

order to make it less of a misnomer—to reduce abuse rather than encourage it.

The goal of the tort reform legislation is to allow businesses to externalize, or shift, some of the cost of the injuries they cause to others. Tort law always assigns liability to the party in the best position to prevent an injury in the most reasonable and fair manner. In looking at the disparate impact that the new tort reform laws will have on ethnic minority groups, it is unconscionable that the burden will be placed on these groups—that are in the worst position to bear the liability costs.

When Congress considers pre-empting State laws, it must strike the appropriate balance between two competing values—local control and national uniformity. Local control is extremely important because we all believe, as did the Founders two centuries ago, that State governments are closer to the people and better able to assess local needs and desires. National uniformity is also an important consideration in federalism—Congress's exclusive jurisdiction over interstate commerce has allowed our economy to grow dramatically over the past 200 years.

This legislation would reverse the changes to Rule 11 of the Federal Rules of Civil Procedure (FRCP) that were made by the Judicial Conference in 1993 such that (1) sanctions against an attorney whose litigation tactics are determined to harass or cause unnecessary delay or cost or who has been determined to have made frivolous legal arguments or unwarranted factual assertions would become mandatory rather than discretionary to the court, (2) discovery-related activity would be included within the scope of the rule, and (3) the rule would be extended to State cases affecting interstate commerce so that if a State judge decides that a case affects interstate commerce, he or she must apply rule 11 if violations are found.

This legislation strips State and Federal judges of their discretion in the area of applying rule 11 sanctions. Furthermore, it infringes States' rights by forcing State courts to apply the rule if interstate commerce is affected. Why is the discretion of the judge not sufficient in discerning whether rule 11 sanctions should be assessed?

If this legislation moves forward in this body, it will be important for us to find out its effect on indigent plaintiffs or those who must hire an attorney strictly on a contingent-fee basis. Because the application of rule 11 would be mandatory, attorneys will pad their legal fees to account for the additional risk that they will have to incur in filing lawsuits and the fact that they will have no opportunity to withdraw the suit due to a mistake. Overall, this legislation will deter indigent plaintiffs from seeking counsel to file meritorious claims given the extremely high legal fees.

Furthermore, H.R. 4571, as drafted, would allow corporations that perform sham and non-economic transactions in order to enjoy economic benefits in this country.

This is a bad rule that will have terrible implications on our legislative branch, and I ask that my colleagues defeat the rule, defeat the bill, and support the substitute offered by Mr. TURNER. We must carefully consider the long-term implications that this bill, as drafted, will have on indigent claimants, the trial attorney community, and facilitation of corporate fraud.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I

move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. OSE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

NONPROFIT ATHLETIC ORGANIZATION PROTECTION ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3369) to provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage or adoption of rules for athletic competitions and practices.

The Clerk read as follows:

H.R. 3369

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nonprofit Athletic Organization Protection Act of 2003".

SEC. 2. DEFINITIONS.

In this Act:

(1) **ECONOMIC LOSS.**—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) **HARM.**—The term "harm" includes physical, nonphysical, economic, and non-economic losses.

(3) **NONECONOMIC LOSS.**—The term "noneconomic loss" means any loss resulting from physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(4) **NONPROFIT ORGANIZATION.**—The term "nonprofit organization" means—

(A) any organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization which is organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(5) **NONPROFIT ATHLETIC ORGANIZATION.**—The term "nonprofit athletic organization" means a nonprofit organization that has as one of its primary functions the adoption of rules for sanctioned or approved athletic competitions and practices. The term includes the employees, agents, and volunteers of such organization, provided such individuals are acting within the scope of their duties with the nonprofit athletic organization.

(6) **STATE.**—The term "State" includes the District of Columbia, and any commonwealth, territory, or possession of the United States.

SEC. 3. LIMITATION ON LIABILITY FOR NONPROFIT ATHLETIC ORGANIZATIONS.

(a) **LIABILITY PROTECTION FOR NONPROFIT ATHLETIC ORGANIZATIONS.**—Except as provided in subsections (b) and (c), a nonprofit athletic organization shall not be liable for harm caused by an act or omission of the nonprofit athletic organization in the adoption of rules for sanctioned or approved athletic competitions or practices if—

(1) the nonprofit athletic organization was acting within the scope of the organization's duties at the time of the adoption of the rules at issue;

(2) the nonprofit athletic organization was, if required, properly licensed, certified, or authorized by the appropriate authorities for the competition or practice in the State in which the harm occurred or where the competition or practice was undertaken; and

(3) the harm was not caused by willful or criminal misconduct, gross negligence, or reckless misconduct on the part of the nonprofit athletic organization.

(b) **RESPONSIBILITY OF EMPLOYEES, AGENTS, AND VOLUNTEERS TO NONPROFIT ATHLETIC ORGANIZATIONS.**—Nothing in this section shall be construed to affect any civil action brought by any nonprofit athletic organization against any employee, agent, or volunteer of such organization.

(c) **EXCEPTIONS TO NONPROFIT ATHLETIC ORGANIZATION LIABILITY PROTECTION.**—If the laws of a State limit nonprofit athletic organization liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit athletic organization to adhere to risk management procedures, including mandatory training of its employees, agents, or volunteers.

(2) A State law that makes the nonprofit athletic organization liable for the acts or omissions of its employees, agents, and volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

SEC. 4. PREEMPTION.

This Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability relating to the rule-making activities of nonprofit athletic organizations.

SEC. 5. EFFECTIVE DATE.

(a) **IN GENERAL.**—This Act shall take effect on the date of enactment of this Act.

(b) **APPLICATION.**—This Act applies to any claim for harm caused by an act or omission of a nonprofit athletic organization that is filed on or after the effective date of this Act