

ble in a private action for any finding, conclusion, or statement expressed in a report made pursuant to paragraph (3) or (4) of subsection (b), including any rules promulgated pursuant thereto.

“(d) CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.—If the Commission finds, after notice and opportunity for hearing in a proceeding instituted pursuant to section 21C of this title, that an independent public accountant has willfully violated paragraph (3) or (4) of subsection (b) of this section, then the Commission may, in addition to entering an order under section 21C, impose a civil penalty against the independent public accountant and any other person that the Commission finds was a cause of such violation. The determination whether to impose a civil penalty, and the amount of any such penalty, shall be governed by the standards set forth in section 21B of this title.

“(e) PRESERVATION OF EXISTING AUTHORITY.—Except for subsection (d), nothing in this section limits or otherwise affects the authority of the Commission under this title.

“(f) DEFINITIONS.—As used in this section, the term ‘illegal act’ means any action or omission to act that violates any law, or any rule or regulation having the force of law.”.

“(b) EFFECTIVE DATES.—As to any registrant that is required to file selected quarterly financial data pursuant to item 302(a) of Regulation S-K (17 CFR 229.302(a)) of the Securities and Exchange Commission, the amendments made by subsection (a) of this section shall apply to any annual report for any period beginning on or after January 1, 1996. As to any other registrant, such amendment shall apply for any period beginning on or after January 1, 1997.

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

Mr. MARKEY moved to recommit the bill to the Committee on Commerce with instructions to report the bill back to the House forthwith with the following amendments:

Page 7, beginning on line 19, strike subsection (c) through page 11, line 8, and insert the following:

“(c) AWARD OF FEES AND EXPENSES.—

“(1) AUTHORITY TO AWARD FEES AND EXPENSES.—If the court in any private action arising under this title enters a final judgment against a party litigant on the basis of a default, a motion to dismiss, motion for summary judgment, or a trial on the merits, the court shall, upon motion by the prevailing party, determine whether—

“(A) the compliant or motion is being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

“(B) the claims, defenses, and other legal contentions in the complaint or motion, taken as a whole, are unwarranted by existing law of by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

“(C) the allegations and other factual contentions in the complaint or motion, taken as a whole, lack any evidentiary support or would be likely to lack any evidentiary support after a reasonable opportunity for further investigation or discovery; or

“(D) the denials of factual contentions are unwarranted on the evidence or are not reasonably based on a lack of information or belief.

“(2) AWARD TO PREVAILING PARTY.—If the court determines that the losing party has violated any subparagraph (1), the court shall award the prevailing party reasonable fees and other expenses incurred by that

party. The determination of whether the losing party violated any such subparagraph shall be made on the basis of the record in the civil action for which fees and other expenses are sought.

“(3) APPLICATION FOR FEES.—A party seeking an award of fees and other expenses shall, within 30 days of a final, non appealable judgment in the action submit to the court an application for fees and other expenses that verifies that the party is entitled to such an award under paragraph (1) and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party stating the actual time expended and the rate at which fees and other expenses are computed.

“(4) SANCTIONS AGAINST ATTORNEY.—The court—

“(A) shall award the fees and expenses against the attorney for the losing party unless the court determines that the losing party was principally responsible for the actions described in subparagraph (A), (B), (C), or (D) of paragraph (1); and

“(B) may, in its discretion, reduce the amount to be awarded pursuant to this section, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy.

“(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit or impair the discretion of the court to award costs pursuant to other provisions of law.

“(6) DEFINITIONS.—For purpose of this subsection, the term ‘fees and other expenses’ includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test, or project which is found by the court to be necessary for the preparation of the party’s case, and reasonable attorney fees and expenses. The amount of fees awarded under this section shall be based upon prevailing market rates for the kind and quality of services furnished.

Page 28, line 12, insert before the period the following: “, except that this Act and the amendments made by this Act shall not apply to any action commenced by any State or local government, or any agency or instrumentality of any State or local government, before the date which is 3 years after such date of enactment.”.

After debate,

By unanimous consent, the previous question was ordered on the motion to recommit with instructions.

The question being put, viva voce,

Will the House recommit said bill with instructions?

The SPEAKER pro tempore, Mr. MCINNIS, announced that the nays had it.

Mr. MARKEY demanded a recorded vote on agreeing to said motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the	} Yeas 172	} Nays 251	} Answered present 1
negative			

¶40.22

[Roll No. 215]
AYES—172

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)

Becerra
Bellenson
Bentsen
Berman
Bevill

Bishop
Bonior
Borski
Boucher
Browder

Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Durbin
Edwards
Engel
Eshoo
Evans
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton

Hastings (FL)
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz

Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Reed
Reynolds
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Vento
Visclosky
Volkmmer
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—251

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)

Combest
Condit
Cooley
Cox
Crane
Crapo
Creameans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor

Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio

Leach Peterson (MN) Smith (NJ)
Lewis (CA) Petri Smith (TX)
Lewis (KY) Pickett Smith (WA)
Lightfoot Pombo Solomon
Linder Porter Souder
Livingston Portman Spence
LoBiondo Pryce Stearns
Longley Quillen Stenholm
Lucas Quinn Stockman
Manzullo Radanovich Stump
Martini Ramstad Talent
McCollum Regula Tate
McCrery Richardson Tauzin
McHugh Riggs Taylor (NC)
McInnis Roberts Thomas
McIntosh Rogers Thornberry
McKeon Rohrabacher Tiahrt
Metcalf Ros-Lehtinen Torkildsen
Meyers Rose Upton
Mica Roth Vucanovich
Miller (FL) Roukema Waldholtz
Minge Royce Walker
Molinari Salmon Walsh
Montgomery Sanford Wamp
Moorhead Saxton Ward
Morella Scarborough Watts (OK)
Myers Schaefer Weldon (FL)
Myrick Schiff Weldon (PA)
Nethercutt Seastrand Weller
Neumann Sensenbrenner White
Ney Shadegg Whitfield
Norwood Shaw Wickert
Nussle Shays Wilson
Orton Shuster Wolf
Oxley Sisisky Young (AK)
Packard Skeen Young (FL)
Packer Skelton Zeliff
Parker Skelton Zeliff
Paxon Slaughter Zimmer
Payne (VA) Smith (MI)

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—10

Bilbray McDade Rangel
Gibbons McKinney Velazquez
Hoke Meek
Johnston Neal

So the motion to recommit with instructions was not agreed to.

The question being put, viva voce,

Will the House pass said bill?

The SPEAKER pro tempore, Mr. MCINNIS, announced that the yeas had it.

Mr. MARKEY demanded a recorded vote on passage of said bill, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the affirmative
Yeas 325
Nays 99
Answered present 1

40.23 [Roll No. 216]
AYES—325

Ackerman Blute Christensen
Allard Boehlert Chrysler
Andrews Boehner Clement
Archer Bonilla Clinger
Armey Bono Coble
Bachus Brewster Coburn
Baesler Browder Collins (GA)
Baker (CA) Brown (OH) Combust
Baker (LA) Brownback Condit
Baldacci Bryant (TN) Cooley
Ballenger Bunn Cox
Barcia Bunning Cramer
Barr Burr Crane
Barrett (NE) Burton Crapo
Barrett (WI) Buyer Cremeans
Bartlett Callahan Cubin
Barton Calvert Cunningham
Bass Camp Danner
Bateman Canady Davis
Bentsen Cardin de la Garza
Bereuter Castle Deal
Bevill Chabot DeLauro
Bilirakis Chambliss DeLay
Bishop Chapman Deutsch
Bliley Chenoweth Diaz-Balart

Dooley Kasich Riggs Johnston Mink Serrano
Doolittle Kelly Roberts Kanjorski Minkley Stark
Dornan Kennedy (RI) Roemer Kaptur Moakley Stokes
Doyle Kennelly Rogers Kennedy (MA) Murtha Studds
Dreier Kim Rohrabacher Kildee Nadler Stupak
Duncan King Ros-Lehtinen Klink Obey Taylor (MS)
Dunn Kingstone Rose LaFalce Owens Thompson
Edwards Kleczka Roth Lantos Pastor Thurman
Ehlers Klug Roukema Levin Payne (NJ) Torres
Ehrlich Knollenberg Royce Lewis (GA) Pelosi Tucker
Emerson Kolbe Rush Luther Pomeroy Velazquez
English LaHood Sabo Manton Poshard Waters
Ensign Largent Salmon Markey Rahall Watt (NC)
Eshoo Latham Sanford Martinez Reed Waxman
Everett LaTourrette Sawyer Mascara Reynolds Williams
Ewing Laughlin Saxton Matsui Rivers Wise
Farr Lazio Scarborough McDermott Roybal-Allard Woolsey
Fawell Schaefer Mfume Sanders Wynn
Fazio Lewis (CA) Miller (CA) Scott Yates
Fields (LA) Lewis (KY) Schroeder
Fields (TX) Lightfoot Schumer
Flanagan Lincoln Seastrand
Foley Linder Sensenbrenner
Forbes Lipinski Shadegg
Fowler Livingston Shaw
Fox Shays
Frank (MA) Lofgren Shuster
Franks (CT) Longley Sisisky
Franks (NJ) Lucas Skaggs
Frelinghuysen Maloney Skeen
Frisa Manzullo Skelton
Frost Martin Slaughter
McCarthy Smith (MI)
McCollum Smith (NJ)
McCrery Smith (TX)
McHale Smith (WA)
McHugh Solomon
McInnis Souder
McIntosh Spence
McKeon Spratt
McNulty Stearns
Meehan Stenholm
Menendez Stockman
Metcalf Stump
Meyers Talent
Mica Tanner
Miller (FL) Tate
Mineta Tauzin
Minge Taylor (NC)
Molinari Tejada
Montgomery Thomas
Moran Thornberry
Morella Thornton
Myers Tiahrt
Myrick Torkildsen
Nethercutt Torricelli
Neumann Towns
Ney Traficant
Norwood Upton
Nussle Vento
Oberstar Visclosky
Oliver Volkmer
Ortiz Vucanovich
Orton Waldholtz
Oxley Walker
Packard Walsh
Pallone Wamp
Parker Ward
Paxon Watts (OK)
Payne (VA) Weldon (FL)
Peterson (FL) Weldon (PA)
Peterson (MN) Weller
Petri White
Pickett Whitfield
Pombo Wicker
Porter Wilson
Portman Wolf
Pryce Wyden
Pryce Young (AK)
Quillen Young (FL)
Quinn Zeliff
Radanovich Zim经理
Ramstad Regula
Regula Richardson

NOES—99

Abercrombie Collins (MI) Filner
Becerra Conyers Flake
Beilenson Costello Foglietta
Berman Coyne Ford
Bonior DeFazio Gephardt
Borski Dellums Gonzalez
Boucher Dicks Gutierrez
Brown (CA) Dingell Hall (OH)
Brown (FL) Dixon Hastings (FL)
Bryant (TX) Doggett Hilliard
Clay Durbin Hinchey
Clayton Engel Jacobs
Clyburn Evans Jefferson
Collins (IL) Fattah Johnson (SD)

Johnston Mink Serrano
Kanjorski Moakley Stark
Kaptur Mollohan Stokes
Kennedy (MA) Murtha Studds
Kildee Nadler Stupak
Klink Obey Taylor (MS)
LaFalce Owens Thompson
Lantos Pastor Thurman
Levin Payne (NJ) Torres
Lewis (GA) Pelosi Tucker
Luther Pomeroy Velazquez
Manton Poshard Waters
Markey Rahall Watt (NC)
Martinez Reed Waxman
Mascara Reynolds Williams
Matsui Rivers Wise
McDermott Roybal-Allard Woolsey
Mfume Sanders Wynn
Miller (CA) Scott Yates

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—10

Bilbray McDade Neal
Coleman McKinney Rangel
Dickey Meek
Gibbons Moorhead

So the bill was passed.

A motion to reconsider the vote whereby said bill was passed was, by unanimous consent, laid on the table.

Ordered, That the Clerk request the concurrence of the Senate in said bill.

40.24 CLERK TO CORRECT ENGROSSMENT

On motion of Mr. FIELDS of Texas, by unanimous consent,

Ordered, That in the engrossment of the foregoing bill, the Clerk be authorized to correct section numbers, punctuation, cross references, and to make other technical corrections.

40.25 PROVIDING FOR THE CONSIDERATION OF H.R. 956

Mr. LINDER, by direction of the Committee on Rules, called up the following resolution (H. Res. 108):

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 956) to establish legal standards and procedures for produce liability litigation, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed two hours equally divided among and controlled by the chairmen and ranking minority members of the Committee on the Judiciary and the Committee on Commerce. After general debate the Committee of the Whole shall rise without motion. No further consideration of the bill shall be in order except pursuant to a subsequent order of the House.

When said resolution was considered.

After debate,

By unanimous consent, the previous question was ordered on the resolution to its adoption or rejection and under the operation thereof, the resolution was agreed to.

A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

40.26 PROVIDING FOR THE CONSIDERATION OF H.R. 956

Mr. LINDER, by direction of the Committee on Rules, reported (Rept. No. 104-72) the resolution (H. Res. 109) providing for the further consideration