

that the Senate has agreed to a concurrent resolution of the following titles:

S. Con. Res. 35. Concurrent resolution expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania.

The message also announced that pursuant to section 1928a-1928d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the following Senators to the Senate Delegation to the NATO Parliamentary Assembly during the One Hundred Ninth Congress:

the Senator from Alabama (Mr. SESSIONS).

the Senator from Wyoming (Mr. ENZI).

the Senator from Kentucky (Mr. BUNNING).

the Senator from Minnesota (Mr. COLEMAN).

TRIBUTE TO DR. BETTY SIEGEL

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, today I rise in honor of Dr. Betty Siegel, president of Kennesaw State University in Georgia. After 25 years of service to the University, Dr. Siegel will be retiring at the end of the year, and what an amazing 25 years it has been for her and for the students of Kennesaw State.

Back in 1981, Betty Siegel made headlines and chose the path less traveled when she became the first woman ever to serve as president in the 34-school university system of Georgia. Today, she makes headlines for all she has accomplished.

Under her leadership, KSU has grown tremendously, from a 4,000-student college offering 15 bachelor's degree programs and no graduate programs to today, with 18,000 students choosing from over 55 undergraduate and graduate programs.

The KSU slogan, "Dare to Dream," is epitomized by Dr. Betty Siegel in every imaginable way. Not only does she lead by example, but she instills every student with that motto.

So today I say thank you to Dr. Siegel. Thank you for daring to dream and thank you for daring to do all you have done to improve the lives of your students.

IT IS TIME FOR VOTES ON JUDICIAL NOMINEES

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, Senator JIM DEMINT published an excellent op-ed in The State newspaper yesterday that the Senate

has an obligation to ensure timely up-and-down votes for all nominees, regardless of who is President or which party is in power.

Ensuring that our courthouses are filled with well-qualified judges is one of the most important responsibilities of the U.S. Senate. As Senator DEMINT notes, the majority of Americans trust the Senate's judgment on judicial nominees, and it is unfair for a minority of Senators to ignore the will of the American people. If the minority's case against these nominees is so strong, they should be able to convince other Senators to oppose the nominees during a fair up-and-down vote.

This week, Majority Leader BILL FRIST will lead the Senate to vote on the constitutional option, which will restore a 200-year tradition to ensure that each nominee receives a fair vote. After years of debate on this topic, it is time for the Senate to follow the will of the American people.

In conclusion, God bless our troops and we will never forget September 11.

FISCAL LEADERSHIP

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Mr. Speaker, I rise to praise the President and Republicans in this Congress for working to strengthen the economy and cut unnecessary spending. This is not rocket science or advanced economics. When we leave more money in the hands of citizens, the economy thrives.

Case in point: 274,000 new jobs were created in April. We have seen steady job gains for each of the last 23 months, and more Americans are working than ever before. In addition, our Federal deficit is forecast to be \$50 billion lower than expected.

Clearly, the economy's growth is a direct result of the pro-growth agenda of the President and this Congress. By holding the line on fiscal responsibility in the budget and passing pro-growth bills such as the death tax repeal and the energy bill, Republican Members continue to show their commitment to America's economy.

The House has begun the appropriation season with Republicans working hard to display fiscal responsibility, just as we have been doing through out the session. We have reformulated the allocation process for Homeland Security funding so we can make sure these funds are not wasted and are used properly.

This Congress and this President are working hard and doing great work. Unfortunately, not enough focus is being put on the positive things happening in the world and in our country.

Let us not squander this opportunity to keep stepping in the right direction.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair

will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

STOP COUNTERFEITING IN MANUFACTURED GOODS ACT

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 32) to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks, as amended.

The Clerk read as follows:

H.R. 32

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Stop Counterfeiting in Manufactured Goods Act".

(b) FINDINGS.—The Congress finds that—

(1) the United States economy is losing millions of dollars in tax revenue and tens of thousands of jobs because of the manufacture, distribution, and sale of counterfeit goods;

(2) the Bureau of Customs and Border Protection estimates that counterfeiting costs the United States \$200 billion annually;

(3) counterfeit automobile parts, including brake pads, cost the auto industry alone billions of dollars in lost sales each year;

(4) counterfeit products have invaded numerous industries, including those producing auto parts, electrical appliances, medicines, tools, toys, office equipment, clothing, and many other products;

(5) ties have been established between counterfeiting and terrorist organizations that use the sale of counterfeit goods to raise and launder money;

(6) ongoing counterfeiting of manufactured goods poses a widespread threat to public health and safety; and

(7) strong domestic criminal remedies against counterfeiting will permit the United States to seek stronger anticounterfeiting provisions in bilateral and international agreements with trading partners.

SEC. 2. TRAFFICKING IN COUNTERFEIT MARKS.

Section 2320 of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by inserting after "such goods or services" the following: "or intentionally traffics or attempts to traffic in labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature, knowing that a counterfeit mark has been applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive,".

(2) Subsection (b) is amended to read as follows:

"(b)(1) The following property shall be subject to forfeiture to the United States and no property right shall exist in such property:

"(A) Any article bearing or consisting of a counterfeit mark used in committing a violation of subsection (a).

"(B) Any property used, in any manner or part, to commit or to facilitate the commission of a violation of subsection (a).

"(2) The provisions of chapter 46 of this title relating to civil forfeitures shall extend

to any seizure or civil forfeiture under this section. At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States, shall order that any forfeited article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law.

“(3)(A) The court, in imposing sentence on a person convicted of an offense under this section, shall order, in addition to any other sentence imposed, that the person forfeit to the United States—

“(i) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as the result of the offense;

“(ii) any of the person’s property used, or intended to be used, in any manner or part, to commit, facilitate, aid, or abet the commission of the offense; and

“(iii) any article that bears or consists of a counterfeit mark used in committing the offense.

“(B) The forfeiture of property under subparagraph (A), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section. Notwithstanding section 413(h) of that Act, at the conclusion of the forfeiture proceedings, the court shall order that any forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed.

“(4) When a person is convicted of an offense under this section, the court, pursuant to sections 3556, 3663A, and 3664, shall order the person to pay restitution to the owner of the mark and any other victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii).

“(5) The term ‘victim’, as used in paragraph (4), has the meaning given that term in section 3663A(a)(2).”

(3) Subsection (e)(1) is amended—

(A) by striking subparagraph (A) and inserting the following:

“(A) a spurious mark—

“(i) that is used in connection with trafficking in any goods, services, labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature;

“(ii) that is identical with, or substantially indistinguishable from, a mark registered on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so registered;

“(iii) that is applied to or used in connection with the goods or services for which the mark is registered with the United States Patent and Trademark Office, or is applied to or consists of a label, patch, sticker, wrapper, badge, emblem, medallion, charm, box, container, can, case, hangtag, documentation, or packaging of any type or nature that is designed, marketed, or otherwise intended to be used on or in connection with the goods or services for which the mark is registered in the United States Patent and Trademark Office; and

“(iv) the use of which is likely to cause confusion, to cause mistake, or to deceive; or”; and

(B) by amending the matter following subparagraph (B) to read as follows:

“but such term does not include any mark or designation used in connection with goods or services, or a mark or designation applied to labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documenta-

tion, or packaging of any type or nature used in connection with such goods or services, of which the manufacturer or producer was, at the time of the manufacture or production in question, authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation.”.

(4) Section 2320 is further amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

“(f) Nothing in this section shall entitle the United States to bring a criminal cause of action under this section for the repackaging of genuine goods or services not intended to deceive or confuse.”.

SEC. 3. SENTENCING GUIDELINES.

(a) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of any offense under—

(1) section 1204 of title 17, United States Code; or

(2) section 2318 or 2320 of title 18, United States Code.

(b) AUTHORIZATION.—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.

(c) RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall determine whether the definition of “infringement amount” set forth in application note 2 of section 2B5.3 of the Federal sentencing guidelines is adequate to address situations in which the defendant has been convicted of one of the offenses listed in subsection (a) and the item in which the defendant trafficked was not an infringing item but rather was intended to facilitate infringement, such as an anti-circumvention device, or the item in which the defendant trafficked was infringing and also was intended to facilitate infringement in another good or service, such as a counterfeit label, documentation, or packaging, taking into account cases such as *U.S. v. Sung*, 87 F.3d 194 (7th Cir. 1996).

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

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent to yield the balance of the time to the chairman of the committee, the gentleman from Wisconsin (Mr. SENSENBRENNER).

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

There was no objection.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 32, 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, I rise in support of H.R. 32, the Stop Counterfeiting in Manufactured Goods Act. This legislation will facilitate efforts by the Department of Justice to prosecute those who exploit the good names of companies by attaching counterfeit marks to substandard products.

This is a serious problem. Legitimate businesses work hard to build public trust and confidence in their products. When a legitimate company’s name is attached to counterfeit products that are not authorized by the company to bear that name, the company suffers losses not only to its bottom line but to its reputation as well.

In addition, counterfeit products are often purchased unwittingly by consumers who have come to rely on the quality of the product by a company they know and trust. Instead, what they receive is a low-quality, often dangerous imitation. Some of these products are such poor imitations of the original that they have caused physical harm to consumers.

The FBI has identified counterfeit goods in a wide range of products, including pharmaceuticals, automobile parts, airport parts, baby formulas, and children’s toys. The U.S. automobile industry has reported a number of instances of brake failure caused by counterfeit brake pads manufactured from wooden chips. Counterfeits of other products, such as prescription or over-the-counter medications, may have serious health consequences if they are used by an unsuspecting consumer.

Under this legislation, section 2320 of title 18 would be expanded to include penalties for those who traffic in counterfeit labels, symbols, or packaging of any type knowing that a counterfeit mark has been applied. Additionally, this legislation would require the forfeiture of any property derived directly or indirectly from the proceeds of the violations as well as any property used or intended to be used in relation to the offense. The legislation also requires that restitution be paid to the owner of the mark which was counterfeited.

By mid-fiscal year 2003, the Department of Homeland Security had already reported 3,117 seizures of counterfeit-branded goods, including cigarettes, books, apparel, hand bags, toys, and electronic games, with an estimated street value of \$38 million. Fortune 500 companies are spending between \$2 million and \$4 million each and every year to fight counterfeiters.

The counterfeiting of manufactured goods produces staggering losses to businesses across the United States and around the world. Counterfeit products deprive the Treasury of tax revenues, add to the national trade deficit, subject consumers to health and safety risks, and leave consumers without any legal recourse when they are

financially or physically injured by counterfeit products.

In addition, established links between counterfeiting, terrorism, and organized crime have made this a priority for Federal law enforcement agencies. H.R. 32 will provide another tool for the Federal Government to stop the wave of counterfeit products flooding the marketplace.

This legislation has broad bipartisan support. It was amended in the Committee on the Judiciary to ensure only those individuals who are operating with an intent to deceive or confuse the consumer by attaching counterfeit labeling or packaging will be held criminally liable.

I urge my colleagues to support this very important piece of legislation.

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

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

I rise in support of this legislation. H.R. 32 is aimed at criminals who traffic in counterfeit labels and packaging rather than the products themselves.

Many counterfeit products are labeled with brand names or trademarks that consumers know and trust. However, under current law, trafficking in counterfeit labels is not illegal if the labels are not affixed to the counterfeit products. Counterfeiters have exploited this by importing the counterfeit labels and products separately, and then affixing the labels in the United States.

This bill expands criminal penalties to include those who traffic in counterfeit labels and packaging. It also requires forfeiture of any property derived from the proceeds of the violation and requires restitution to the trademark owner.

At the same time, H.R. 32 now includes language that will ensure that criminal sanctions do not reach legitimate businesses that repackage goods or services with no intent to deceive or cause confusion.

The original bill left open the question of whether someone other than the manufacturer could affix marks to goods that could correctly identify the source. This confusion struck at the very heart of the parallel market in which third parties lawfully obtain goods and make them available in discount stores. Not only has this practice been upheld by the Supreme Court, but it also saves consumers billions of dollars each year.

I appreciate that the majority worked with us to address this concern. We now have a bill that protects manufacturers, targets illegitimate actors, protects consumers, and leaves the legitimate parallel market unscathed. Therefore, I urge a "yes" vote on this legislation.

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

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Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman for yielding me this time and bringing this legislation to the floor, and I especially want to commend the gentleman from Michigan (Mr. KNOLLENBERG) for his persistence in this matter.

Several years ago I had an opportunity to bring forward legislation which passed the House and was signed into law by President Clinton which significantly increased the authority of the U.S. Customs Service to deal with this problem of counterfeit goods. Up until that time, when counterfeit goods were discovered by Customs inspectors, all they could do was refuse to allow them into the country.

What happened was they would simply bring them around to another port and try again. Eventually, they would succeed, or they would send them to another market in the world and wreak the havoc that these counterfeit goods do in terms of health and safety concerns and cost to businesses elsewhere in the world. That was changed so that now the Customs Service can seize and destroy these goods.

This is the next logical step to handling that. When the criminals bring these goods into the country and do not have the labels on them and escape liability because they have separated the labels from the counterfeit goods, that is obviously a loophole that needed to be plugged.

I commend the gentleman and the committee for offering this legislation. I urge my colleagues to adopt it.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. LEVIN), an original cosponsor of this bill.

Mr. LEVIN. Mr. Speaker, I am glad to join the gentleman from Michigan (Mr. KNOLLENBERG) and all of the members on the committee who have worked hard on this bill to make sure that it is targeted in the right direction and that it will be, indeed, effective.

We have an immense counterfeiting problem in this country. A lot of it occurs overseas outside of our shores, but a lot of it occurs right here in the United States. We need to do more about what is going on overseas. I heard on the radio coming in this morning that they are selling in China a counterfeit DVD of the new "Star Wars" movie, and people here in the United States are waiting in line to get into the theater.

Here in the U.S. the counterfeiting problem has grown, and that was the inspiration for this bill. It has struck manufacturing in many respects. It has surely hurt the automobile industry, including the auto parts industry. Some estimates are that counterfeiting has cost the automotive parts industry over \$12 billion in the last year. This is a time when that industry, as so many other parts of manufacturing, are having an immense challenge. They face an unlevel playing field. There is much

talk in trade and competition about the need to level it, and there is nothing that rigs a field more than counterfeiting. That is the ultimate rigging.

This bill is an effort to get at this problem, to increase the sanctions, to increase the ability of law enforcement to crack down.

Mr. Speaker, I hope there is unanimous support for this bill. There is surely bipartisan support. Again, we have been glad to work with the gentleman from Michigan (Mr. KNOLLENBERG) and others on this, and we salute the Committee on the Judiciary, the majority and the minority, for taking this issue seriously and working out any problems and placing this bill on a path where it could be brought up today and, we hope, supported across the board.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. KNOLLENBERG), the principal sponsor of the bill.

(Mr. KNOLLENBERG asked and was given permission to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, I rise today in support of my bill, H.R. 32, the "Stop Counterfeiting in Manufactured Goods Act." This legislation will help stop the scourge of counterfeit manufactured goods.

Let me thank the Committee on the Judiciary in its entirety, particularly the gentleman from Wisconsin (Chairman SENSENBRENNER) for all of his assistance, the subcommittee chairmen, the gentleman from North Carolina (Mr. COBLE) and the gentleman from Texas (Mr. SMITH), and the majority leader for his leadership in bringing the bill to the floor today.

Most people understand that counterfeit goods is a problem, but many people do not understand how severe the problem is and how severe it has become. Counterfeiters are endangering consumers, are stealing jobs and money away from legitimate companies, destroying brand names and requiring costly investigations. The numbers are staggering, in addition to safety issues, and it has been mentioned about counterfeit auto parts, but they cost the automotive supplier over \$12 billion annually. It has been estimated if these losses were eliminated, the industry could hire some 200,000 additional workers.

The impact of counterfeiters affects almost every manufacturing industry in the country, including clothing, batteries, electronics and even pharmaceuticals. When it comes to the economy, the U.S. Customs Service has estimated that counterfeiting resulted in the loss of some 750,000 jobs and cost the U.S. around \$20 billion annually. It is estimated almost 7 percent of world trade is counterfeit.

My bill has two key provisions that will help address the problem. The first provision is the most important. It requires the mandatory destruction and forfeiture of the equipment and materials used to make counterfeit goods.

Under current law, a convicted trademark counterfeiter is only required to give up the actual counterfeit goods, not the machinery used to make those goods. My bill would prohibit trafficking in counterfeit labels, patches, and medallions.

Passing this bill will send a signal to counterfeiters around the world that the U.S. will fight this growing problem. This bill will give prosecutors more tools to go after the criminals and punish them severely. This legislation also addresses the global problem, and has the widespread support of the MEMA, NEMA, and the U.S. Chamber of Commerce.

Mr. Speaker, I rise today in support of my bill, H.R. 32—the “Stop Counterfeiting in Manufactured Goods Act.” This legislation will help stop the scourge of counterfeit manufactured goods.

Let me thank the Judiciary Committee, including Chairman SENSENBRENNER, Subcommittee Chairman COBLE and Subcommittee Chairman LAMAR SMITH. They’ve all provided important leadership to bring this bill to the floor today. I’d also like to thank the leadership, including Majority Leader DELAY, for their help in getting this bill through the process.

The economy of my district is largely centered on the auto industry, particularly auto suppliers. In fact, my district includes the headquarters of over one-fourth of the 100 largest auto suppliers in North America, as well as a host of small suppliers.

To say that the manufacturing sector is important to my district and to the State of Michigan is an understatement. In my district alone, there are more than 1,500 manufacturing entities, and over 90 percent of them have less than 100 employees.

Most people understand that counterfeit goods are a problem. But many people don’t understand just how severe the problem has become.

Early last year, I was made aware of the serious and growing problem of counterfeit auto parts. What I found out was the counterfeiters are making all sorts of fake parts including brake pads, spark plugs, old filters, and in one case even an entire car. I was struck by how large an impact counterfeiters are having on the auto supplier industry.

The numbers, in fact, are staggering. In addition to the obvious safety issues, counterfeit automobile parts cost the automotive supplier industry over \$12 billion annually. It’s estimated that if these losses were eliminated, and those sales were brought into legitimate companies, the auto industry could hire 200,000 additional workers. It’s important to remember those numbers, because counterfeiting is not a victimless crime.

In addition to selling bogus products, the counterfeiters are stealing jobs and money away from legitimate companies, destroying brand names, increasing warranty claims, and requiring legal fees and costly investigations.

The fight against counterfeiters is not limited to the automotive industry. The impact of counterfeiters is broad and affects just about every manufacturing industry in the country—including clothing, batteries, electronics, and even pharmaceuticals.

When it comes to the economy overall, the U.S. Customs Service has estimated that

counterfeiting has resulted in the loss of 750,000 jobs and costs the United States around \$200 billion annually. The International Chamber of Commerce estimates that seven percent of the world’s trade is in counterfeit goods and that the counterfeit market is worth \$350 billion. We must provide more tools to fight counterfeiters, not only for the economy, but for the safety of our consumers.

My bill has two key provisions that will help stop criminals who use counterfeit trademarks.

The first provision is the most important and gets at the roots of the problem—it requires the mandatory destruction and forfeiture of the equipment and materials used to make the counterfeit goods.

Under current law, a convicted trademark counterfeiter is only required to give up the actual counterfeit goods, not the machinery used to make those goods. If we don’t take away the equipment used to make the fake goods, what’s to stop the criminals from going back to make more? My bill would require the convicted criminals to give up not just the counterfeit goods, but also the equipment they used to make those goods. This will help to dig up the counterfeiting networks by the roots.

In addition to this provision, my bill also prohibits trafficking in counterfeit labels, patches, and medallions.

Under current law, it is legal to make and sell these items if they are not attached to a particular counterfeit good. This just doesn’t make sense. Why would counterfeiters make these labels, if not for the chance at illegal profits?

This bill will send a signal to counterfeiters that the United States is serious about fighting this growing problem. Passing this bill will give prosecutors more tools to go after the criminals here in the U.S. and punish them severely.

This bill is also necessary to address the problem globally. Most of the counterfeit goods are being manufactured in other countries, particularly China. Some countries are better than others at fighting counterfeiting, but we need to have ways to prod the stragglers. However, we can’t demand that other countries take steps to combat trademark counterfeiting that we have not taken ourselves.

So, by passing my bill and improving our own law, Congress will empower our trade negotiators to press for stronger anti-counterfeiting provisions in other countries. We will show the world that the United States is serious about putting counterfeiters out of business for good.

This bill has broad support, including the U.S. Chamber of Commerce, the National Association of Manufacturers, the Motor and Equipment Manufacturers Association, the National Electrical Manufacturers Association, the IACC, International Trademark Association and a host of major associations and corporations.

As I have outlined, counterfeiting is a very serious worldwide problem that threatens public safety, hurts the U.S. economy and costs Americans thousands of manufacturing jobs. No one supports counterfeiters, and we must do everything we can to eliminate the problem.

For these reasons, Mr. Speaker, I respectfully urge my colleagues to support H.R. 32, the Stop Counterfeiting in Manufactured Goods Act, and I yield back the remainder of my time.

Mr. CONYERS. Mr. Speaker, I rise in support of this legislation and thank the Chairman and his staff for working with us to ensure the bill does not overreach.

The bill was designed to target illegitimate actors who trade in counterfeit marks. We all agree that manufacturers have a right to ensure that fake goods are not marketed in their names and that their own goods are not marketed under fake names.

The bill as originally written, however, could have been construed by some as going further than that. It left as an open question whether someone other than the manufacturer could affix marks to goods that correctly identify the source of the goods. This ambiguity could have had a negative impact on the parallel market, in which third parties lawfully obtain goods and make them available in discount stores. Not only has this practice been upheld by the Supreme Court, but it also saves consumers billions of dollars each year.

Fortunately, H.R. 32 was amended in the full committee pursuant to an amendment offered by Representative WEXLER to clarify that the legislation is not intended to be relied upon as a weapon against the secondary discount marketplace to the detriment of American consumers—consumers dependent upon the price options and competition afforded by alternative sources of genuine goods.

In particular, H.R. 32 was amended to specifically protect lawful repackaging of genuine goods by ensuring that any such third party repackaging, not intended to deceive or confuse, is specifically saved from criminal prosecution under this Act. The Committee specifically agreed that combining single genuine products into gift sets, separating combination set of genuine goods into individual items for resale, inserting coupons into original packaging or repackaged items, affixing labels to track or otherwise identify genuine products and removing genuine goods from original packaging for customized retail displays were not covered by the legislation as they provide important value to American consumers.

I am happy to report that the final language ensures that H.R. 32 adequately protects lawful American businesses, including those servicing the discount marketplace, while, at the same time punishes illicit counterfeiting activity. As a result of these good faith negotiations, we now have a bill that protects manufacturers, targets illegitimate actors, and leaves a legitimate industry unscathed.

I urge a “yes” vote on this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of this legislation that concerns such an important matter that affects interstate commerce as referenced in Article I, Section 8 of the United States Constitution. The Committee on the Judiciary rightly exercised oversight over the issue of counterfeiting products and conspiring to commit retail theft, and I applaud the gentleman from Michigan for having crafted legislation that has garnered bipartisan support.

Similar legislation, namely H.R. 3632, the “Anti-Counterfeiting Amendments Act of 2003” in the 108th Congress, passed under suspension of the rules and became law, and I supported it. That measure regulated the trafficking of certain security components of products, for example, Certificates of Authenticity (COAs). Now that it has become law, piracy of these security markers, which are the source of each product’s value, will be discouraged by way of criminal consequences.

In the context of discussing H.R. 3632, I cited a situation in Texas in which a crime ring was implicated for the import of over 100 million counterfeit cigarettes by mislabeling shipping documents and indicating that they were importing toys or plastic parts. That crime threatened the copyright royalties of property owners.

However, this legislation extrapolates that aspect of criminal activity by inserting the possibility that unsafe products as well as counterfeit products could be circulated in the flow of interstate commerce.

Last year, U.S. Immigration and Customs Enforcement officials seized fake goods valued at \$22 million in the Houston area alone. Federal inspectors now work to curtail the flow of fake Louis Vuitton and Coach handbags and other items coming from Houston, which lags behind only New York and Los Angeles in supplying counterfeit products to the rest of the nation. Furthermore, during Super Bowl XXXVIII that was held in Houston this past year, NFL investigators seized about 1,000 counterfeit products in Houston that were peddled by two vendors.

Therefore, the subject matter of this bill is of great importance to me. This bill is largely bipartisan; however, we have a duty to ensure that its provisions are narrowly tailored before passing them into law.

At the Committee level, I had questions regarding the intended scope of search and seizure law and how H.R. 32 proposes to change it. One question that I posed relates to the property forfeiture provision found on page 3, line 21 of the bill as drafted. Subparagraphs (A) and (B) are conjunctive so as to require both findings before a forfeiture would follow—how proposes to prevent law enforcement from seizing the property of an innocent person (assuming it is in possession or use by the perpetrator of the underlying offense). I hope that this legislation is clear in its provisions to jurists in order to prevent future appellate litigation that can be both costly and time consuming—to the detriment of bona fide claimants.

Another question I posed goes to the matter of restitution. Section 2, page 4, lines 15–16 would require one convicted of the offense in question to pay restitution damages to the “victim” as defined in Title 18, Section 3663(A)(2):

a person directly and *proximately harmed* as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant’s criminal conduct in the course of the scheme, conspiracy, or pattern.

(emphasis added). I queried whether the drafter of this bill contemplate those proximately harmed by the perpetration of the crimes enumerated to include state governments. As I cited earlier in my statement, criminals trafficked over 1,000 counterfeit products in the stream of commerce and caused the State of Texas, among others, to lose significant revenues.

I believe that H.R. 32 can provide much needed legislative protection of the American consumer and of the owners of intellectual and licensed property.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. RADANOVICH). 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. 32, 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.

INTERNET SPYWARE (I-SPY) PREVENTION ACT OF 2005

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 744) to amend title 18, United States Code, to discourage spyware, and for other purposes, as amended.

The Clerk read as follows:

H.R. 744

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 2005”.

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

(a) IN GENERAL.—Chapter 47 of title 18, 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 with the intent to defraud or injure a person or damage a 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 license 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, protective, 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, 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 2006 through 2009, the sum of \$10,000,000 to the Attorney General for prosecutions needed to discourage the use of spyware and the practices commonly called phishing and pharming.

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.

(5) The continued development of innovative technologies in response to consumer demand is crucial in the fight against spyware.

(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 and pharming scams.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from California (Ms. ZOE LOFGREN) 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. 744, the bill currently under consideration.