

June 25, 1999

neighbor make her truly deserving of this recognition.

U.S. MILITARY AIRCRAFT DENIED
REQUEST AT HONG KONG'S CHEK
LAP KOK AIRPORT

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 25, 1999

Mr. BEREUTER. Mr. Speaker, unfortunately, the People's Republic of China has denied a request for a United States military aircraft at Hong Kong's Chek Lap Kok airport and indicated it was "denied in view of current circumstances." Undoubtedly this is a Chinese reaction to our bombing of the Chinese Embassy in Belgrade. However, as the following editorial from Hong Kong's South China Morning Post indicates, that action is not only counterproductive for Sino-American relations, it raises further questions in America and the world regarding the autonomy of the Hong Kong Special Administrative Region (SAR) within the Chinese governmental system. It is true that the People's Republic of China does maintain full responsibility for foreign policy and national security for the Hong Kong SAR, but this decision seems an unnecessary further aggravation in the relations between China and the United States of America. I urge my colleagues to read the following editorial in the June 24, 1999, editorial of the South China Morning Post.

EDITORIAL

More than a month after the bombing of the embassy in Belgrade, Beijing's fury is apparently still undiminished. Profound and repeated apologies by the US, including the telephone call from President Bill Clinton to President Jiang Zemin, have failed to get diplomatic communications back on track.

The mainland Government's response was understandable in the emotion of the moment; after all, staff members tragically lost their lives. But by refusing to help defuse the ongoing row, Beijing now risks deepening the harm to Sino-US relations.

No doubt the spying row and repercussions from the Cox report have helped to keep tensions on the boil, but it is disheartening to know the SAR is still a casualty of the discord, more than six weeks after the tragedy.

Banning US warships may have driven home the extent of China's anger, even if it was taken at the cost of HK\$385 million in lost revenue at a time when the economy is still struggling to revive. But the decision to refuse US military aircraft permission to land here will inconvenience none but the country concerned, and then only mildly. However, if it is applied to military planes bringing in US delegations during the Washington midsummer break, it will appear to be rather a petty act, and will certainly not enhance Hong Kong's image.

What an irony it would be if Christopher Cox, author of the controversial report, was refused permission to land in a USAF aircraft, after he accepted Chief Secretary for Administration Anson Chan Fang On-sang's invitation to come and witness the mechanisms to prevent the export of sensitive technology across the border.

It is, of course, the mainland's business to decide how long it will continue to wreak re-

EXTENSIONS OF REMARKS

venge, but the point has been made very forcefully with the warship ban, and that should suffice. To implicate the SAR in any further repercussions can only hurt its claims to autonomy.

THE SMALL BUSINESS LIABILITY
REFORM ACT OF 1999

HON. JAMES E. ROGAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 25, 1999

Mr. ROGAN. Mr. Speaker, I rise today and with several of my colleagues from both sides of the aisle to introduce the Small Business Liability Reform Act of 1999. This legislation will provide common sense protection for small businesses in America.

Small businesses in California and across the nation each day face the threat of burdensome litigation. One frivolous lawsuit can put a small business owner out of commission. In many instances, even the threat of a lawsuit can force a small business to settle a frivolous claim for more than it is worth.

Small businesses, like the "mom and pop" family stores, are the backbone of our nation's economy. The Research Institute for Small and Emerging Business estimates that over 20 million small businesses in America generate 50 percent of our country's private sector output. We must protect their right to grow and free them from the threat of frivolous litigation.

Mr. Speaker, every dollar a business spends on litigation is a dollar that could be spent to expand small businesses, provide more jobs, improve employee benefits, and strengthen our economy.

According to a recent Gallup survey, one in every five small businesses decides not to hire more employees, expand its business, introduce a new product, or improve an existing product because of the fear of lawsuits.

Products sellers—like the corner grocery store—incur high legal costs when they are needlessly drawn into product liability lawsuits. Today a business such as this, which does not even produce the product, can still be sued for product defects. While the product seller is rarely found liable for damages, it must still bear the cost of defending itself against these frivolous suits. This unfair treatment of small businesses must stop.

The Washington Legal Foundation reports that punitive damages are requested in 41% of suits against small businesses. Is it possible that such a large number of small businesses are engaging in egregious misconduct that warrants a claim of punitive damages? The National Federation of Independent Business reports that 34% of Texas small business owners have been sued or threatened with court action seeking punitive damages. This hinders business and punishes the backbone of our economy.

My bill will ensure that small businesses will be protected from frivolous suits by limiting the amount of punitive damages that may be awarded against a small business. In most civil lawsuits against small businesses, punitive damages would be available only if the claimant proves that the harm was caused

through a conscious and flagrant indifference to the rights and safety of the claimant. Punitive damages would also be limited to the lesser of \$250,000, or three times the compensatory damages awarded for the harm.

Second, this legislation limits joint and several liability so that a small business owner would only be liable for non-economic damages in proportion to his or her responsibility for causing the harm. If a small business is responsible for 100% of an accident, then it will be liable for 100% of non-economic damages. But if it is only 70%, 25%, 10%, or any other percent responsible, then the small business will be liable only for the proportional responsibility they share.

Mr. Speaker, the examples of unfairness to small business are just as shocking. In one instance, a product seller was dragged into a product liability suit even though the product it sold was shipped directly from the manufacturer to the plaintiff. In the end, the manufacturer—not the product seller—had to pay compensation to the plaintiff. Unfortunately, this was after the product seller had been forced to spend \$25,000 in court expenses—\$25,000 that could have been used to expand the business or to provide higher salaries.

Mr. Speaker, the time for small business legal reform is now. Let's remove the threat of unnecessary litigation and help small businesses focus on what is really important—keeping this economy growing. I ask my colleagues to support this important bipartisan and common sense business legislation.

SMALL BUSINESS LIABILITY
REFORM ACT OF 1999

HON. TIM HOLDEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 25, 1999

Mr. HOLDEN. Mr. Speaker, I am pleased to join with my colleagues to introduce the Small Business Liability Reform Act of 1999. Like the other pieces of civil justice reform legislation that have recently been enacted into Federal law, this bill departs from the comprehensive approach that advocates of broad product liability and tort reform have taken in the past. Instead, this bill focuses on a few key specific liability issues: the exposure of very small businesses—those with fewer than 25 full-time employees—to joint liability for non-economic damages and punitive damages, and the exposure of retailers, wholesalers, distributors and other non-manufacturing product sellers to product liability lawsuits for harms they did not cause.

Last month, similar legislation was introduced in the other body (S. 1185) and it is my hope and expectation that our efforts in this body will combine with the work of our Senate colleagues to enable the Congress to respond positively and on a bipartisan basis to the concerns we hear year after year from smaller employers about our civil justice system.

Let me emphasize, Mr. Speaker, that the bill we introduce today is careful not to overreach. As I previously indicated, this is a narrowly crafted, tightly focused bill. The provisions restraining joint liability and punitive damages do