING COURT IN THE DISTRICT OF COLORADO.

Section 85 of title 28, United States Code, is amended by inserting “Colorado Springs,” after “Boulder.”.

##### SEC. 302. PLACE OF HOLDING COURT IN THE NORTHERN DISTRICT OF NEW YORK.

Section 112(a) of title 28, United States Code, is amended by inserting “Plattsburgh,” after “Malone.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3632, the bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, this legislation addresses a growing problem facing our Nation's creative community. Efforts to ensure that consumers are able to know whether they are buying legitimate software, music, movies, or other forms of intellectual property are being subverted by those who counterfeit authentication labels and steal legitimate ones. These counterfeited and illicit labels are then attached to counterfeit products defrauding consumers into thinking they have purchased a legitimate copy of the product when they have not.

The committee has been made aware of numerous efforts by organized groups to counterfeit authentication labels and to traffic in illicit ones. The activity is highly profitable and less likely to lead to arrest than for dealing in drugs; and until this legislation is signed into law, subject to a loophole in the existing law that allows those who traffic in such labels to face no criminal penalties. The middleman who traffics in illicit and counterfeit labels can walk away from his crime with no penalties. The bill would close this loophole and ensure that everyone who undertakes a scheme to defraud consumers faces criminal penalties.

Because of the short time remaining in this session, H.R. 3632 also incorporates the text of three other non-controversial bills, H.R. 3754, H.R. 112, and H.R. 4646, in the manager's amendment. H.R. 3754 provides for additional penalties for those who use false domain name contact information to commit crimes. As Internet-based crimes continue to increase in number, updated laws are needed to stop this growth. H.R. 112 and H.R. 4646 provide for a new place of holding Federal district court in Colorado Springs, Colorado, and Plattsburgh, New York, respectively.

H.R. 112 is cosponsored by both Republican and Democratic members of the Colorado delegation. The 10th Circuit Court of Appeals, the Administrative Office of the U.S. Courts have stated they support enactment of the bill. H.R. 4646 is similarly supported by the U.S. Judicial Conference and the U.S. Attorney for the Northern District of New York.

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

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

Mr. Speaker, I rise in support of H.R. 3632, as amended, today by the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the Committee on the Judiciary.

As amended, H.R. 3632 is a combination of several bills reported by the Committee on the Judiciary after full

consideration. I believe this amalgam of bills is largely noncontroversial and thus ask my colleagues to join me in supporting its passage.

Title I is designed to deter counterfeiting of U.S. copyrighted works. Such counterfeiting is an enormous and growing problem. It costs U.S. software companies alone approximately \$11 billion a year and, as a result, costs the U.S. economy thousands of high-tech jobs in the software industry. The impact on other American copyright holders is equally devastating.

Recent events have underscored the scope of the counterfeiting problem as well as the need for title I of this bill. Just last week, a Los Angeles grand jury indicted 11 individuals for conspiring to distribute more than \$30 million of counterfeit software. The counterfeiting ring possessed 15,929 genuine stand-alone certificates of authenticity. Those known as COAs are authentication features, like holograms, used to distinguish genuine goods.

Because many COAs are difficult to convincingly reproduce, counterfeiters have become an eager and lucrative market for misappropriated, genuine COAs. And, in fact, the COAs seized last week have an estimated retail value of approximately \$1.7 million.

While current law prohibits trafficking in counterfeit software and fake COAs, it provides no sanction against the traffic in genuine COAs. Thus the counterfeiting ring busted last week will escape liability for the almost 20,000 genuine COAs they misappropriated.

□ 1500

Title I remedies this situation. It expands the current prohibitions on trafficking and labels to include genuine labeling components, such as certificates of authenticity.

Title II of the bill before us contains the provisions of H.R. 3754, a largely uncontroversial bill reported out by the Committee on the Judiciary on a voice vote in June of this year. Title II is designed to improve the accuracy and completeness of the Whois database by providing additional civil and criminal remedies for domain name fraud.

The Whois database contains the names, street and e-mail addresses and other contact information of domain name registrants. While all domain name registrants are required to submit information for the Whois database, there are no processes to ensure that this information is either accurate or complete. Inaccurate Whois data hampers law enforcement investigations, facilitates consumer fraud, impairs copyright and trademark protection, imperils computer security, enables identity theft and weakens privacy protection efforts.

Title II seeks to rectify this growing problem through narrow amendments to current law. Title II provides a rebuttable presumption of willfulness with regard to a civil trademark or

copyright infringement, if in connection with the infringement the infringer registers a domain name with materially false contact information. Additionally, the bill increases the maximum possible imprisonment for a Federal felony offense when the offender knowingly provided materially false domain name contact information in connection with the offense.

Title III contains the text of H.R. 112 and H.R. 4646, two minor and entirely non-controversial bills previously reported by the Committee on the Judiciary. Section 301 adds Colorado Springs as a place of holding court in the District of Colorado. Section 302 adds Plattsburgh as a place of holding court in the Northern District of New York. Both changes were requested by their respective Congressional delegations and have been supported by the administrative office of the U.S. courts.

Mr. Speaker, in conclusion, I urge my colleagues to support this legislation.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. SMITH).

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

Mr. Speaker, product names are a key part of the American economy, not only to boost sales of a product, but also to assure that consumers have some assurances about the identity of the manufacturer of the product they are interested in buying.

Counterfeiting, the effort to deceive consumers into buying lower quality goods instead of the high quality goods they want, is now a real problem for high-tech companies.

For many years, software publishers have attempted to thwart counterfeiting activity by developing physical authentication components, called COAs, that help consumers and law enforcement agencies distinguish between genuine software and sophisticated counterfeits.

Counterfeits are now combining pirated CD-ROMs and packaging with genuine components obtained through theft or fraud. Multiplied by millions of transactions, the result to legitimate businesses is lost jobs, lost profits and lost tax revenue on a scale that compromises the health of otherwise vibrant industries.

Last week, a Federal indictment charged 11 people with conspiring to distribute more than \$56 million in counterfeit software and products. However, due to a loophole in existing laws, charges could not be brought concerning over 20,000 illicit COAs that were seized.

Until H.R. 3632 is enacted, Federal law does not prohibit trafficking in genuine physical authentication components. Prosecutors find it impossible to take any legal action in such situations. As a result, this activity has become a highly profitable and largely risk-free illicit business.

The legislation will close this loophole and empower Federal authorities to prosecute counterfeiting activity on a greater scale with better results. Americans will be better protected from those who attempt to deceive them into spending their money on counterfeit products.

The text of H.R. 3754, the Fraudulent Online Identity Sanctions Act, has also been included in the underlying legislation. The Fraudulent Online Identity Sanctions Act assures those that use false identities in conjunction with a domain name face additional penalties for other crimes they commit.

To ensure that online anonymity is protected, the mere act of using an alias online is not penalized. A savings clause assures that first amendment rights are not impacted by the legislation. This legislation, though, will ensure that those who deceive others as they commit crimes online are, in fact, subject to additional criminal penalties for such deceit.

Two Federal Court bills also have been added to the underlying legislation, H.R. 112 and H.R. 4646. These bills create new places of holding U.S. Federal District Court in Colorado Springs, Colorado, and in Plattsburgh, New York. Americans seeking their constitutional right to be heard in Federal Court will find it easier to do so once this legislation is enacted.

H.R. 112 is cosponsored by both Republican and Democratic members of the Colorado delegation.

Mr. Speaker, I urge my colleagues to support this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the bill before the House, H.R. 3632, the Anti-Counterfeiting Amendments of 2003. Fortunately, the Subcommittee on Courts, the Internet and Intellectual Property successfully marked this bill up and reported it out favorably on March 31, 2004, as its provisions will address some serious concerns.

The trafficking of security components, for example Certificates of Authenticity (COAs) is a problem that the current law does not adequately address. Logistically, since the security components are useless without the actual product, such action serves no legitimate business purpose. Furthermore, criminal prosecutors have a hard time attaching crimes to the counterfeit sales made by these traffickers.

Nevertheless, the COA is like currency because it gives the real value to the product to which it is attached. The prohibitions found in this legislation will discourage piracy.

To address this problem, H.R. 3632 would amend Section 2318 of Title 18 to prohibit trafficking of these products. With this narrowly-tailored amendment to Section 2318, federal law enforcement and copyright owners will have the tools needed to prevent trafficking in genuine physical security components.

The Anticounterfeiting Amendments will help combat the growing threat of international counterfeiting crimes by ensuring that U.S. laws address all aspects of counterfeiting activities.

In Texas, a crime ring was implicated that was believed to have imported over 100 million counterfeit cigarettes, mislabeling shipping

documents by indicating that they were importing toys or plastic parts.

Passage of this important bill with the amendments that will be offered to improve its scope will, in the long run, improve the quality of our intellectual property and technological developments. Moreover, with adequate legal checks put in place to reduce trafficking of security products will foster a more competitive environment. For the above reasons, Mr. Speaker, I support this legislation.

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

Mr. SENSENBRENNER. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3632, as amended.

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

A motion to reconsider was laid on the table.

#### VIDEO VOYEURISM PREVENTION ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1301) to amend title 18, United States Code, to prohibit video voyeurism in the special maritime and territorial jurisdiction of the United States, and for other purposes, as amended.

The Clerk read as follows:

S. 1301

*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 "Video Voyeurism Prevention Act of 2004".*

#### SEC. 2. PROHIBITION OF VIDEO VOYEURISM.

*(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 87 the following new chapter:*

#### "CHAPTER 88—PRIVACY

"Sec.

"1801. Video voyeurism.

#### "§ 1801. Video voyeurism

*"(a) Whoever, in the special maritime and territorial jurisdiction of the United States, has the intent to capture an image of a private area of an individual without their consent, and knowingly does so under circumstances in which the individual has a reasonable expectation of privacy, shall be fined under this title or imprisoned not more than one year, or both.*

*"(b) In this section—*

*"(1) the term 'capture', with respect to an image, means to videotape, photograph, film, record by any means, or broadcast;*

*"(2) the term 'broadcast' means to electronically transmit a visual image with the intent that it be viewed by a person or persons;*

*"(3) the term 'a private area of the individual' means the naked or undergarment clad genitals, pubic area, buttocks, or female breast of that individual;*

*"(4) the term 'female breast' means any portion of the female breast below the top of the areola; and*

*"(5) the term 'under circumstances in which that individual has a reasonable expectation of privacy' means—*

*"(A) circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of the individual was being captured; or*

*"(B) circumstances in which a reasonable person would believe that a private area of the individual would not be visible to the public, regardless of whether that person is in a public or private place.*

*"(c) This section does not prohibit any lawful law enforcement, correctional, or intelligence activity."*

*(b) AMENDMENT TO PART ANALYSIS.—The table of chapters at the beginning of part 1 of title 18, United States Code, is amended by inserting after the item relating to chapter 87 the following new item:*

**"88. Privacy ..... 1801".**

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 1301.

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

There was no objection.

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

Mr. Speaker, S. 1301 imposes civil and criminal penalties for intentionally capturing an image of a private area of an individual without the individual's consent and in a circumstance where the individual has a reasonable expectation of privacy.

With the development of smaller cameras and the instantaneous distribution capability of the Internet, the issue of video voyeurism is a huge privacy concern. Unsuspecting adults, as well as high school students and children, have been targeted in school locker rooms, department store dressing rooms, and even in their homes.

One egregious example occurred in Monroe, Louisiana, where a neighbor installed cameras in Susan Wilson's attic. Using those cameras, the neighbor had been watching the Wilsons for months, but because Louisiana had no laws at the time to prosecute the invasion of privacy, the Wilsons have no options for redress.

Many States have since passed laws that target video voyeurism to protect those in private areas, but there are fewer protections for those who may be photographed in compromising positions in public places. S. 1301 makes the acts of video voyeurism illegal on Federal land such as national parks and Federal buildings, using the well-accepted legal concept that individuals are entitled to a reasonable expectation of privacy. It also serves as model legislation for States that have not yet