

HUTCHISON) was added as a cosponsor of S. 420, a bill to make the repeal of the estate tax permanent.

S. 875

At the request of Mr. BINGAMAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to increase participation in section 401(k) plans through automatic contribution trusts, and for other purposes.

S. 962

At the request of Mr. GRASSLEY, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 962, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued to finance certain energy projects, and for other purposes.

S. 1060

At the request of Mr. COLEMAN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1060, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 1075

At the request of Mr. THUNE, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Jersey (Mr. CORZINE) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1075, a bill to postpone the 2005 round of defense base closure and realignment.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 1095. A bill to amend chapter 113 of title 18, United States Code, to clarify the prohibition on the trafficking in goods or services, and for other purposes; to the Committee on the Judiciary.

Mr. CORNYN. Mr. President, today I am pleased to join Senator LEAHY to offer important legislation in our continued bipartisan effort to combat the trafficking of illegitimate goods throughout the world.

Recently, we have worked together on a matter near and dear to my heart—good government legislation related to the Freedom of Information Act, and it is indeed a pleasure to work with the Ranking Member of the Judiciary Committee again.

The rampant distribution of illegitimate goods—be it counterfeited products, illegal copies of copyrighted works or any other form of piracy—undermines property rights, threatens American jobs, decreases consumer safety and, often times, supports organized crime and terrorist activity.

Amazingly, it is estimated that between 5 percent and 7 percent worldwide trade is conducted with counterfeit goods and services. According to

FBI estimates, counterfeiting costs U.S. businesses as much as \$200-\$250 billion annually—and that costs Americans their jobs—more than 750,000 jobs according to U.S. Customs.

In recent years, this plague on global trade has grown significantly. According to the World Customs Organization and Interpol, the global trade in illegitimate goods has increased from \$5.5 billion in 1992 to more than \$600 billion per year today. That is—\$600 billion per year illegally extracted from the global economy.

But perhaps most troubling, the counterfeit trade threatens our safety and our security. Counterfeit goods undermine our confidence in the reliability of our goods and service. For example, the Federal Aviation Administration estimates that 2 percent the 26 million airline parts installed each year are counterfeit. And the Federal Drug Administration estimates that as much as 10 percent pharmaceuticals are counterfeit. Worse yet—evidence indicates that the counterfeit trade supports terrorist activities. Indeed, Al Qaeda training manuals recommended the sale of fake goods to raise revenue.

And the reach of counterfeiting runs deep in my own home State of Texas. Data is difficult to collect, but a 1997 piece detailing Microsoft's efforts to combat counterfeiting and piracy—while dated—pointed out that this type of activity costs Texas over 10,000 jobs and almost \$1 billion. Today, we know those numbers are much higher.

We must act to stop this illegal activity.

The legislation we offer today, the Protecting American Goods and Services Act, is not complicated, it is not long—but its global impact will be significant. The legislation is designed to provide law enforcement with additional tools to curb the flow of these illegitimate goods.

First, the bill would make it specifically illegal to import or export unauthorized copies of copyrighted works or counterfeit goods. Second, it would make it illegal to possess counterfeit goods with the intention of selling them. Finally, the bill would more clearly specify that it is illegal to give away counterfeit goods in exchange for some future benefit—in effect, the “bartering” of counterfeit goods in such a way that avoids criminality.

Each of these items was highlighted by the Department of Justice in its October, 2004 report on its Task Force on Intellectual Property. In it, the Department describes the significant limitation law enforcement often times faces in pursuing counterfeiters and offers, among others, the principles embraced in the Protecting American Goods and Services Act, as possible solutions to these obstacles.

This legislation, and other reforms, will help turn the tide of the growing counterfeit trade. The legislation is critically important to law enforcement—but it is even more critical for businesses, large and small, throughout

America—including in my home State of Texas—as well as for ensuring the safety of consumers around the globe. Those who traffic in counterfeit goods put Americans in danger, support terrorism and undermine the health of our Nation's economy. It is time to put an end to this scourge on society.

I look forward to working with my colleagues to move this legislation forward, and in so doing, protect property rights, protect consumer safety, preserve American jobs and bolster the American economy.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1095

*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 “Protecting American Goods and Services Act of 2005”.

#### SEC. 2. PROHIBITION ON TRAFFICKING OF CERTAIN GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320 of title 18, United States Code, is amended—

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

“(a)(1) Any person who intentionally traffics or attempts to traffic in goods or services and knowingly uses a counterfeit mark on or in connection with such goods or services—

“(A) if an individual, shall be fined not more than \$2,000,000, imprisoned not more than 10 years, or both; and

“(B) if a person other than an individual, shall be fined not more than \$5,000,000.

“(2) Any person who possesses goods with a counterfeit mark with an intent to traffic such goods—

“(A) if an individual, shall be fined not more than \$2,000,000, or imprisoned not more than 10 years, or both; and

“(B) if a person other than an individual, shall be fined not more than \$5,000,000.

“(3) In the case of an offense by a person under this section that occurs after that person is convicted of another offense under this section, the person—

“(A) if an individual, shall be fined not more than \$5,000,000, imprisoned not more than 20 years, or both; and

“(B) if other than an individual, shall be fined not more than \$15,000,000.”; and

(2) in subsection (b), by striking paragraph (2) and inserting the following:

“(2) the term ‘traffic’ means—

“(A) transport, transfer, or otherwise dispose of, to another as consideration for anything of value or without consideration; or

“(B) make or obtain control of with intent to so transport, transfer, or dispose of; and”.

(b) PROHIBITION OF TRANSPORT OF COUNTERFEIT GOODS OR UNAUTHORIZED COPIES AND PHONORECORDS OF COPYRIGHTED WORKS.—

(1) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by inserting after section 2320 the following:

#### “§ 2320A. Transport of counterfeit goods and unauthorized copyrighted works into or out of the United States

“(a) DEFINITIONS.—In this section—

“(1) the terms ‘copies’ and ‘phonorecords’ have the respective meanings given under section 101 of title 17;

“(2) the term ‘counterfeit mark’ has the meaning given under section 2320(e)(1); and

“(3) the term ‘United States’ means each of the several States of the United States, the

District of Columbia, and the territories and possessions of the United States.

“(b) OFFENSE.—Any person who intentionally transports goods bearing a counterfeit mark or copies or phonorecords of a copyrighted work not authorized by the copyright holder into or out of the United States for the purposes of commercial advantage or private financial gain shall be fined not more than \$100,000, imprisoned not more than 10 years, or both.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2320 the following:

“2320A. Transport of counterfeit goods and unauthorized copyrighted works into or out of the United States.”.

Mr. LEAHY. Today, I am partnering with Senator CORNYN in another of our bipartisan efforts to improve the lives of Americans through effective and efficient government. The bill we are introducing, the “Protecting American Goods and Services Act of 2005,” will strengthen our ability to combat the escalating problem of counterfeiting worldwide. In order to effectively fight intellectual property theft, we need stiff penalties for counterfeiters and those who are caught with counterfeit goods with the intent to traffic their false wares. Ours is a short bill—in fact, it is only four pages long—but it will have global implications in the fight against piracy.

Counterfeiting is a growing problem that costs our economy hundreds of billions of dollars every year and has been linked to organized crime, including terrorist organizations. According to the International Anti-Counterfeiting Coalition, counterfeit parts have been discovered in helicopters sold to NATO, in jet engines, bridge joints, brake pads, and fasteners in equipment designed to prevent nuclear reactor meltdowns. The World Health Organization estimates that the market for counterfeit drugs is about \$32 billion each year.

Several years ago, Senator HATCH joined me in sponsoring the “Anti-counterfeiting Consumer Protection Act of 1996,” which addressed counterfeiting by amending several sections of our criminal and tariff codes. That law made important changes, particularly by expanding RICO, the federal anti-racketeering law, to cover crimes involving counterfeiting and copyright and trademark infringement. Then, as now, trafficking in counterfeit goods hurts purchasers, state and federal governments, and economies at every level.

Perhaps most disturbingly, the U.S. Customs Service reports that terrorists have used transnational counterfeiting operations to fund their activities: The sale of counterfeit and pirated music, movies, software, T-shirts, clothing, and fake drugs “accounts for much of the money the international terrorist network depends on to feed its operations.”

Last year, as in years past, I worked with Senator ALLEN on an amendment

to the Foreign Operations bill that provides the State Department with vital resources to combat piracy of U.S. goods abroad. The bill we ultimately passed included \$3 million for this important purpose. Yet more work both at home and abroad remains. When you consider that the economic impact of tangible piracy in counterfeit goods is estimated to be roughly \$350 billion a year and to constitute between 5 percent and 7 percent of worldwide trade, a few million dollars is a worthwhile investment.

We have certainly seen how this form of theft touches the lives of hard-working Vermonters. Burton Snowboards is a small company, whose innovation has made it an industry leader in snowboarding equipment and apparel. Unfortunately, knock-off products carrying Burton’s name have been found across the globe. Vanessa Price, a representative of Burton, testified about counterfeiting at the Judiciary Committee’s March 23, 2004, hearing on this topic. In addition to learning about the economic costs of counterfeiting, I asked her after the hearing about the risks posed to consumers by these goods. Her answer was chilling: “In the weeks since my Senate testimony, I discovered a shipment of counterfeit Burton boots for sale through a discount sports outfit . . . After examining the poor quality of the counterfeit boots, we determined that anyone using the boots for snowboarding risks injury due to a lack of reinforcement and support in the product’s construction.”

Customers and businesses lose out to counterfeiters in other ways, too. SB Electronics in Barre, Vt. has seen its capacitors reverse engineered and its customers lost to inferior copycat models. Vermont Tubbs, a furniture manufacturer in Rutland, has seen its designs copied, produced offshore with inferior craftsmanship and materials, and then reimported, so that the company is competing against cheaper versions of its own products. And Hubbardton Forge in Castleton, Vt. has seen its beautiful and original lamps counterfeited and then sold within the United States at prices—and quality—far below their own. This is wrong. It is unfair to consumers who deserve the high quality goods they think they are paying for, and it is unfair to innovators who play by the rules and deserve to profit from their labor.

The bill that I am introducing today with Senator CORNYN will help to combat this growing scourge.

The bill will criminalize the possession of counterfeit goods with the intent to sell or traffic in those goods, and it expands the definition of “traffic” to include any distribution of counterfeits with the expectation of gaining something of value—criminals should not be able to skirt the law simply because they barter illegal goods and services in exchange for their illicit wares. Finally, the bill will criminalize the importation and exportation

of counterfeit goods, as well as of bootleg copies of copyrighted works into and out of the United States.

By tying off these loopholes and improving U.S. laws on counterfeiting, we will be sending a powerful message to the criminals who belong in jail, and to our innovators.

## TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

On Tuesday, May 17, 2005, the Senate passed H.R. 3, as follows:

H.R. 3

*Resolved*, That the bill from the House of Representatives (H.R. 3) entitled “An Act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.”, do pass with the following amendment:

Strike out all after the enacting clause and insert:

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE*.—This Act may be cited as the “Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005”.

(b) *TABLE OF CONTENTS*.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. General definitions.

Sec. 3. Definitions for title 23.

### TITLE I—FEDERAL-AID HIGHWAYS

#### Subtitle A—Funding

Sec. 1101. Authorization of appropriations.

Sec. 1102. Obligation ceiling.

Sec. 1103. Apportionments.

Sec. 1104. Equity bonus programs.

Sec. 1105. Revenue aligned budget authority.

Sec. 1106. Use of excess funds and funds for inactive projects.

#### Subtitle B—New Programs

Sec. 1201. Infrastructure performance and maintenance program.

Sec. 1202. Future of surface transportation system.

Sec. 1203. Freight transportation gateways; freight intermodal connections.

Sec. 1204. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction and maintenance.

Sec. 1205. Designation of Interstate Highways.

Sec. 1206. State-by-State comparison of highway construction costs.

#### Subtitle C—Finance

Sec. 1301. Federal share.

Sec. 1302. Transfer of highway and transit funds.

Sec. 1303. Transportation Infrastructure Finance and Innovation Act Amendments.

Sec. 1304. State infrastructure banks.

Sec. 1305. Public-private partnerships pilot program.

#### Subtitle D—Safety

Sec. 1401. Highway safety improvement program.

Sec. 1402. Operation lifesaver.

Sec. 1403. Increased penalties for higher-risk drivers driving while intoxicated or driving under the influence.

Sec. 1404. Bus axle weight exemption.

Sec. 1405. Safe routes to schools program.

Sec. 1406. Purchases of equipment.

Sec. 1407. Workzone safety.

Sec. 1408. Worker injury prevention and free flow of vehicular traffic.

Sec. 1409. Open container requirements.

Sec. 1410. Safe intersections.

Sec. 1411. Presidential commission on alcohol-impaired driving.