

the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

INTERNET SPYWARE (I-SPY) PREVENTION ACT OF 2004

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4661) to amend title 18, United States Code, to discourage spyware, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4661

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 "Internet Spyware (I-SPY) Prevention Act of 2004".

SEC. 2. PENALTIES FOR CERTAIN UNAUTHORIZED ACTIVITIES RELATING TO COMPUTERS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1030 the following:

"§ 1030A. Illicit indirect use of protected computers

"(a) Whoever intentionally accesses a protected computer without authorization, or exceeds authorized access to a protected computer, by causing a computer program or code to be copied onto the protected computer, and intentionally uses that program or code in furtherance of another Federal criminal offense shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) Whoever intentionally accesses a protected computer without authorization, or exceeds authorized access to a protected computer, by causing a computer program or code to be copied onto the protected computer, and by means of that program or code—

"(1) intentionally obtains, or transmits to another, personal information with the intent to defraud or injure a person or cause damage to a protected computer; or

"(2) intentionally impairs the security protection of the protected computer; shall be fined under this title or imprisoned not more than 2 years, or both.

"(c) No person may bring a civil action under the law of any State if such action is premised in whole or in part upon the defendant's violating this section. For the purposes of this subsection, the term 'State' includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States.

"(d) As used in this section—

"(1) the terms 'protected computer' and 'exceeds authorized access' have, respectively, the meanings given those terms in section 1030; and

"(2) the term 'personal information' means—

"(A) a first and last name;

"(B) a home or other physical address, including street name;

"(C) an electronic mail address;

"(D) a telephone number;

"(E) a Social Security number, tax identification number, drivers licence number, passport number, or any other government-issued identification number; or

"(F) a credit card or bank account number or any password or access code associated with a credit card or bank account.

"(e) This section does not prohibit any lawfully authorized investigative, protec-

tive, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States."

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1030 the following new item:

"1030A. Illicit indirect use of protected computers."

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

In addition to any other sums otherwise authorized to be appropriated for this purpose, there are authorized to be appropriated for each of fiscal years 2005 through 2008, the sum of \$10,000,000 to the Attorney General for prosecutions needed to discourage the use of spyware and the practice commonly called phishing.

SEC. 4. FINDINGS AND SENSE OF CONGRESS CONCERNING THE ENFORCEMENT OF CERTAIN CYBERCRIMES.

(a) FINDINGS.—Congress makes the following findings:

(1) Software and electronic communications are increasingly being used by criminals to invade individuals' and businesses' computers without authorization.

(2) Two particularly egregious types of such schemes are the use of spyware and phishing scams.

(3) These schemes are often used to obtain personal information, such as bank account and credit card numbers, which can then be used as a means to commit other types of theft.

(4) In addition to the devastating damage that these heinous activities can inflict on individuals and businesses, they also undermine the confidence that citizens have in using the Internet.

(b) SENSE OF CONGRESS.—Because of the serious nature of these offenses, and the Internet's unique importance in the daily lives of citizens and in interstate commerce, it is the sense of Congress that the Department of Justice should use the amendments made by this Act, and all other available tools, vigorously to prosecute those who use spyware to commit crimes and those that conduct phishing scams.

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

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

GENERAL LEAVE

Mr. GOODLATTE. 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. 4661, the bill currently under consideration.

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

There was no objection.

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

I rise in support of H.R. 4661, the Internet Spyware (I-SPY) Prevention Act. This bipartisan legislation which I introduced with the gentlewoman from California (Ms. LOFGREN) and the gentleman from Texas (Mr. SMITH) will impose tough criminal penalties on the most egregious purveyors of spyware

without imposing a broad regulatory regime on legitimate software providers. I believe that this targeted approach is the best way to combat spyware.

Spyware is a growing and serious problem. The Federal Trade Commission has testified that spyware appears to be a new and rapidly growing practice that poses a risk of serious harm to consumers. Spyware is software that provides a tool for criminals to crack into computers to conduct nefarious activities, such as altering a user's security settings, collecting personal information to steal a user's identity, or to commit other crimes.

The I-SPY Prevention Act would impose criminal penalties on the most egregious behaviors associated with spyware. Specifically, this legislation would impose up to a 5-year prison sentence on anyone who uses software to intentionally break into a computer and uses that software in furtherance of another Federal crime. In addition, it would impose up to a 2-year prison sentence on anyone who uses spyware to intentionally break into a computer and either alter the computer's security settings or obtain personal information with the intent to defraud or injure a person or with the intent to damage a computer. By imposing stiff penalties on these bad actors, this legislation will help deter the use of spyware and will thus help protect consumers from these aggressive attacks.

Enforcement is crucial in combating spyware. The I-SPY Prevention Act authorizes \$10 million for fiscal years 2005 through 2008 to be devoted to prosecutions and expresses the sense of Congress that the Department of Justice vigorously enforce the laws against spyware violations as well as against online phishing scams in which criminals send fake e-mail messages to consumers on behalf of famous companies and request account information that is later used to conduct criminal activities.

In addition, the I-SPY Prevention Act is technology-friendly. It would not interfere with the development of technological solutions to block spyware. Many technologies are currently available to help consumers detect and rid their computers of spyware. As these technologies progress, we must be careful not to impose unnecessary burdens on these innovators who are helping to fight against spyware. Furthermore, by targeting the truly bad actors, this legislation would protect the ability of legitimate software companies to innovate and develop new and exciting products and services in response to consumer demand instead of imposing a one-size-fits-all regulation on the entire industry.

The I-SPY Prevention Act is a targeted approach that protects consumers by imposing stiff penalties on the truly bad actors without imposing excessive red tape and regulations on legitimate technology companies. I

urge my colleagues to support this important legislation. I thank the chairman of the Committee on the Judiciary for bringing this legislation forward.

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

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

Mr. Speaker, I am proud to have partnered with my colleague from Virginia (Mr. GOODLATTE) on this legislation to combat spyware. Spyware is quickly becoming one of the biggest threats to consumers on the Internet. It is one of the reasons why we have an identity theft epidemic. Thieves are using spyware to harvest personal information from unsuspecting Americans. Criminals are even using spyware to track every keystroke an individual makes, including credit card and Social Security numbers.

Spyware also adversely affects the business community which must spend money to block and remove it from their systems. Microsoft has stated that spyware is "at least partially responsible for approximately one-half of all application crashes" reported to them. Experts estimate that as many as 80 to 90 percent of all personal computers contain some form of spyware. Earthlink recently identified more than 29 million spyware programs. In short, spyware is a very real problem that is endangering consumers, damaging businesses, and creating millions of dollars of additional costs.

I am proud to support H.R. 4661, this bipartisan measure that identifies the truly unscrupulous acts associated with spyware and subjects them to criminal punishment. This bill is important because it focuses on behavior, not on technology. It targets the worst form of spyware without unduly burdening technological innovation.

H.R. 4661 also authorizes for the Attorney General the money he needs to find and prosecute spyware offenders. At the same time, it is important to note that this bill does not prevent existing or future State laws that prohibit spyware. Report language clearly explains that this bill only preempts civil actions that are based on violations of this new Federal criminal law. It does not prevent a State from passing a similar law, nor does it prevent any lawsuits that are premised on existing State laws.

I am honored that this bill has the strong support of some of the biggest names in technology, including Microsoft and Dell. It is also supported by the U.S. Chamber of Commerce, the Center For Democracy and Technology, and even the Distributed Computing Industry Association, which represents peer-to-peer networks. Consumers and businesses cannot wait any longer for help.

I urge my colleagues to support H.R. 4661.

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

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

Mr. Speaker, I want to particularly thank the gentlewoman from California for her help in making this legislation possible. This is truly a bipartisan effort that has been broadly supported in the Committee on the Judiciary and by other Members of Congress. I think it is a very appropriate approach to a very serious problem. I also want to thank the gentleman from North Carolina (Mr. COBLE), chairman of the Subcommittee on Crime, and the gentleman from Texas (Mr. SMITH), chairman of the Subcommittee on Courts, the Internet, and Intellectual Property, who also were very helpful and very supportive as we moved this legislation forward.

There are a number of organizations. The gentlewoman from California mentioned some. I would like to call Members' attention to others that have indicated their strong support of this legislation, including the Information Technology Association of America; the Information Technology Industry Council; the Business Software Alliance; the Center For Democracy and Technology; NetChoice, a coalition representing e-commerce companies and thousands of e-consumers from across the Nation; the Internet Commerce Coalition; the Chamber of Commerce of the United States of America; the Software Information Industry Association; and a host of individual companies and individuals who have been in touch with us about the ravages that occur with spyware and the phishing scam.

These are things that are great threats to consumers. We want them to feel confident when they use the Internet. The Internet holds great promise for people to be able to use the Internet for education, for commerce, for communicating with families and friends and people who share a common cause with them; but people increasingly know of the dangers they face on the Internet, from hackers and spam and pornography and people attempting to participate in various types of fraudulent schemes.

Many of those center around the use of spyware and phishing. These are threats to people's use of the Internet. We need to crack down on the people who perpetrate these actions. This is the legislation to do that, to make sure that people feel comfortable, that they themselves and their children can go online and have the opportunity to use the Internet with confidence that their personal information is not being stolen, that they are not becoming the victim of identity theft, that they are not confronting what looks like a Web site of a legitimate company using all of the technology available.

Some of these criminals will actually create a duplicate Web site that looks exactly like the original, but then attempt to use that Web site to extract information from you by suggesting that they need to update their account information or need your Social Security number or need your driver's li-

cense or some other personal information which they then intend to use to steal from your bank account, run up credit card bills, whatever the case might be. This legislation is designed to come down hard on those people.

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

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

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

I would like to thank as well the gentleman from Virginia for such a productive collaboration on this bill. I think it is a good product and one that we can all be very satisfied with. I also want to take a moment to thank two members of my staff. The staff does not generally get thanked in public. Andrew Kugler, a lawyer on my staff and a brand new father, worked very hard with the gentleman from Virginia's staff to make sure that all these issues were dealt with successfully; and while he was on paternity leave, Ur Jaddou on my staff filled in for him. So thanks to both of those fine lawyers for the effort that they made. The staff works behind the scenes, but they help us accomplish a lot, and we need to thank them.

I also wanted to mention and agree with the gentleman from Virginia in terms of the phishing issue. I will admit that one of the brightest people I know, my daughter, was caught up actually in a phishing scheme. Very smart people can get taken by these phishing schemes. As soon as her thumb hit the send button, she thought, oh, my goodness, what have I done. We had to call and cancel all the credit cards and the like.

This is something that preys upon people. If you think about the impact of phishing and also spyware, it is not just an inconvenience to consumers; but if we do not successfully abate this, we are going to have a very serious impact on the vitality of the Internet itself, because if people cannot trust Internet commerce, they will not use Internet commerce and so that is going to have an impact on the productivity of the American economy.

What we are doing here today is important for consumers, it is important for businesses, but it is also important for the future of our high-tech economy because we have got to make sure that the Internet is safe for commerce and for individual users and also for businesses.

I urge and I do believe that this House will in large number support the bill. When you do, you are striking a blow for the continued vitality of the Internet as an instrument of commerce and economic growth for America.

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

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Mr. GOODLATTE. Mr. Speaker, I thank the gentlewoman for her comments.

Mr. Speaker, I yield such time as he may consume to the gentleman from

Texas (Mr. SMITH), chairman of the Courts, the Internet, and Intellectual Property Subcommittee of the House Committee on the Judiciary and a real leader on technology issues in the Congress.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman from Virginia (Chairman GOODLATTE) for his nice comments, and I am happy to join him in cosponsoring this legislation, but I especially want to express my appreciation to him for being the author and introducing this legislation.

Computer spyware is a growing problem that threatens the future of commerce over the Internet. A recent report found that more than 3 million scans for spyware have been performed just this year alone. These scans revealed approximately 83 million instances of spyware. That is certainly disturbing.

Spyware can be a confusing problem for consumers. Many do not know they have it, or if they do, they do not know how to get rid of it. A Yahoo! Internet search of the term "spyware" yields over 8 million results. It is no wonder that the problem is only getting worse.

Mr. Speaker, H.R. 4661 addresses spyware through the regulation of bad behavior rather than the regulation of technology. It provides strong penalties for those who engage in the illicit activities of spyware and phishing.

Rather than add to an already confusing regulatory structure, the bill takes a very narrow approach. H.R. 4661 sets strong penalties for anyone who intentionally uses software to break into a computer in order to alter security settings or obtain personal information. It further authorizes money for the Department of Justice to prosecute spyware and phishing crimes.

Mr. Speaker, I again urge my colleagues to put an end to spyware and support this bill, and again I want to thank the gentleman from Virginia (Chairman GOODLATTE) for introducing this piece of legislation.

Mr. SENSENBRENNER. Mr. Speaker, I rise today in support of H.R. 4661, the "Internet Spyware Prevention Act of 2004." This narrow criminal legislation will deter and allow the prosecution of the worst forms of behavior involving spyware by providing additional tools and resources to criminal prosecutors. I would like to thank the Gentleman from Virginia, Mr. GOODLATTE, for introducing the legislation before us today.

Technologies designed to enhance the speed and efficiency of data transfer have fueled the explosive growth of the Internet. Unfortunately, the sad reality is that the same software and technology innovations that have enhanced and personalized usage of the Internet can also provide opportunities for abuse and illegal behavior.

Like many other ills on the Internet these latest malicious behaviors cannot be stopped by federal legislation alone. In fact, there is no one silver bullet—legal, regulatory, or technological—to end the misuse of spyware or the related practice of "phishing." But greater consumer awareness and use of available technological countermeasures clearly hold the great-

est promise for curbing these abusive practices. Congressional efforts will only help if they focus on behavior—not rapidly changing technology.

H.R. 4661 is a good start because it focuses on behavior that is criminal, not on technologies. Unlike some other proposals, this bill does not set up new requirements that dictate how things appear on a computer screen or that bombard a user with unwanted notices. Nor does this bill pose the same dangers of strict liability for legitimate companies who make a mistake. In short, it represents a measured solution to the problem it seeks to correct.

I believe that this narrow legislation updating necessary criminal law provisions and emphasizing increased enforcement, rather than broad regulation, is the correct legislative response at this time. I urge my colleagues to support H.R. 4661 and reserve the balance of my time.

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

Mr. GOODLATTE. Mr. Speaker, I urge my colleagues to support this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 4661, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GOODLATTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 1134. An act to reauthorize and improve the program authorized by the Public Works and Economic Development Act of 1965.

S. 2796. An act to clarify that service marks, collective marks, and certification marks are entitled to the same protections, rights, and privileges of trademarks.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1417. An act to amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges, and for other purposes.

HONORING NATIONAL NURSE PRACTITIONERS WEEK

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and agree to the

concurrent resolution (H. Con. Res. 500) honoring the goals and ideals of National Nurse Practitioners Week.

The Clerk read as follows:

H. CON. RES. 500

Whereas there are more than 106,000 licensed nurse practitioners in the United States providing high-quality, cost-effective health care;

Whereas nurse practitioners are registered nurses, with advanced education and advanced clinical training, most with master's or post-master's degrees;

Whereas nurse practitioners diagnose acute and chronic conditions, prescribe medications, treat illnesses, and counsel patients on health care issues, in coordination with physicians and other health care providers;

Whereas the excellence, safety, and cost-effectiveness of the care provided by nurse practitioners has been established;

Whereas nurse practitioners provide health care to people of all ages and in diverse health care settings, such as private office practice, hospitals, long-term care facilities, schools, State and local health departments, and managed care facilities;

Whereas more than 20 percent of nurse practitioners practice in rural settings with populations of less than 25,000, and of the 62 percent who work in cities with populations of more than 50,000, more than 39 percent work in inner-city areas; and

Whereas the American Academy of Nurse Practitioners has designated the week of November 7–13, 2004, as National Nurse Practitioners Week in recognition of the many contributions that this dedicated group of health care professionals makes to the health and well-being of the people in the communities they serve in this great country: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) honors the goals and ideals of National Nurse Practitioners Week; and

(2) offers sincere support to nurse practitioners around the country as they continue to provide high-quality health care to many Americans.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. 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 the House Concurrent Resolution 500.

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

There was no objection.

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

Mr. Speaker, I rise today in support of H. Con. Res. 500, honoring the goals and ideals of National Nurse Practitioners Week, introduced by the gentleman from Texas (Mr. BURGESS).

The American Academy of Nurse Practitioners has designated the week of November 7 through 13, 2004, as National Nurse Practitioners Week in recognition of the many contributions that this dedicated group of health care professionals makes to the people