

**Suspend the Rules and Pass the Bill, H. R. 6654, with An
Amendment**

**(The amendment strikes all after the enacting clause and inserts a
new text)**

112TH CONGRESS
2D SESSION

H. R. 6654

To provide for the exchange of information related to trade enforcement,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2012

Mr. POE of Texas (for himself, Mr. CHABOT, Ms. ZOE LOFGREN of California,
and Ms. LINDA T. SÁNCHEZ of California) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To provide for the exchange of information related to trade
enforcement, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Foreign Counterfeit
5 Merchandise Prevention Act”.

1 **SEC. 2. EXCHANGE OF INFORMATION RELATED TO TRADE**
2 **ENFORCEMENT.**

3 Section 1905 of title 18, United States Code, is
4 amended—

5 (1) by striking “Whoever” and inserting “(a)
6 IN GENERAL.—Whoever”; and

7 (2) by adding at the end the following:

8 “(b) PROVISION OF INFORMATION RELATING TO
9 MERCHANDISE PRESENTED TO CUSTOMS.—It shall not be
10 a violation of this section for an officer or employee of
11 U.S. Customs and Border Protection, upon detention and
12 thereafter, to provide to the owner of a copyright or a reg-
13 istered mark, or to any person who may be injured by a
14 violation of section 1201 of title 17—

15 “(1) any information appearing on the mer-
16 chandise, including its retail packaging,

17 “(2) a sample of the merchandise and its retail
18 packaging, or

19 “(3) digital images of the merchandise and its
20 retail packaging,

21 as it was presented to U.S. Customs and Border Protec-
22 tion, without redaction, whether imported into or exported
23 from the United States, or attempted to be exported from
24 the United States, for purposes of determining whether
25 the merchandise or its retail packaging infringes the copy-
26 right, bears or consists of a counterfeit mark of the reg-

1 istered mark, or is in violation of section 1201 of title 17,
2 as the case may be.

3 “(c) PROVISION OF INFORMATION RELATING TO
4 SEIZED MERCHANDISE.—It shall not be a violation of this
5 section for an officer or employee of U.S. Customs and
6 Border Protection, after seizing merchandise pursuant to
7 a determination that the merchandise is in violation of sec-
8 tion 1201 of title 17, to provide, to persons injured by
9 the violation, information with respect to the merchandise,
10 including, but not limited to, the following:

11 “(1) The date of importation.

12 “(2) The port of entry.

13 “(3) The description of the merchandise from
14 the entry.

15 “(4) The quantity involved.

16 “(5) The country of origin of the merchandise.

17 “(6) The name and address of the foreign man-
18 ufacturer.

19 “(7) The name and address of the exporter.

20 “(8) The name and address of the importer.

21 “(9) Photographic or digital images of the mer-
22 chandise.

23 “(d) DEFINITIONS.—As used in this section—

1 (3) by adding at the end the following:

2 “(b) DETENTION OF CRITICAL MERCHANDISE.—

3 With respect to critical merchandise that bears a reg-
4 istered trademark recorded under subsection (a), if U.S.

5 Customs and Border Protection detains the merchandise
6 because the merchandise is suspected of bearing a coun-

7 terfeit mark, then, upon such detention, the Secretary—

8 “(1) shall provide to the owner of the registered
9 trademark any information on the critical merchan-

10 dise and its packaging and labels, including, without
11 redaction, photographs or digital images of the crit-

12 ical merchandise, packaging, and labels; and

13 “(2) may, at any time, subject to any applicable
14 bonding and return requirements, provide to the

15 owner of the registered trademark samples of the
16 critical merchandise, without redaction.

17 “(c) DEFINITIONS.—In this section:

18 “(1) CRITICAL MERCHANDISE.—

19 “(A) IN GENERAL.—The term ‘critical
20 merchandise’ includes—

21 “(i) aircraft engines, appliances, pro-
22 pellers, and spare parts;

23 “(ii) motor vehicle equipment;

24 “(iii) semiconductors; and

1 “(iv) any other article of manufacture
2 that the Secretary determines could, if per-
3 mitted entry into the United States in vio-
4 lation of the laws of the United States pose
5 a danger to the health, safety, or welfare
6 of consumers, or to the national security of
7 the United States.

8 “(B) OTHER DEFINITIONS.—For purposes
9 of subparagraph (A)—

10 “(i) the terms ‘aircraft engine’, ‘appli-
11 ance’, ‘propeller’, and ‘spare part’ have the
12 meanings given those terms in section
13 40102(a) of title 49, United States Code;

14 “(ii) the term ‘motor vehicle equip-
15 ment’ has the meaning given that term in
16 section 30102(a) of title 49, United States
17 Code; and

18 “(iii) the term ‘semiconductor’ means
19 ‘semiconductor chip product’ as defined in
20 section 901 of title 17, United States
21 Code.

22 “(2) SECRETARY.—The term ‘Secretary’ means
23 the Secretary of Homeland Security.

24 “(3) WITHOUT REDACTION.—The term ‘without
25 redaction’ means, with respect to merchandise, with-

1 out removing, revising, or otherwise obscuring any
2 information, codes, marks, numbers, or any other
3 markings that appear on the merchandise or its re-
4 tail packaging.

5 “(d) RULE OF CONSTRUCTION.—This section applies
6 only with respect to tangible goods presented to U.S. Cus-
7 toms and Border Protection for importation into the
8 United States.”.

9 (b) DEFINITION.—In this section, the term “Lanham
10 Act” means the Act entitled “An Act to provide for the
11 registration and protection of trademarks used in com-
12 merce, to carry out the provisions of certain international
13 conventions, and for other purposes”, approved July 5,
14 1946 (15 U.S.C. 1051 et seq.).

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect upon the expiration of the
17 60-day period beginning on the date of the enactment of
18 this Act.