

Mica	Rogers	Spence
Miller (CA)	Rohrabacher	Stenholm
Miller (FL)	Roth	Stump
Moorhead	Royce	Talent
Neumann	Sabo	Tanner
Norwood	Salmon	Tauzin
Orton	Sanford	Taylor (NC)
Oxley	Saxton	Thomas
Packard	Scarborough	Thornberry
Parker	Schaefer	Thurman
Paxon	Schumer	Towns
Payne (VA)	Seastrand	Upton
Peterson (MN)	Sensenbrenner	Vucanovich
Petri	Shaw	Walker
Pombo	Shuster	Watts (OK)
Pomeroy	Skeen	Weldon (FL)
Porter	Smith (MI)	Weller
Portman	Smith (TX)	Williams
Pryce	Smith (WA)	Wolf
Regula	Solomon	Young (FL)
Roberts	Souder	Zimmer

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Abercrombie	Fattah	Mascara
Ackerman	Fazio	Matsui
Allard	Fields (LA)	McCarthy
Bachus	Filner	McDade
Baessler	Flake	McDermott
Baker (LA)	Foglietta	McHale
Baldacci	Foley	McHugh
Barcia	Ford	McIntosh
Barrett (WI)	Fox	McKinney
Bass	Frank (MA)	Meehan
Bateman	Franks (CT)	Meek
Becerra	Franks (NJ)	Menendez
Beilenson	Frelinghuysen	Meyers
Bentsen	Frost	Mfume
Berman	Furse	Mineta
Bilirakis	Gejdenson	Minge
Bishop	Gekas	Mink
Blute	Gephardt	Moakley
Boehlert	Gilman	Molinari
Bonior	Gonzalez	Mollohan
Bono	Gordon	Montgomery
Borski	Graham	Moran
Boucher	Green	Morella
Brewster	Gutierrez	Murtha
Brown (CA)	Hall (OH)	Myers
Brown (FL)	Hall (TX)	Myrick
Brown (OH)	Hamilton	Nadler
Bryant (TX)	Hansen	Neal
Bunning	Harman	Nethercatt
Burr	Hastings (FL)	Ney
Burton	Hayes	Nussle
Callahan	Hefner	Oberstar
Canady	Herger	Obey
Cardin	Hilliard	Olver
Castle	Hinchee	Ortiz
Chabot	Hoekstra	Owens
Chambliss	Holden	Pallone
Chapman	Horn	Pastor
Clay	Hoyer	Payne (NJ)
Clayton	Hutchinson	Pelosi
Clement	Istook	Peterson (FL)
Clinger	Jackson-Lee	Pickett
Clyburn	Jefferson	Poshard
Coble	Johnson (CT)	Quillen
Coleman	Johnson (SD)	Quinn
Collins (IL)	Johnson, E. B.	Radanovich
Collins (MI)	Johnston	Rahall
Conest	Kaptur	Ramstad
Conyers	Kelly	Reed
Cooley	Kennedy (MA)	Reynolds
Costello	Kennedy (RI)	Richardson
Coyne	Kennelly	Riggs
Cramer	Kildee	Rivers
Crapo	King	Roemer
Danner	Klecza	Ros-Lehtinen
Davis	Klink	Rose
de la Garza	LaHood	Roukema
DeFazio	Lantos	Roybal-Allard
DeLauro	Largent	Rush
Dellums	Latham	Sanders
Deutsch	LaTourette	Sawyer
Diaz-Balart	Lazio	Schiff
Dickey	Levin	Schroeder
Dicks	Lewis (CA)	Scott
Dingell	Lewis (GA)	Serrano
Dixon	Lightfoot	Shadegg
Dooley	Lipinski	Shays
Doyle	Livingston	Sisisky
Duncan	LoBiondo	Skaggs
Durbin	Lofgren	Skelton
Edwards	Longley	Slaughter
Engel	Lowe	Smith (NJ)
Ensign	Lucas	Spratt
Eshoo	Manton	Stark
Evans	Manzullo	Stearns
Everett	Markey	Stockman
Farr	Martini	Stokes

Studds	Velazquez	Whitfield
Stupak	Vento	Wicker
Tate	Visclosky	Wilson
Taylor (MS)	Volkmer	Wise
Tejeda	Waldholtz	Woolsey
Thompson	Walsh	Wyden
Thornton	Wamp	Wynn
Torkildsen	Waters	Yates
Torres	Watt (NC)	Young (AK)
Torrice	Waxman	Zeliff
Traficant	Weldon (PA)	
Tucker	White	

## NOT VOTING—7

Cubin	Hayworth	Ward
Forbes	Rangel	
Gibbons	Tiahrt	

So the amendment was not to.  
After some further time,

## 41.24 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. COX:

Page 1, strike line 7 and all that follows through the matter that precedes line 1 on page 2, and insert the following:

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Findings and purposes.

## TITLE I—PRODUCT LIABILITY REFORM

Sec. 101. Applicability.

Sec. 102. Liability rules applicable to product sellers.

Sec. 103. Defense based on claimant's use of intoxicating alcohol or drugs.

Sec. 104. Misuse or alteration.

Sec. 105. Frivolous pleadings.

Sec. 106. Several liability for noneconomic loss.

Sec. 107. Statute of repose.

Sec. 108. Definitions.

## TITLE II—LIMITATION ON SPECULATIVE AND ARBITRARY DAMAGE AWARDS

Sec. 201. Treble damages as penalty in civil actions.

Sec. 202. Limitation on additional payments beyond actual damages.

Sec. 203. Fair share rule for noneconomic damage awards.

Sec. 204. Definitions.

## TITLE III—BIOMATERIALS SUPPLIERS

Sec. 301. Liability of biomaterials suppliers.

Sec. 302. Procedures for dismissal of civil actions against biomaterials suppliers.

Sec. 303. Definitions.

## TITLE IV—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

Sec. 401. Application limited to interstate commerce.

Sec. 402. Effect on other law.

Sec. 403. Federal cause of action precluded.

Sec. 404. Effective date.

## SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—  
(1) the civil justice system, which is designed to safeguard our most cherished rights, to remedy injustices, and to defend our liberty, is increasingly being deployed to abridge our rights, create injustice, and destroy our liberty;

(2) our Nation is overly litigious, the civil justice system is overcrowded, sluggish, and excessively costly, and the costs of lawsuits, both direct and indirect, are inflicting serious and unnecessary injury on the national economy;

(3) excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability have a direct and undesirable effect on interstate commerce by increasing the cost and decreasing the availability of goods and services;

(4) the rules of law governing product liability actions, damage awards, and allocations of liability have evolved inconsistently within and among the several States, resulting in a complex, contradictory, and uncertain regime that is inequitable to both plaintiffs and defendants and unduly burdens interstate commerce;

(5) as a result of excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability, consumers have been adversely affected through the withdrawal of products, producers, services, and service providers from the national market, and from excessive liability costs passed on to them through higher prices;

(6) excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability jeopardize the financial well-being of many individuals as well as entire industries, particularly the Nation's small businesses, and adversely affects governments, taxpayers, nonprofit entities and volunteer organizations;

(7) the excessive costs of the civil justice system undermine the ability of American companies to compete internationally, and serve to decrease the number of jobs and the amount of productive capital in the national economy;

(8) the unpredictability of damage awards is inequitable to both plaintiffs and defendants and has added considerably to the high cost of liability insurance, making it difficult for producers, consumers, and individuals to protect their liability with any degree of confidence and at a reasonable cost;

(9) because of the national scope of the problems created by the defects in the civil justice system, it is not possible for the several States to enact laws that fully and effectively respond to those problems;

(10) it is the constitutional role of the national government to remove barriers to interstate commerce; and

(11) there is need to restore rationality, certainty, and fairness to the civil justice system in order to protect against excessive, arbitrary, and uncertain damage awards and to reduce the volume, costs, and delay of litigation.

(b) PURPOSES.—Based upon the powers contained in Article I, Section 8, Clause 3 of the United States Constitution, the purposes of this Act are to promote the free flow of goods and services and to lessen burdens on interstate commerce by—

(1) establishing certain uniform legal principles of product liability which provide a fair balance among the interests which provide a fair balance among the interests of product users, manufacturers, and product sellers;

(2) placing reasonable limits on damages over and above the actual damages suffered by a claimant;

(3) ensuring the fair allocation of liability in civil actions;

(4) reducing the unacceptable costs and delays of our civil justice system caused by excessive litigation which harm both plaintiffs and defendants; and

(5) establishing greater fairness, rationality, and predictability in the civil justice system.

Page 2, strike line 3 and all that follows through line 24, and page 4 (and redesignate subsequent sections accordingly).

Page 11, strike lines 17 through 24 (and redesignate subsequent sections accordingly).

Page 12, strike line 24 and all that follows through line 2 on page 13 (and redesignate the subsequent section accordingly).

Page 17, strike lines 10 through 12 and insert the following:

TITLE II—LIMITATION ON SPECULATIVE AND ARBITRARY DAMAGE AWARDS

SEC. 201. TREBLE DAMAGES AS PENALTY IN CIVIL ACTIONS.

Page 17, line 21, insert "rights or" before "safety".

Page 17, beginning in line 25, strike "for the economic loss on which the claimant's action is based" and insert "for economic loss".

Page 18, insert after the period in line 2 the following: "This section shall be applied by the court and shall not be disclosed to the jury."

Page 18, line 3, strike "AND PREEMPTION".

Page 18, strike "title" in lines 4 and 6 and insert "section".

Page 18, beginning in line 7, strike "in any jurisdiction that does not authorize such actions" and insert after the period in line 8 the following: "This section does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages."

Page 19, after line 19, insert the following new sections (and redesignate the subsequent section accordingly):

SEC. 202. FAIR SHARE RULE FOR NONECONOMIC DAMAGE AWARDS.

(a) FAIR SHARE OF LIABILITY IMPOSED ACCORDING TO SHARE OF FAULT.—In any product liability or other civil action brought in State or Federal court, a defendant shall be liable only for the amount of noneconomic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all such cases, the liability of a defendant for noneconomic damages shall be several and not joint.

(b) APPLICABILITY.—Except as provided in section 401, this section shall apply to any product liability or other civil action brought in any Federal or State court on any theory where noneconomic damages are sought. This section does not preempt or supersede any State or Federal law to the extent that such law would further limit the application of the theory of joint liability to any kind of damages.

Page 19, after line 21, insert the following new paragraph:

(1) The term "actual damages" means damages awarded to pay for economic loss.

Page 19, line 22, strike "(1)" and insert "(2)".

Page 20, line 4, strike "(2)" and insert "(3)".

Page 20, line 12, strike "(3)" and insert "(4)".

Page 20, line 18, strike "(4)" and insert "(5)".

Page 20, after line 20, insert the following new paragraph (and redesignate subsequent paragraphs accordingly):

(6) The term "noneconomic damages" means damages other than punitive damages or actual damages.

Page 20, line 21, strike "(5)" and insert "(7)".

Page 21, line 1, strike "(6)" and insert "(8)".

Page 30, strike lines 6 and 7, and insert the following:

TITLE IV—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

SEC. 401. APPLICATION LIMITED TO INTERSTATE COMMERCE.

Titles I, II, and III shall apply only to product liability or other civil actions affecting interstate commerce. For purposes of the preceding sentence, the term "interstate commerce" means commerce among the several States or with foreign nations, or in any territory of the United States or in the District of Columbia, or between any such territory and another, or between any such terri-

tory and any State or foreign nation, or between the District of Columbia and any State or territory or foreign nation.

Redesignate subsequent sections accordingly.

It was decided in the affirmative { Yeas ..... 263 Nays ..... 164

41.25 [Roll No. 225] AYES—263

- Allard Gallegly Nethercutt Archer Ganske Neumann Armev Gekas Ney Bachus Geren Norwood Baesler Gilchrest Nussle Baker (CA) Gillmor Ortiz Baker (LA) Gilman Packard Baldacci Goodlatte Parker Ballenger Goodling Paxon Barcia Gordon Payne (VA) Barr Goss Peterson (MN) Barrett (NE) Graham Petri Bartlett Greenwood Pombo Barton Gunderson Pomeroy Bass Gutknecht Porter Conyers Billbray Hall (TX) Portman Bilirakis Hamilton Pryce Hancock Hoke Quinn Hansen Hansen Radanovich Boehlert Hastert Ramstad Boehner Hastings (WA) Regula Bonilla Hayworth Richardson Bono Hefley Riggs Brewster Heineman Roberts Browder Hergen Roemer Brownback Hilleary Rogers Bryant (TN) Hobson Rohrabacher Bunn Hoekstra Ros-Lehtinen Bunning Hoke Roth Burr Holden Roukema Burton Horn Royce Buyer Hostettler Salmon Callahan Houghton Sanford Calvert Hunter Saxton Camp Hutchinson Scarborough Canady Hyde Schaefer Canady Inglis Schumer Castle Johnson (CT) Seastrand Chabot Johnson, Sam Sensenbrenner Chambliss Jones Shadegg Chenoweth Kasich Shaw Christensen Kelly Shays Chrysler Kennelly Shuster Clement Kim Siskis Clinger King Skeen Coburn Kingston Smith (MI) Collins (GA) Klug Smith (NJ) Combest Knollenberg Smith (TX) Condit Kolbe Smith (WA) Cooley LaHood Solomon Cox Largent Souder Cramer Latham Spence Crane LaTourette Stearns Crapo Leach Stenholm Cremeans Lewis (CA) Stockman Cunningham Lewis (KY) Stump Danner Lightfoot Talent Davis Lightfoot Tanner Deal Lincoln Tate DeLay Linder Taylor (MS) Dickey Livingston Taylor (NC) Dicks LoBiondo Tejada Dooley Longley Thomas Doolittle Lucas Thornberry Dornan Maloney Tiahrt Dreier Manzullo Torildsen Duncan McCarthy Torricelli Dunn McCollum Traficant Edwards McCrery Upton Ehlers McDade Vucanovich Ehrlich McHugh Waldholtz Emerson McInnis Walker English McIntosh Walsh Ensign McKeon Wamp Everrett McNulty Watts (OK) Ewing Metcalf Weldon (FL) Fawell Meyers Weldon (PA) Fazio Mica Weller Fields (TX) Miller (CA) White Flanagan Miller (FL) Whitfield Foley Molinari Wicker Fowler Montgomery Wolf Franks (CT) Moorhead Young (AK) Franks (NJ) Morella Young (FL) Frelinghuysen Myers Zeliff Frisa Myrick Zimmer Funderburk Neal

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- Abercrombie Gephardt Obey Ackerman Gonzalez Olver Andrews Green Orton Barrett (WI) Gutierrez Oxley Bateman Hall (OH) Pallone Becerra Hastings (FL) Pastor Beilenson Hayes Payne (NJ) Bentsen Hefner Pelosi Berman Hilliard Peterson (FL) Bevill Hinchey Pickett Bishop Hoyer Poshard Bonior Istook Rahall Borski Jackson-Lee Reed Boucher Jacobs Reynolds Brown (CA) Jefferson Rivers Brown (FL) Johnson (SD) Rose Brown (OH) Johnson, E. B. Roybal-Allard Bryant (TX) Johnston Rush Chapman Kanjorski Sabo Clay Kaptur Sanders Clayton Kennedy (MA) Sawyer Clyburn Kennedy (RI) Schiff Coble Kildee Schroeder Coleman Kleczka Scott Collins (IL) Klink Serrano Collins (MI) LaFalce Skaggs Conyers Lantons Skelton Costello Laughlin Slaughter Coyne Levin Spratt de la Garza Lewis (GA) Stark DeFazio Lipinski Stokes DeLauro Lofgren Studds Dellums Lowey Stupak Deutsch Luther Tauzin Diaz-Balart Manton Thompson Dingell Markey Thornton Dixon Martinez Thurman Doggett Martini Torres Doyle Mascara Towns Durbin Matsui Velazquez Engel McDermott Vento Eshoo McHale Visclosky Evans McKinney Volkmer Farr Meehan Ward Fattah Meek Waters Fields (LA) Menendez Watt (NC) Filner Mfume Waxman Flake Mineta Williams Foglietta Minge Wilson Ford Mink Wise Fox Moakley Woolsey Frank (MA) Mollohan Wyden Frost Moran Wynn Furse Nadler Yates Gejdenson Oberstar

NOT VOTING—7

- Cubin Murtha Tucker Forbes Owens Rangel Gibbons Rangel

So the amendment was agreed to. After some further time,

41.26 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. COX:

Page 19 redesignate section 202 as section 203 and after line 19 insert the following:

SEC. 202. LIMITATION ON NONECONOMIC DAMAGES IN HEALTH CARE LIABILITY ACTIONS.

(a) MAXIMUM AWARD OF NONECONOMIC DAMAGES.—In any health care liability action, in addition to actual damages or punitive damages, or both, a claimant may also be awarded noneconomic damages, including damages awarded to compensate injured feelings, such as pain and suffering and emotional distress. The maximum amount of such damages that may be awarded to a claimant shall be \$250,000. Such maximum amount shall apply regardless of the number of parties against whom the action is brought, and regardless of the number of claims or actions brought with respect to the health care injury. An award for future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the limitation on noneconomic damages, but an award for noneconomic damages in excess of \$250,000 shall be reduced either before the entry of