

into a foreign language, work their way through all the complex ministries in the foreign country, all trying to find a company that, in many cases, simply reforms itself in a new corporate form and leaves them with nothing at the end of the chase.

When that happens, it is a very unfortunate result for American people, and it is a very unfortunate result for American businesses. The unfortunate result for American people is that somebody who was injured, whose child was lead-poisoned, for instance, has no one from which to seek recovery, and they lose the opportunity we ordinarily enjoy as Americans when we are injured by a product to get compensation for the injury. It is the family who gets hurt in that circumstance. That is one way it is bad.

The other way it is bad is because commerce is often a chain. When the wrongdoing foreign manufacturer disappears, the other folks who are still in the chain are still around to be sued. Under our theory of joint and several liability, the American company has to pick up the liability for the foreign company that absconded after it created the injury.

We had a very good example in our committee of an Alabama contractor who had a very good reputation, who built developments and homes. He got caught with this Chinese drywall. There was no Chinese drywall manufacturer to sue, but both for purposes of protecting his own reputation with the people for whom he had built these houses and because the liability now fell on him as the joint and several liability party, he had to go in and clean it all up. He had to put up the people who were living in these houses. He had to rebuild their air-conditioning systems and their plumbing systems. He had to strip out all the drywall and rebuild it all back. It was an immense expense, and it fell on the American company because the Chinese company had absconded and was not amenable to service and, consequently, to our laws.

The very simple premise of this bill is, if you are a foreign manufacturer that exports goods into the United States of America, with your export has to come an agent for service of process. You have to file agent of service for process. When that Chinese drywall, when that defective pharmaceutical, when that lead-poisoned toy hits an American consumer, hits an American home, hits an American family, they can go to that agent for service of process and find the wrongdoer, and they are amenable to justice in our courts.

It is from a competitiveness point of view wrong that foreign manufacturers should be able to underprice American companies because they know they can dodge liability, dodge the consequences for their actions, and have an American company have to charge more, knowing they have to bear that liability.

Setting aside the whole public safety and consumer protection piece, it is a

systemic disadvantage to American industry to not fill this loophole and make our workers' international competitors hit the same bar that American companies have to hit in terms of being available for suit when their products create an injury.

Obviously, the tax extenders legislation has not proven to be the vehicle for this legislation. My contention for my colleagues is that because this is a bipartisan bill, because Senator SESSIONS and I worked so hard on it, because all of the initial concerns that were raised by the U.S. Chamber of Commerce have been cleared and it is now good to go with the Chamber of Commerce—which I know has a significant voice in the views of my colleagues on the other side of the aisle—and because this is a simple mechanism that will treat foreign companies no differently than American companies are treated and put them on a level playing field and protect American jobs, as well as consumers, I look forward to continuing to pursue this legislation and look for further opportunities and further vehicles to find a way to remedy what is now an unjust situation for American consumers, an anticompetitive and unfair situation for American businesses, and a tilted situation against America's interests for the American economy.

I thank again the distinguished chairman of the Finance Committee who I know is supportive of our efforts. As I said at the outset, the intensity of the crucible of the negotiations that finally appears to be moving this tax extenders bill forward in an unfortunately diminished way, but in the best way we have been able to do it, did not permit this particular amendment to proceed. But it was not for his lack of effort.

I appreciate his courtesy with my persistent lobbying and his support.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the House message with respect to H.R. 4213, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to concur in the House amendment to the Senate amendment with an amendment to H.R. 4213, an act to amend the Internal Revenue Code of 1986, to extend certain expiring provisions, and for other purposes.

Pending:

Reid (for Baucus) motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Baucus Amendment No. 4386 (to the amendment of the House to the amendment of the Senate to the bill), in the nature of a substitute.

Reid (for Baucus) amendment No. 4387 (to amendment No. 4386), to change the enactment date.

Reid motion to refer in the amendment of the House to the amendment of the Senate to the bill to the Committee on Finance, with instructions, Reid amendment No. 4388, to provide for a study.

Reid amendment No. 4389 (to the instructions (amendment No. 4388) of the motion to refer), of a perfecting nature.

Reid amendment No. 4390 (to amendment No. 4389), of a perfecting nature.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Madam President, we are on the message now.

First, I commend my colleague from Rhode Island for his efforts to enact legislation which will level the playing field. It is only proper that foreign companies that operate in the United States have the same ability of service of process that American companies have. I commend him and tell my friend from Rhode Island that at the first opportunity, I will work hard to include his provision in an appropriate bill so it can pass and be enacted into law.

I remind my colleagues that for several weeks now the Senate has been working to pass this important bill that is before us, the so-called extenders bill. This week marks at least the eighth week the Senate has spent most of the week on this bill to extend current tax law and safety net provisions.

This is a bill that would remedy serious challenges that American families face as a result of this great recession. This is a bill that works to build a stronger economy. Americans want that. It is a bill to put Americans back to work. Clearly, with national unemployment hovering around 10 percent, Americans want that, too.

With this bill, we have fought to pass policies to create jobs. We have fought for tax cuts for businesses. We have fought for small business loans. We have fought for career training programs, and we have fought for infrastructure investment.

We have fought to pass tax cuts for families paying for college. We have fought to pass tax cuts for Americans paying property taxes and sales taxes.

We have fought to extend eligibility for unemployment insurance, health care tax credits, and housing assistance for people who have lost their jobs.

As of this week, 900,000 out-of-work Americans have stopped receiving unemployment insurance benefits. Why? Because of the Senate's failure to enact this bill.

We have fought to help States cover the cost of low-income health care programs so that families in need can continue to get quality health care.

Unfortunately, this has been a difficult fight. I don't know why, but it has been difficult. Those provisions I mentioned are clearly provisions the American public would like.

For months now, we have been trying to address Senators' concerns. Senators expressed concern about the size