WRITTEN STATEMENT OF
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ON H.R. 2480
"TRUTH IN FUR LABELING ACT"

BEFORE THE SUBCOMMITTEE ON
COMMERCE, TRADE AND CONSUMER PROTECTION
COMMITTEE ON ENERGY AND COMMERCE
U.S. HOUSE OF REPRESENTATIVES

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Mr. Chairman. Members of the Subcommittee, my name is Keith Kaplan. I am the Executive Director of the Fur Information Council of America or FICA. FICA was founded in 1987 and is the national trade association representing the interests of fur retailers, fur manufacturers, fur wholesalers and designers. The Association provides background information on industry developments, researches market trends and consumer habits, tracks and reports sales trends, and represents the fur retail sector in dealing with the press, the Executive branch and Congress. FICA monitors legislative, regulatory and judicial developments affecting the industry, and where necessary, advocates for the interests of the industry, through the industry's legislative coalition, Fur wRaps the Hill. I am pleased this afternoon to present our views on H.R. 2480, the Truth in Fur Labeling Act, which would remove the long-standing small value exemption (now $150) from the Fur Products Labeling Act. Of great concern to FICA, the bill would also confer on the states and other local jurisdictions the authority to enact and enforce more restrictive labeling requirements.

Since its enactment in 1951, the Fur Products Labeling Act has provided consumers with important information to guide them in the purchase of fur products. The Act and the regulations implemented by the FTC require that a fur product contain a label that shows the correct name of the animal that produced the fur; whether the product contains or is composed of used fur; whether the fur is bleached, dyed or artificially colored; whether the fur product is composed in whole of in part of any waste fur or components of the animal; and the country of origin of any imported fur used in the fur product. Similar information must be provided in connection with the material utilized in the advertising and marketing of fur products.

Our industry supports the principles of transparency and dissemination of information that underlie the law, and FICA's members are committed to compliance with the detailed

requirements of the regulations. Our members know the consequences of a failure to comply. The FTC's enforcement authority in this area is far reaching, and the legal tools available to it are significant. Historically, the agency has never shied away from using these tools to protect the consumer.

Consistent with our support for the principle that consumers of fur products are entitled to accurate and meaningful information regarding the identity, nature and origin of the articles they purchase, we support the purpose of H.R. 2480, as stated in the bill, "to improve the accuracy of fur product labeling." This would be achieved by the removal of the longstanding small value exemption of the Fur Product Labeling Act. At the time the Fur Products Labeling Act was enacted into law, the small value exemption – mistakenly called a loophole by some -- was intended to prevent harassment of the fur industry in connection with "cheap items." The language was also modified to give the Commission discretion in determining what would constitute a small amount. The Commission still has that discretion.

On the other hand, if Congress finds, on the basis of the record it will accumulate in this hearing, that removal of the small value exemption will provide consumers with more complete information to guide their purchases of these items, we support that objective and do not oppose removal of the longstanding exemption. The fur trim business, which has been the focus of the interest in removing the small value exemption, has grown in recent years, and consumers of fur trim are entitled to have the same information that they would be given if they were purchasing high value fur products.

Mr. Chairman. While we have no objection to removal of the small value exemption from the law, we have significant concerns with section 4 of the bill, which confers on the states -- or for that matter any political subdivision (a county or a town) -- the right to adopt or enforce

more restrictive labeling requirements for fur products than is currently provided by the existing federal law. This provision, which would impact the sale of all fur products, not only those currently covered by the exemption, would undermine the purpose of the federal statutory regime, which has protected consumers for almost 60 years, by providing consistent, correct and meaningful information regarding the origin, identity and nature of fur products through out all 50 states.

Many of our retailers operate stores in multiple states. Many fur articles are also sold over the internet. Under section 4, a national retailer would have to comply not only with a federal labeling program that requires detailed product and origin information, but with multiple state and local labeling obligations, which we suspect will be inconsistent, burdensome, and could become a vehicle of harassment in their own right. These are difficult economic times for our retailers, and we know of no basis upon which a more restrictive state or a local municipality's labeling requirement would provide additional protection or meaningful information to a consumer, beyond that already provided by the Fur Products Labeling Act. Indeed, the additional information resulting from a local requirement is likely to generate extensive consumer confusion.

We have already witnessed this type of situation in the State of New York. In 2007, the New York State legislature enacted a labeling bill, which required that all fur products sold in the state, including those sold for less than $150, include a label that reads either "real fur" or "faux fur." The legislation raised numerous practical problems and resulted in confusion both to retailers and customers. For example, there was no definitions of faux fur, which was a major problem for Department stores. It was unclear from the statute whether a high value fur product that contained a detailed label under the Fur Products Labeling Act, had to include a separate

"real fur" label. In other words, did compliance under the Fur Product Labeling Act constitute compliance with the New York statute or was a meaningless "real fur" label necessary on top of a detailed federal label. The New York Office of Consumer Affairs refused industry requests for guidance. In some instances, our members ended up, the evening before the law went into effect, adding thousands of meaningless stickers on top of the embossed federal labels to ensure they were covered. Others did not. To this day, we do not know if those fur dealers, who have a federal label on their coats that discloses the name, origin and nature of the fur, are in violation of the New York Statute if they do not have a separate "real fur" label. We fear these problems proliferating across the country if section 4 is enacted into law.

We believe that our consumers are well-informed when they purchase our products. The Fur Products Labeling Act ensures that fact. Confusion has, however, occurred as a result of the dissemination of misleading information regarding our products. Over the past several years, for example, anti-fur advocates have attempted to link the use of domestic dog with the Asiatic Raccoon, a popular fur trim product, that is colloquially called – primarily by anti-fur advocates – "raccoon dog." They continue to pursue this strategy despite the fact that Smithsonian Institution has instructed members of Congress that the Asiatic Raccoon and domestic dog are unrelated. Further, the FTC Fur Product Name Guide has used the terminology Asiatic Raccoon to refer to this species for more than fifty years. Still the link between the Asiatic Raccoon and domestic dog has persisted, and the market for the Asiatic Raccoon has suffered immensely. No legitimate fur retailer would ever sell a product comprised of dog or cat fur, and we welcomed and supported legislation – the Dog and Cat Protection Act of 2000, which prohibit the use of dog and cat fur. The FTC implemented the legislation by explicitly stating that the $150 small value exemption would not be available for the importation or sale of dog and cat fur. Yet, the

industry must continue to defend itself against accusations regarding the use of dog fur, even in connection which this legislation, the direct result of the false association of two unrelated species of animals.

The fur industry's labeling practices have been challenged in both administrative and judicial forums. The FTC received two petitions from the Humane Society of the United States containing numerous allegations regarding mislabeling of products by retailers and manufacturers. Those retailers who were accused of mislabeling have defended themselves, and the FTC staff declined to take any enforcement actions against the major retailers, after extensive investigations of the allegations. Retailers have also defended their labeling practices in a lawsuit filed under the DC consumer protection statute. The lawsuit, which resulted in settlements with respect to most of the parties, did not result in any significant findings of liability. The industry has defended itself in the labeling arena against charges that it is using a "loophole" – which was in fact a carefully conceived statutory exemption -- to conceal the use of dog fur. It has also responded to allegations that it is engaged in a wide spread practice of selling real fur, when it in fact it is marketing it as faux fur. Again, these allegations have been overblown, and have involved small numbers of sales, relative to total sales of such products. This being the case, disparate and more restrictive labeling requirements on a state-by-state basis would only add to the confusion likely to result in more errors of this type. With the globalization of the fur trade, the challenges of ensuring that every label is accurate are great, but I assure you that our retailers are continuing to enhance their compliance systems while imposing increased burdens on their vendors, particularly those located overseas.

Fur is controversial. But that controversy should relate to the issue of consumer choice. Consumers must be presented with honest, comprehensive and relevant information on which to

base their decisions and should not be influenced by the dissemination of misleading information, as has taken place in recent years. All sides in this debate should be subject to scrutiny over the veracity of the information they utilize to advocate their positions.

It has been some time since Congress has considered legislation in the area of fur labeling. I ask the members of this Committee not to take any jurisdiction over fur labeling away from the FTC, which has developed substantial technical and practical expertise over the 60 year period the statute has been in effect. We fear the worse if the FTC's jurisdiction and expertise are undermined by local jurisdictions who might impose inconsistent and misleading labeling requirements that will end up confusing consumers and harassing retailers.

If the Committee decides to consider this legislation, we ask that section 4 be stricken from the bill.

Thank you for your attention. I look forward to your questions.