

(except for vehicles owned and operated by an independent truck operator)".

**SA 1807.** Mr. BROWN of Ohio (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 888, line 18, strike "Section" and insert the following:

(a) IN GENERAL.—Section

Beginning on page 896, strike line 22 and all that follows through page 897, line 22, and insert the following:

"(3) BUY AMERICA WAIVER REQUIREMENTS.—

"(A) NOTICE AND COMMENT OPPORTUNITIES.—

"(i) IN GENERAL.—If the Secretary receives a request for a waiver under section 313(b) of title 23, United States Code, or under section 24305(f)(4) or 24405(a)(2) of title 49, United States Code, the Secretary shall provide notice of, and an opportunity for public comment on, the request not later than 15 days before making a finding based on such request.

"(ii) NOTICE REQUIREMENTS.—Each notice provided under clause (i)—

"(I) shall include the information available to the Secretary concerning the request, including the requestor's justification for such request; and

"(II) shall be provided electronically, including on the official public Internet website of the Department.

"(B) PUBLICATION OF DETAILED JUSTIFICATION.—If the Secretary issues a waiver pursuant to the authority granted under a provision referenced in subparagraph (A)(i), the Secretary shall publish, in the Federal Register, a detailed justification for the waiver that—

"(i) addresses the public comments received under subparagraph (A)(i); and

"(ii) is published before the waiver takes effect.

"(C) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This paragraph shall be applied in a manner that is consistent with United States obligations under relevant international agreements.

"(D) REVIEW OF NATIONWIDE WAIVERS.—Not later than 1 year after the date of the enactment of the Moving Ahead for Progress in the 21st Century Act, and at least once every 5 years thereafter, the Secretary shall review each standing nationwide waiver issued pursuant to the authority granted under any of the provisions referenced in subparagraph (A)(i) to determine whether continuing such waiver is necessary.

On page 900, between lines 9 and 10, insert the following:

"(10) APPLICATION TO TRANSIT PROGRAMS.—The requirements under this subsection shall apply to all contracts eligible for Federal funding for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.

On page 904, between lines 6 and 7, insert the following:

(b) BUY AMERICA PROVISIONS.—

(1) SURFACE TRANSPORTATION.—Section 313 of title 23, United States Code, is amended by adding at the end the following:

"(g) APPLICATION TO HIGHWAY PROGRAMS.—The requirements under this section shall apply to all contracts eligible for Federal

funding for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title."

(2) AMTRAK.—Section 24305(f) of title 49, United States Code, is amended by adding at the end the following:

"(5) The requirements under this subsection shall apply to all contracts eligible for Federal funding for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.

"(6) If a project receives funding under this chapter and under the Passenger Rail Investment and Improvement Act of 2008 (division B of Public Law 110-432), the Buy America requirements set forth in the Passenger Rail Investment and Improvement Act of 2008 shall apply to all contracts in the project within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)."

(3) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—The amendments made by this subsection shall be applied in a manner that is consistent with United States obligations under relevant international agreements.

(c) BUY AMERICA REPORTING.—Section 308 of title 49, United States Code, is amended by inserting after subsection (c) the following:

"(d) Not later than February 1, 2013, and annually thereafter, the Secretary shall submit a report to Congress that—

"(1) specifies each highway, public transportation, or railroad project for which the Secretary issued a waiver from a Buy America requirement pursuant to the authority granted under section 313(b) of title 23, United States Code, or under section 24305(f)(4) or 24405(a)(2) of title 49, United States Code, during the preceding calendar year;

"(2) identifies the country of origin and product specifications for the steel, iron, or manufactured goods acquired pursuant to each of the waivers specified under paragraph (1); and

"(3) summarizes the monetary value of contracts awarded pursuant to each such waiver."

**SA 1808.** Mr. DURBIN (for Mr. LEAHY (for himself and Mr. GRASSLEY)) proposed an amendment to the bill S. 1886, to prevent trafficking in counterfeit drugs; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Counterfeit Drug Penalty Enhancement Act of 2011".

**SEC. 2. COUNTERFEIT DRUG PREVENTION.**

Section 2320(b) of title 18, United States Code, is amended—

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

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

"(2) COUNTERFEIT DRUGS.—

"(A) IN GENERAL.—Whoever commits an offense under subsection (a) with respect to a drug (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) shall—

"(i) if an individual, be fined not more than \$4,000,000, imprisoned not more than 20 years, or both; and

"(ii) if a person other than an individual, be fined not more than \$10,000,000.

"(B) MULTIPLE OFFENSES.—In the case of an offense by a person under this paragraph that occurs after that person is convicted of another offense under this paragraph, the person convicted—

"(i) if an individual, shall be fined not more than \$8,000,000, imprisoned not more than 20 years, or both; and

"(ii) if other than an individual, shall be fined not more than \$20,000,000."

**SEC. 3. SENTENCING COMMISSION DIRECTIVE.**

(a) DIRECTIVE TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, if appropriate, its guidelines and its policy statements applicable to persons convicted of an offense described in section 2320(b)(2) of title 18, United States Code, as amended by section 2, in order to reflect the intent of Congress that such penalties be increased in comparison to those currently provided by the guidelines and policy statements.

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

(1) ensure that the sentencing guidelines and policy statements reflect the intent of Congress that the guidelines and policy statements reflect the serious nature of the offenses described in subsection (a) and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(2) consider the extent to which the guidelines may or may not appropriately account for the potential and actual harm to the public resulting from the offense;

(3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

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

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

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 6, 2012, at 9:30 a.m.

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

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DURBIN. 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 March 6, 2012, at 10 a.m., to conduct a committee hearing entitled "Spurring Job Growth Through Capital Formation While Protecting Investors, Part II."

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

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DURBIN. 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 March 6, 2012, at 10 a.m., in room 366 of the Dirksen Senate Office Building.

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

#### COMMITTEE ON FINANCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 6, 2012, at 10 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled "Tax Reform Options: Incentives for Capital Investment and Manufacturing."

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

#### COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on March 6, 2012, at 2:30 p.m., to hold a hearing entitled, "International Development Priorities in the FY 2013 Budget."

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

#### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on March 6, 2012, at 10:30 a.m.

The PRESIDING OFFICER. With objection, it is so ordered.

#### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on March 6, 2012, at 2:30 p.m.

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

#### SELECT COMMITTEE ON INTELLIGENCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 6, 2012, at 2:30 p.m.

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

#### SUBCOMMITTEE ON SCIENCE AND SPACE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Subcommittee on Science and Space of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on March 6, 2012, at 2:45 p.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, "Keeping America Competitive through Investments in R&D."

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

#### COUNTERFEIT DRUG PENALTY ENHANCEMENT ACT OF 2011

Mr. DURBIN. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 253, S. 1886.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1886) to prevent trafficking in counterfeit drugs.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate will act today to combat the increasing problem of counterfeit pharmaceuticals. I thank Senators GRASSLEY and BENNET, and the other cosponsors, along with the bipartisan sponsors of the House companion bill. This is important legislation to deter the influx of counterfeit medication. The bill will not only support the American economy and job creation by protecting American intellectual property, but it will protect the health and safety of American consumers.

The illegal counterfeit pharmaceutical trade is a multi-billion dollar criminal industry. The Alliance for Safe Online Pharmacies wrote in support of this legislation that "criminals are drawn to counterfeit drugs because of the significantly higher profits in comparison to the very low risks and penalties."

We cannot allow the counterfeiting of life-saving medicine to be just one more low-risk venture from which international organized criminals can profit. The Counterfeit Drug Penalty Enhancement Act raises the maximum sentences for trafficking in counterfeit pharmaceutical products and requires the United States Sentencing Commission to consider amending its guidelines to account for the harm to the public and need for an effective deterrent.

We should not expect that enactment of this or any legislation will completely deter the serious problem of counterfeit medication entering the American supply chain, but it is an important step in the fight.

Passage of this legislation today by the Senate is also evidence that Congress can work together in a bipartisan manner to protect American consumers and promote American industries. I urge the House of Representatives to act quickly on this legislation and send it to the President's desk.

Mr. DURBIN. Mr. President, I ask unanimous consent that the Leahy-Grassley substitute amendment at the desk be agreed to; the bill, as amended, be read a third time, and the Senate proceed to vote on the passage of the bill, as amended.

The amendment (No. 1808) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Counterfeit Drug Penalty Enhancement Act of 2011".

#### SEC. 2. COUNTERFEIT DRUG PREVENTION.

Section 2320(b) of title 18, United States Code, is amended—

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

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

“(2) COUNTERFEIT DRUGS.—

“(A) IN GENERAL.—Whoever commits an offense under subsection (a) with respect to a drug (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) shall—

“(i) if an individual, be fined not more than \$4,000,000, imprisoned not more than 20 years, or both; and

“(ii) if a person other than an individual, be fined not more than \$10,000,000.

“(B) MULTIPLE OFFENSES.—In the case of an offense by a person under this paragraph that occurs after that person is convicted of another offense under this paragraph, the person convicted—

“(i) if an individual, shall be fined not more than \$8,000,000, imprisoned not more than 20 years, or both; and

“(ii) if other than an individual, shall be fined not more than \$20,000,000.”

#### SEC. 3. SENTENCING COMMISSION DIRECTIVE.

(a) DIRECTIVE TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, if appropriate, its guidelines and its policy statements applicable to persons convicted of an offense described in section 2320(b)(2) of title 18, United States Code, as amended by section 2, in order to reflect the intent of Congress that such penalties be increased in comparison to those currently provided by the guidelines and policy statements.

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

(1) ensure that the sentencing guidelines and policy statements reflect the intent of Congress that the guidelines and policy statements reflect the serious nature of the offenses described in subsection (a) and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(2) consider the extent to which the guidelines may or may not appropriately account for the potential and actual harm to the public resulting from the offense;

(3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

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

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

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is on passage of the bill.

The bill (S. 1886), as amended, was passed.

Mr. DURBIN. I ask unanimous consent that the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

#### NATIONAL ASBESTOS AWARENESS WEEK

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate