

countries because of lower taxes, Federal regulatory policies, sound energy policy with more development and exploration here at home, as well as using clean coal and advanced nuclear and biofuels and new technologies. We also must make sure our fiscal house is in order for Americans to compete and succeed in the future.

I urge my colleagues to consider this resolution and join me in this effort for America's future.

#### AMENDMENTS SUBMITTED AND PROPOSED

**SA 2889.** Mr. FRIST (for Mr. SPECTER) proposed an amendment to the bill H.R. 32, to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks.

**SA 2890.** Mr. FRIST (for Ms. COLLINS) proposed an amendment to the bill S. 1777, to provide relief for the victims of Hurricane Katrina.

#### TEXT OF AMENDMENTS

**SA 2889.** Mr. FRIST (for Mr. SPECTER) proposed an amendment to the bill H.R. 32, to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks; as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. TRAFFICKING IN COUNTERFEIT MARKS.

##### (a) SHORT TITLE; FINDINGS.—

(1) **SHORT TITLE.**—This section may be cited as the “Stop Counterfeiting in Manufactured Goods Act”.

##### (2) FINDINGS.—The Congress finds that—

(A) 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;

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

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

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

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

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

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

**(b) 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, including section 983 of this title, 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”;

(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, documentation, 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.”.

##### (c) SENTENCING GUIDELINES.—

(1) **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 subsection, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of any offense under section 2318 or 2320 of title 18, United States Code.

(2) **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.

(3) **RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.**—In carrying out this subsection, 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 paragraph (1) 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).

#### SEC. 2. TRAFFICKING DEFINED.

(a) **SHORT TITLE.**—This section may be cited as the “Protecting American Goods and Services Act of 2005”.

(b) **COUNTERFEIT GOODS OR SERVICES.**—Section 2320(e) of title 18, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) the term ‘traffic’ means to transport, transfer, or otherwise dispose of, to another,

for purposes of commercial advantage or private financial gain, or to make, import, export, obtain control of, or possess, with intent to so transport, transfer, or otherwise dispose of;”;

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following:

“(3) the term ‘financial gain’ includes the receipt, or expected receipt, of anything of value; and”.

(c) CONFORMING AMENDMENTS.—

(1) SOUND RECORDINGS AND MUSIC VIDEOS OF LIVE MUSICAL PERFORMANCES.—Section 2319A(e) of title 18, United States Code, is amended by striking paragraph (2) and inserting the following:

“(2) the term ‘traffic’ has the same meaning as in section 2320(e) of this title.”.

(2) COUNTERFEIT LABELS FOR PHONORECORDS, COMPUTER PROGRAMS, ETC.—Section 2318(b) of title 18, United States Code, is amended by striking paragraph (2) and inserting the following:

“(2) the term ‘traffic’ has the same meaning as in section 2320(e) of this title.”.

(3) ANTI-BOOTLEGGING.—Section 1101 of title 17, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) DEFINITION.—In this section, the term ‘traffic’ has the same meaning as in section 2320(e) of title 18.”.

**SA 2890.** Mr. FRIST (for Ms. COLLINS) proposed an amendment to the bill S. 1777, to provide relief for the victims of Hurricane Katrina; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Katrina Emergency Assistance Act of 2005”.

**SEC. 2. UNEMPLOYMENT ASSISTANCE.**

(a) IN GENERAL.—Notwithstanding section 410 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5177), in providing assistance under that section to individuals unemployed as a result of Hurricane Katrina—

(1) the President shall accept applications for assistance during—

(A) the 90-day period beginning on the date on which the applicable major disaster was declared; or

(B) such longer period as may be established by the President; and

(2) subject to subsection (b), the President shall provide assistance to any unemployed individual, to the extent the individual is not entitled to unemployment compensation under any Federal or State law, until that individual is reemployed in a suitable position.

(b) LIMITATION FOR PERIOD OF ASSISTANCE.—The total amount of assistance payable to an individual under subsection (a) may not exceed payments based on a 39-week period of unemployment.

**SEC. 3. REIMBURSEMENT FOR PURCHASES.**

(a) DEFINITIONS.—In this section:

(1) DISASTER PERIOD.—The term “disaster period” means, with respect to any State that includes an area for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) as a result of Hurricane Katrina or Hurricane Rita, the period beginning on the earliest date on which any area of the State was so declared and ending on the latest date for which any such declaration of an area of the State terminates.

(2) KATRINA OR RITA SURVIVOR.—The term “Katrina or Rita Survivor” means an individual who—

(A) resides in an area for which a major disaster has been declared in accordance with 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) as a result of Hurricane Katrina or Hurricane Rita; or

(B) resided in an area described in subparagraph (A) during the 7 days immediately preceding the date of declaration of a major disaster described in subparagraph (A).

(3) MAJOR DISASTER.—The term “major disaster” has the meaning given the term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(b) REIMBURSEMENT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President may reimburse a community for each purchase of supplies (such as food, personal hygiene products, linens, and clothing) distributed to Katrina or Rita Survivors.

(2) ELIGIBLE PURCHASES.—Reimbursement under paragraph (1) shall be available only with respect to supplies that—

(A) are purchased with taxpayer dollars; and

(B) would otherwise be eligible for reimbursement if purchased by a Katrina or Rita Survivor.

(c) PERIOD OF APPLICABILITY.—This section and the authority provided by this section apply only to a community assisting Katrina or Rita Survivors from a State during the disaster period of the State.

**SEC. 4. INTERNATIONAL STUDENTS DISPLACED BY KATRINA.**

It is the sense of Congress that the Bureau of Immigration and Customs Enforcement within the Department of Homeland Security should suspend or refrain from initiating removal proceedings for international students and scholars who are deportable solely due to their inability to fulfill the terms of their visas as a result of a national disaster, such as Hurricane Katrina.

**SEC. 5. CONTRACTING AUTHORITY.**

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Under Secretary for Emergency Preparedness, shall propose new inspection guidelines that prohibit an inspector from entering into a contract with any individual or entity for whom the inspector performs an inspection for purposes of determining eligibility for assistance from the Federal Emergency Management Agency.

**NOTICES OF HEARINGS/MEETINGS**

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, February 28, 2006, at 10 a.m. in Room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to review the proposed fiscal year 2007 Forecast Service budget.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Frank Gladics (202-224-2878), Elizabeth Abrams (202-224-0537) or Sara Zecher (202-224-8276) of the Committee staff.

**AUTHORITIES FOR COMMITTEES TO MEET**

COMMITTEE ON ARMED SERVICES

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on February 15, 2006, at 9:30 a.m., in open session to consider the following nominations: Honorable Preston M. Geren to be Under Secretary of the Army; Honorable Michael L. Dominguez to be Deputy Under Secretary of Defense for Personnel and Readiness; Mr. James I. Finley to be Deputy Under Secretary of Defense for Acquisition and Technology; and Mr. Thomas P. D’Agostino to be Deputy Administrator for Defense Programs, National Nuclear Security Administration.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on February 15, 2006, at 10 a.m., to conduct a hearing on “Rebuilding Needs in Katrina-Impacted Areas.”

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, February 15, 2006, at 10 a.m., on Video Franchising.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, February 15, 2006, at 2:30 p.m., on Nanotechnology.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, February 15 at 10:30 a.m. The purpose of this hearing is to receive testimony regarding S. 2197 to improve the global competitiveness of the United States in science and energy technology, to strengthen basic research programs at the Department of Energy, and to provide support for mathematics and science education at all levels through the resources available