

have 5 legislative days within which to revise and extend their remarks.

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

There was no objection.

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

Mr. Speaker, I rise in support of the bill, S. 4093. This bill will modify the expiration date of a provision of a farm bill dealing with farm credit so that it expires concurrent with the rest of the farm bill. Currently a provision of the farm bill dealing with guaranteed loans for farmers and ranchers expires on December 31 of this calendar year.

The rest of the farm bill, however, does not begin to expire until December 30 of 2007. By passing this bill, we are ensuring that this credit program has the opportunity to be fully debated during the development of the next farm bill. Furthermore, should this provision expire in the next few days, it would create a hardship on the part of those farmers, ranchers, and lenders to whom it would apply.

I ask my colleagues to support this bill so that this credit program which is so important for America's young and beginning farmers has the opportunity to be debated and reevaluated during the development of the next farm bill without causing undue hardship with limited notice to the farmers and ranchers that use this important program.

Mr. Speaker, I urge the passage of this bill, and I reserve the balance of my time.

Mr. MELANCON. Mr. Speaker, I join with Mr. BOUSTANY and rise in support of Senate bill 4093. I would like to thank the leadership of the Senate Agriculture Committee for sending this bill over to us. This bill is just an extension of the term limit waiver until September 30, 2007. It will allow us to fully discuss the issue of guaranteed loan eligibility during the farm bill.

Passage of this legislation will ensure farmers and ranchers won't be left without financing options with little or no notice.

Mr. Speaker, this is especially important in areas suffering from crop and livestock disasters the last several years. I urge the passage of this legislation.

Mr. GOODLATTE. Mr. Speaker, I rise in support of S. 4093. This bill will modify the expiration date of a provision of the farm bill dealing with farm credit so that it expires concurrent with the rest of the farm bill. Currently, a provision of the farm bill dealing with guaranteed loans for farmers and ranchers expires on December 31 of this year. The rest of the farm bill, however, does not begin to expire until September 30, 2007. By passing S. 4093, we are ensuring that this credit program has the opportunity to be fully debated during the development of the next farm bill. Should this provision expire in the next few days, it could create hardship on the part of those farmers, ranchers and lenders to whom it would apply. I ask my colleagues to support S. 4093 so that this credit program, which is important for

America's young and beginning farmers, has the opportunity to be debated and reevaluated during development of the next farm bill without causing undue hardship with limited notice to the farmers and ranchers that use this important program.

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

Mr. BOUSTANY. 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 Louisiana (Mr. BOUSTANY) that the House suspend the rules and pass the Senate bill, S. 4093.

The question was taken; and (two-thirds of those voting having responded in the affirmative) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

#### PREVENTING HARASSMENT THROUGH OUTBOUND NUMBER ENFORCEMENT ACT

Mr. CANNON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5304) to amend title 18, United States Code, to provide a penalty for caller ID spoofing, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5304

*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 "Preventing Harassment through Outbound Number Enforcement Act".

#### SEC. 2. CALLER ID SPOOFING.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

##### "§ 1039. Caller ID spoofing

"(a) IN GENERAL.—Whoever knowingly modifies caller ID information with the intent to defraud or harass another person, or to use another person's caller ID information without consent, shall be fined under this title, imprisoned for not more than five years, or both.

"(b) ATTEMPT; CONSPIRACY.—Whoever attempts or conspires to commit an offense under subsection (a) of this section shall be punished as provided in subsection (a) of this section.

"(c) EXCEPTIONS.—This section does not prohibit the following:

"(1) Any blocking of caller ID information.

"(2) Any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224 of this title.

"(d) DEFINITIONS.—(1) In this section:

"(A) The term 'caller ID information' means information transmitted—

"(i) by a service or device;

"(ii) to the recipient of a telephone call; and

"(iii) regarding the telephone number of, or other information regarding the origination of, the telephone call.

"(B) The term 'telephone call' means a call made using a telecommunications service or VOIP service.

"(C) The term 'VOIP service' means a service that—

"(i) provides real-time 2-way voice communications transmitted through customer premises equipment using Transmission Control Protocol/Internet Protocol, or a successor protocol (including when the voice communication is converted to or from Transmission Control Protocol/Internet Protocol by the VOIP service provider and transmitted to the subscriber without use of circuit switching), for a fee;

"(ii) is offered to the public, or such classes of users as to be effectively available to the public (whether part of a bundle of services or separately); and

"(iii) has the capability to originate traffic to, and terminate traffic from, the public switched telephone network.

"(D) The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(2) A term used in a definition in paragraph (1) has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153)."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

"1039. Caller ID spoofing."

#### PARLIAMENTARY INQUIRY

Mr. SCOTT of Virginia. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SCOTT of Virginia. The Reading Clerk has read the title of the bill. Does that mean it is the originally introduced bill without amendments?

The SPEAKER pro tempore. The Chair understands that the motion is to suspend the rules and pass the bill as amended.

Mr. SCOTT of Virginia. We have looked around the House for a bill, and we have been unable to find a bill in the Speaker's lobby or on the Speaker's desk, other than the introduced bill. Could someone explain to us what we are now considering?

Mr. CANNON. Mr. Speaker, I think that we have five copies at the desk currently.

The SPEAKER pro tempore. Someone will deliver a copy of the bill to the committee table.

Mr. CANNON. Mr. Speaker, we are having a copy directed to Mr. Scott. He has got it.

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

The Chair recognizes the gentleman from Utah.

#### GENERAL LEAVE

Mr. CANNON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 5304, as amended, currently under consideration.

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

There was no objection.

Mr. CANNON. Mr. Speaker, I rise in support of H.R. 5304, the Preventing Harassment through Outbound Number

Enforcement Act, the PHONE Act, which was introduced by Representative TIM MURPHY. I thank Mr. MURPHY for his leadership and commitment to this issue.

In the last few years, the criminal activity known as “spoofing” has been on the rise. Caller ID spoofing occurs when a person deliberately uses an incorrect, fake or fraudulent caller identification to hide their identity in order to facilitate a fraudulent telephone call and to harass, trick or further a fraudulent scheme. The victims of this activity include the legitimate owner of a caller ID or the recipient of a fraudulent telephone call, who, as a result, may divulge legitimate financial or identifying information such as credit card numbers or other financial information. Spoofing is nothing less than criminal fraud.

Spoofing technology has become more accessible to the average person, either through the purchase of Internet telephone equipment or through Web sites specifically set up to spoof. These Web sites promote spoofing as a device to commit fraud, prank phone calls and political attacks, and are used by telemarketers who are attempting to avoid the current “do not call” limits.

H.R. 5304 creates a new Federal crime prohibiting the modification of caller ID to harass or commit fraud or use another person’s ID without that person’s consent. The bill imposes a penalty of a prison term of up to 5 years and/or a fine for any violation. However, the legislation does not affect legally available blocking of caller ID technology or lawfully authorized activities of law enforcement intelligence agencies.

This legislation will help to deter telephone fraud, to protect consumers from harassment, and to increase protection of consumers and their personally identifiable data from fraudulent telephone use.

I urge my colleagues to join together to pass this bipartisan legislation, H.R. 5304.

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

Mr. SCOTT of Virginia. Mr. Speaker, I would like to thank the gentleman from Pennsylvania for introducing the bill that addresses an important issue. People should be prohibited from defrauding, harassing others using this technology. A misleading caller ID can enable criminals to get information that they couldn’t otherwise get. It will enable people to harass. There may be, however, legitimate uses for this technology, and that is why I have to oppose the motion to suspend the rules and pass the bill at this point.

□ 2345

There are a lot of people for whom it should be illegal. But, Mr. Speaker, I want to express my appreciation for them handing me a bill as the debate started. We have been negotiating the information in the bill.

We had a hearing and we found that there are a lot of legitimate uses for

this. For example, women’s shelters use misleading caller ID numbers. Businesses may use a misleading caller ID number if they are calling from one line of many lines. If they want people to call back on their main line, they want to use that caller ID.

When we had our hearing we heard that we may want to differentiate from defrauding and harassing with a criminal intent for criminal gain as opposed to just harassing. Maybe we might not have a 5-year felony, you might want to have a misdemeanor.

So I was under the impression earlier today that we were going to continue negotiating this and work on it and get a decent bill next year.

Also I heard, Mr. Speaker, that the FBI has made recommendations on the bill. We don’t have that information yet because the recommendations have not been cleared by OMB. I would ask the chief sponsor or the proponents of the legislation why it is so important to pass the legislation before the Bush administration’s Federal Bureau of Investigation comments can be considered?

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

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

Mr. Speaker, let me point out to the gentleman that this is in fact an ongoing problem where we have crimes being committed and some difficulty in some cases actually having a rationale for prosecuting people that are using this sometimes in very harsh criminal circumstances.

The original bill used the term “misleading.” I think we have changed that now to “defraud or harass.” There is no legitimate purpose when you are talking about the defrauding or harassing.

So I would encourage my colleagues to support this bill. It is much improved, taking into account the concerns of the gentleman from Virginia, and I believe that it is an appropriate bill, a bill that is well-drafted now, and I would urge its passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. MURPHY), the author of the bill.

Mr. MURPHY. Mr. Speaker, I rise to ask for support for my bill, H.R. 5304, the Preventing Harassment through Outbound Number Enforcement Act, or the PHONE Act.

This bill is a critically important consumer protection from fraud, deception and other crimes. It offers for the first time criminal penalties for those who falsify a caller ID number in the commission of a crime.

Over the years, Congress has repeatedly worked to prevent consumers from identity theft. Unfortunately, with new technology comes new risks and new opportunities for criminals to evade the law. One of these new technologies used by thieves is the practice of call spoofing or caller ID fraud.

With caller ID fraud, one masks their identity by altering their outbound

caller ID number in order to mislead the call recipient. In other words, you can make a call from your phone, but to the one who is receiving the call, your caller ID number can be anything you so choose. In short, caller ID fraud takes away accountability from people who wish to do harm to others.

Today, 21st century criminals are using fake caller identification to anonymously defraud and harass Americans all across the country. That is why I am so pleased that Congress is considering H.R. 5304 tonight, in order to penalize caller ID fraud perpetrators.

This bill is particularly necessary to protect American families and the elderly now. It doesn’t take much imagination to understand how dangerous this practice could be for unsuspecting people.

For example, a criminal could try to obtain personal financial information from individuals by falsely using a bank’s phone number. An ex-spouse can harass a former wife or husband who has blocked calls from the ex-spouse’s phone line. A pedophile could stalk a child by using a school phone number or the phone number of a friend of the child. A sexual predator could use a doctor’s office phone number. Or a terrorist could make threats from a government phone number, and there is no quick way to trace that original call.

The criminal use of caller ID fraud is not just a possibility. Here are some very real-world examples of caller ID fraud that are very disturbing.

The AARP Bulletin reported a case in which people received calls which falsely claimed that they missed jury duty. To avoid prosecution, callers told their victims that they needed to give their Social Security number and other personal information. The phone number that appeared in the caller ID was from the local county courthouse, so people assumed the caller was telling the truth.

A security company, Secure Science Corporation, has stated that criminals have accessed these legal call spoofing Internet sites in order to protect their identities while they buy stolen credit card numbers. These individuals then call a money transfer service, such as Western Union, and use a fake caller ID and a stolen credit card number to order cash transfers to themselves.

If the name on the credit card is John Doe of 123 Main Street and the caller ID number that shows up is for John Doe of 123 Main Street, it is easy to see how someone can be deceived into credit card fraud.

Here is another example. In 2005, SWAT teams surrounded an empty building in New Brunswick, New Jersey, after police received a call from a woman who said she was being held hostage in an apartment. However, the woman had intentionally used a false caller ID and she was not in the apartment at all. Imagine what might have happened when those SWAT teams showed up. Imagine what might have happened.

This practice of making a false alarm to a SWAT team has occurred numerous times across the country. So, not only does this practice have the potential for tragedy, but it also diverts police and can be used to mask other crimes or homeland security threats.

It is for these reasons that I introduced H.R. 5304, to punish those who engage in the intentional practice of misleading others into caller ID fraud. Violators of the bill will be subject to a penalty of up to 5 years in prison and a maximum fine of \$250,000. There is no mandatory sentencing involved in this bill.

I am hopeful the Senate can quickly approve the bill, so we can send this bill to the President and protect consumers.

Mr. Speaker, I should point out that the bill came together in a bipartisan fashion. The bill was examined at hearings of the Judiciary Subcommittee on Crime, Terrorism, and Homeland Security on November 15 of this year. My two distinguished colleagues, Chairman HOWARD COBLE and Ranking Member BOBBY SCOTT of Virginia asked many probing questions and offered insights that were invaluable. Their legal expertise truly improved this bill and made sure it was not one that dealt at all with those who may use these in legal fashions, those that would not be considered crimes.

Thanks to their input, the bill was amended to achieve an agreement and brought before the House tonight. I sincerely thank them and everybody else on the Judiciary Committee for their cooperation on this bill and their commitment to this important consumer protection.

I certainly also want to thank Chairman SENSENBRENNER and the full committee and congratulate him on his remarkable tenure as chairman of the House Judiciary Committee.

I want to thank Phil Kiko, general counsel of the House Judiciary Committee; Mike Layman, my legislative director; and especially Susan Mosychuk, my chief of staff.

Mr. Speaker, over the years, Congress has been routinely criticized as a reactive institution. Tonight, that Congress takes a proactive step to move a bill that addresses a problem before further tragedies occur. This bill will help to stop crime, protect identity theft and protect lives, and I urge all Members to support the PHONE bill.

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

Mr. Speaker, this was earlier identified as bipartisan legislation. It is legislation that is supported in principle by both sides. However, I would point out that as of this morning, there were no Democratic cosponsors. But it is important legislation, because of the examples cited by the gentleman from Pennsylvania, and the bill is still a work in progress.

It is an improved bill. In fact, it includes many amendments that have

been discussed. One, it limits the application of the bill to cases where there is harassment or defrauding, not just misleading. I think that is an important improvement. And there is language offered by this side that addressed the case we heard where someone else's caller ID number was being used, people were making insulting phone calls, they would look at their caller ID and then call the person whose caller ID number was there. He didn't know anything about it and he was getting all of these complaining phone calls. Both of these are good improvements.

But I would still be interested in knowing what the FBI might have to say about it. They have to enforce the law. They might have some important suggestions that would be important to include in the bill.

I would ask the proponents of the bill again why it is so important to consider the legislation before the FBI has had an opportunity to be heard? We don't have to adopt their ideas, but it seems to me that since they are going to enforce it, we ought to at least listen to what they have to say.

We had indicated to the other side that we would bring it up as one of the first bills next year if we could get the FBI consideration, continue negotiating the little details and have a bill that we could be proud of.

However, Mr. Speaker, we are having it today, a work in progress, where this side just gets handed the legislation as the debate starts, which is I think insulting, and I think we have heard references to what happens in the middle of the night. Hopefully we can get the answer about the FBI from the other side.

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

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

I would like to introduce for the RECORD a letter dated today, from the Department of Justice, that I think answers some of the questions that the gentleman from Virginia has asked. We will see that a copy of this is delivered to the gentleman.

DEPARTMENT OF JUSTICE, OFFICE OF  
LEGISLATIVE AFFAIRS, OFFICE OF  
THE ASSISTANT ATTORNEY GENERAL,

Washington, DC, December 8, 2006.

Hon. F. JAMES SENSENBRENNER, JR.  
Chairman, Committee on the Judiciary,  
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Department of Justice appreciates the opportunity to comment on H.R. 5304, the "Preventing Harassment through Outbound Number Enforcement Act" ("PHONE Act"). As Deputy Assistant Attorney General Barry Sabin testified before the Subcommittee on Crime, Terrorism, and Homeland Security last month, we support Congressional action to give law enforcement better tools to protect our citizens and our country from identity thieves, stalkers, and other criminals.

Overall, the bill would support the Department's efforts to combat the threats caused by the widespread availability of "caller ID spoofing." As noted at the Subcommittee's

hearing on the PHONE Act, these threats include preying on the elderly, harassment of telephone users, and dangerous false alarms to public safety personnel. Caller ID spoofing facilitates a number of serious crimes, including identity theft, pretexting, and privacy invasions. It can also be used to hamper important, time sensitive investigations.

The Department was especially pleased to see that the scope of the bill includes both conventional telephone calling and many types of voice over Internet protocol ("VOIP") services. VOIP is an important new advance in the way Americans communicate, and our laws need to keep up with such technological advances if these new innovations are to reach their full potential.

The drafters also have wisely recognized that, at times, it may be necessary to modify caller ID information in the course of authorized law enforcement and intelligence operations. Accordingly, the bill properly includes an exception for these legitimate law enforcement and intelligence activities.

The Department has a number of recommendations (described below) to clarify the bill and to make it even more effective.

A. The bill could be made more effective by creating a more graduated series of offenses.

Proposed Section 1038(a) creates only a single offense, a felony. A felony is a very serious charge that carries heavy penalties that may not be proportional to the conduct at issue in every case. The drafters may wish to consider a more graduated series of offenses that would allow prosecutors to charge misdemeanor offenses in appropriate circumstances. For instance, felony penalties could be reserved for caller ID spoofing done in furtherance of another crime or tort, while those playing practical jokes could be charged with a misdemeanor offense. This could lead to greater use of the statute and more just results. Such an approach has been implemented in other federal criminal statutes such as 18 U.S.C. §1030(c)(2)(B) (part of the Computer Fraud and Abuse Act) and 18 U.S.C. §270 I (b) (the criminal provision in the Electronic Communications Privacy Act).

B. The bill could be made more effective by prohibiting attempts.

A prosecution should not depend on whether a criminal was successful in the object of his or her crime. Thus, if a call placed by a criminal attempting to mislead another does not go through for some reason, the criminal should be punishable as if the call had been completed. Such failures may occur where a service has blocked certain numbers, such as 911, or even for more mundane technical problems. These failures do not make the criminal any less culpable for attempting to mislead others. Thus, we recommend that the bill punish attempts the same as the substantive offense.

C. The new provision should be numbered 18 U.S.C. §1039.

The bill seeks to add a new provision to the end of Chapter 47 of Title 18. Section 1038 in Title 18 already exists, however, and we understand that there is a good chance that a bill currently moving through Congress would create a new section numbered 1039. Thus, this bill should be numbered either 1039 or 1040 instead.

D. The drafters may wish to include a clear statement of jurisdiction.

We believe that the bill as written contains a sufficient nexus to interstate commerce to justify federal jurisdiction in most cases. Nevertheless, in order to make jurisdiction even more clear, the Committee may want to consider adding the phrase "using any facility or means of interstate or foreign commerce" to proposed subsection 1038(a). Alternatively, it may be helpful to include a specific finding regarding jurisdiction in the Committee's report.

E. The bill can be made more effective by prohibiting "generating and transmitting" misleading caller identification information in addition to "modifying" such information.

Some of the caller ID spoofing services available today do not actually modify caller ID information. As a technical matter, the service creates a new telephone call, thereby generating or transmitting new caller ID information. To take into account such situations, we recommend that, in addition to modifying information, the bill also cover generating or transmitting caller ID information with an intent to mislead.

F. The bill can be made more effective by prohibiting caller ID spoofing with the intent to mislead any other person.

Caller ID spoofing can be used not only to mislead call recipients, but also to defraud communications service providers. In addition to misreporting the information that eventually is displayed on call recipients' caller ID displays, the same methods can be and are used to falsify the telephone numbers that carriers use to determine appropriate billing for calls that are carried on their networks. The bill can be strengthened to include this type of fraud by prohibiting misleading "any other person" rather than only misleading call recipients.

G. The bill can be made more effective by clarifying the definition of "caller ID information."

As currently drafted, the definition of "caller ID information" is difficult to parse. We would recommend rewording proposed subsection 1038(c)(1)(A) to say "The term 'caller ID information' means information regarding the origination of the telephone call, including the telephone number of the originating party."

H. The bill can be made more effective by focusing the definition of "telephone call" on the service used to receive calls rather than the service used to make calls.

The bill seeks to cover matters involving "telephone calls." A "telephone call" is defined as a "call made using a telecommunications service or a VOIP service." See proposed subsection 1038(c)(1)(B) (emphasis added). This definition focuses on the service being used to make the call, thereby allowing the person seeking to mislead others to avoid criminal liability by choosing a service not covered by the statute. For example, a caller using a service that allows only outbound calls to the public switched telephone network (PSTN) would not be covered (without the modifications suggested in Section I below), even though ordinary telephone users would be receiving such calls. The bill's coverage more properly should depend on the type of service being used to receive the call, since it is call recipients that the bill seeks to protect from being misled. We recommend that the definition of "telephone call" be changed to read "The term 'telephone call' means a communication made using or received on a telecommunications service or VOIP service."

I. The bill can be made more effective by expanding the definition of "VOIP service."

We have a number of concerns with the narrow scope of the definition of "VOIP service," a definition that soon could be overtaken by advances in technology. It is important to craft this definition well not only because of the effect it would have on the scope of this bill, but because of the effect it could have on the scope of other important programs, such as the Communications Assistance for Law Enforcement Act and emergency response services. As Thomas Navin, Chief of the Wireline Competition Bureau of the Federal Communications Commission, testified before the Subcommittee on Telecommunications and the Internet of the En-

ergy and Commerce Committee, "a restrictive definition of VOIP . . . might establish a statutory precedent that would restrict the Commission's authority to protect life and property in both the public safety and law enforcement contexts." The Department has expressed similar concerns in regulatory proceedings and in connection with other bills introduced this Congress, and we would respectfully raise those same concerns with this Committee.

1. The bill can be made more effective by eliminating the requirement that a VOIP service be transmitted "through customer premises equipment."

It is not clear why protection from being misled by caller ID information should depend on whether VOIP service is transmitted "through customer premises equipment," as set forth in proposed subsection 1038(c)(1)(C)(i). We therefore suggest deleting these words ("through customer premises equipment") to broaden the scope of the bill.

2. The bill can be made more effective by eliminating the requirement that a VOIP service use Transmission Control Protocol.

The bill should not be limited to services that use the Transmission Control Protocol ("TCP"), as many current VOIP services use another protocol (that is not a successor to TCP) called the User Datagram Protocol ("UDP"). We therefore recommend that "Transmission Control Protocol" be deleted from proposed subsection 1038(c)(1)(C)(i).

3. The bill can be made more effective by clarifying the parenthetical in the definition of a "VOIP service."

Proposed subsection 1038(c)(1)(C)(i) provides that a VOIP service is covered even when the Internet protocol conversion is performed "without use of circuit switching." The Department believes that this provision is unclear. We recommend that the parenthetical be clarified.

4. The bill can be made more effective by eliminating the requirement that a VOIP service be offered "for a fee."

The Department believes it would be preferable that the bill's prohibition not depend on the provider's business model, that is, not apply only to those VOIP services offered "for a fee." See proposed subsection 1038(c)(1)(C)(i). At least some VOIP services are offered at no charge and will be supported by revenue generated from sources other than user fees, such as advertising revenue. In fact, several VOIP providers are currently offering free calls to or from the PSTN. There is no reason why the business model of the service provider should have an impact on the scope of the bill's coverage.

5. The bill can be made more effective by eliminating the requirement that a VOIP service must offer two-way interconnection to the PSTN.

The bill also limits "VOIP service" to a service that "has the capability to originate traffic to, and terminate traffic from, the public switched telephone network [PSTN]." See proposed 18 U.S.C. §1038(c)(1)(C)(iii) (emphasis added). This provision is unnecessarily restrictive for two reasons. First, some VOIP providers offer services that only allow one of those two capabilities. Under the definition in the bill, a call to a person's telephone is not a "telephone call" if the caller's service does not also allow that originator to receive calls from the PSTN. There is no reason a person should be allowed to mislead call recipients, even ones using traditional telephone service, simply because he or she uses a service that restricts incoming calls. Even if the bill were amended as suggested above to focus on the service used to receive calls, there is no reason why subscribers to receive-only services should be less protected from fraudulent caller ID information simply because their

ability to call out is limited. We recommend that, at a minimum, the word "and" be changed to "or" in proposed subsection 1038(c)(1)(C)(iii).

In addition, the bill only covers services that are capable of interconnecting with the PSTN. Reference to the PSTN could be interpreted to limit its applicability to one particular set of wires, i.e., the traditional telephone network. If, as some predict, the future of telephone communications shifts entirely away from that older network, the bill could become a dead letter. We recommend adding "or a successor network" at the end of proposed subsection 1038(c)(1)(C)(iii).

J. The bill can be made more effective by including a forfeiture provision.

In addition, the Department believes the bill would have more deterrent effect if it also included a forfeiture provision. Specifically, a court could order the convicted party to forfeit the proceeds derived from the offense, along with equipment used to facilitate the offense. The language for a forfeiture provision could be modeled on the wording used for the CAN-SPAM Act of 2003. See 18 U.S.C.A. §1037(c).

K. The bill can be made more effective by giving prosecutors tools to combat money laundering of illegal proceeds of violations of the PHONE Act and the CAN-SPAM Act.

We recommend adding proposed section 1039 and existing section 1037 to the list of "specified unlawful activities" in section 1956(c)(7)(D) of title 18. This amendment would make certain financial transactions involving the proceeds of violations of sections 1037 and 1039 money laundering offenses under 18 U.S.C. §§1956 and 1957, and it will provide for the civil forfeiture of such proceeds. See 18 U.S.C. §981(a)(1)(C) (providing for the civil forfeiture of proceeds of crimes designated as "specified unlawful activity"). Existing law provides that comparable crimes, e.g., violations of 18 U.S.C. §1030 (computer fraud and abuse) constitute specified unlawful activities.

For convenience, we have included recommended edits to the text of the bill in order to accomplish many of the recommendations suggested above (attached hereto as Appendix A). The Department appreciates the Committee's leadership in ensuring that our country's laws meet this new challenge. Thank you for the opportunity to comment on the bill and for your continuing support.

The Office of Management and Budget has advised that there is no objection to the presentation of these views from the standpoint of the Administration's program. If we may be of additional assistance, please do not hesitate to contact this office.

Sincerely,

JAMES H. CLINGER,  
*Acting Assistant Attorney General.*

Mr. CANNON. Mr. Speaker, the Department of Justice supports the bill. We recognize that sometimes in the helter-skelter of closing up Congress, things happen quickly and maybe not perfectly. I think this bill is a good bill. I think this bill does what we need it to do. I think we have answered the major questions here. We may have to revisit it sometime in the future, but I would like to see law enforcement have this tool.

So I urge my colleagues to support the passage of the bill.

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

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

Mr. Speaker, when the FBI testified on the bill, they indicated they had some concerns. I assume I will get the concerns after we finish considering the bill. We had to beg for a copy of the legislation so we would know what we are debating. Now, I guess, would it hurt your feelings to let me know what the FBI had to say about it? They had concerns when they testified on the bill. Let me just say that. I will just wait over here until I can get a copy of their comments so I know what they said.

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

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

Mr. Speaker, we have a copy of those comments on the way over to the gentleman from Virginia. I would hope we would never require begging in this institution for access to information, and I apologize for any inconvenience.

While we are delivering the Department of Justice's letter, the first paragraph of which talks about supporting the bill, I would be happy to yield to the gentleman from Pennsylvania such time as he may consume.

Mr. MURPHY. Mr. Speaker, I wanted to address Mr. SCOTT's concerns. I know during the Judiciary Committee the gentleman from Virginia raised a couple of very important issues. One, he wanted to make sure there were no mandatory sentencing penalties in this; and, two, to make sure it did not disallow some legal practices.

For example, businesses may use a caller ID when they call someone to protect the privacy of people within that business. Indeed, my understanding is the wording of this does address that, according to what Judiciary and the Department of Justice has looked at with that wording.

So it made sure that those within a business may have use or those with other legitimate uses for using a caller ID. It is only related to those who harass or defraud others, so only specifically in the commission of a crime. I just want to say it addressed those issues, as far as I know.

Mr. CANNON. Mr. Speaker, has the gentleman from Virginia had the opportunity to review the document and the bill?

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

Actually I would say to the gentleman from Utah, I haven't gotten any letter from the Justice Department yet. I assume it is in transit. It is a long way from that side of the aisle to this side of the aisle. I don't know what kind of communication method we are using, but I haven't gotten it yet.

I would point out, as the gentleman from Pennsylvania has indicated, when we make calls out of our offices in Congress, the caller ID number that shows up on someone's caller ID machine is some nonworking switchboard number.

Mr. CANNON. Mr. Speaker, if the gentleman would yield, one of the

greatest pains in my life is the fact that we have colleagues in this institution who are sometimes troublesome, and so we get that caller ID and I think it is from my office and I end up talking to one of my colleagues I might not have talked to if I wasn't being spoofed by the institution.

My understanding is we had to make a copy of that letter. Apparently it was the only one we had. So we will have a copy coming to you momentarily. It is being delivered currently to your staff.

Mr. SCOTT of Virginia. Mr. Speaker, having just been handed the letter and gone through it very quickly, I would just point out that the last sentence on the first page says, "The department has a number of recommendations (described below) to clarify the bill and to make it even more effective."

They suggest, just briefly going through it, A, B, C, D, E, F, G, H, I, 1, 2, 3, 4, 5, J, K, improvements needed for the bill.

□ 0000

I do not know if this is a copy or original or what, but I hope everybody reads the letter that was entered previously in the RECORD so they will know that we are taking this action before we have had any time to consider the recommendations of the FBI which will have the responsibility of enforcing the bill, if it ever becomes law at the end of this session.

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

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

Let me point out to the gentleman that those are not recommendations of things that are needed to improve the bill but suggestions for improvement of the bill, and I would ask my colleagues to support the bill as it stands.

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

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

A, the bill could be made more effective by creating a more graduated series of offenses and then details.

B, the bill could be made more effective by prohibiting attempts, then a description.

C, a new provision should be numbered 18 U.S.C. 1039 and a description.

D, the drafters may wish to include a clear statement of jurisdiction.

E, the bill could be made more effective by prohibiting, generating, and transmitting misleading caller identification information in addition to modifying such information, on and on and on.

These are substantive recommendations that we are just going to ignore by taking this bill up in the middle of the night right here at the end of the session with a bill that has been handed to this side at the last minute, with the FBI recommendations that have been hiding the ball right up until I demanded it, and then they finally let it go.

This is a ridiculous way to put things in the Criminal Code, and I would hope we would defeat the legislation.

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

Mr. CANNON. Mr. Speaker, I yield myself such time as I may consume and would like to point out, I am sure the gentleman when he talks about hiding the ball he is not referring to us. We have been working with the Justice Department to get this information.

We got to the gentleman's office this bill by midday today and, again, we apologize for the technical difficulties. I am not sure if the gentleman opposes the bill in substance, but I would again encourage my colleagues to support the bill.

It is my understanding the gentleman is likely to be the chairman of the Crime Subcommittee next year and can bring this up and improve it with all of the comments and the suggestions that the Justice Department has proposed, and therefore I hope that he will join with me in supporting this bill for its passage. I encourage my colleagues to pass it.

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

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

Mr. Speaker, I cannot support the bill in its present form. I think we can put a bill together if we are given time. Since we have little time, we got through E. F is the bill can be made more effective by prohibiting caller ID spoofing with the intent to mislead any other person.

G, the bill could be made more effective by clarifying the definition of "caller ID information."

H, the bill can be made more effective by focusing the definition of "telephone call" on the service used to receive calls rather than the service used to make calls.

I, the bill can be made more effective by expanding the definition of "VOIP service."

Then one, they could go through what the VOIP service details.

The bill can be made more effective by including a forfeiture provision.

The bill can be made more effective by giving prosecutors tools to combat money laundering of illegal proceeds of violations of the PHONE Act and the CAN-SPAM Act.

Mr. Speaker, you will remember that we were not going to get this until I demanded it time and time again and they finally produced it, and now we find out that the information from the FBI is very critical of the bill, suggesting that it needs a lot of work, and we can do the work. We could sit down and hammer it out. I think everybody agrees that something needs to be done about this situation. It is a work in progress.

I notice in here an amendment that was suggested this afternoon is, in fact, in the bill in a slightly different wording and I think better wording in the

bill than the original suggestion. So it is a work in progress.

But, Mr. Speaker, this is not the way we ought to be legislating. We can do better than this, and I think we ought to defeat the bill now, bring it up early in the next session, and have a product that everybody can be proud of.

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

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

Mr. Speaker, I appreciate the gentleman's concerns and would point out if he had more time with the bill, if the staff had gotten it to him earlier today, I suspect he would have seen that many of the suggestions he has made here or suggestions he has read from the Department of Justice document have actually been taken into account. Misleading, for instance, is one of the terms that has been adjusted because it is very difficult to deal with.

The question here is are we going to let the perfect be the enemy of the good. This is a bill that is very important to the American people. If you are a divorcee and your husband is harassing you and he is using a fake phone number to do it, you do not want to wait until next session. You want the bill passed now so that your former husband is going to be more careful and not abuse you and your children and maybe not subject you to injury or harm.

I suggest that those people that are using spoofing need to be told today that this is inappropriate, and I urge passage of this bill.

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 Utah (Mr. CANNON) that the House suspend the rules and pass the bill, H.R. 5304, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those voting have responded in the affirmative.

Mr. SCOTT of Virginia. 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 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

#### MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 4121. An act to provide optional funding rules for employers in applicable multiple employer pension plans.

#### COMPETE ACT OF 2006

Mr. CANNON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3821) to authorize certain athletes to be admitted temporarily into the United States to compete or perform in an athletic league, competition, or performance.

The Clerk read as follows:

S. 3821

*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 either the "Creating Opportunities for Minor League Professionals, Entertainers, and Teams through Legal Entry Act of 2006" or the "COMPETE Act of 2006".

#### SEC. 2. NONIMMIGRANT ALIEN STATUS FOR CERTAIN ATHLETES.

(a) IN GENERAL.—Section 214(c)(4)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(4)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

"(i)(I) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance;

"(II) is a professional athlete, as defined in section 204(i)(2);

"(III) performs as an athlete, or as a coach, as part of a team or franchise that is located in the United States and a member of a foreign league or association of 15 or more amateur sports teams, if—

"(aa) the foreign league or association is the highest level of amateur performance of that sport in the relevant foreign country;

"(bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association; and

"(cc) a significant number of the individuals who play in such league or association are drafted by a major sports league or a minor league affiliate of such a sports league; or

"(IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production; and

"(ii) seeks to enter the United States temporarily and solely for the purpose of performing—

"(I) as such an athlete with respect to a specific athletic competition; or

"(II) in the case of an individual described in clause (i)(IV), in a specific theatrical ice skating production or tour."

(b) LIMITATION.—Section 214(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(4)) is amended by adding at the end the following:

"(F)(i) No nonimmigrant visa under section 101(a)(15)(P)(i)(a) shall be issued to any alien who is a national of a country that is a state sponsor of international terrorism unless the Secretary of State determines, in consultation with the Secretary of Homeland Security and the heads of other appropriate United States agencies, that such alien does not pose a threat to the safety, national security, or national interest of the United States. In making a determination under this subparagraph, the Secretary of State shall apply standards developed by the Secretary of State, in consultation with the Secretary of Homeland Security and the heads of other appropriate United States agencies, that are applicable to the nationals of such states.

"(ii) In this subparagraph, the term 'state sponsor of international terrorism' means

any country the government of which has been determined by the Secretary of State under any of the laws specified in clause (iii) to have repeatedly provided support for acts of international terrorism.

"(iii) The laws specified in this clause are the following:

"(I) Section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)) (or successor statute).

"(II) Section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).

"(III) Section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a))."

(c) PETITIONS FOR MULTIPLE ALIENS.—Section 214(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(4)), as amended by subsection (b), is further amended by adding at the end the following:

"(G) The Secretary of Homeland Security shall permit a petition under this subsection to seek classification of more than 1 alien as a nonimmigrant under section 101(a)(15)(P)(i)(a)."

(d) RELATIONSHIP TO OTHER PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT.—Section 214(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(4)), as amended by subsections (b) and (c), is further amended by adding at the end the following:

"(H) The Secretary of Homeland Security shall permit an athlete, or the employer of an athlete, to seek admission to the United States for such athlete under a provision of this Act other than section 101(a)(15)(P)(i) if the athlete is eligible under such other provision."

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

The Chair recognizes the gentleman from Utah.

#### GENERAL LEAVE

Mr. CANNON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 3821, currently under consideration.

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

There was no objection.

Mr. CANNON. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of Senate 3821, the COMPETE Act of 2006. S. 3821 would allow minor league professional athletes and certain performers to utilize the P-1 visa category.

The P-1 visa category allows internationally recognized performers, including athletes, artists and entertainers, to temporarily enter the U.S. for a specific event, competition or performance. To date, Citizenship and Immigration Services has interpreted the Immigration and Nationality Act in such a way that only allows major league professional athletes to utilize the P-1 visa category.

Minor league baseball and hockey players and some professional performers have been forced to utilize the H-2B visa category, which is capped at 66,000 visas annually and has been oversubscribed in recent years. Many minor league baseball and hockey teams attempt to bring in new players at times