countries, eighty percent of food is produced by women farmers. Ignoring this important sector of the population would result in the utter failure of the assistance to Africa project. Women spend a significant part of the income they earn on food for the family. In comparison, men spend far less. Studies indicate a direct correlation between increased incomes for women and improvements in family food security. By making good agricultural land and resources to women, we can make great strides toward improving Africa's current plight.

This measure also emphasizes programs and projects that improve the food security of infants, young children, school-age children. It is scientifically clear that good nutrition is vital to the development of children. In African countries where people live on less than $1 a day, children simply cannot obtain the necessary nourishment. It is appalling that children go hungry, and such a situation is intolerable. By assisting Africa, we can provide the necessary food and nourishment that will feed the bodies and spirits of these children.

Providing greater assistance to sub-Saharan Africa will allow its countries to further develop their agricultural methods. Increased agricultural research is necessary to provide sustainable agricultural production. Financial assistance from America would allow these countries to introduce both the necessary studies and the subsequent agricultural methods developed by such research.

I also applaud this measure's commitment to emergency food aid. It is important that we streamline this program so we can more rapidly and effectively respond to food emergencies. U.S. food aid to Africa alone has saved hundreds of thousands of lives.

Food aid, coupled with long-term solutions such as the development of agricultural methods, will ensure that Africa will strengthen its agricultural foundation. I applaud proponents of this measure for recognizing the elements necessary for the revitalization of Africa.

Mr. HALL of Ohio. Mr. Speaker, I rise in strong support of H.R. 4283, the Africa Seeds of Hope Act, of which I am pleased to be an original co-sponsor. Passage of this bill, will be a small but important step forward for United States assistance to Africa, and for the United States' interests in helping Africa's poorest to help themselves.

House passage of this legislation will also be a fitting tribute to our greatly respected colleague, and Ranking Member of the Committee on International Relations, the Honorable LEE HAMILTON of Indiana. This legislation comes before us today, thanks to his leadership and hard work, and that of Representative DOUG BEREUTER of Nebraska.

Congressman HAMILTON's voice of wisdom, reason, and integrity will be sorely missed in this institution, which he served with such distinction throughout his remarkable career. His perspectives on national and international issues alike consistently reflected the midwestern values, pragmatism, and concern for social justice for which he is so widely known and admired. Those values are reflected as well in the Africa Seeds of Hope Act, a well-reasoned package of proposals aimed at helping Africa's poor rural majority to help themselves.

The United States' renewed focus on trade and investment in Africa holds much long-term promise for African development, and I hope we eventually pass the Africa Trade bill that has been before Congress this year. However, even the best trade strategy will fail if it leaves Africa's poor majority behind, or weakens our commitments to humanitarian and development assistance in Africa. Because despite impressive gains in some countries, Africa is still home to too many of the world's poor and hurting. Our policies toward Africa cannot overlook the alarming facts that: Sub-Saharan Africa is the only region where the nutritional situation has deteriorated in the past three decades, and this slide will continue without greater policy attention and direct intervention. One of every five African children dies before his or her fifth birthday, and Africa's infant and child mortality rates are the world's highest (one and a half times the world average). One-third of all Sub-Saharan African children under age five suffer from malnutrition. Half of Africa's children are not immunized against polio, tetanus, and measles.

These realities require immediate attention if the benefits of trade- and investment-led development are to reach Africa's poor, largely rural, majority. Without a strong and vibrant agriculture sector, Africa cannot thrive. To that end, the Africa Seeds of Hope Act is designed to better focus existing programs of assistance to Africa on small-holder agriculture and the rural producers who are the backbone of most African economies.

I have been privileged to travel throughout much of the African continent over the years, and everywhere—even in the midst of wars and famines—I have found its people to be resilient, resourceful, and industrious. This bill is a small but important step in helping to unleash Africa's vast potential to feed itself, to thrive, and to prosper as a trading partner of increasing importance to our own economy.

I salute Congressmen HAMILTON and BEREUTER for their leadership on this important bill, and I urge my colleagues to support it. Finally, my thanks and appreciation also go to Senator MIKE DEWINE of Ohio, for introducing a Senate version of this bill, S. 2283, and for his commitment to moving this legislation in the Senate. I am grateful for his humanitarian vision and leadership in the Senate, and his ethic of care and concern for the poor and the hurting.

Mr. BEREUTER. 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 Nebraska (Mr. BEREUTER) that the House suspend the rules and pass the bill, H.R. 4283.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TRADEMARK ANTICOUNTERFEITING ACT OF 1998

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3891) to amend the Trademark Act of 1946 to prohibit the unauthorized destruction, modification, or alteration of product identification codes, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3891

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 ''Trademark Anticounterfeiting Act of 1998''.

SEC. 2. PROHIBITION AGAINST UNAUTHORIZED ALTERATION OF PRODUCT IDENTIFICATION CODES.

(a) IN GENERAL.—Chapter 65 of title 18, United States Code, is amended by inserting after section 1365 the following:

''§ 1365A. Unauthorized modification of product identification codes

(a) DEFINITIONS.—In this section—

''(1) the term 'consumer'—

''(A) means—

''(i) the ultimate user or purchaser of a good; or

''(ii) any hotel, restaurant, or other provider of services that must remove or alter the container, label, or packaging of a good in order to make the good available to the ultimate user or purchaser; and

''(B) does not include any retailer or other distributor who acquires a good for resale;

''(2) the term 'good' means any article, product, or commodity that is customarily produced or distributed for sale, rental, or licensing in interstate or foreign commerce, and any container, packaging, label, or component thereof;

''(3) the term 'manufacturer' includes the original manufacturer of a good and a duly appointed agent or representative of that manufacturer acting within the scope of its agency or representation;

''(4) the term 'product identification code'—

''(A) includes any number, letter, symbol, marking, date (including an expiration date), code, software, or other technology that is affixed to or embedded in any good, by which the manufacturer of the good may trace the good back to a particular production lot or batch or date of removal, or carry out product recalls or otherwise identify the date of manufacture, the date of expiration, or other comparable critical data; and

''(B) does not include copyright management information conveyed in connection with copies or phonorecords of a copyrighted work or any performance or display of a copyrighted work;

''(5) the term 'Universal Product Code' refers to the multidigit bar code and number representing goods in retail applications; and

''(6) the term 'value' means the face, par, or market value, whichever is the greatest.

''(b) PROHIBITED ACTS.—Except as otherwise authorized by Federal law, it shall be unlawful for any person, other than the consumer or the manufacturer of a good, knowingly and without authorization of the manufacturer—

''(1) to directly or indirectly alter, conceal, remove, obliterate, deface, strip, or peel any product identification code affixed to or embedded in that good;

''(2) to directly or indirectly affix or embed a product identification code to or in that good which is intended by the manufacturer for a different good, such that the code no longer accurately identifies the source of the good;

''(3) to directly or indirectly affix to or embed in that good any number, letter, symbol, marking, date, code, or other technology intended to simulate a product identification code; or

''(4) to import, export, sell, distribute, or broker that good, in a case in which the person knows that the product identification code has been altered, concealed, removed, obliterated, defaced, stripped, peeled, affixed, or embedded in violation of paragraph (1) or (2), or in a case in which the person knows that the good bears an unauthorized number, letter, symbol, marking, date, or other code in violation of paragraph (3).

''(c) APPLICABILITY.—The prohibitions set forth in subsection (b) shall apply to product identification codes (or simulated product identification codes in a case to which subsection (b)(3) applies) affixed to, or embedded in, any good held for sale or distribution in interstate or foreign commerce or after shipment therein.

''(d) EXCLUSION.—

''(1) UPC CODES.—Nothing in this section prohibits a retailer or distributor from affixing to a good—

''(A) a Universal Product Code or other legitimate pricing or inventory codes or information, or

''(B) information required by State or Federal law,

if such code or information does not (or can be removed so as not to) permanently alter, conceal, remove, obliterate, deface, strip, or peel any product identification code.

''(2) REPACKAGING FOR RESALE.—(A) Nothing in this section prohibits a distributor from removing an article, product, or commodity of retail sale from a shipping container and placing such article, product, or commodity in another shipping container for purpose of resale in a quantity different from the quantity originally provided by the manufacturer or from replacing a damaged shipping container, if, except as provided in paragraph (1), such article, product, or commodity of retail sale retains its original product identification code, without any obstruction or alteration, and if—

''(i) such distributor is registered with all applicable Federal and State agencies;

''(ii) such distributor repackages the article, product, or commodity in full compliance with all applicable State and Federal laws and regulations; and

''(iii) the act of repackaging does not result in a prohibited act under section 301 of the Federal Food, Drug, and Cosmetic Act or violate any other applicable State or Federal law or regulation.

''(B) As used in this paragraph, the term 'shipping container' means—

''(i) a container or wrapping used for the transportation of any article, product, or commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof; and

''(ii) containers or wrappings used by retailers to ship or deliver any article, product, or commodity to retail customers, if such containers and wrappings bear no printed matter pertaining to any particular article, product, or commodity.

''(e) CRIMINAL PENALTIES.—Any person who willfully violates this section shall—

''(1) be fined under this title, imprisoned not more than 1 year, or both;

''(2) if the total retail value of the good or goods involved in the violation is greater than $5,000, be fined under this title, imprisoned not more than 5 years, or both;

''(3) if the person acts with reckless disregard for the risk that the health or safety of the public would be threatened and under circumstances manifesting extreme indifference to such risk, and the violation threatens the health or safety of the public, be fined under this title, imprisoned not more than 10 years, or both;

''(4) if the person acts with reckless disregard for the risk that another person will be placed in danger of death or bodily injury and under circumstances manifesting extreme indifference to such risk and—

''(A) serious bodily injury to any individual results, be fined under this title, imprisoned not more than 20 years, or both; or

''(B) death of an individual results, be fined under this title, imprisoned for any term of years or for life, or both; and

''(5) with respect to any second or subsequent violation, be subject to twice the maximum term of imprisonment that would otherwise be imposed under this subsection, fined under this title, or both.

''(f) INJUNCTIONS AND IMPOUNDING, FORFEITURE, AND DISPOSITION OF GOODS.—

''(1) INJUNCTIONS AND IMPOUNDING.—In any prosecution under this section, upon motion of the United States, the court may—

''(A) grant 1 or more temporary, preliminary, or permanent injunctions on such terms as the court determines to be reasonable to prevent or restrain the alleged violation; and

''(B) at any time during the proceedings, order the impounding, on such terms as the court determines to be reasonable, of any good that is in the custody or control of the defendant and that the court has reasonable cause to believe was involved in the violation.

''(2) FORFEITURE AND DISPOSITION OF GOODS.—Upon conviction of any person of a violation of this section, the court shall—

''(A) order the forfeiture of any good involved in the violation that is in the custody or control of the defendant or that has been impounded under paragraph (1)(B); and

''(B) either—

''(i) order the destruction of each good forfeited under subparagraph (A); or

''(ii) if the court determines that any good forfeited under subparagraph (A) is not unsafe or a hazard to health, dispose of the good by delivery to such Federal, State, or local government agencies as, in the opinion of the court, have a need for such good, or by gift to such charitable or nonprofit institutions as, in the opinion of the court, have a need for such good, if such disposition would not otherwise be in violation of law and if the manufacturer consents to such disposition and is given the opportunity to reapply a product identification code to the good.''.

''(g) CIVIL REMEDIES.—

''(1) IN GENERAL.—Any person who is injured by a violation of this section, or threatened with such injury, may bring a civil action in an appropriate United States district court against the alleged violator.

''(2) INJUNCTIONS AND IMPOUNDING AND DISPOSITION OF GOODS.—In any action under paragraph (1), the court may—

''(A) grant 1 or more temporary, preliminary, or permanent injunctions on such terms as the court determines to be reasonable to prevent or restrain the violation;

''(B) at any time while the action is pending, order the impounding, on such terms as the court determines to be reasonable, of any good that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in the violation; and

''(C) as part of a final judgment or decree—

''(i) order the destruction of any good involved in the violation that is in the custody or control of the violator or that has been impounded under subparagraph (B); or

''(ii) if the court determines that any good impounded under subparagraph (B) is not unsafe or a hazard to health, dispose of the good by delivery to such Federal, State, or local government agencies as, in the opinion of the court, have a need for such good, or by gift to such charitable or nonprofit institutions as, in the opinion of the court, have a need for such good, if such disposition would not otherwise be in violation of law, and if the manufacturer consents to such disposition and is given the opportunity to reapply a product identification code to the good.

''(3) DAMAGES.—

''(A) IN GENERAL.—Subject to subparagraph (B), in any action under paragraph (1), the plaintiff shall be entitled to recover the actual damages suffered by the plaintiff as a result of the violation, and any profits of the violator that are attributable to the violation and are not taken into account in computing the actual damages. In establishing the violator's profits, the plaintiff shall be required to present proof only of the violator's sales, and the violator shall be required to prove all elements of cost or deduction claimed.

''(B) STATUTORY DAMAGES.—In any action under paragraph (1), the plaintiff may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits described in subparagraph (A), an award of statutory damages for any violation under this section in an amount equal to—

''(i) not less than $500 and not more than $100,000, with respect to each type of goods involved in the violation; and

''(ii) if the violation threatens the health and safety of the public, as determined by the court, not less than $5,000 and not more than $1,000,000, with respect to each type of goods involved in the violation.

''(4) COSTS AND ATTORNEY'S FEES.—In any action under paragraph (1)—

''(A) in addition to any damages recovered under paragraph (3), a prevailing plaintiff may recover the full costs of the action; and

''(B) the court, in its discretion, may also award reasonable attorney fees to the prevailing party.

''(5) REPEAT VIOLATIONS.—

''(A) TREBLE DAMAGES.—In any case in which a person violates this section within 3 years after the date on which a final judgment was entered against that person for a previous violation of this section, the court, in an action brought under this subsection, may increase the award of damages for the later violation to not more than 3 times the amount that would otherwise be awarded under paragraph (3), as the court considers appropriate.

''(B) BURDEN OF PROOF.—A plaintiff that seeks damages as described in subparagraph (A) shall bear the burden of proving the existence of the earlier violation.

''(6) LIMITATIONS ON ACTIONS.—No civil action may be commenced under this section later than 3 years after the date on which the claimant discovers the violation.

''(7) INNOCENT VIOLATIONS.—In any action under paragraph (1), the court in its discretion may reduce or remit the total award of damages in any case in which the violator sustains the burden of proving, and the court finds, that the violator was not aware and had no reason to believe that the acts of the violator constituted a violation.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 65 of title 18, United States Code, is amended by inserting after the item relating to section 1365 the following:

''1365A. Unauthorized modification of product identification codes.''.

SEC. 3. ATTORNEY GENERAL REPORTING REQUIREMENTS.

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

(1) by inserting ''unauthorized modification of product identification codes under section 1365A,'' after ''involve''; and

(2) in paragraph (4), by inserting ''1365A,'' after ''sections''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within

which to revise and extend their remarks on H.R. 3891, the bill under consideration.

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

There was no objection.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as he may consume.

Mr. Speaker, I rise today in support of the Trademark Anticounterfeiting Act of 1998. This important legislation will provide law enforcement the tools they need to combat the growing crime of altering or removing product identification codes from goods and packaging. This bill will also provide manufacturers and consumers with civil and criminal remedies to fight those counterfeiters and illicit distributors of goods with altered or removed product codes. Finally, this bill will protect consumers from the possible health risks that so often accompany tampered goods.

Product codes play a critical role in the regulation of goods and services. For example, when problems arise over drugs or medical devices regulated by the Food and Drug Administration, the product codes play a vital role in conducting successful recalls. Similarly, the Consumer Product Safety Commission and other regulators rely on product codes to conduct recalls of automobiles, dangerous toys and other items that pose safety hazards.

Product codes are frequently used by law enforcement to conduct criminal investigations as well. These codes have been used to pinpoint the location and sometimes the identity of criminals. Recently, product codes aided in the investigation of terrorist acts, including the bombing of Olympic Park in Atlanta and the bombing of Pan Am Flight 103 over Lockerbee, Scotland.

At the same time, manufacturers have limited weapons to prevent unscrupulous distributors from removing the coding to divert products to unauthorized retailers or place fake codes on counterfeit products.

□ 1345

For example, one diverter placed genuine, but outdated, labels of brand name baby formula on substandard baby formula and resold the product to retailers. Infants who were fed the formula suffered from rashes and seizures. We cannot take the chance of any baby being harmed by infant formula or any other product that might be defaced, decoded or otherwise tampered with. FDA enforcement of current law has been vigilant and thorough, but this potentially serious problem must be dealt with even more effectively as counterfeiters and illicit distributors utilize the advanced technologies of a digital age in their crimes.

Mr. Speaker, my legislation will provide Federal measures which will further discourage tampering and protect the ability of manufacturers to implement successful recalls and trace product when needed. It would prohibit the alteration or removal of product identification codes on goods or packaging for sale in interstate or foreign commerce, including those held in areas where decoding frequently occurs.

The legislation will also prohibit goods that have undergone decoding from entering the country, prohibit the manufacture and distribution of devices primarily used to alter or remove product identification codes, and allow the seizure of decoded goods and decoding devices. It will require offenders to pay monetary damages and litigation damages in the event of repeat violations.

The bill will also impose criminal sanctions, including fines and imprisonment, for violators who are knowingly engaged in decoding violations. The bill would not require product codes, prevent decoding by authorized manufacturers, or prohibit decoding by consumers.

It also includes language offered by my colleague, the gentleman from Florida (Mr. WEXLER) that would allow for repackaging of products for legitimate resale purposes. The bill also includes language to address concerns raised by the gentleman from Arkansas, (Mr. HUTCHINSON), on behalf of Wal-Mart, to protect those who unknowingly had violated any portion of the bill.

This legislation is a good approach designed to strengthen the tools of law enforcement, provide greater security for the manufacturers of products, and most importantly, provide consumers with improved safety from tampered with or counterfeit goods.

Mr. Speaker, I urge my colleagues to join me in supporting passage of this bill which will go a long way toward closing the final gap in Federal law enforcement tools to protect consumers and the products they enjoy.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

I greet my dear colleagues on the other side, the distinguished members of the Committee on the Judiciary, with a question or two that makes this anticounterfeiting act a little bit suspect.

Now, there is nobody in the Congress supporting counterfeiting, but this legislation and its claim to help consumers by assisting in the recall of defective merchandise falls on its face, because the problem is, not only is this information already protected by current law, but the bill is not limited to products which implicate public health, nor is it limited to recall information. Instead, it covers any product sold in the country from books to perfume, and I think it is quite broad.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. FORBES) who, along with the gentleman from New York (Mr. SCHUMER), has worked on this matter.

Mr. FORBES. Mr. Speaker, I thank the gentleman from Michigan for yielding me this time.

I rise to strongly oppose H.R. 3891 because of its effects on the retail sector of our economy and on American consumers seeking quality products at discount prices. This bill, unfortunately, does nothing to stop counterfeiting of goods. Instead, it stops legal sales by discount retailers.

If made law, H.R. 3891 will have a substantial negative impact on the United States economy, preventing millions of dollars in legitimate sales. Numerous products like cameras, watches and name brand clothing and electronics presently available at discount prices will disappear, if this bill becomes law, from discount shelves. Consumer prices will rise and jobs will be lost among retailers, distributors and importers.

H.R. 3891 purports to eliminate counterfeit goods. I support that most worthy objective. But I regrettably have to conclude that the bill does not further that goal. Despite the fact that it is named the Trademark Anticounterfeiting Act, the legislation does not prohibit or discourage the manufacture, sale or distribution of counterfeit goods, nor does it punish the use of phoney product identification codes.

Instead, the bill prohibits the removal of genuine product identification codes from products. Because the bill deals only with the removal of genuine manufactured goods, by definition, it could have little or no effect on stopping or discouraging counterfeit goods.

Mr. Speaker, the true effect of H.R. 3891 will be to limit the distribution of genuine goods to discount stores. Brand name products are often sold in what is called the parallel market or the gray market. Legitimacy of this multibillion dollar market, which encompasses a wide variety of products such as cameras, clothing, electronic products, perfume and watches, has been upheld by numerous Federal courts, including the Supreme Court. Parallel market imports constitute, at retail, a multibillion dollar industry.

The billions of dollars in savings enjoyed by American consumers because of the parallel market has been well chronicled. Parallel or gray market imports are responsible for increasing the buying power of U.S. consumers over the last decade by preventing foreign manufacturers from monopolizing the distribution of products to U.S. retailers.

Americans will pay hundreds of millions of dollars more, unfortunately, each year to foreign manufacturers if this bill becomes law. Even though the parallel market is completely legal and benefits in a great way consumers, some product manufacturers believe that the parallel market is not in their best interests. So if they have these great lots of unsold products that they want to move in the discount area, manufacturers, by virtue of enactment

of this bill, would really have the ability to go after the manufacturer of these products and in a subtle way either limit their distribution or certainly limit the consumers' benefit, that being a reduction in cost.

The ultimate goal of manufacturers is to control the final retail price of their products. When done explicitly, the practice known as resale price maintenance has been plainly illegal under antitrust laws since the beginning of this century. The reason resale price maintenance is illegal is because we want retail outlets to compete on price when competition yields the best deal for consumers.

Manufacturers' use of product identification codes as cutoff access to the parallel market is simply resale price maintenance in disguise, and while I certainly appreciate the worthy nature, perhaps the goal of the authors of this legislation, I would suggest that this bill is far too broad. Proponents claim it will protect consumers by assisting the recall of defective merchandise; certainly a worthy goal, but if this is the purpose, the bill could easily be limited to products which implicate real public health and safety concerns, such as food, medicine and children's car seats and baby pajamas.

Mr. Speaker, numerous laws are already on the books that regulate the marketing of products which are of special concern for public safety: The Federal Food, Drug and Cosmetic Act, the Consumer Product Safety Act, Federal Meat Inspection Act, the Tariff Act, the Lanham Act, and the Anticounterfeiting Consumer Protection Act of 1996.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. FORBES. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I want to thank the gentleman for his very thoughtful introduction into this discussion, pointing out that we are all against counterfeiting, that there are all kinds of laws which I am going to point out to my friends on the other side, and suggest a way that we could remedy this.

Mr. FORBES. Mr. Speaker, I rise to express my strong opposition to the ''Trademark Anti-counterfeiting Act'' (H.R. 3892) because of its effects on the retail sector of our economy and on American Consumers seeking quality products at discount prices.

This bill does nothing to stop counterfeiting of goods. Instead it stops legal sales by discount retailers.

If made law, the ''Trademark Anti-counterfeiting Act'' will have a substantial negative impact on the U.S. economy preventing millions of dollars in legitimate sales. Numerous products like cameras, watches and name brand clothing and electronics presently available at discount prices will disappear from discount shelves. Consumer prices will rise and jobs will be lost among retailers, distributors and importers.

The bill purports to eliminate counterfeit goods. I support this objective, but the bill does not further that goal.

Despite the fact that it is named the ''Trademark Anti-counterfeiting Act,'' this legislation does not prohibit or discourage the manufacture, sale or distribution of counterfeit goods, nor does it punish the use of phony product identification codes.

Instead, this bill prohibits the removal of genuine product identification codes from products.

Because the bill deals only with the removal of genuine manufacturer codes, by definition it can have no effect on stopping or discouraging counterfeit goods.

The true effect of H.R. 3891 will be to limit the distribution of genuine goods in discount stores. Brand-name products are often sold in what is called the ''parallel market'' or the ''gray market.''

The legitimacy of this multi-billion dollar market, which encompasses a wide variety of products, such as cameras, clothing, electronic products, perfume and watches, has been upheld by numerous federal courts, including the U.S. Supreme Court.

In March of this year, the U.S. Supreme Court ruled In Quality King Distributors, Inc. v. L'anza Research Int'l, Inc. that the ''parallel market'' is protected under our copyright laws. Similarly, as far back as 1987, the U.S. Supreme Court rejected an attack on the ''parallel market'' under our trademark law.

''Parallel Market'' imports constitute at retail a multi-billion dollar industry. Parallel or ''Gray Market'' imports were responsible for increasing the buying power of U.S. consumers over the last 10 years, by preventing foreign manufacturers from monopolizing the distribution of their products to U.S. retailers.

The billions of dollars in savings enjoyed by American consumers because of the ''parallel market'' have been well chronicled in nationally recognized trade publications like the Chain Store Age Executive and the Discount Store News.

Americans will pay hundreds of millions of dollars more each year to foreign manufacturers if this bill is made law. Even though the ''parallel market'' is completely legal and benefits consumers, some product manufacturers believe that the parallel market is not in their interest.

In an effort to keep their products out of discount stores, some place codes on the products that enable them to trace the chain of distribution of a particular item and then retaliate against distributors that sell goods into the ''parallel market.''

The ultimate goal of these manufacturers is to control the final retail price of their products. When done explicitly, this practice, known as ''resale price maintenance,'' has been plainly illegal under antitrust laws since 1908. The reason resale price maintenance is illegal is because we want retail outlets to compete on price—that competition yields the best deals for customers.

Manufacturers' use of product identification codes to cut off access to the parallel market is simply resale price maintenance in disguise. We should not change Federal law to assist manufacturers in this anticonsumer practice, yet that would be the effect of H.R. 3891.

I am also very concerned that the ''Trademark Anti-competitiveness Act'' is far too broad. Proponents claim it will protect consumers by assisting recall of defective merchandise. If this is the purpose, the bill can easily be limited to products which implicate real public health and safety concerns, such as food, medicine and children's car seats and baby pajamas.

Instead this bill covers any product sold in the U.S., no matter how benign, including such harmless items as books, clothing and furniture. There is no reason for including these everyday, innocuous products within the scope of the bill.

In addition, the bill addresses a problem that is already addressed by other, more comprehensive statutes.

Numerous laws already regulate the marking of products which are of special concern for public safety. Some of these laws include: the Federal Food, Drug & Cosmetic Act; the Consumer Product Safety Act; the Federal Meat Inspection Act; the Tariff Act of 1930; the Lanham Act; and the Anti-counterfeiting Consumer Protection Act of 1996 that applies Racketeer Influenced and Corrupt Organizations Act (RICO) penalties to counterfeiters.

Finally, this bill would have disastrous impacts on interstate commerce and on our legal system. It renders billions of dollars worth of merchandise illegal overnight.

The legislation criminalizes the act of decoding products and mandates the seizure and destruction of these decoded products. The avalanche of litigation that would follow between manufacturers and resellers and between retailers and their suppliers would be enormous.

If the bill is meant to avoid counterfeiting, then it should not apply to genuine products. If the bill seeks to address the issue of consumer protection in recalls, then it should do so without granting a limited group of product manufacturers broad anti-competitive powers.

Many parties that will be affected by H.R. 3891 have not had their concerns heard by this House. If made law, this bill will result in serious unforeseen hardships to consumers and businesses alike. I strongly urge that this bill be amended to avoid these negative consequences.

I urge my colleagues to vote against this bill, and I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. COBLE), the chairman of the Subcommittee on Intellectual Property.

Mr. COBLE. Mr. Speaker, I thank the gentleman from Virginia and commend him for the diligent hard work that he has put forward on this bill, and I urge my colleagues to support it.

Mr. Speaker, H.R. 3891 safeguards the ability of manufacturers to control the use of their products with which valuable marks are associated by protecting the integrity of corresponding ''product identification codes'' contained in product packaging. These codes, Mr. Speaker, comprised of numbers, letters, symbols, or expiration markings affixed to goods, enable manufacturers, it seems to me, to trace products back to a particular production lot, batch, or date of removal. In my opinion, this bill will further legitimate commercial interests, maintain the value of trademarks affiliated with goods, and promote public health and safety.

Finally I should note, and I am not sure this has been mentioned yet, that H.R. 3891 contains an ''innocent infringer'' exception to the bill adopted during subcommittee markup, and other changes which the gentleman from Virginia (Mr. GOODLATTE) has authored to preserve the ability of distributors to engage in lawful diversion of products. These additions to the bill, it seems to me, will ensure that public health and safety will be advanced on the one hand, but not on the other hand, at the expense of lawful commercial practices.

Mr. Speaker, I again thank the gentleman from Virginia for his work in bringing the bill to the floor, and I urge its adoption today.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this discussion on the floor is tracking the same discussion that we had in the Committee on the Judiciary, and so perhaps we are so absorbed with the presidential scandal that maybe the members on the committee just cannot focus on this subject.

What is the matter, I say to my colleagues? We already told my colleagues that there are six Federal food, drug and cosmetic laws already on the books regulating for public inspection, plus the Federal Meat Inspection Act, the Tariff Act of 1930, the Lanham Act, Anticounterfeiting Consumer Protection Act of 1996, and the Consumer Product Safety Act.

My colleagues get on the floor, and I do not want to say they are taking advantage of the lack of knowledge of the rest of the Members of the House, but my colleagues know that there are dozens of bills fighting counterfeiting and that the real problem, I say to my colleague from Virginia (Mr. GOODLATTE), is that they are not being properly enforced; and that if the gentleman would have tailored his bill in a reasonable way to limit recall information, to protect the bar code issue, but just to open it up, I am going to have to say something here as politely as I am able to.

What the gentleman is doing is attacking the parallel market. The gentleman is going after the wholesalers, and wait until the citizens find out about this. What the gentleman is saying is that all the companies that sell below the wholesale houses, the pharmaceuticals, the TJ Maxxes, the RiteAids, all of them are going to be wiped out by a very cute way that the gentleman is handling this, because I think there is a motive here.

If the gentleman was really after counterfeiting, the gentleman would tailor it so that we can all get it.

□ 1400

What the gentleman from Virginia (Mr. GOODLATTE) is doing is protecting the high end retailers in America. I think we went through this in the Committee on the Judiciary. Why does the gentleman not come clean and say it?

They deserve congressional representation, but to mask it into an anticounterfeiting act, where we pick up designer jeans, cameras, perfumes, and all of these items that are sold in cut rate and wholesale situations, the gentleman knows that that is what the goal of this is. So why do we not just call it for what it is?

I am protecting the people in America that want to go to the malls and get a good deal. I am protecting the people that want to buy at discounted prices. What the gentleman is doing is putting the parallel market out of business. Why does the gentleman not come clean and admit it, or concede it, or maybe we will stipulate it? But do not talk about this as an anticrime issue. It is simply not that.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I certainly hope that the gentleman from Michigan (Mr. CONYERS) is not attempting to protect those folks who are violating the law and attempting to defraud consumers in this country.

Let me just point out who it is that supports this bill. The gentleman says we are attacking the gray market, but the National Association of Mass Retailers does not oppose this bill. It is supported by the United States Chamber of Commerce. It is supported by the AFL–CIO. It is supported by the National Association of Manufacturers, and it is supported by the National Consumers League.

We are protecting consumers here, and we are not doing anything to affect those people who legitimately sell in the parallel market. I hope they continue to do so. That is certainly not what we are trying to affect here.

We are trying to help law enforcement be able to trace product codes. It would be a shame if the batteries sold to the perpetrator of the Atlanta bombings were tampered with by somebody because it was not against the law to tamper with the identification code, and the FBI was not able to trace, as they were in that case, those products back to where they were sold to help identify the perpetrators.

The same thing with the bombing over Lockerbie, Scotland. We do not know what kind of product may be used in a law enforcement investigation. It might be something related to a product that is for health and safety, but it might not be.

If Members were to, for example, exempt clothing from this, there are all kinds of product defects that take place with clothing. They can catch on fire, and people need to have the ability to be contacted and notified that there is a problem.

Limiting it to health and safety does not take into consideration products like baby toys, batteries. Where do we draw the line? Predatory pricing can be addressed through current antitrust laws. Those laws exist on the books. There are not laws on the books today prohibiting fraud from taking place when somebody tampers with or removes a code. That is why we make this distinction.

In response to retail concerns, we have added language making the bill only applicable to those who knowingly perform one of the prohibited acts, so I cannot imagine why there would be any effort to protect those people who knowingly want to perpetrate a fraud like this. That is why we have the support of groups like the National Consumers League.

The bill also includes additional protections in the bill for innocent infringers. We are not targeting those folks. The current law does not adequately address the problem of product code tampering. That is what we are addressing in this bill. We are not addressing the parallel market.

Those who were concerned about that entered into detailed negotiations with us with other members of the committee. I am sorry that the gentleman did not choose to participate in those negotiations, but we worked with several members of the committee on both sides of the aisle to make changes to address those concerns. Those concerns have been addressed.

We are simply going after the bad guys, I would say to the gentleman from Michigan. I would hope that he would change his mind about the importance of this bill, both from the standpoint of protecting consumers, and from the standpoint of helping law enforcement address a serious problem.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, does the gentleman know what I am going to do? I am going to see that the gentleman does not get two-thirds on the vote today, that is what I am going to do for this bill, because the gentleman is misrepresenting the fact that there is no protection against trademark counterfeiting. May I refer the gentleman to the law? The gentleman has been on the committee some number of years now.

The Federal Food, Drug, and Cosmetic Act, 21 United States Code, annotated Section 301. Section 331 deals with adulteration and misbranding. How can the gentleman say there is nothing protecting us against counterfeiting? Section 333 provides for seizure of adulterated drugs or cosmetics. Has the gentleman ever heard of the law? Section 342 addresses false or misleading labels. Section 350–A regulates infant formula.

The gentleman did not come to the floor not knowing this. The gentleman knew this, because the gentleman from New York (Mr. SCHUMER) took 30 minutes explaining it, and the gentleman said we would work it out. We have not worked anything out. That is why I am opposed to it.

By the way, since the Chamber of Commerce supports this, the discount

drugstores do not support it, the Price Club does not support it, Rite Aid does not support it. The discounters and the parallel market are going to get wiped out, and the gentleman knows it. The gentleman knows it.

We have got all of these counterfeiting laws. Sections 351 and 352 govern adulterated or misbranded drugs or devices. Section 361 and 362 addresses cosmetics that are adulterated or misbranded. We have a Federal Meat Inspection Act, a Tariff Act, an anti-counterfeiting Consumer Protection Act of 1996. The gentleman was in on it. The gentleman helped pass it.

Now the gentleman is coming here arguing that this is for the benefit of the good guys, and the gentleman does not want me helping the bad guys. I want to suggest to the gentleman that it may be just the opposite.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to the gentleman from Michigan (Mr. CONYERS) that the legislation that he cited, some of which I authored and he supported, does not address issues where the law is intended to apply for reasons other than harm to the consumer. So if it is a matter of law enforcement, tracing the location of a product, it does not apply.

This legislation makes it clear that we cannot tamper with a product code because doing so is perpetrating a fraud, for one reason or another. But secondly, keeping that code on the product helps us to give law enforcement the tools they need to track down criminals.

In many, many cases criminals use products in the commission of a crime. When we can trace those products back to what store they were purchased from, where they were distributed from, we have a much greater chance of narrowing the field of suspects and tracking down who it was who actually purchased that product.

For that reason, and the others that I have already cited, the bill has strong support from a wide array of groups, from labor unions to retailers to manufacturers to law enforcement to consumers, and ought to deserve the same kind of broad-based bipartisan support here on the floor of the House of Representatives.

We did conduct further discussions with the gentleman from New York (Mr. SCHUMER) and others in the committee following the markup in the committee, and we reached agreement with a number of folks about changes which were made and incorporated into the legislation. Did we make everybody happy? No, because there are some folks out there who want to take labels off of products or change the labels in order to mislead folks about what is going on. That is simply what this legislation is directed at attacking.

Mr. Speaker, I would ask the gentleman to reconsider his opposition to the bill. I would love to have his support for the bill, but I think he is on the wrong side of what is in the best interests of consumers, law enforcement, manufacturers, retailers, all across the board.

Mr. Speaker, I would again reserve the balance of my time, and urge the Members to support this legislation.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say to my good friend, the gentleman from Virginia, I have never been, nor my staff, invited to participate in one single negotiation. If the gentleman from New York (Mr. SCHUMER) has, that would be almost unbelievable. I know he has not, either. Does the gentleman say he has?

Mr. GOODLATTE. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. No, not at this point.

Mr. GOODLATTE. The gentleman asked the question. I will be happy to answer it.

Mr. CONYERS. Does the gentleman remember what he told me earlier, that he has time that he can yield to himself?

Mr. Speaker, the point that I am making is that I have never been in any negotiations. I voted against this measure. It is a funny thing about this big rush on the bill, and there was not much notice about this bill. It came up at the last minute with no notice. There has been no opportunity to amend the bill, I say to the gentleman from Virginia (Mr. GOODLATTE). Why not? Because the gentleman does not think he needs to, because he can get two-thirds. I have news for the gentleman.

The fact of the matter is that this bill will allow all kinds of manufacturers to terminate distributors who sell their goods at a deep discount. We know that is what is behind it. And citing the Chamber of Commerce and my friends in labor, and by the way, I would love to compare my labor record with the gentleman's some day off the floor, we have groups of consumers, working people, discount organizations, that do not think we need a bill with this latitude.

We have been through this, so the gentleman is going to railroad it through on a suspension: perfume, cameras, designer jeans, jewelry, watches, shirts. I ask the gentleman to tell me, why do those items need to be covered?

Mr. GOODLATTE. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman for yielding. The reason why items need to be covered is——

Mr. CONYERS. These items.

Mr. GOODLATTE. Any item is potentially left at the scene of a crime. Any item could be left at the scene of a crime and could be traced to determine who it was that committed the crime.

Mr. CONYERS. Reclaiming my time, now the gentleman has said something that the gentleman never said in the committee, and certainly it goes against any negotiations with whomever the gentleman entered into them with.

If the gentleman is now telling me we should cover all items in the market, then I guess, if I can quote the gentleman on that in my handout, I think that will take care of it for today. The gentleman thinks everything should be covered; not just these items not covered, but all items should be covered, everything in commerce? If that is the gentleman's position, that just reinforces my opposition to it.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first say to the gentleman from Michigan, nothing is being railroaded. As the gentleman has quite accurately pointed out, for something to pass on suspension, it requires a two-thirds vote. If it were brought up under a rule it would only take a majority vote, so we are not trying to put anything over on anybody.

Frankly, it surprised me that the gentleman came down here to oppose it. We had no idea that the gentleman was opposed to the legislation at this point. The gentleman never indicated any reservations about the bill. If he had done so, we would have wanted to include him in any negotiations that we had, because we were working very diligently to pull together the support necessary to pass this important legislation.

But the gentleman is entirely inaccurate when he says there is no opportunity for amendment. The bill itself at the desk is a manager's amendment taken from suggestions made by those who had concerns in the Committee on the Judiciary meeting, and we did not reach agreement with everybody. It is hard to reach agreement with everybody. But we reached agreement with some of those who raised reservations, and we changed the bill accordingly.

Mr. Speaker, I am sorry that the gentleman has the opposition. I would love to have sat down with him ahead of time and attempted to work those matters out, if it were possible. But I was never notified that the gentleman was going to oppose the legislation. I do not believe the basis on which the gentleman is opposing it is appropriate. It is simply not the case that this is going to damage the parallel markets or the so-called gray markets.

□ 1415

We have addressed concerns raised by a number of folks to make sure that that in fact would not be the case.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. SUNUNU). The gentleman from Michigan (Mr. CONYERS) has 3½ minutes remaining. The gentleman from Virginia

(Mr. GOODLATTE) has 5½ minutes remaining.

Mr. CONYERS. Mr. Speaker, could we even up the time a little bit.

Mr. GOODLATTE. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan (Mr. CONYERS) since he was kind enough to yield to me a little while ago.

Mr. CONYERS. Mr. Speaker, I would like to introduce myself to the gentleman from Virginia (Mr. GOODLATTE). I am the ranking member of the committee. I had no notice that the bill was being brought up. The information was delivered through the minority leadership of the House.

So to tell me that I should have been following my colleague all along is a little bit odd. What we are trying to say here is that we never had a chance to amend the bill. And to tell me that there is a manager's amendment at the desk that I never participated in now shows that the bill was amended without me is not insulting, but it almost suggests that I don't understand the process.

The SPEAKER pro tempore. The time of the gentleman from Michigan (Mr. CONYERS) has expired.

Mr. CONYERS. Mr. Speaker, I yield myself 2 additional minutes.

The problem is this, why do we need the gentleman from Virginia (Mr. GOODLATTE) to apply anticounterfeiting provisions to general items like jeans and perfume? Could the gentleman tell me what health problems he has discovered that makes them to be included. It is not a crime to sell these goods in the parallel market. The gentleman knows the case law on this as well as I.

Mr. Speaker, I yield to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, in the case of perfume, it is easy to have a product that the code can be tampered with and put in a product that came in the original bottle that has been tampered with, adulterated, could cause harm when applied to the skin. With regard to blue jeans, they might be flammable. They might be in a suitcase in an airplane that is blown up in the sky and could help to identify where it came from.

Mr. CONYERS. Mr. Speaker, reclaiming my time, we had hearings, and there were no cases like these hypotheticals cited. So what is the gentleman doing? I mean, is this reality legislation or what? Can the gentleman tell me the jeans and perfume, one might be adulterated and the other might be flammable? I have the transcript of the hearings, and there is nothing in them about that. Now, maybe yes; but in reality, no.

So I think there is an economic motivation that is not going to be good for the parallel market. Is the gentleman's constituents not like mine? They like to go and shop for discounts sometimes. What is the gentleman telling them?

Mr. GOODLATTE. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Speaker, I like to shop for discounts myself.

Mr. CONYERS. Then why is the gentleman doing this to the parallel market?

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just say to the gentleman that it is impossible to define what products might be used by law enforcement at some point in time to trace a product code.

Mr. FORBES. Mr. Speaker, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from New York.

Mr. FORBES. Mr. Speaker, is my good friend the gentleman from Virginia (Mr. GOODLATTE) making a case that everything that is sold in the United States should have a product code so we can trace all goods?

Mr. GOODLATTE. Reclaiming my time, no, I am only making a case that if a code is put on the product by the manufacturer, the Congress, the people should not be questioning the reason for doing that by allowing the removal of that code for various reasons, one of which is tracing products that may have been adulterated and need to be recalled, may have defects and need to be recalled, products that may be used by law enforcement, may be discovered at the scene of the crime and can trace a crime.

There is no compelling argument why somebody should be able to pull the code off the product and continue to sell the product without having that kind of consumer protection. That is why the National Consumer League supports the bill.

Mr. FORBES. Mr. Speaker, will the gentleman yield?

Mr. GOODLATTE. I yield further to the gentleman from New York.

Mr. FORBES. Mr. Speaker, would the gentleman not agree that there is an attempt by some manufacturers when they are tracing products at discount houses and they see those same products are in competition with their own sales that they cut off distribution to those discount houses?

Mr. GOODLATTE. Mr. Speaker, reclaiming my time, that is against the law, and we have antitrust laws that prohibit that very activity that the gentleman has just described. And when that occurs, I have seen many instances where cases are brought for that kind of discriminatory treatment in the marketplace, and those laws should be enforced.

But it certainly should not interfere with a manufacturer's legitimate need and law enforcement's legitimate need to have those product codes not tampered with, falsified on the product. I think that is outrageous.

Mr. FORBES. Mr. Speaker, will the gentleman further yield?

Mr. GOODLATTE. I yield further to the gentleman from New York.

Mr. FORBES. Mr. Speaker, is the gentleman aware that there are representatives of various manufacturers that do go into these discount houses and they look at these product lines and they look at the labeling and they have taken, in the past, action against some of these folks that are working in the parallel market?

Mr. GOODLATTE. Mr. Speaker, reclaiming my time, if they do so, then they should be prosecuted under the laws that already exist on the books if they are doing so in the discriminatory manner that the gentleman describes.

Mr. Speaker, I reserve the balance of my time, and I inquire how much time is remaining.

The SPEAKER pro tempore. The gentleman from Virginia (Mr. GOODLATTE) has 2 minutes remaining. The gentleman from Michigan (Mr. CONYERS) has 90 seconds remaining.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am in a state of exhaustion now. The rational processes have taken flight in this discussion. We get no notice. We found out about it this morning. The bill is too broad. That was complained of in the committee.

The gentleman has introduced a manager's amendment and said, well, we amended the bill. We gave our colleagues a unilateral manager's amendment. Are they not happy?

This bill would make it easier for manufacturers to terminate discounters. That is the economic question underneath it. Let us not fool ourselves. There is no question this bill would lead to less discounting. I hope the gentleman's constituents would be happy to find that out in the event that this bill becomes law.

Let us send the bill back to committee so that we can get a narrow bill that will really be good for the consumers.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York (Mr. FORBES) for any closing comments if he has any.

Mr. FORBES. Mr. Speaker, I thank the gentleman from Michigan, and I would just urge my colleagues to oppose this measure. If our attempt is to be able to trace consumer products, then let us call it what it is and let us get a bill on the floor that labels every product ever sold in the United States of America. Unfortunately, I think this is a back-door attempt to really raise the price of consumer goods, to thwart the discount market, and to make it tougher on consumers.

I am sorry for that. I would urge my colleagues to please reject this bill.

Mr. GOODLATTE. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, let me just say, in response to the gentleman from New York (Mr. FORBES), that if his statement were accurate, then organizations like the National Association of

Mass Retailers and the National Consumers League would oppose this legislation, and they do not.

The reason they do not is that they share the concerns that many have about product safety. They share the concerns that many have about law enforcement and they share the concerns that many have about what motivations somebody has for pulling off the product identification code from a product and then wanting to resale it.

What are they hiding from? I would suggest to my colleagues that they are hiding from the fact that there are criminal activities that take place by those who adulterate products, who change products, and they should not be allowed to do that by altering or removing these codes. That is what this legislation clearly addresses.

It is clearly needed because all the laws cited by the gentleman from Michigan (Mr. CONYERS), which are very good laws, some of which I introduced myself, do not cover the specific facts and the specific instances of removing and tampering with labels that are addressed in this bill, and that is why the legislation is supported by the AFL-CIO.

I am pleased to have their support for this legislation. It is not often that they come together and agree with manufacturers, and the United States Chamber of Commerce and consumers, but when we have that kind of collection of support, and the needs of law enforcement, we ought to take advantage of the opportunity to pass a very good bill and ignore the concerns of a very narrow, limited group of people who are not just in the gray market, which we support, but which are involved in criminal activity in the gray market, which we do not support and which this bill attacks. I urge my colleagues to support this legislation.

Mr. SCHUMER. Mr. Speaker, I rise in strong opposition to H.R. 3891, the Trademark Anticounterfeiting Act. In my view, this legislation would be devastating to consumers seeking quality products at discount prices.

H.R. 3891 will have a substantial negative impact on the U.S. economy. It will preclude millions of dollars in legitimate sales. Numerous products presently available at discount prices will disappear from discount shelves. Consumer prices will rise and jobs will be lost among retailers, distributors, and importers.

Furthermore, H.R. 3891 will place additional burdens on law enforcement and on the courts. This legislation, however, provides no funding for these additional enforcement responsibilities.

The Trademark Anticounterfeiting Act, H.R. 3891, is intended to eliminate counterfeit goods from the marketplace. I support this goal; however, we find nothing in this bill to further this goal. This legislation does not prohibit or discourage the manufacture, sale, or distribution of counterfeit goods.

The real goal of this bill is to stop the legitimate practice known as the ''parallel market'' or ''gray market.'' This is a perfectly legal market where middle men buy overstock from high end retail stores, and resell the goods to discount retailers. The high end manufacturers of these products have decided that too many consumers are buying their goods at discount stores and want to use this bill to cut off the middle men who supply discount stores.

In an effort to keep their products out of discount stores, some manufacturers place codes on the products. These codes are used to trace the product through its chain of distribution for ammunition against the distributors that sell their goods in the parallel market. The goal of these manufacturers is to control the final retail price of their products. When done explicitly, ''resale price maintenance'' has been plainly illegal under antitrust laws since 1908. The manufacturers use of product identification codes to cut off access to parallel markets is simply resale price maintenance in disguise.

The proponents of this bill have claimed that it will protect consumers by assisting in the recall of defective merchandise. If this is the purpose, the bill can easily be limited to products which implicate real public health and safety concerns, such as food, medicine, and products for children (like car seats and baby pajamas). Alternatively, parallel market resellers could be given some of the responsibility for enabling recalls.

But instead of these sensible, targeted approaches, the bill as written is astonishingly sweeping. It covers any product sold in the U.S.—from books to clothing to furniture. No reason whatever has been articulated for including these everyday, non-threatening products within the scope of the bill.

As a result of the broadly defined ''product identification code'', resellers will have no way to determine upon looking at a product which codes or markings constitute a product identification code. The language of H.R. 3891 is far too vague and it needs to be refined.

In addition, the bill addresses a problem that is already addressed by other, more comprehensive statutes. Numerous laws already regulate the marking of products which are of special concern for public safety.

Finally, H.R. 3891 would impose broad new burdens on law enforcement and the judiciary. By failing to provide a transition period, this law would render billions of dollars worth of merchandise illegal overnight. The avalanche of litigation that is likely to follow between manufacturers and resellers and between retailers and their suppliers is likely to be enormous due to the broad impact of this bill on the U.S. marketplace.

Further, this legislation criminalizes the act of decoding products and mandates the seizure and destruction of these decoded products. Presumably, the burden of investigating and prosecuting such acts will fall to our law enforcement agencies. No funding has been allocated to defray the extra burden on these agencies or to employ additional personnel.

Once again, I strongly oppose this bill. If this bill is meant to avoid counterfeiting, then it should not apply to genuine products. If this bill seeks to address the issue of consumer protection in recalls, then it should do so without granting a limited group of product manufacturers broad anti-competitive powers.

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 Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 3891, as amended.

The question was taken.

Mr. FORBES. 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 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

SIDNEY R. YATES FEDERAL BUILDING

Mr. KIM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4595) to redesignate a Federal building located in Washington, D.C., as the ''Sidney R. Yates Federal Building,'' as amended.

The Clerk read as follows:

H.R. 4595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 201 Fourteenth Street Southwest in the District of Columbia, and known as the Auditors Main Building, shall be known and designated as the ''Sidney R. Yates Federal Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the ''Sidney R. Yates Federal Building''.

SEC. 3. EFFECTIVE DATE.

This Act shall take effect on January 3, 1999.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. KIM) and the gentleman from Ohio (Mr. TRAFICANT) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. KIM).

Mr. KIM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4595 is a simple naming resolution which redesignates the Federal building located at 201 14th Street, Southwest, Washington, D.C., currently known as the Auditors Main Building, as the Sidney Yates Federal Building.

Our colleague, the gentleman from Illinois (Mr. YATES) is retiring at the end of this Congress after serving with distinction for 24 terms of office. He was first elected to Congress in 1948 and held his seat continuously but for a brief 2-year absence in 1963 to 1964. He has served as a member of the Committee on Appropriations during his terms and became chairman of the Subcommittee of Interior of the Committee on Appropriations in 1975, holding the chairmanship for 20 years.

The gentleman from Illinois (Mr. YATES) was born in Chicago, Illinois, in 1909. He attended the University of Chicago, where he earned his law degree in 1933. He commenced practice in Chicago and became the assistant attorney general with the Illinois Commerce Commission back in 1937.