

(2) FEDERAL REGISTER.—The Secretary shall publish notice of the effective date of the cost-sharing requirements specified under paragraph (1) in the Federal Register.

SEC. 705. PILOT PROGRAM ON REFILLS OF MAINTENANCE MEDICATIONS THROUGH THE TRICARE MAIL-ORDER PHARMACY PROGRAM.

(a) IN GENERAL.—The Secretary of Defense shall conduct a pilot program to refill prescription maintenance medications for each TRICARE for Life beneficiary through the national mail-order pharmacy program under section 1074g(a)(2)(E)(iii) of title 10, United States Code.

(b) MEDICATIONS COVERED.—

(1) DETERMINATION.—The Secretary shall determine the prescription maintenance medications included in the pilot program under subsection (a).

(2) SUPPLY.—In carrying out the pilot program, the Secretary shall ensure that the medications included in the program are—

(A) generally available through retail pharmacies for an initial filling of a 30-day or less supply; and

(B) obtained by refill through the national mail-order pharmacy program.

(3) NO DENIAL.—In the instance when a refill of such maintenance medication is not obtained through a national mail-order pharmacy program, the Secretary shall ensure that beneficiaries are provided a supply at a retail pharmacy for a limited period of time. The Secretary may impose a cost-sharing requirement on beneficiaries accessing such supply.

(4) EXEMPTION.—The Secretary may exempt the following prescription maintenance medications from the requirements in paragraph (2):

(A) Medications for acute care needs.

(B) Medications dispensed to patients in long-term care facilities.

(C) Such other medications as the Secretary considers appropriate.

(c) NONPARTICIPATION.—

(1) OPT OUT.—The Secretary shall give beneficiaries who have been covered by the pilot program under subsection (a) for a period of at least one year an opportunity to opt out of continuing to participate in the pilot program.

(2) WAIVER.—The Secretary may waive the requirement for a beneficiary to participate in the pilot program if the Secretary determines, on an individual basis, that the waiver is appropriate.

(d) OPERATION OF PROGRAM.—In carrying out the pilot program, the Secretary shall ensure that the operational responsibilities for the national mail-order pharmacy program for purposes of the pilot program are awarded through full and open competition.

(e) REPORTS.—Not later than March 31 of each year beginning in 2014 and ending in 2018, the Secretary shall submit to the congressional defense committees a report on the pilot program under subsection (a), including the effects of offering incentives for the use of mail-order pharmacies by TRICARE for Life beneficiaries, access to maintenance medications, and the effect on retail pharmacies.

(f) TRICARE FOR LIFE BENEFICIARY DEFINED.—In this section, the term “TRICARE for Life beneficiary” means a beneficiary under the TRICARE program who is enrolled in the Medicare wraparound coverage option of the TRICARE program made available to the beneficiary by reason of section 1086(d) of title 10, United States Code.

(g) SUNSET.—The Secretary may not carry out the pilot program under subsection (a) after December 31, 2017.

SA 3018. Mrs. FEINSTEIN (for herself, Mr. LEE, Mr. COONS, Ms. COLLINS,

Mr. PAUL, Mr. LAUTENBERG, Mrs. GILLIBRAND, and Mr. KIRK) submitted an amendment intended to be proposed by her to the bill S. 3254, to authorize appropriations for fiscal year 2013 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

At the end of subtitle D of title X, add the following:

SEC. 1032. PROHIBITION ON THE INDEFINITE DETENTION OF CITIZENS AND LAWFUL PERMANENT RESIDENTS.

Section 4001 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

“(b)(1) An authorization to use military force, a declaration of war, or any similar authority shall not authorize the detention without charge or trial of a citizen or lawful permanent resident of the United States apprehended in the United States, unless an Act of Congress expressly authorizes such detention.

“(2) Paragraph (1) applies to an authorization to use military force, a declaration of war, or any similar authority enacted before, on, or after the date of the enactment of the National Defense Authorization Act For Fiscal Year 2013.

“(3) Paragraph (1) shall not be construed to authorize the detention of a citizen of the United States, a lawful permanent resident of the United States, or any other person who is apprehended in the United States.”.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 27, 2012, at 10 a.m., to hold a hearing entitled, “Update on Arms Control Matters”.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. HARKIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on November 27, 2012, at 2:30 p.m.

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

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that John Daley, a State Department detailee to the Foreign Relations Committee, be given floor privileges during the debate on the disabilities treaty.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I ask unanimous consent, on behalf of Senator MURRAY, that Jake Cornett, a fel-

low in her office, be granted floor privileges for the remainder of the 112th Congress.

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

THEFT OF TRADE SECRETS CLARIFICATION ACT OF 2012

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3642.

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

The legislative clerk read as follows:

A bill (S. 3642) to clarify the scope of the Economic Espionage Act of 1996.

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

Mr. LEAHY. Mr. President, I am pleased that the Senate today will pass this simple, commonsense legislation to clarify a provision of the Economic Espionage Act and thereby help protect American businesses and American jobs.

The Economic Espionage Act makes it a crime to, among other things, steal a trade secret knowing that the theft will hurt the owner. This is an important protection for American businesses, which often choose trade secret protection over other forms of intellectual property protection.

A recent decision of the Second Circuit in *United States v. Aleynikov* casts doubt on the reach of the statute. A jury in that case found the defendant guilty of stealing computer code from his employer. The court overturned the conviction, holding among other things that the trade secret did not meet the interstate commerce prong of the statute, even though the defendant had copied the stolen code from his office in New York to a server in Germany; downloaded the code to his home computer in New Jersey; then flew to his new job in Illinois with the stolen source code in his possession; and the code was used in interstate commerce.

The court held that the Economic Espionage Act provision applies only to trade secrets that are part of a product that is produced to be placed in interstate commerce. Because the company's proprietary software was neither placed in interstate commerce, nor produced to be placed in interstate commerce, the law did not apply—even though the stolen source code was part of a financial trading system that was used in interstate commerce every day.

The clarifying legislation that the Senate will pass today corrects the court's narrow reading to ensure that our federal criminal laws adequately address the theft of trade secrets related to a product or service used in interstate commerce. It is a straightforward fix, but an important one, as we work to ensure that American companies can protect the products they work so hard to develop, so they may continue to grow and thrive. I urge the House to act quickly to pass this commonsense legislation.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read three times, passed, 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.

The bill (S. 3642) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:
S. 3642

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 “Theft of Trade Secrets Clarification Act of 2012”.

SEC. 2. AMENDMENT.

Section 1832(a) of title 18, United States Code, is amended in the matter preceding paragraph (1), by striking “or included in a product that is produced for or placed in” and inserting “a product or service used in or intended for use in”.

YEAR OF THE KOREAN WAR VETERAN

Mr. REID. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 602.

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

The legislative clerk read as follows:

A resolution (S. Res. 602) designating 2012–2013 as the “Year of the Korean War Veteran” and recognizing the 60th anniversary of the Korean War.

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

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

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

The resolution (S. Res. 602) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 602

Whereas, on June 25, 1950, the Communist Democratic People's Republic of Korea began the Korean War by invading the Republic of Korea with approximately 135,000 troops;

Whereas nearly 1,800,000 members of the United States Armed Forces served along with the forces of the Republic of Korea and 20 other Allied nations in the Korean theater of operations to defend freedom and democracy in the Korean Peninsula;

Whereas, during the Korean War, 36,574 people from the United States died and 103,284 people from the United States were wounded in some of the most horrific combat and weather conditions in the history of warfare;

Whereas almost 60 years have passed since the signing of the cease-fire agreement at Panmunjom on July 27, 1953, and the Korean Peninsula still technically remains in a state of war;

Whereas the Korean War has for many years been a “Forgotten War” for people in the United States;

Whereas Korean War veterans deserve to be recognized by the people of the United States for their honorable and courageous service in defense of democracy and freedom during the Korean War;

Whereas the tide of communism on the southern ½ of the Korean Peninsula was halted, liberty triumphed over tyranny, and the Republic of Korea has developed into a modern and prosperous democracy because of the selfless sacrifice of the Korean War veterans;

Whereas the people of the United States and the Republic of Korea are eternally grateful to the Korean War veterans;

Whereas the history of the Korean War should be included in the curriculum of schools in the United States so that future generations never forget the sacrifices of the Korean War veterans and what those veterans accomplished;

Whereas the Department of Defense 60th Anniversary of the Korean War Commemoration Committee will implement a national campaign to honor the Korean War veterans, remember those Korean War veterans still counted among the missing in action, and educate the people of the United States concerning the ongoing relevance of the Korean War; and

Whereas the commemorative campaign will include ceremonies in the United States and the Republic of Korea in recognition of the beginning (June 25, 1950) and the armistice ending hostilities (July 27, 1953), as well as a national media and outreach campaign for Veterans Day 2012 to honor the Korean War veterans: Now, therefore, be it

Resolved, That the Senate—

(1) designates 2012–2013 as the “Year of the Korean War Veteran”;

(2) recognizes the 60th anniversary of the Korean War; and

(3) honors the contributions and sacrifices made by the Korean War veterans.

ORDERS FOR WEDNESDAY, NOVEMBER 28, 2012

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. tomorrow, Wednesday, November 28, 2012; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that the majority leader be recognized at that time, and the first hour be equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

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

PROGRAM

Mr. REID. We hope to begin consideration of the Defense authorization bill tomorrow. We will also work on an agreement for amendments to the disabilities treaty.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that

the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 6:47 p.m., adjourned until Wednesday, November 28, 2012, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

THE JUDICIARY

NITZA I. QUINONES ALEJANDRO, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE RICHARD BARCLAY SURRICK, RETIRED.

LUIS FELIPE RESTREPO, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE ANITA B. BRODY, RETIRED.

JEFFREY L. SCHMEHL, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE THOMAS M. GOLDEN, DECEASED.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE INTERNATIONAL BROADCASTING BUREAU FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

MICHAEL R. HARDEGEN, OF FLORIDA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER:

GEOFFREY W. WIGGIN, OF SOUTH DAKOTA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER COUNSELOR:

JAMES J. HIGGISTON, OF MARYLAND

DAVID C. MILLER, OF WASHINGTON

ELIA P. VANECHANOS, OF NEW JERSEY

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR:

GARY W. MEYER, OF WISCONSIN

ERIC A. WENBERG, OF WYOMING

THE FOLLOWING-NAMED PERSONS OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA,

STEPHEN J. GONYEA, OF FLORIDA

RITU K. TARIYAL, OF CALIFORNIA

ALEXIS MARIA TAYLOR, OF NEW YORK

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA,

SARAH MAXWELL BANASHEK, OF CALIFORNIA

ROBERT B. BARTON, OF PENNSYLVANIA

AARON J. BISHOP, OF CALIFORNIA

ANA ISABEL BODIPO—MEMBA, OF THE DISTRICT OF COLUMBIA

KEVIN MAURICE BROWN, OF FLORIDA

ELIZABETH ANN CALLENDER, OF VIRGINIA

SCOTT S. CAMERON, OF CALIFORNIA

MONICA DORE CARLSON, OF VIRGINIA

ELIZABETH DAVNIE-EASTON, OF VIRGINIA

CRISTINA M. DROST, OF NEVADA

CHARLES OGORCHUKWU EGU, OF MARYLAND

SUSAN FENNO, OF MAINE

CHRISTOPHER TODD FOLEY, OF NEW YORK

CHRISTINE D. GANDOMI, OF ARIZONA

ANYA GLENN, OF CALIFORNIA

ALEXANDRA ISABEL HUERTA, OF WASHINGTON

DEBORAH L. JOHNSTON, OF VIRGINIA

MELANIE A. LUICK-MARTINS, OF IOWA

STEVEN M. MAJORS, OF MISSOURI

MARK A. MITCHELL, OF OREGON

CHRISTINE M. OBESTER, OF VIRGINIA

AMY MICHELLE PARTIDA, OF TEXAS

ALLYSON L. PHELPS, OF ARIZONA

ANDREW ARI REBOLD, OF NEW YORK

SHANNON MARAE ROGERS, OF COLORADO

ANDREA SAWKA, OF FLORIDA

JASON LEE SMITH, OF THE DISTRICT OF COLUMBIA

RICHARD E. SPENCER, OF VIRGINIA

MATTHEW EARL SUMPTER, OF CALIFORNIA

GREG M. SWARIN, OF MICHIGAN

CORINA CHENTZE WARFIELD, OF CALIFORNIA

KATHARINE ANTONIA WEBER, OF ALASKA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION WITHIN AND INTO THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER:

SHARON LEE CROMER, OF NEW YORK