

I yield back the balance of my time.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 3120, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SMITH of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

FOREIGN AND ECONOMIC ESPIONAGE PENALTY ENHANCEMENT ACT OF 2012

Mr. SMITH of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6029) to amend title 18, United States Code, to provide for increased penalties for foreign and economic espionage, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6029

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 “Foreign and Economic Espionage Penalty Enhancement Act of 2012”.

SEC. 2. PROTECTING U.S. BUSINESSES FROM FOREIGN ESPIONAGE.

(a) FOR OFFENSES COMMITTED BY INDIVIDUALS.—Section 1831(a) of title 18, United States Code, is amended, in the matter after paragraph (5)—

(1) by striking “15 years” and inserting “20 years”; and

(2) by striking “not more than \$500,000” and inserting “not more than \$5,000,000”.

(b) FOR OFFENSES COMMITTED BY ORGANIZATIONS.—Section 1831(b) of such title is amended by striking “not more than \$10,000,000” and inserting “not more than the greater of \$10,000,000 or 3 times the value of the stolen trade secret to the organization, including expenses for research and design and other costs of reproducing the trade secret that the organization has thereby avoided”.

SEC. 3. REVIEW BY THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of offenses relating to the transmission or attempted transmission of a stolen trade secret outside of the United States or economic espionage, in order to reflect the intent of Congress that penalties for such offenses under the Federal sentencing guidelines and policy statements appropriately reflect the seriousness of these offenses, account for the potential and actual harm

caused by these offenses, and provide adequate deterrence against such offenses.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) consider the extent to which the Federal sentencing guidelines and policy statements appropriately account for the simple misappropriation of a trade secret, including the sufficiency of the existing enhancement for these offenses to address the seriousness of this conduct;

(2) consider whether additional enhancements in the Federal sentencing guidelines and policy statements are appropriate to account for—

(A) the transmission or attempted transmission of a stolen trade secret outside of the United States; and

(B) the transmission or attempted transmission of a stolen trade secret outside of the United States that is committed or attempted to be committed for the benefit of a foreign government, foreign instrumentality, or foreign agent;

(3) ensure the Federal sentencing guidelines and policy statements reflect the seriousness of these offenses and the need to deter such conduct;

(4) ensure reasonable consistency with other relevant directives, Federal sentencing guidelines and policy statements, and related Federal statutes;

(5) make any necessary conforming changes to the Federal sentencing guidelines and policy statements; and

(6) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) CONSULTATION.—In carrying out the review required under this section, the Commission shall consult with individuals or groups representing law enforcement, owners of trade secrets, victims of economic espionage offenses, the United States Department of Justice, the United States Department of Homeland Security, the United States Department of State and the Office of the United States Trade Representative.

(d) REVIEW.—Not later than 180 days after the date of enactment of this Act, the Commission shall complete its consideration and review under this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SMITH) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. SMITH of Texas. 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 materials on H.R. 6029 currently under consideration.

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

There was no objection.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank Ranking Member JOHN CONYERS, IP Subcommittee Chairman BOB GOODLATTE, IP Subcommittee Ranking Member MEL WATT, and the other Members of the House from both sides of the aisle who joined as original cosponsors of this commonsense bill.

The Foreign and Economic Espionage Penalty Enhancement Act of 2012 focuses on one goal: to deter and punish criminals who target U.S. economic and security interests on behalf of foreign interests.

In 1975, tangible assets, such as real estate and equipment, made up 83 percent of the market value of S&P 500 companies. Intangible assets, which include trade secrets, proprietary data, source code, business processes, and marketing plans, constituted only 17 percent of these companies' market value.

□ 1950

By 2009, these percentages had nearly reversed. Tangible assets accounted for only 19 percent of S&P 500 companies' market value while their intangible assets had soared to 81 percent. In a dynamic and globally connected information economy, the protection of intangible assets is vital not only to the success of individual enterprises but also to the future of entire industries.

A global study released last year by McAfee, the world's largest security technology company, and Science Applications International Corporation concluded that corporate trade secrets and other sensitive intellectual capital are the newest “currency” of cybercriminals. The study found the motivation for such crimes in the cyber underground is almost always financial. In recent years, cybercriminals have shifted from targeting the theft of personal information, such as credit cards and Social Security numbers, to the theft of corporate intellectual capital. Corporate intellectual capital is vulnerable, of great value to competitors and foreign governments, and its theft is not always discovered by victims.

Our intelligence community warns that foreign interests place a high priority on acquiring sensitive U.S. economic information and technologies. Targets include information and communications technologies, business information, military technologies, and rapidly growing civilian and dual-use technologies, such as those that relate to clean energy, health care, and pharmaceuticals.

We know that certain actors intentionally seek out U.S. information and trade secrets. The most recent report from the Office of the National Counterintelligence Executive identified Chinese actors as “the world's most active and persistent perpetrators of economic espionage.” The report also described Russia's intelligence services as responsible for “conducting a range of activities to collect economic information and technology from U.S. targets.” Of seven Economic Espionage Act cases resolved in fiscal year 2010, six involved links to China. Five companies were accused of the theft of trade secrets earlier this year. Four are Chinese state-owned enterprises or subsidiaries.

In the U.S., the EEA serves as the primary tool the Federal Government

uses to protect secret, valuable commercial information from theft. The EEA addresses two types of trade secret theft. Section 1831 punishes the theft of a trade secret to benefit a foreign entity. Section 1832 punishes the commercial theft of trade secrets carried out for economic advantage whether or not the theft benefits a foreign entity.

Since enacting the EEA in 1996, Congress has not adjusted its penalties to take into account the increasing importance of intellectual property to the economic and national security of the U.S. The bill increases the maximum penalties for an individual convicted of committing espionage on behalf of a foreign entity. Currently, the maximum penalty for someone convicted under section 1831 of the EEA is 15 years imprisonment and a fine of up to \$500,000. This bill increases the maximum penalty to 20 years imprisonment and a fine of up to \$5 million. Earlier this year, the FBI estimated that U.S. companies had lost \$13 billion to trade secret theft in just over 6 months. Over the past 6 years, losses to individual U.S. companies have ranged from \$20 million to as much as \$1 billion.

Our intelligence community has recognized a “significant and growing threat to our Nation’s prosperity and security” posed by criminals, both inside and outside our borders, who commit espionage. Congress should also recognize this increasing threat and enhance deterrence and more aggressively punish those criminals who knowingly target U.S. companies for espionage.

So I urge my colleagues to support H.R. 6029, which was unanimously reported by the Judiciary Committee this month.

I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 6029, the Foreign and Economic Espionage Penalty Enhancement Act of 2012.

This legislation will help to protect the intellectual property and competitive strengths of American businesses by increasing the maximum penalties for engaging in the Federal offense of economic espionage. This crime, which has serious repercussions for the victim companies and our economy, consists of knowingly misappropriating trade secrets with the intent or knowledge that the offense will benefit a foreign government.

As reported by the U.S. Intellectual Property Enforcement Coordinator, economic espionage is a serious threat to American businesses by foreign governments. Economic espionage inflicts a significant cost on victim companies and threatens the economic security of the United States. These companies incur extensive costs resulting from the loss of unique intellectual property, the loss of expenditures related to research and development, and the loss

of future revenues and profits. Many companies do not even know when their sensitive data has been stolen, and those that do find out are often reluctant to report the losses, fearing potential damage to their reputations with investors, customers, and employees.

Unfortunately, the pace of the economic espionage collection of information and industrial espionage activities against major United States corporations is accelerating. During fiscal year 2011, the Department of Justice and the FBI saw an increase of 29 percent in economic espionage and trade secret theft investigations compared to the prior year. Foreign competitors of United States corporations with ties to companies owned by foreign governments are increasing their efforts to steal trade secret information and intellectual property by infiltrating our computer networks.

Evidence suggests that economic espionage and trade secret theft on behalf of companies located in China is an emerging trend. For example, at least 34 companies were reportedly victimized by attacks originating from China in 2010. Over the course of these attacks, computer viruses were spread via emails to corporate employees, allowing the attackers to have access to emails and sensitive documents. In response to these growing threats, the United States Intellectual Property Coordinator, in her 2011 annual report, called upon Congress to increase the penalties for economic espionage, and this bill is consistent with that recommendation.

I want to commend Members on both sides of the aisle for their work on this bill, particularly the gentleman from Texas, the Judiciary Committee chairman, Mr. SMITH; the gentleman from Michigan, the ranking member of the committee, Mr. CONYERS; my colleague from Virginia (Mr. GOODLATTE); and the gentleman from North Carolina (Mr. WATT).

I urge my colleagues to support the bill, and I yield back the balance of my time.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 6029.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SCOTT of Virginia. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

CHILD PROTECTION ACT OF 2012

Mr. SMITH of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6063) to amend title 18, United States Code, with respect to child pornography and child exploitation offenses.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6063

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 “Child Protection Act of 2012”.

SEC. 2. ENHANCED PENALTIES FOR POSSESSION OF CHILD PORNOGRAPHY.

(a) CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS.—Section 2252(b)(2) of title 18, United States Code, is amended by inserting after “but if” the following: “any visual depiction involved in the offense involved a prepubescent minor or a minor who had not attained 12 years of age, such person shall be fined under this title and imprisoned for not more than 20 years, or if”.

(b) CERTAIN ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A(b)(2) of title 18, United States Code, is amended by inserting after “but, if” the following: “any image of child pornography involved in the offense involved a prepubescent minor or a minor who had not attained 12 years of age, such person shall be fined under this title and imprisoned for not more than 20 years, or if”.

SEC. 3. PROTECTION OF CHILD WITNESSES.

(a) CIVIL ACTION TO RESTRAIN HARASSMENT OF A VICTIM OR WITNESS.—Section 1514 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting “or its own motion,” after “attorney for the Government,”; and

(ii) by inserting “or investigation” after “Federal criminal case” each place it appears;

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(C) by inserting after paragraph (1) the following:

“(2) In the case of a minor witness or victim, the court shall issue a protective order prohibiting harassment or intimidation of the minor victim or witness if the court finds evidence that the conduct at issue is reasonably likely to adversely affect the willingness of the minor witness or victim to testify or otherwise participate in the Federal criminal case or investigation. Any hearing regarding a protective order under this paragraph shall be conducted in accordance with paragraphs (1) and (3), except that the court may issue an ex parte emergency protective order in advance of a hearing if exigent circumstances are present. If such an ex parte order is applied for or issued, the court shall hold a hearing not later than 14 days after the date such order was applied for or is issued.”;

(D) in paragraph (4), as so redesignated, by striking “(and not by reference to the complaint or other document)”;

(E) in paragraph (5), as so redesignated, in the second sentence, by inserting before the period at the end the following: “, except that in the case of a minor victim or witness, the court may order that such protective order expires on the later of 3 years after the date of issuance or the date of the eighteenth birthday of that minor victim or witness”; and