

## **STOP COUNTERFEITING IN MANUFACTURED GOODS ACT**

**Issue:** The proliferation of counterfeit goods in the US market is a growing problem, with serious ramifications for US businesses and consumers alike. At IHA's Governmental Affairs Committee meeting in 2004, there was a prolonged discussion about the influx of counterfeit goods into the US market from China, ranging from various housewares products to machine dies and molds. According to the Federal Bureau of Investigation, Customs and Immigration Enforcement Agents estimate that sales of counterfeit goods are enriching criminal organizations by as much as \$500 billion in sales per year.

**Background:** Building upon legislation introduced last year, Representative Joe Knollenberg (R-MI) introduced H.R. 32 early in the 109<sup>th</sup> Congress. In advocating for the passage of the "Stop Counterfeiting in Manufactured Goods Act," Congressman Knollenberg remarked that, "When it comes to the economy overall, the U.S. Customs Service has estimated that counterfeiting has resulted in the loss of 750,000 jobs and costs the United States around \$200 billion annually . . . We must provide more tools to fight counterfeiters, not only for the economy, but for the safety of our consumers."

In short, H.R. 32 amends U.S. criminal code provisions regarding the trafficking in counterfeit goods or services to prohibit trafficking in counterfeit marks. It also directs the courts to:

- (1) Upon a determination by a preponderance of the evidence that any article in the defendant's possession bears or is a counterfeit mark, to order the forfeiture and destruction of such article, regardless of whether the defendant is convicted of an offense; and
- (2) In imposing sentence, to order a person convicted of, or who pleads guilty or nolo contendere to, a violation to forfeit to the appropriate Federal authorities any property (including manufacturing machinery, tools, and dies) derived from proceeds of, or used in the commission of, the violation.

The bill also modifies the definition of "counterfeit mark" to include a spurious mark that is applied to, or consists of, a label, patch, or medallion. In addition, the bill makes clear that noting in the Act shall entitle the United States to bring a criminal cause of action for the repackaging, without deception, of genuine goods or services.

**Status:** On May 23, the House of Representatives passed H.R. 32 by voice vote. The bill has been referred to the Senate Judiciary Committee where it awaits further action. However, on September 14, Chairman Arlen Specter (R-PA) and ranking Democrat Pat Leahy (D-VT) joined together and sponsored S. 1699, the Senate counterpart to H.R. 32. The Committee is not expected to take up the bill until after it has completed its consideration of the Harriet Meirs nomination to the U.S. Supreme Court later this fall.

**IHA Position:** H.R. 32 was a major focus of IHA's Governmental Affairs Committee on June 29 in Washington. Following the meeting, IHA members conducted a series of meetings in the Senate, advocating the merits of H.R. 32, as well as the need to stop counterfeit goods before

they enter the U.S. marketplace. IHA has joined the “Coalition Against Counterfeiting and Piracy” (organized under the auspices of the U.S. Chamber of Commerce and the National Association of Manufacturers) and will be lobbying for the enactment of strong anti-counterfeit and piracy legislation in the 109<sup>th</sup> Congress.