

ANTICOUNTERFEITING CONSUMER PROTECTION ACT -- HON. BOB GOODLATTE (Extension of Remarks - October 20, 1995)

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HON. BOB GOODLATTE**in the House of Representatives***THURSDAY, OCTOBER 19, 1995*

- Mr. GOODLATTE. Mr. Speaker, I am pleased to be joined by my colleagues, Representatives **Hyde, Conyers, Moorhead, McCollum, Frank, Gekas, Smith** of Texas, **Coble, Canady, Bono, Heineman, Flanagan,** and **Davis** in introducing the Anticounterfeiting Consumer Protection Act of 1995. This legislation, which will provide much-needed additional protections against copyright and trademark counterfeiting, may be the most proconsumer, probusiness bill this Congress will consider. It directly addresses a practice that costs American business more than \$200 billion a year, that results in the loss of an estimated 750,000 jobs, and that threatens the health and safety of every American man, woman, and child.
- There is a myth that counterfeiting is just a penny ante crime, a \$2 watch or handbag. In fact, counterfeiting involves billions of dollars, gangs, highly sophisticated equipment, organized crime and terrorists.
- No area of the United States, no product is safe from the modern counterfeiter. We have seen counterfeits ranging from watches and sunglasses to auto and aircraft parts, from shampoo to baby formula, from food products to computer software. Counterfeit videotape copies of the movie, `Waterworld,' were available before the real movie was even released in theaters. The simple fact is that if it is a product sold in America, there is probably a counterfeit being made and sold somewhere around the world.
- The cost of counterfeiting is staggering. The U.S. Custom Service has estimated that in 1993, counterfeited goods resulted in the loss of 750,000 jobs. Fake auto parts such as brake pads and oil filters cost our domestic auto industry losses of over \$12 billion. If the sales of these fake parts alone were eliminated, the industry estimates that it could hire an additional 200,000 workers.
- The U.S. software industry has estimated that sales of pirated software account for more than 40 percent of total revenues. The counterfeiters have become so sophisticated in duplicating the label, the packaging, and even the hologram that appears on the software package, that it is almost impossible to distinguish authentic products from the fakes. In fact, the International Anticounterfeiting Coalition estimates that American businesses lose nearly \$200 billion a year due to the sale of counterfeit products.
- Every day, the intellectual property of American businesses is being stolen. It often costs hundreds of thousands of dollars to ready a product for marketing, to make sure that it is not only effective but safe. But today, with powerful computers and copying equipment, it only costs counterfeiters a few dollars to manufacture a copy. They do not have to worry about safety or quality. They prey on the good name, the research, the talent and the hard work of others.
- Because of the lure of enormous profits compared to the relatively low risk of being arrested, prosecuted, and sent to jail, it has not taken long for organized crime to get involved in counterfeiting operations. For example, in three recent raids conducted in Los Angeles, counterfeit Microsoft software and other material with a potential RICO value in excess of over \$10.5 million was seized. Implicated in this activity were three Chinese triads: the Wahching, the Big Circle Boys, and the Four Seas. The vast majority of the counterfeit product was produced in southern California. Sheriff deputies seized software, manuals, and holograms. They were surprised when they stumbled upon four pounds of plastic explosives, two pounds of TNT, shotguns, handguns, and silencers.
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- Last month, U.S. Custom agents led massive raids in several States, including California, New York, New Jersey, and Georgia. They seized \$27 million worth of counterfeit merchandise such as clothing, accessories, and sporting goods found in a network of factories, warehouses, and shops. Over 30 U.S. trademark holders were affected. Forty-three Korean nationals were charged for manufacturing, selling, and trafficking counterfeit merchandise. The scale of this operation demonstrates the pervasiveness and level of sophistication that is involved.
- Recently, \$400,000 worth of counterfeit handbags were seized in New Jersey. During the raid, law enforcement officials using drug sniffing dogs discovered heroin had been stitched into the walls of a number of counterfeit designer Louis Vuitton handbags.
- Even more disturbing, however, is the growing threat counterfeits pose to public health and safety. For example, there have been reports of the seizure in 16 States of counterfeit Similac, an infant formula. Such a counterfeit could be deadly to any child who is allergic to the contents of the faked product. In a recent raid in Boston, a bogus butterscotch candy was seized that had been stored unwrapped and in unsanitary conditions. This candy was illegally labeled as a Bordon Eagle brand, however, that company does not even produce such a candy.
- Even the sale of fake watches it not a victimless crime. The head of the Born to Kill Gang based in New York City, was making an estimated \$13 million a year selling fake Cartier and Rolex watches. This revenue stream financed other criminal activities, from extortion to murder.
- Despite these facts, the risk of arrest, prosecution and incarceration for counterfeiting is slight. Counterfeiting operations have become highly sophisticated, well-financed, mobile and international in scope. These criminal networks have distribution systems as diverse as any modern corporation. Counterfeiters know that although criminal penalties exist on the books, because of the inadequacy of the criminal penalties and prosecutors' misperceptions about the gravity of the crime, criminal actions are rarely initiated against counterfeiters. **As for private enforcement actions, trademark and copyright owners are consistently frustrated by an inability to recover any meaningful damages.**
- The Anticounterfeiting Consumer Protection Act of 1995 will help law enforcement officials contend with the sophisticated nature of

modern counterfeiting. First, it increases criminal penalties by making trafficking in counterfeit goods or services a RICO offense, consequently providing for increased jail time, criminal fines, and asset forfeiture.

- Second, the legislation allows greater involvement by all levels of Federal law enforcement in fighting counterfeiting, including enhanced authority to seize counterfeit goods and the tools of the counterfeiters' trade.
- Third, it makes it more difficult for these goods to re-enter the stream of commerce once they have been seized.
- Fourth, our bill also adds teeth to existing statutes and provides stronger civil remedies, including civil fines pegged to the value of genuine goods and statutory damage awards of up to \$1,000,000 per mark.
- The Anticounterfeiting Consumer Protection Act of 1995 will provide law enforcement officials with the tools they need to fight back, and to protect American business and the health and safety of American consumers. The time has come to make sure that our fight against counterfeiting is as sophisticated and modern as the crime itself.

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