

Legal scholars from the law schools at Houston, Chicago-Kent, Loyola, and Duke endorse suggested changes to the original text as developed by Professor Arthur Hellman of the University of Pittsburgh School of Law, who testified at the 2005 Subcommittee hearing and contributed substantially to the project in the 111th Congress.

The result is a thoroughly processed, well-conceived bill that addresses important if mundane jurisdictional and venue issues.

It's legislation that helps federal judges process their work more promptly and fairly while clarifying what litigants should expect as they prepare their cases.

H.R. 4113 contains a number of revisions to federal jurisdictional and venue law. Among the changes, the bill—

clarifies the definition of "citizenship" for foreign corporations and domestic corporations doing business abroad;

separates the removal provisions governing civil cases and those governing criminal cases into two statutes;

promotes timeliness of removal by giving each defendant 30 days after service to file a notice of removal;

creates a general venue statute that unifies the approach to venue in diversity and federal question cases, while maintaining current venue standards;

eliminates the outdated "local action" rule, which unnecessarily restricts venue choices for certain real-property actions; and

stipulates that a natural person is deemed to reside in the judicial district in which that person is domiciled.

Mr. Speaker, it's taken us about 5 years to reach this point, but the wait was worth the journey. The "Federal Courts Jurisdiction and Venue Clarification Act" illustrates how Congress can work with the Judiciary and stakeholders to pursue legislative initiatives that enhance the practice of law and the operations of our federal courts.

This is a bill that ultimately benefits American citizens who use our legal system in defense of their legal rights and civil liberties.

I urge the Members to support H.R. 4113.

I yield back the balance of my time.

Mr. SCOTT of Virginia. 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. SCOTT) that the House suspend the rules and pass the bill, H.R. 4113, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### ORGANIZED RETAIL THEFT INVESTIGATION AND PROSECUTION ACT OF 2010

Mr. SCOTT of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5932) to establish the Organized Retail Theft Investigation and Prosecution Unit in the Department of Justice, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5932

*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 "Organized Retail Theft Investigation and Prosecution Act of 2010".

#### SEC. 2. ORGANIZED RETAIL THEFT INVESTIGATION AND PROSECUTION UNIT.

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall establish the Organized Retail Theft Investigation and Prosecution Unit (hereinafter in this Act referred to as the "ORTIP Unit").

(b) COMPOSITION.—The ORTIP Unit shall include representatives from the Federal Bureau of Investigation, United States Immigration and Customs Enforcement, the United States Secret Service, the United States Postal Inspection Service, prosecutors, and any other personnel necessary to carry out the duties of the ORTIP Unit.

(c) DUTIES.—The duties of the ORTIP Unit are as follows:

(1) To investigate and prosecute those instances of organized retail theft over which the Department of Justice has jurisdiction.

(2) To assist State and local law enforcement agencies in investigating and prosecuting organized retail theft.

(3) To consult with key stakeholders, including retailers and online marketplaces, to obtain information about instances of and trends in organized retail theft.

#### SEC. 3. DEFINITION.

In this Act, the term "organized retail theft" means—

(1) the obtaining of retail merchandise by illegal means for the purpose of reselling or otherwise placing such merchandise back into the stream of commerce; or

(2) aiding or abetting the commission of or conspiring to commit any of the acts described in paragraph (1).

#### SEC. 4. REPORT.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit a report containing recommendations on how retailers, online businesses, and law enforcement agencies can help prevent and combat organized retail theft to the Chairs and Ranking Members of the Committee on the Judiciary of the House of Representatives and of the Committee on the Judiciary of the Senate. The Attorney General shall make the report available to the public on the web site of the Department of Justice.

#### SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Attorney General to carry out this Act, \$5,000,000 for each of fiscal years 2011 through 2015.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Texas (Mr. SMITH) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

#### GENERAL LEAVE

Mr. SCOTT of Virginia. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the legislation under consideration.

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

There was no objection.

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Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5932 directs the Attorney General to establish an Organized Retail Theft Investigation and Prosecution Unit to combat the growing problem of organized retail crime.

Theft from retail establishments has been a problem as long as stores have existed. The problem has gradually grown beyond simple isolated cases of shoplifting and burglary into something far more complex.

It wasn't until the 1980s that organized retail theft was recognized as a phenomenon, and the problem has continued to grow in volume, sophistication and scope. Today, sophisticated, multilevel criminal organizations steal large amounts of high volume products, focusing on small and easily resalable items, and then they resell the goods through a variety means, including flea markets, smaller stores, and, increasingly the Internet. Sales of stolen items over the Internet have evolved to the point where there has been a new crime phenomenon referred to as "E-fencing."

With organized retail theft reaching an estimated \$30 billion to \$42 billion, it impacts everyone from the Big Box retailers to the small independent stores. This type of crime obviously has a direct impact on stores from which the items are stolen. They have fewer items in their inventory to sell and their profits suffer. To make up for it, they must pass along the burden to consumers in the form of higher prices.

Consumer safety is also at risk when retail crime organizations steal consumable products, especially over-the-counter drug items and infant formula, two popular items for organized theft rings. In many cases, after merchandise has been stolen, the products are not stored properly, which can render the products ineffective or even dangerous.

Retailers spend lots of time and resources trying to prevent such thefts and trying to catch the thieves, but it is becoming increasingly difficult to do so. Last year, the Judiciary Committee Subcommittee on Crime held a hearing about the role of the Federal law enforcement in combating this kind of crime. I was encouraged to see that agencies such as the FBI; Immigration and Customs Enforcement, ICE; the Secret Service; and postal inspectors all play a role in investigating organized retail theft.

Through this hearing we learned that there is a definite need for Federal law enforcement agencies in this area because local enforcement agencies face unique challenges in combating organized retail theft. In particular, organized retail theft rings often operate in multiple jurisdictions, making it impossible for any one State or local law enforcement agency to investigate them and prosecute them effectively. In addition, the Internet has made it

easier for such sellers to access a national, even international market, for buyers of stolen goods. Finally, the proceeds of these crimes are often laundered with tremendous sophistication.

Because of these challenges and the threat this type of crime poses to our businesses, I believe we must have a better coordinated and much more concentrated Federal effort. H.R. 5932 accordingly directs the Attorney General to establish an Organized Retail Theft Investigation and Prosecution Unit comprised of Federal prosecutors and investigators from the FBI, ICE, the Secret Service, and the Postal Inspection Service. This unit will investigate and prosecute instances of organized retail theft under Federal jurisdiction as well as assist State and local law enforcement agencies in their efforts against these crimes.

I want to thank the retail and online community for their support of this bill, and I commend their efforts to find ways to work together on this effort. We have also received letters in support of the bill from a number of major business groups, including the Coalition Against Retail Crime, the Food Marketing Institute, the National Association of Chain Drugstores, the Entertainment Merchants Association, the Retail Industry Leaders Association, and the National Retail Federation. EBay has also expressed support for the bill.

I am pleased this bill has strong bipartisan support, and I would like to thank the committee chairman, the gentleman from Michigan, Mr. CONYERS, the ranking member, the gentleman from Texas, Mr. SMITH, and my colleague from Virginia, Mr. GOODLATTE, for cosponsoring this important legislation and for their consistent commitment to this issue. I urge my colleagues to support H.R. 5932.

COALITION AGAINST  
ORGANIZED RETAIL CRIME

Hon. ROBERT SCOTT,  
*House Judiciary Committee, House of Representatives, Washington, DC.*

DEAR CONGRESSMAN SCOTT: On behalf of the Coalition Against Organized Retail Crime (CAORC) and our membership, we urge you to support and pass H.R. 5932 the "Organized Retail Theft Investigation and Prosecution Act of 2010." This bipartisan legislation, introduced by Representatives Conyers, Smith, Scott and Goodlatte, is an important first step in addressing this serious issue.

The CAORC, formed in 2001, is comprised of major retailers, grocers, product manufacturers and trade associations committed to bringing attention to the harmful effects and public safety risks associated with organized retail crime. As you know, sophisticated and methodical organized retail crime rings operate across state and local jurisdictions. These crime rings often use organized retail crime to fund other violent activities and utilize traditional money laundering techniques to conceal their profits. It is time the Department of Justice have the resources it needs to effectively investigate and prosecute these criminals.

Retailers spend millions of dollars on robust a security and loss prevention effort, that protects their goods and ensures con-

sumer safety. They are continually upgrading and adapting these programs to limit retail crime. Nevertheless, this criminal activity continues to grow despite our best efforts.

We thank you for your consideration of H.R. 5932 and urge its passage. We look forward to seeing this legislation become law and working with you in the future to continue to work on this crime epidemic.

Sincerely,

JOHN G. EMLING,  
*Senior Vice President,  
Government Affairs,  
Retail Industry  
Leaders Association.*

FOOD MARKETING INSTITUTE,  
*Arlington, VA, September 20, 2010.*

Hon. BOBBY SCOTT,  
*House of Representatives,  
Washington, DC.*

DEAR REPRESENTATIVE SCOTT: The Food Marketing Institute (FMI), on behalf of the nation's grocery industry, wishes to express the industry's strong support for a bill (H.R. 5932) entitled the "Organized Retail Crime Theft Investigation and Prosecution Act of 2010." This bi-partisan initiative, sponsored by Representatives Bobby Scott (D-VA), John Conyers (D-MI), Lamar Smith (R-TX) and Bob Goodlatte (R-VA), will likely be scheduled for consideration and a vote on the floor of the House on Thursday, September 23, 2010.

If enacted into law, H.R. 5932 will establish a special unit within the U.S. Department of Justice (DOJ) to investigate and prosecute instances of organized retail theft (ORT) over which DOJ has jurisdiction as well as provide assistance to State and local law enforcement agencies in their efforts against what is clearly a very serious criminal problem in our country.

The grocery industry is routinely victimized by sophisticated theft rings that are responsible for stealing millions of dollars worth of merchandise from our members' stores annually. FMI firmly believes a more formal federal response as called for in H.R. 5932 is needed because ORT translates into as much as \$30 billion in losses each year to the retail community nationwide. Not only do consumers pay higher prices as retailers attempt to recover losses resulting from ORT, but state revenues are also adversely impacted by approximately \$1.6 billion in lost sales tax revenue attributable to ORT activity.

Most disturbing is the fact that our customers are often placed at great risk when these criminal enterprises steal certain FDA regulated products, such as infant formula, over-the-counter medications and diabetic supplies, and then resell them in flea markets, pawn shops, swap meets, questionable store front operations and more frequently in recent years via internet auction sites. ORT rings have been known to tamper with the contents of the product and to change labels and expiration dates thereby endangering the health and safety of unknowing consumers, especially infants and the elderly.

In closing, FMI endorses H.R. 5932 and we urge you to vote in favor of this very important initiative.

Sincerely,

LESLIE G. SARASIN,  
*President and Chief Executive Officer.*

ENTERTAINMENT

MERCHANTS ASSOCIATION,  
*Encino, CA, September 22, 2010.*

Re: Organized Retail Theft Investigation and Prosecution Act of 2010 (H.R. 5932).

Hon. ROBERT C. SCOTT,  
*Chairman, Subcommittee on Crime, Terrorism,  
and Homeland Security, Committee on the  
Judiciary, House of Representatives, Wash-  
ington, DC.*

DEAR MR. CHAIRMAN: I am writing on behalf of the Entertainment Merchants Association (EMA) and the approximately 40,000 retail locations operated by our members throughout the United States to express support for the Organized Retail Theft Investigation and Prosecution Act of 2010 (H.R. 5932). We commend you for introducing this important measure.

Unfortunately, the relatively small size and high desirability of DVDs and video games make them popular targets for organized retail crime perpetrators. Based on the "shrink" experience of our members, EMA estimates the loss to retailers in 2008 from DVD shrink (both internal and external sources) to be \$449 million and from video game shrink to be \$197 million. (Not all of these losses are attributable to organized retail crime, of course.) The losses are even more harmful in light of the 13% decline in DVD sales and 11% decline in video game software sales in 2009. The growth of organized retail crime undoubtedly contributes to these declines in sales.

EMA believes that federal organized retail crime legislation can help stem the shrink of DVD and video games. Specifically, EMA advocates, in part, that federal law should specifically criminalize organized retail crime, prevent criminal gangs from using online marketplaces as fencing bazaars, crack down on counterfeit devices that are used to facilitate organized retail crime, and provide additional resources to investigate and prosecute organized retail crime. (We believe this can and should be done without either unduly impairing the ability of video and video game retailers to participate in the used DVD and video game market or undermining the First Sale provision of the Copyright Act (permitting the resale, rental, or other alienation of a lawfully made copy of a copyrighted work without authorization from the copyright holder), which promotes vigorous retail competition and the wide dissemination of popular works.)

H.R. 5932 would establish an Organized Retail Theft Investigation and Prosecution Unit (ORTIP Unit) in the Department of Justice that would be staffed with investigators, prosecutors and others. The ORTIP Unit would be responsible for investigating and prosecuting instances of organized retail theft, over which the Department of Justice has jurisdiction, assisting State and local law enforcement agencies in investigating and prosecuting organized retail theft, and consulting with and advising victims of organized retail theft. The bill would define "organized retail theft" as obtaining retail merchandise by illegal means for the purpose of reselling or otherwise placing such merchandise back into the stream of commerce, aiding or abetting the commission of such acts, or conspiring to commit such acts. H.R. 5932 would also require the Attorney General to submit a report containing recommendations on how retailers, online businesses, and law enforcement agencies can help prevent and combat organized retail theft. Finally, it authorizes \$5 million per year for fiscal years 2011 through 2015 to fund the ORTIP Unit.

EMA believes that the Organized Retail Theft Investigation and Prosecution Act of 2010 will enhance the federal government's focus and provide beneficial coordination

among all levels of government on organized retail crime. We, therefore, urge its adoption.

About Entertainment Merchants Association

The Entertainment Merchants Association (EMA) is the not-for-profit international trade association dedicated to advancing the interests of the \$34 billion home entertainment industry. EMA-member companies operate approximately 35,000 retail outlets in the U.S. and 45,000 around the world that sell and/or rent DVDs, computer and console video games, and digitally distributed versions of these products. Membership comprises the full spectrum of retailers (from single-store specialists to multi-line mass merchants, and both brick and mortar and online stores), distributors, the home video divisions of major and independent motion picture studios, video game publishers, and other related businesses that constitute and support the home entertainment industry. EMA was established in April 2006 through the merger of the Video Software Dealers Association (VSDA) and the Interactive Entertainment Merchants Association (IEMA).

If you have any questions or need further information, you may contact me.

Thank you for the opportunity to express our support for this much-needed bill.

Sincerely,

SEAN DEVLIN BERSELL,  
Vice President, Public Affairs.

NATIONAL ASSOCIATION  
OF CHAIN DRUG STORES,  
Alexandria, VA, September 21, 2010.

Hon. BOBBY SCOTT,  
House of Representatives, Longworth House Office Building, Washington, DC.

Hon. LAMAR SMITH,  
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVES SCOTT AND SMITH: The National Association of Chain Drug Stores (NACDS) is writing to thank you for your extraordinary leadership in the fight against organized retail crime (ORC) by introducing and advancing H.R. 5932, the Organized Retail Theft Investigation and Prosecution Act of 2010. This bipartisan legislation is a strong first step to stem the growing problem of organized retail crime by creating a specific task force within the U.S. Department of Justice to investigate and prosecute instances involving ORC.

NACDS represents traditional drug stores, supermarkets, and mass merchants with pharmacies. Its more than 170 chain member companies include regional chains with a minimum of four stores to national companies. NACDS members also include more than 1,000 suppliers of pharmacy and front-end products, and nearly 90 international members representing 29 countries. Chains operate more than 39,000 pharmacies, and employ a total of more than 2.5 million employees, including 118,000 pharmacists. They fill more than 2.5 billion prescriptions yearly, and have annual sales of over \$750 billion. For more information about NACDS, visit [www.NACDS.org](http://www.NACDS.org).

As you know, organized retail crime is responsible for over \$30 billion in losses annually, resulting in increased costs for merchants, higher prices for consumers, and lost tax revenue for state and local governments. In addition to increased costs faced by retailers to cover losses and investment in additional security measures, consumers are placed at risk when package tampering occurs on consumer health care products, such as infant formula and OTC medications. These stolen products are repackaged and relabeled to falsely extend a product's expiration date or to hide the fact that the item has been stolen.

NACDS has long advocated for federal legislation that treats theft committed by organized, professional crime rings as a federal felony—especially since much of the stolen product is transported across state lines. Therefore, as Congress continues to examine this issue, we would strongly urge you to consider enacting legislation, such as H.R. 1173, the Organized Retail Crime Act of 2009, which would give federal law enforcement officials the authority to pursue and prosecute individuals who engage in such criminal activities, and H.R. 1166, the E-fencing Enforcement Act of 2009, which would combat the growing problem of the use of online marketplaces by criminals to redistribute stolen merchandise, including those obtained through organized retail crime.

We commend you again for introducing and advancing strong bipartisan legislation that will assist retailers and law enforcement combat the serious problem of organized retail crime, and we look forward to working with you to enact this important legislation.

Sincerely,

STEVEN C. ANDERSON,  
President and Chief Executive Officer.

RETAIL INDUSTRY  
LEADERS ASSOCIATION,  
Arlington, VA.

House of Representatives,  
Washington, DC.

DEAR CONGRESSMAN SCOTT: On behalf of the Coalition Against Organized Retail Crime (CAORC) and our membership, we would urge you to vote in favor of H.R. 5932 the "Organized Retail Theft Investigation and Prosecution Act of 2010" when it comes before the full body later this week.

RILA is a trade association of the largest and most successful companies in the retail industry. Its member companies include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than \$1.5 trillion in annual sales. RILA members operate more than 100,000 stores, manufacturing facilities and distribution centers, have facilities in all 50 states, and provide millions of jobs domestically and worldwide.

This bipartisan legislation, introduced by Representatives Conyers, Smith, Scott and Goodlatte, would create a unit inside the Department of Justice dedicated to investigating and prosecuting organized retail crime (ORC) and assisting state and local law enforcement and prosecuting agencies.

As the U.S. Immigration and Customs Enforcement has indicated, "ORC rings are very sophisticated, compartmentalized and operate similar to criminal organizations involved in drug trafficking or human smuggling. Furthermore, transnational criminal syndicates such as Eastern European street gangs and organized crime elements have become increasingly involved, and utilize traditional money laundering techniques to conceal their profits." Furthermore, estimates conclude this crime costs retailers tens of billions of dollars per year and deprives states of hundreds of millions of dollars in lost sales tax revenue.

Retailers spend millions of dollars on robust a security and loss prevention effort, that protects their goods and ensures consumer safety. They are continually upgrading and adapting these programs to limit retail crime. Nevertheless, this criminal activity continues to grow despite their best efforts.

Once again, we ask you to support H.R. 5932.

Sincerely,

JOHN G. EMLING,  
Senior Vice President, Government Affairs.

NATIONAL RETAIL FEDERATION,

Washington, DC, September 22, 2010.

Re: Support the "Organized Retail Theft Investigation and Prosecution Act of 2010" (H.R. 5932).

Hon. NANCY PELOSI,  
Speaker of the House, House of Representatives,  
The Capitol, Washington, DC.

DEAR SPEAKER PELOSI: On behalf of the National Retail Federation (NRF), I am writing to you today to urge your support for the "Organized Retail Theft Investigation and Prosecution Act of 2010" (H.R. 5932) when it comes up for a vote on the suspension calendar this week. We believe this bill is one of the keys to protecting both retailers and consumers against the massive economic costs and very real public health and safety risks posed by organized retail crime. Establishing a team of law enforcement professionals dedicated to fighting these crimes and working in close consultation with retailers shows the importance of this issue to industry, consumers and law enforcement, and serves as an important deterrent to perpetrators.

Retailers lose between \$15 and \$30 billion to organized retail crime (ORC) each year, according to the FBI and retail loss prevention experts. In addition, 89 percent of retailers reported that they were victims of organized retail crime in the past year, according to an annual NRF survey released earlier this year.

ORC rings typically target everyday consumer products that are in high demand and easy to steal, such as infant formula, razor blades, batteries, analgesics, cosmetics and gift cards. More expensive products such as DVDs, CDs, video games, designer clothing and electronics are also highly prized. Once stolen, the goods are resold at pawn shops, flea markets, swap meets and on the Internet. These thefts force retailers to increase prices to cover the losses, and also threaten public health when crime rings tamper with items such as infant formula or medication by extending expiration dates or repackaging and relabeling the items.

This bill will be an important tool in the fight against ORC. It would accomplish this through several key steps. First, it would create an Organized Retail Theft Investigation and Prosecution Unit (ORTIP Unit) in the Department of Justice staffed with investigators, prosecutors and other personnel charged with investigating and prosecuting instances of ORC over which the Department of Justice has jurisdiction. Second, it would define "organized retail theft" as obtaining retail merchandise by illegal means for the purpose of reselling or otherwise placing such merchandise back into the stream of commerce, aiding or abetting the commission of such acts, or conspiring to commit such acts. Third, it requires the Attorney General to submit a report containing recommendations on how retailers, online businesses and law enforcement agencies can help prevent and combat organized retail crime. Finally, it authorizes \$5 million per year for fiscal years 2011 through 2015 to fund the ORTIP Unit.

As the world's largest retail trade association and the voice of retail worldwide, NRF's global membership includes retailers of all sizes, formats and channels of distribution as well as chain restaurants and industry partners from the United States and more than 45 countries abroad. In the United States, NRF represents the breadth and diversity of an industry with more than 1.6 million American companies that employ nearly 25 million workers and generated 2009 sales of \$2.3 trillion.

We thank Representatives Bobby Scott (D-VA), John Conyers (D-MI), Lamar Smith (R-

TX) and Bob Goodlatte (R-VA) for their leadership on this important issue. We urge all members of Congress to support their efforts and vote in favor of H.R. 5932.

Sincerely,

STEVE PFISTER,  
Senior Vice President,  
Government Relations.

I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5932, the Organized Retail Theft Investigation and Prosecution Act of 2010, is an important step in combating a crime that costs retailers and taxpayers billions of dollars every year. I am pleased to join my Judiciary Committee colleagues Chairman CONYERS, Chairman SCOTT, and Congressman GOODLATTE as an original sponsor of this legislation.

Organized retail theft involves the theft of large quantities of merchandise from retail stores. Unlike shoplifters, these thieves steal the merchandise with the intention of selling it back into the marketplace.

In the past, the majority of these stolen goods were resold at swap meets, flea markets, or pawn shops. Today, the most popular venue for selling stolen goods is the Internet. Web sites such as eBay, Craigslist, and Amazon are being exploited by organized retail thieves to sell their stolen goods with relative ease and anonymity. This dynamic makes it increasingly more difficult for retailers and law enforcement agents to identify and apprehend these thieves.

According to FBI estimates, organized retail theft rings cost businesses more than \$30 billion in losses annually. A recent survey conducted by the National Retail Federation found that nearly 90 percent of the retailers surveyed have been victimized by organized retail theft, an 11 percent increase from 2007. The survey also found that roughly 6 out of 10 retailers have seen an increase in organized retail theft in just the last 12 months.

In 2003, the FBI established an Organized Retail Crime Initiative to identify and dismantle large multijurisdictional organized retail crime rings. This initiative included the formation of a National Retail Federation FBI intelligence network. The network is intended to establish an effective means of sharing organized retail crime information and intelligence to discuss trends as they relate to specific sectors and regions of the retail market, and to identify and target the more sophisticated criminal enterprises.

Earlier this year, the National Retail Federation partnered with eBay to develop greater information sharing between eBay and participating retailers. This partnership is a significant step forward in the fight against organized retail theft. Bringing these two industries together will hopefully increase the likelihood of linking thefts from retail stores to goods offered for sale on eBay's Web site.

H.R. 5932 builds upon these efforts by increasing the Federal resources dedi-

cated to organized retail theft investigation. The bill requires the Attorney General to establish an Organized Retail Theft Investigation and Prosecution Unit within the Department of Justice. This unit will include representatives from the FBI, ICE, the U.S. Secret Service and postal inspectors, as well as prosecutors.

The unit will investigate and prosecute large-scale organized retail thefts and provide assistance to State and local law enforcement agencies. The unit will also work in consultation with retailers and online marketplaces to gather information about and identify trends in organized retail thefts.

H.R. 5932 instructs the Attorney General to prepare a report to Congress on how retailers and law enforcement agencies can best combat OCR. The bill authorizes \$5 million a year over 5 years to operate the unit.

This legislation is supported by the National Retail Federation, the Retail Industry Leaders Association, the Coalition Against Organized Retail Crime, the Food Marketing Institute, the National Association of Chain Drugstores, eBay, and the Entertainment Merchants Association.

I would like to thank my colleagues again, Chairman CONYERS, Chairman SCOTT, and Congressman GOODLATTE for their dedication to this issue and for working together to draft this bipartisan legislation. I urge my colleagues to support this bill.

Mr. Speaker, I hope the individual I just mentioned, the gentleman from Virginia, Mr. GOODLATTE, is on his way to the floor, and I hope he will be able to speak on this bill shortly. So I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I appreciate the indulgence of the gentleman from Virginia (Mr. SCOTT), but since our expected speaker is not yet on the floor and I am not entirely certain of the time of his arrival, although I am stalling slightly, I will yield back the balance of my time.

Mr. SCOTT of Virginia. As has been said, Mr. Speaker, I have no further requests for time. I would like to thank the gentleman from Texas for his strong support.

Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Virginia (Mr. GOODLATTE).

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Mr. GOODLATTE. Mr. Speaker, I rise in support of H.R. 5932, the Organized Retail Theft Investigation and Prosecution Act of 2010. This legislation is an important step in combating a growing threat to retailers and consumers.

I am pleased to join my Judiciary Committee colleagues Chairman CONYERS, Ranking Member SMITH and Chairman SCOTT as an original sponsor of this legislation, and I thank the gentleman for true bipartisanship in al-

lowing me to catch my breath in order to be able to give these remarks.

Organized retail theft is a huge and growing problem in the United States. According to FBI estimates, organized retail theft rings cost businesses more than \$30 billion in losses annually. Organized retail theft groups target anything from everyday household commodities to health products to baby formula that can be easily sold through flea markets, swap meets, shady storefront operations, and through online marketplaces.

Thieves often travel from retail store to retail store, stealing relatively small amounts of goods from each store but cumulatively stealing significant amounts of goods. Once stolen, these products are sold back to fencing operations, which can dilute, alter, repackage the goods, and then resell them, sometimes back to the same stores from which the products were originally stolen. These goods are also sold at flea markets, pawn shops and increasingly on the Internet.

When a product does not travel through the authorized channels of distribution, there is an increased potential that the product has been altered, diluted, reproduced, and/or repackaged. These so-called "diverted products" pose significant health risks to the public, especially the diverted medications and food products. Diverted products also cause considerable financial losses for legitimate manufacturers and retailers. Ultimately, the consumers bear the brunt of these losses as retail establishments are forced to raise prices to cover the additional costs of security and theft prevention measures.

Even more troubling is where the money is going. We have seen evidence that organized retail theft is increasingly being used to fund international organized crime and other nefarious activities. At the State level, organized retail theft crimes are normally prosecuted under State shoplifting statutes as mere misdemeanors. As a result, the thieves who participate in organized retail crime rings typically receive the same punishment as common shoplifters. The thieves who are convicted usually see very limited jail time or are placed on probation.

I believe that the punishment does not fit the crime in these situations. Mere slaps on the wrists of these criminals have practically no deterrent effect. In addition, the low-level criminals who are actually stealing these goods from the shelves are easily replaced by the criminal organization's higher level coordinators.

During my 8 years of working on ways to combat organized retail theft, I found that the Federal law enforcement community believed it had adequate Federal laws to prosecute organized retail theft crimes, but that poor communication, lack of coordination among State and local law enforcement and lack of resources were major impediments to effective enforcement.

In order to improve the communications and intelligence-sharing between industry and law enforcement, I offered an amendment to the Department of Justice's reauthorization bill back in 2005, which created a Federal definition of organized retail theft crimes and directed the FBI to contribute to the construction of a national database housed in the private sector where retail establishments, as well as Federal, State and local law enforcement, could compile evidence on specific organized retail theft crimes to aid investigations and prosecutions. This database, which has now become the current LERPnet, has helped to put the pieces together to show the organized and multi-state nature of these crimes as well as to provide important evidence for prosecutions.

I am also pleased to report that the private sector is working together to address this problem. Earlier this year, the National Retail Federation partnered with eBay to develop greater information sharing between eBay and participating retailers. This partnership will hopefully increase the likelihood that more organized retail theft will be detected and prosecuted. H.R. 5932 will build upon the successes of these efforts to provide additional resources to the FBI to investigate organized retail theft.

The bill funds and requires the Attorney General to establish an organized retail theft investigation and prosecution unit within the Department of Justice. This unit will include representatives from the FBI, ICE, U.S. Secret Service, and postal inspectors, as well as prosecutors. The unit will investigate and prosecute large-scale organized retail thefts and will provide assistance to State and local law enforcement agencies. The unit will also work in consultation with retailers and online marketplaces to gather information about and identify trends in organized retail thefts.

In addition, H.R. 5932 instructs the Attorney General to prepare a report to Congress on how retailers and law enforcement agencies can best combat organized retail theft. This legislation is supported by the National Retail Federation, the Retail Industry Leaders Association, the Coalition Against Organized Retail Crime, the Food Marketing Institute, the National Association of Chain Drug Stores, eBay, and the Entertainment Merchants Association.

Again, I wish to thank my colleagues Chairman CONYERS, Ranking Member SMITH and Chairman SCOTT for their dedication to this issue and for working with me to draft this bipartisan legislation. I urge my colleagues to support the bill.

Mr. SMITH of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I would urge my colleagues to support H.R. 5932, and 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. SCOTT) that the House suspend the rules and pass the bill, H.R. 5932, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## TWENTY-FIRST CENTURY COMMUNICATIONS AND VIDEO ACCESSIBILITY ACT OF 2010

Mr. MARKEY of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3304) to increase the access of persons with disabilities to modern communications, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 3304

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

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Twenty-First Century Communications and Video Accessibility Act of 2010".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Limitation on liability.

Sec. 3. Proprietary technology.

#### TITLE I—COMMUNICATIONS ACCESS

Sec. 101. Definitions.

Sec. 102. Hearing aid compatibility.

Sec. 103. Relay services.

Sec. 104. Access to advanced communications services and equipment.

Sec. 105. Universal service.

Sec. 106. Emergency Access Advisory Committee.

#### TITLE II—VIDEO PROGRAMMING

Sec. 201. Video Programming and Emergency Access Advisory Committee.

Sec. 202. Video description and closed captioning.

Sec. 203. Closed captioning decoder and video description capability.

Sec. 204. User interfaces on digital apparatus.

Sec. 205. Access to video programming guides and menus provided on navigation devices.

Sec. 206. Definitions.

### SEC. 2. LIMITATION ON LIABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), no person shall be liable for a violation of the requirements of this Act (or of the provisions of the Communications Act of 1934 that are amended or added by this Act) with respect to video programming, online content, applications, services, advanced communications services, or equipment used to provide or access advanced communications services to the extent such person—

(1) transmits, routes, or stores in intermediate or transient storage the communications made available through the provision of advanced communications services by a third party; or

(2) provides an information location tool, such as a directory, index, reference, pointer, menu, guide, user interface, or hypertext link, through which an end user obtains access to such video programming, online content, applications, services, advanced communications services, or equipment used to provide or access advanced communications services.

(b) EXCEPTION.—The limitation on liability under subsection (a) shall not apply to any person who relies on third party applications, services, software, hardware, or equipment to comply with the requirements of this Act (or of the provisions of the Communications Act of 1934 that are amended or added by this Act) with respect to video programming, online content, applications, services, advanced communications services, or equipment used to provide or access advanced communications services.

### SEC. 3. PROPRIETARY TECHNOLOGY.

No action taken by the Federal Communications Commission to implement this Act or any amendment made by this Act shall mandate the use or incorporation of proprietary technology.

## TITLE I—COMMUNICATIONS ACCESS

### SEC. 101. DEFINITIONS.

Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended—

(1) by adding at the end the following new paragraphs:

“(53) ADVANCED COMMUNICATIONS SERVICES.—The term ‘advanced communications services’ means—

“(A) interconnected VoIP service;

“(B) non-interconnected VoIP service;

“(C) electronic messaging service; and

“(D) interoperable video conferencing service.

“(54) CONSUMER GENERATED MEDIA.—The term ‘consumer generated media’ means content created and made available by consumers to online websites and services on the Internet, including video, audio, and multimedia content.

“(55) DISABILITY.—The term ‘disability’ has the meaning given such term under section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

“(56) ELECTRONIC MESSAGING SERVICE.—The term ‘electronic messaging service’ means a service that provides real-time or near real-time non-voice messages in text form between individuals over communications networks.

“(57) INTERCONNECTED VOIP SERVICE.—The term ‘interconnected VoIP service’ has the meaning given such term under section 9.3 of title 47, Code of Federal Regulations, as such section may be amended from time to time.

“(58) NON-INTERCONNECTED VOIP SERVICE.—The term ‘non-interconnected VoIP service’—

“(A) means a service that—

“(i) enables real-time voice communications that originate from or terminate to the user's location using Internet protocol or any successor protocol; and

“(ii) requires Internet protocol compatible customer premises equipment; and

“(B) does not include any service that is an interconnected VoIP service.

“(59) INTEROPERABLE VIDEO CONFERENCING SERVICE.—The term ‘interoperable video conferencing service’ means a service that provides real-time video communications, including audio, to enable users to share information of the user's choosing.”; and

(2) by reordering paragraphs (1) through (52) and the paragraphs added by paragraph (1) of this section in alphabetical order based on the headings of such paragraphs and renumbering such paragraphs as so reordered.

### SEC. 102. HEARING AID COMPATIBILITY.

(a) COMPATIBILITY REQUIREMENTS.—

(1) TELEPHONE SERVICE FOR THE DISABLED.—Section 710(b)(1) of the Communications Act of 1934 (47 U.S.C. 610(b)(1)) is amended to read as follows:

“(b)(1) Except as provided in paragraphs (2) and (3) and subsection (c), the Commission shall require that customer premises equipment described in this paragraph provide internal means for effective use with hearing