The vote was taken by electronic device, and there were—ayes 323, noes 83, answered "present" 1, not voting 24, as follows:

[Roll No. 109] AYES—323

ACKERMAN
ACKERMAN
ADAMS
ADAMS
ACKER
ACKER
ARMY
ARMY
BAEHR
BAEHR
BAKER (CA)
BAKER (LA)
BALLINGER
BARCIA
BARR
BARR (NE)
BARTLET
BARTON
BASS
BATEMAN
BELIENS
BENTON
BERGER
BERMAN
BEVILL
BILBRRAY
BILBRRAY
BISHOP
BILLYE
BLUETE
BOEHLER
BOEHR
BONILLA
BONO
BOUCHER
BREWSTER
BROWDE
BROWN (OH)
BROWNBACK
BRYANT (TN)
BRYANT (TN)
Burr (MA)
Burr (CT)
BROWN (NJ)
BROWN (NJ)
Buego
BUFF
BURN
BURN
BURR
BURR
BURTON
BÜYER
CALAHAN
CALVET
CALVET
Camp
CAMPBELL
CANDAY
CARDIN
CASTLE
CHABOT
CHAMBLISS
CHAPMAN
CHISEN
CHISN
CHRYSLER
CLMENT
CLINGER
CLYBURN
COBB
COBB
CONTEST
CONDIT
COINERS
COOLEY
COOLES
COX
COYNE
CRANE
CRANE

AYES—323

159

Mr. DINGELL changed his vote from "aye" to "no." Mr. BARCIA changed his vote from "no" to "aye." So the Journal was approved. The result was the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, this morning I was attending the funeral of a close friend. Regrettably, I missed rollcall vote 108, House Resolution 394, on ordering the previous question. I also missed rollcall vote 109 on approving the Journal. Had I been present I would have voted "aye" on both.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 159

Mr. GOSS, Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Joint Resolution 159.

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104-513) on the resolution (H. Res. 395) providing for consideration of the joint resolution (H.J. Res. 159) proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLVING PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 159, TAX LIMITATION CONSTITUTIONAL AMENDMENT

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104-514) on the resolution (H. Res. 396) providing for consideration of the bill (H.R. 842) to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund, which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H. R. 1834

Ms. JOHNSON of Connecticut. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1834.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut? There was no objection.

CONFERENCE REPORT ON H.R. 956, COMMONSENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996

Mr. HYDE, Mr. Speaker, pursuant to House Resolution 394, I call up the conference report on the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes. The Clerk read the title of the bill.
The SPEAKER pro tempore. Pursuant to clause 2(c) of rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of March 29, 1996, H3185.)

The SPEAKER pro tempore. The gentleman from Illinois [Mr. HYDE] and the gentleman from Michigan [Mr. CONYERS] each will control 30 minutes.

The Chair recognizes the gentleman from Illinois, Mr. HYDE.

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 956.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield 15 minutes of my time to the gentleman from Michigan [Mr. B. LILEY], chairman of the Committee on Commerce, and I ask unanimous consent that he be permitted to control that 15 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield 15 minutes to the gentleman from Michigan [Mr. Dingell], former ranking member of the Committee on Commerce, the Dean of the House, and I ask unanimous consent that he be permitted to yield time in blocks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself 2 minutes.

(At this point, Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I rise in support of the conference report on H.R. 956, the Commonsense Product Liability Legal Reform Act of 1996. This legislation is an important first step in the longstanding congressional effort to reform our legal system. Although the reforms contained in the conference report do not go as far as I and many in this Chamber would have liked, this legislation takes some important first steps in restraining the excessive and out-of-control legal system. It is a solid downpayment on long-needed reform.

When the House passed H.R. 956, the Commonsense Product Liability Legal Reform Act of 1995, in March of last year, we did so on a strong bipartisan vote of 265 to 161. That vote sent a message that the new Republican majority in Congress was resolute in its commitment to bring about broad-based legal reform and an end to lawsuit abuse. It has taken us more than a year to complete this process, but we now have before us a conference agreement which, while not as ambitious as the House bill, will for the first time in the history of Congress take aim at the inequities and inefficiencies of our legal system.

This is not only a first step in the direction we need to head, but it is a step which we can realistically enact this year. The House and Senate each approved this measure by a vote of 59 to 40. Despite the fact that the agreement does not go as far as the House voted for—notably extending relief to all civil actions—we must not lose sight of the fact that this liability reform is an historic accomplishment. It will unleash an American job creation boom and will translate into real growth for our economy.

I would like to take this opportunity to highlight several key provisions contained in the conference report:

 STATUTE OF REPOSE

One very important part of this conference agreement imposes a uniform statute of repose of 15 years for cases involving durable goods. A statute of repose eliminates the claim of time after a product is manufactured of a product during which a lawsuit relating to the product may be brought. The statute of repose addresses the unfairness that results when manufacturers are sued on the basis of a defect or injury occurring many years ago. This allows U.S. manufacturers to compete with foreign companies that have entered the marketplace in recent years and face no liability exposure for very old products.

The statute of repose provision in the conference report defines the term durable good as meaning first, “any product or any component of any such product which has a normal life expectancy of three or more years” or second, any product which “is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986 and which is: (A) used in a trade or business; (B) held for the production of income; or (C) sold or donated to a governmental unit for the production of goods, training, demonstration or any other similar purpose.” Thus, the agreement describes two distinct categories of products which will be covered by the statute of repose provision.

Under the first clause of the definition, a manufacturer of a product such as a machine tool, farm equipment, a bicycle or a ladder, a toaster or gas furnace, an elevator, or building materials such as plate glass, wall coatings, or roof-tile could not be sued based on harm allegedly caused by that product more than 15 years after the product was first delivered. Thus, a product which has a normal life expectancy of 3 or more years need not meet any other criteria to qualify as a durable good.

Again, the second clause of Section 101(7) covers products that are subject to allowance for depreciation under the Internal Revenue Code and used in a trade or business, held for the production of income, or sold or donated to a governmental unit for the production of goods, training, or similar purposes. These types of products would also be covered by the 15-year statute of repose adopted in the conference agreement.

Some have erroneously stated that the statute of repose in the conference report is confined to goods used in the workplace. That is not correct. The true sweep and reach of this conference agreement is clearly not limited in this manner, nor should it be.

In his eloquent statement in support of the legislation, Senator Gorton pointed out two examples—step ladders and a large proportion of the price of the product is accounted for by the cost of product liability actions and insurance. Senator Gorton’s use of these examples underscores the irrationality of any workplace limitation on the statute of repose. A workplace limitation would make unjustified and unfair distinctions between products, and could produce wildly inconsistent results for manufacturers who may have no control over where, and under what circumstances, their products may be used.

For example, if the statute of repose were limited in such a manner, a manufacturer of a ladder used in the workplace would be protected 15 years after the ladder is sold; but if that same ladder is sold to a homeowner the statute of repose would not apply. A football helmet used in professional sports would be covered by the statute of repose; but one used in other settings would not be. There are numerous other examples of arbitrary distinctions and unequal treatment that would result from a workplace limitation. A manufacturer of a mower used by a farmer would be protected from lawsuits after 15 years, while one whose same product is used by a weekend gardener would not be. The conference report rightly eliminates these types of arbitrary and unfair distinctions.

The statute of repose provision contains certain exceptions. It does not, for example, preempt the 18-year statute of repose contained in the General Aviation Revitalization Act of 1994. Neither does it apply in a case involving a vehicle used primarily for hire, where the existing State statute of repose, if any, would continue to apply.

The conference agreement provisions will also not apply in the case where the manufacturer or seller has expressly warranted the safety or life expectancy for his product for more than 15 years. In those cases, the private agreement of the parties will control.

The statute of repose also includes a toxic harm exception, which has been the source of a great deal of confusion and uncertainty. This exception was included in the Senate-passed bill to address a concern which had been raised about products that cause physical injuries that are latent, that is, injuries that do not manifest themselves for many years after a person is first exposed to a product.

Because the term “toxic harm” was not defined in the Senate bill and is...
not defined in the conference report, I want to spend a few moments clarifying the congressional intent with respect to the scope of this provision. Numerou
Federal statutes and regulations contain definitions of the word "toxic." However, none of these definitions differ widely from others. Some of those definitions, if relied upon to interpret the "toxic harm" exception in H.R. 956, would broadly except from the statute of repose products where the alleged harm resulted from human factors such as by excessive noise, cold, vibration, or repetitive motion—such as repetitive stress injury—to those in which the alleged harm is caused by chemical or other elements, to products like asbestos, where the injury to a person caused by the product may be latent for many years. The conferences did not adopt or incorporate these wide-ranging definitions.

The House-passed bill contained a provision that the Conference appeared to amend the Senate bill sought to address, but which used different words. The House provision excluded from the statute of repose products that cause latent harm, specifically, a "physical illness the evidence of which does not ordinarily appear less than 15 years after the first exposure to the product." Although the words used were different, the intent of the Senate and House provisions was the same: to except from the statute's time bar actions involving products alleged to cause latent illness.

The House, therefore, receded to the Senate bill's use of the "toxic harm" language, because it too is intended to provide an exception only for products that cause physical illness, evidence of which cannot be detected until long after exposure to the product, such as, harm that cannot be detected within a 15-year period.

Finally, it is important to note that the statute of repose contained in the conference agreement only preempts State statutes of repose which are longer than 15 years. It also does not limit a State statute of repose from extending beyond durable goods to other types of products. Thus, for example, a State statute of repose, which limits suits to those brought within 12 years of delivery of the product, and which covers all goods, would not be affected by the conference agreement.

Takings

The conference agreement generally adopts the Senate's language regarding a limitation on punitive damages. Punitive damages are intended for cases where the defendant's conduct has been particularly harmful—where the conduct involved negligence or intentional conduct. They should be awarded only in the most serious cases.

Punitive damages are generally limited to two times compensatory damages, and none of those limits is in the conference agreement. This limitation will be imposed by the court in the event that a jury—which is not to be told of the cap—awards a higher amount. In the event that the cap operates to limit an otherwise higher jury award, the conference agreement allows the court to consider whether that cap is appropriate. If after reviewing the facts of the case the court finds that the amount of punitive damages allowed under the cap is inadequate to increase the award, up to the amount of the initial jury punitive damage award level. In no event may the punitive damage award exceed the amount of the original jury verdict.

The limitation on the court's ability to award punitive damages in excess of the cap in no way suggests that the court will not have the normal discretion to review and decrease punitive damage awards in the proper circumstances. This power will continue to exist whether or not the initial jury award exceeds the limitation imposed under the conference agreement.

A special rule applies in the case of defendants with a net worth of $500,000 or less and employing 25 or fewer full-time employees. For cases involving those defendants, the cap on punitive damages will be two times compensatory damages or $250,000, whichever is greater. For cases involving larger defendants, the court may not increase the award beyond the statutory limit.

The limitations imposed by the section are to be applied to defendant by defendant. Thus, in a case involving two or more defendants, a defendant could potentially obtain the maximum amount of punitive damages from each defendant. For purposes of calculating the limit for each defendant, compensatory damages will include only the percentage of damages for which that defendant is found liable.

The conference agreement permits a court to award additional damage under section 108(a)(3), but only in cases of egregious conduct. Egregious conduct, in this context means conduct where the defendant against which the punitive damages are awarded specifically intended to cause the harm that is the subject of the action or acted with actual malice toward the claimant. Unless the defendant's conduct meets this standard, the provisions of section 108(a)(3) will not apply, and the court will have no authority to exceed the amount of punitive damages established in section 108(a)(1).

The provisions of the conference agreement in section 108(a)(3) which allow the court to exceed limitations on punitive damages are intended by the conference to be treated as severable in the event a court determines that judges lack constitutional authority to award additional amounts of punitive damages. Should a court so find, the continued operation of the limitations otherwise imposed by section 108 will not be affected.

Section 108(a)(1), which does not preempt State laws which more narrowly limit the amount of punitive damages that may be awarded. Thus, if a State imposes a dollar limit on punitive damages which is less than the cap set forth in section 108(a)(1), the State law will apply, and the conference agreement's provision allowing for the award of additional damages by the court will not apply. Similarly, if the State law contains a provision for additur, but does not increase the amount of additur permitted to less than the initial jury award, the provisions of the State law will prevail.

Thus, the punitive damage reforms of H.R. 956 are minimum standards and limits on damages designed to provide some measure of rationality; they would not displace the law of States with more restrictive punitive damage regimes. For example, many States have punitive damage limitations that do not allow the judge to override the statutory maximum. Nothing in the conference report displaces the laws of such States. Similarly, States are free to require higher standards of proof and to impose substantive requirements in addition to those in the conference report.

The preemptive effect of the punitive damage reforms turns on three separate provisions of the conference report. First, the Federal law "supercedes any law of any State that State law applies to an issue covered by the Act." Second, the conference report provides that "punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant if the claimant establishes by clear and convincing evidence that conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action." Third, the conference report provides that the Act "does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages."

Mr. Speaker, the express preservation of State laws that further limit the award of punitive damages was part of the bill approved by the House in March, but it was not part of the amendment passed by the Senate. During the Conference, I led the House conferences in insisting that this provision be included. The conference report adopts the House preemption language—language that makes very clear the preemptive effect of the punitive damage reforms.

Taken together with the other provisions, this provision conclusively demonstrates that the Act would not expand liability for punitive damages, or increase the permissible amount of punitive damages, in any State. If State law imposes substantive or procedural requirements concerning the circumstances under which punitive damages may be awarded that are more stringent than the Federal law, the State law controls. Similarly, if the application of State law results in the amount of punitive damages results in an award of punitive damages that is less than that permitted under the Federal law, the State law controls.
Let me explain, Mr. Speaker, why this is the only interpretation that is consistent with the plain language of the conference report, as well as the intent of its drafters.

Consider, for example, more stringent standards for the award of punitive damages. Everyone agrees that the act would not make punitive damages available in States, such as Washington, that do not currently allow the award of punitive damages. In such States, no award of punitive damages is permitted by applicable State law and the punitive damage provisions therefore do not come into play.

Likewise, the act would not lower the standards for awarding punitive damages in States such as Colorado—which requires proof beyond a reasonable doubt—or Maryland—which requires proof of actual malice. If a claimant meets the standard of proof in the Federal law but does not meet the higher standard by State law, the award of punitive damages is permitted by applicable state law. Again, the punitive damage provisions of the Federal statute simply do not apply to cases in which punitive damages would not otherwise be available under State law.

In addition, State laws that impose a higher standard of proof than the Federal act, or that provide for additional substantive limitations, are permissible limits on punitive damages and therefore are not preempted by the act, which does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages. Any State law that would make punitive damages unavailable even if the Federal requirements are met, or that would result in an award of punitive damages lower than the Federal limitations, is one that further limits the award of punitive damages. Such laws expressly are not preempted.

It is also important to recognize, Mr. Speaker, that the act would not affect State caps on punitive damages. In most cases, the act would limit punitive damages to the greater of $250,000 or two times compensatory damages. At the same time, many States have limited punitive damages by providing a maximum dollar amount, a multiplier, or some other statutory limitation on the amount of punitive damages. In many cases, application of these State limitations would result in a lower punitive damage award than would application of the Federal limitations. In such cases, these State laws would remain in effect.

For example, Virginia has enacted an absolute cap of $350,000 for punitive damages. Illinois limits punitive damages to three times economic damages. Application of these limitations to a punitive damage award results in a maximum amount of punitive damages permitted by applicable State law. Even if the Federal law would allow a higher award of punitive damages, therefore, the State law limitations would control. By contrast, if the Federal limitations resulted in a lower amount, the Federal limitations would control.

Lest there be any doubt on this subject, the conference report expressly provides that the act "does not preemp or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages." This provision can only mean that if application of a State limitation would result in a lower award of punitive damages than the Federal rule, the further limit of the State law controls.

**COMMERCIAL LOSS**

The conference revisions to H.R. 956 are intended to clarify congressional intent concerning claims for commercial loss. Commercial loss, as defined in section 101(5), means any loss or damage to a product itself, or diminished product value, or consequential economic loss. As further stated in the definition, any claim for any of these three types of loss is to be governed by the Uniform Commercial Code or State law versions of its provisions, except that an additional requirement that all actions for commercial loss be governed by commercial or contract law is accompanied by the affirmative mandate in section 102(a)(2) that any civil action brought for commercial loss shall be governed by applicable commercial or contract law. Congressional intent is to codify the historical approach that tort theories are not applicable to such claims, and may not be employed with respect to them.

The reforms contained in H.R. 956 are aimed predominantly at correcting certain abuses and providing some reasonable uniformity in the tort law of products liability. Claims for commercial loss are traditionally in the tort realm, but are dealt with in accordance with the contractual agreement created by the parties themselves, or by the UCC. This economic loss rule is typified by the opinions of the California supreme court in Seely versus White Motor Company, and the U.S. Supreme Court in East River Steamship Corporation versus Transamerica Delaval. Despite limited judicial inroads by other courts that have sought inappropriately to engraft tort doctrines into the commercial law, the bill excludes commercial loss from the scope of its tort-related provisions. In so excluding commercial loss, Congress did not seek to carve out a category of loss undeserving of the bill's protections, but rather to recognize that there is a massive, extant body of commercial and contract law historically more suited to such claims. In order to assure that such claims are not subject to tort system abuses that the bill aims to mitigate, the conference chose to affirmatively provide that commercial loss claims be governed exclusively by commercial or contract law. Such a rule of law is necessary to promote uniformity and predictability, in the interests of interstate commerce and due process. This position is entirely consistent with the House Judiciary Committee report (H. Rept. 104-64), and codifies the common law rule. This bill does not intend to disrupt or affect application of the economic loss doctrine. Congress fully supports the traditional rule that disputes that essentially involve failed commercial expectations, damage or loss to a product itself, or diminished product value, are not recoverable in tort. Exclusion of commercial loss from the bill is designed to protect the body of contract and commercial law, and to assure that tort or other inappropriate causes of action are not engrafted onto that body of law.

**DEFINITION OF PRODUCT**

The definition of a product in section 101(14) of the conference agreement is not intended to include improvements in real property. A manufacturer is not otherwise be available under State law.

Mr. Speaker, after nearly two decades of effort to fashion a comprehensive set of product liability reforms, we have crafted a bipartisan package of bottom-up reforms. These reforms are desperately needed to restore some fairness to our present system and to remove roadblocks to our country's economic growth and job creation. I urge my colleagues to join me in supporting the conference report to accompany H.R. 956.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, this is a continuation of the war on public safety that we have been fighting in this conference measure which would not only undermine and limit the amount of damages an injured victim can recover, but would, in instances, completely cut off our consumers' and workers' rights to seek compensation, even in uncontested cases of negligence.

Mr. Speaker, this bill, the conference measure before us, in every conceivable way has been designed to disadvantage American consumers and benefit negligent corporations. The question that hangs over this discussion is why.

Remember, the Conyers amendment to get tough with foreign corporations,
which we voted twice, was dropped in conference, to require the foreign corporations to subject themselves to the discovery and jurisdiction in the U.S. courts as a condition of doing business in this country, just like everybody else. When a wrong defendant is one who did the wrong, the committee specifically refused to ratify the judgment of the majority of Members, Democratic and Republican, about this provision?

To make matters worse, Mr. Speaker, we are considering the bill at the same time the gentleman from Texas, Mr. ARMEMY, is proposing to completely eliminate safety agencies like the Consumer Product Safety Commission, while simultaneously slashing and eliminating safety regulations. Why?

If Members do not think that the threat of private lawsuits can help keep dangerous products off the market, which is what we hope to continue to do in our legal system, just ask the parents of children who have been killed by flammable pajamas, or the women who have been maimed by the Dalkon shield. Both these products are now off the market, thanks to the threat of punitive damages.

Mr. Speaker, I appeal to Members on the sense of the States, which is a one-way street of Federalism: Return power to the States, as long as it disadvantages consumers and working people. Finally, do not forget about the special interest fears lurking in the bill. Gun sellers and bar owners have obtained special language limiting their potential liability for careless sales to third parties. Did Members know that was there? It is. Electricity, water, and gas utilities corporations have obtained a provision overruling liability laws in States which hold them strictly liable for utility disasters. Do Members know that is in the bill?

Like ministers, Congressmen can preach through the people’s cries. It does not bother me a bit.

There are other hidden favors. Mothers Against Drunk Drivers are opposed to the bill. Special interests have poured $26 million into it to see these special things occur. Mr. Speaker, this bill is of special interests, by special interests, and for special interests. The administration has indicated that it will veto it. It is going nowhere, again, so vain, so Uselessly damming, discriminatory piece of legislation. The following is a more detailed description of the final conference report, outlining my concerns with the bill.

Section I. Short Title and Table of Contents

Sec. 1. Findings and Purposes.—..."
even apply in cases where a third party (other than an employer) was responsible for the alteration.

Sec. 106. Time Limitations of Liability.—Sec. 106(a) provides for a nationwide two-year statute of limitations, preempting longer statutes in 25 states and the District of Columbia. Sec. 106(b) creates a new federal “statute of repose,” barring any product liability action for certain goods not brought within fifteen years of the date of delivery of the defective product to the consumer, with the exception of the repair or replacement of the defective product. The statute of repose provision would result in many occasions where a defective product leads to harm that is totally non-compensable. The one-sided nature of the statute of repose provision is highlighted by the fact that it does not preclude state laws providing for a shorter statute of repose.

Sec. 107. Alternative Dispute Resolution Procedures.—Parties are encouraged to pursue alternative dispute resolution under applicable state law, but there are no penalties for parties who refuse to participate.

Sec. 108. Punitive Damages.—Would arbitrarily limit the maximum amount of punitive damages awarded to the lesser of two times compensatory damages or $250,000 (although the judge would have very limited discretion to allow an increased award if the manufacturer’s conduct was of a particularly恶劣 nature). Lawsuits against individuals whose net worth does not exceed $250,000 and businesses with less than 25 full-time employees would be subject to a reduced punitive damages cap equal to the lesser of $250,000 or two times compensatory damages.

The bill would also limit the award of punitive damages in cases where the victim had established by “clear and convincing evidence” that the injury was the “proximate cause” of conduct specifically intended to cause harm manifesting a “conscious, flagrant disregard to the rights and safety of others.” Finally, the section would permit any party to request a separate proceeding to determine whether punitive damages should be awarded and the extent of such damages. Again, the punitive damages cap is written so it only preempts states with higher caps or higher caps. It does not preempt states with lower caps. (This could create confusion to the extent a state’s system is better in some respects, and more restrictive in other respects than the federal standard.)

These changes would in large part eliminate punitive damages in the product liability system, thereby reducing the system’s overall deterrent effect. For a civil case, these proposed evidentiary and substantive standards come close to “criminalizing” tort law for purposes of punitive damages; in other words, an injured victim would almost have to show that a manufacturer had a “criminal intent”—and not gross negligence. Moreover, the legislation creates a standard of “conscious indifference” which appears to be so narrow as to be mutually exclusive. Permitting parties to bifurcate proceedings concerning the award of punitive damages will lead to far more costly and time consuming proceedings, generally at the expense of the injured parties. The proposed caps largely eliminate incentives for manufacturers to remove life-threatening products from the market. The proposed caps also fail to substitute “cost-benefit” analyses based on the estimated value of lives. The exception for “small businesses” would insulate more than 98% of businesses. The proposal will not create new incentives to avoid expanding employment opportunities. The “additur” procedure allowing the court to increase punitive damages above the statutory cap may be held to be a constitutional violation of the defendant’s right to a jury trial in federal court. See Dimick v. Schiedt, 293 U.S. 474 (1935).

Sec. 109. Liability for Certain Claims Related to Death.—This incorporates provisions from the Senate bill so that the punitive damages cap does not apply to a particular action brought in Alabama.

Sec. 110. Joint and Several Liability.—Would supersede traditional state common law by limiting joint and several liability for non-economic damages, such as pain and suffering. The justification for the common law rule is that it is better that a wrongdoer who can pay more than his share, rather than an innocent victim obtain less than full recovery, also, a defendant who pays more than its share of damages can seek contribution from the other defendants. The provision has the effect of discriminating against groups less likely to be able to establish significant economic damages, such as women, minorities, seniors and the poor. Moreover, the elimination of joint and several liability would actually increase courts’ caseloads and increase litigation costs, but discriminate against, and requiring injured consumers to initiate multiple claims.

Sec. 111. Workers Compensation Subrogation.—In addition to codifying certain state laws permitting employers to seek subrogation from their employees, this provision allows a responsible manufacturer to seek contribution from a negligent employer up to the amount of workers compensation benefits paid by the employer. (The provision also limits workers compensation on the employee’s legal fees by the manufacturer if the employer is wrongfully brought into an action.) Legal aspects of workers compensation are new issues that the House has never considered or debated before.

Title II—Limitation on Liability relating to Medical Implants—Suppliers of raw material and component parts used to assemble medical implants (such as breast implants) would only be liable under State law if a victim establishes the supplier failed to meet the contract requirements or specifications for the implant. The bill also specifies new rules for bringing suits against biomaterials manufacturers and sellers, provides for an expedited process, and compels the seller to reimburse the manufacturer for the legal fees of the manufacturer if the employer is wrongfully brought into an action. Legal aspects of workers compensation are new issues that the House has never considered or debated before.

Title III—Limitation on Application: Effective Date.—State courts decisions supersede other court interpretations and the Act applies to lawsuits brought after the date of enactment.

Mr. Speaker, I reserve the balance of my time.

Mr. BLEILEY. Mr. Speaker, I yield myself 3 minutes. (Mr. BLEILEY asked and was given permission to revise and extend his remarks.)

Mr. BLEILEY. Mr. Speaker, I rise in support of the conference report on H.R. 956, the Commonsense Product Liability and legal Reform Act of 1995. This is a projobs, procompetitiveness bill that will help to bring fairness and accountability back into our legal system.

Almost two decades ago, the Commerce Committee began a bipartisan effort to reform our product liability laws. Over the years, we have held dozens of hearings, received written and oral testimony from hundreds of witnesses. Early last year, the committee reported legislation which is incorporated into the conference report before us now. And today, as part of the Contract with America, and with the leadership of the distinguished chairman of the Judiciary Committee, we stand ready to put some historic changes into place that the conference report falls somewhat short of the reforms included in our earlier House bill, which passed the House by a wide, bipartisan margin. Nonetheless, the conference report contains a number of reforms which the Commerce Committee has worked on, and which will clearly help to relieve the burden of excessive litigation.

For example, the conference report still contains critical protections for businesses and suppliers in our committee to ensure that consumers will have continued access to lifesaving and life-enhancing medical devices. It also still contains provisions for reasonableness and balance in product liability for punitive and non-punitive damages, and sets forth enumerated guidelines which should be considered before such awards are made. In addition, it includes important exceptions for environmental claims, and allows for reasonable expectancy for products in the workplace.

These reforms are essential to the long-term competitiveness of the American economy, as we established in our work in the Commerce Committee over the past number of years.

Mr. Speaker, I include for the RECORD, relevant portions of the Commerce’s Committee’s report on H.R. 917, legislation which was incorporated in significant part into H.R. 956, the bill before us today.

EXCERPTS FROM HOUSE REPORT 104-63, PART I

BACKGROUND AND NEED FOR LEGISLATION

For two decades, the Committee on Commerce has grappled with the issue of product liability reform. After developing an extensive record on the subject of product liability law, the Committee has concluded that the present system places an enormous burden on interstate commerce, inflates prices, stifles innovation, and subjects manufacturers and sellers to a capricious lottery where sanctions can exceed any found in criminal law. In light of these facts, Congressional action is long overdue.

Historically, injury caused by a defective product gave rise to a tort action in State court. The transportation and communications systems developed, more products crossed State boundaries, increasing the volume of interstate commerce exponentially, creating more interstate product liability. From 1973 to 1988, product liability suits in Federal courts increased 1000; in State courts the increase was between 300 and 500. In the meantime, tort damages and State courts evolved from fault-based standards to strict liability for manufacturers and sellers. Tort costs have risen significantly as well, reaching an estimated $100 billion in 1991. (Tillinghast. (1992) tort Cost Trends: An International Perspective. New York:
Tillinghast.) Products manufactured in one State are now sold in another and cause in-jury in yet others. Because each State has different rules governing recovery in tort, forum shopping and asset protection become important. The present product liability system often forces manufacturers to increase product prices or withdraw products from the market altogether. According to surveys reported to the committee by Pace University Professor of Law M. Stuart Madden, because of liability costs, 36% of American manufacturers have withdrawn products from the marketplace. Of these withdrawn products from the domestic market, 39% have decided not to introduce new products, and 25% have discontinued new product research.

The case of Bendectin is illustrative: Bendectin is the only prescription drug in the United States ever approved for combatting nausea and vomiting in pregnancy. Introduced in 1966, the drug was used in over 30 million pregnancies. In 1969, allegations that Bendectin could cause birth defects appeared in scientific journals. Despite the fact that no causal relationship between Bendectin and birth defects was ever established, American manufacturers and sellers without the benefit of uniform standards on which to base conduct in the design, manufacture and sale of goods. Manufacturers chose to pay damages far in excess of their proportionate responsibility (and penalized) for all risk—from those attributable to the vagaries of human nature to those attributable to the company’s own negligence—the ability to innovate, engineer, and compete is compromised.


In addition to driving products from the marketplace, raising prices, and draining capital, the patchwork of liability standards throughout the nation severely inhibits the competitiveness of U.S. industry. While it is true that a foreign company doing business in the United States is subject to the same liability laws as U.S. companies, few European manufacturers have had a major impact on their business; 36% stopped manufacturing and legal fees spent in liability lawsuits are built into the cost of such products, creating a price disadvantage for domestic producers facing well financed foreign competition with far less liability exposure.

American industry's chief foreign competitors face no such handicap in their domestic marketplace. Both the European Community (EC) and Japan have uniform product liability regulations. The EC Directive establishing product liability standards was published in 1985, and differs significantly from product liability law in the United States in the following ways: first, a single definition of product 'defect' applies; second, if a product is found defective, responsibility is fixed by law, parties disputing liability are barred proceedings; fourth, punitive damages are generally not allowed; fifth, most EC countries limit liability to known technical knowledge; and sixth, earlier statutes of limitation when the manufacturer puts a product into the stream of commerce. Operating under the provisions of this Directive, European manufacturers have enjoyed about twenty times less for liability coverage than their American competitors.

The status quo also rears the head of the American Manufacturers Association; Mr. R. Mannen, Executive Vice-President, Health Care and Innovation. «Automotive Engineering» National Academy of Engineering.

Industry Manufacturers Association; Mr. James A. Anderson, Jr., Vice President of Government Relations, National Association of Wholesaler-Distributors; and Mr. John E. Richardson, Administrator, Latto Nursing Home, testifying on behalf of the National Farmers Union; Mr. C. Stephe N, testifying on behalf of the National Farmers Union; Mr. James A. Anderson, Jr., Vice President of Government Relations, National Association of Wholesaler-Distributors.

The present product liability system in the United States unfairly denies consumers the right of free choice in the marketplace and inflates prices for available products. For manufacturers and sellers, the system discourages innovation, retards capital formation, creates a disadvantage in the world market.

The Committee has developed an extensive record on the negative impact of product liability on commerce in the United States, and has concluded that Congressional action is long overdue. Support for product liability reform bill within the Congress has always been bipartisan, and legislation has been reported from the Committee to the House under both Republican and Democratic Chairmen.

During the 104th Congress, the Subcommittee on Commerce, Trade, and Hazardous Materials held one day of hearings on H.R. 917, the Competitive Product Liability Reform Act, and related legislation, including section 103 of H.R. 10, the Common Sense Legal Reform Act. Additionally, since the 99th Congress, the Committee has held 12 days of hearings on the subject of product liability reform and that record contributed significantly to the Committee's consideration of H.R. 917.

On February 21, 1995, the Subcommittee on Commerce, Trade, and Hazardous Materials held one day of hearings on H.R. 917, the Common Sense Product Liability Reform Act, and related legislation. Testimony was received from Mr. Paul R. Haur, Senior Vice President, National Association of Manufacturers; Mr. Larry S. Stewart, President, Association of Trial Lawyers of America; Mr. Victor E. Schwartz, Esq., General Counsel, Product Liability Coordinating Committee; Mr. Daniel E. Richardson, Administrator, Latto Nursing Home, testifying on behalf of the National Farmers Union; Mr. Jeffery L. Quayle, Chairman, Com- mercial, Vice-Chair, Assembly on Federal issues of the National Conference of State Leg- islators; and Mr. James A. Anderson, Jr., Vice President of Government Relations, Na- tional Association of Wholesaler-Distributors.

During the 103rd Congress, the Subcommittee on Commerce, Trade, and Competitiveness held three days of hearings on H.R. 100, the Fairness in Product Liability Act, whose language is closely tracked by H.R. 917. During the first hearing on February 2, 1994 and focused on the impact of product liability reform on the health care industry. The Subcommittee received testi- mony from Ms. Stephanie Kanarek; Mr. Ted R. Mannen, Executive Vice-President, Health Industry Manufacturers Association; Mr.
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Calvin A. Campbell, J., President and CEO, Goodman Equipment Corporation (testifying on behalf of the American Mining Congress); Ms. Lucinda Finley, Professor, State University of New York at Buffalo Law School; Mr. Victor E. Schwartz, Esq., General Counsel, Product Liability Coordinating Committee; and Mr. Bruce Finzen, Robins, Kaplan, Miller & Ciresi.

The second hearing sought a broad spectrum of opinion on the bill from consumers, manufacturers, academics and others and was held on April 21, 1994. The Subcommittee received testimony from Mr. Marcus Griffith, President, The Hairlox Company (testifying on behalf of the American Hairdressers and Cosmetics Association); Ms. Dianne Weaver, Weaver, Weaver & Lipton; Ms. Norma Wallis, President, Liverso Engineering (testifying on behalf of the National Manufacturers Association); Mr. Robert Creamer, Executive Director, Illinois Public Action; Professor Stuart Madden, Pace University School of Law; and Professor Andrew Popper, Deputy Dean, Washington College of Law, The American University.

The Subcommittee received testimony from victims of defective products and other interested parties on May 3, 1994, from J aney and Lawrence Fair; Amy Goldrich for Sybil and Larry Goldrich (accompanied by Don Singer, Attorney); James L. Martin, Director, State & Federal Affairs, National Governors Association; Carol Krum Manufacturing Company; James Oliphant, President, Defense Research Institute; Liberty Magarian (testifying on behalf of the Product Liability Coordinating Committee); and Larry R. Rogers, Power, Rogers, & Smith.

In the 100th Congress, the Subcommittee on Commerce, Consumer Protection, and Competitiveness held seven hearings on Federal product liability reform covering punitive damages reform, joint and several liability, workplace safety, the impact of product liability insurance, and the determination of intoxication or whether the claimant is under the influence of intoxicating alcohol or illegal drug.

Section 1. Short Title: Table of Contents.

This section provides the title of the Act and a table of contents.

Section 2. Preemption.

This section establishes the scope of the Common Sense Product Liability Reform Act, governing any product liability action in any State or Federal court brought against a manufacturer or product seller, on any theory, for a product defect, regardless of the length of life or warranty of the product. This section bars liability for a product liability action unless the complaint is served on or before the applicable statute of limitations of applicable State law.

Section 3. Product Seller Liability.

This section sets forth the standard of liability against a product seller who is only liable for harm caused by its product where (1) the claimant establishes that the product was sold by the seller, that the seller failed to exercise reasonable care regarding the product, and that such failure was a proximate cause of the claimant's harm; (2) the seller made an independent express warranty and failed to conform to the warranty, and such failure caused the claimant's harm; or (3) the seller was engaged in intentional wrongdoing as determined under State law, and such wrongdoing was the proximate cause of the claimant's harm. Sellers are not required to inspect a product to determine whether it is reasonably safe or inspect such product in a manner which would reasonably have revealed the aspect of the product which caused the claimant's harm. A seller would, however, be liable for harm caused by the misuse or alteration of a product involving a risk of harm which would have been known by the typical consumer. The awarding of damages against the manufacturer or product seller would be reduced by such percentage of claimant's misuse or alteration. The manufacturer's or product seller's liability shall not, however, be reduced by the percentage of responsibility for the harm attributable to the misuse or alteration of a product by the claimant's employer or co-employees, if the co-employees were immune from suit by the claimant pursuant to State law applicable to workplace injuries. These provisions only supersede State law to the extent that State laws are inconsistent.

Section 4. Alcohol and Drug Defense.

This section provides a defense to a liability action where a claimant is more than 50% responsible for the accident causing harm as a result of being under the influence of intoxicating alcohol or illegal drug. The determination of intoxication or whether the claimant is under the influence of alcohol or drugs shall be made according to the relevant State law. Criminal laws include all controlled substances according to federal law.

Section 5. Mise or Alteration.

This section allows a manufacturer or product seller to claim that a percentage of a claimant's harm was proximately caused by the misuse or alteration of a product in violation of warnings or instructions, or by the misuse or alteration of a product involving a risk of harm which would have been known by the typical consumer. The awarding of damages against the manufacturer or product seller would be reduced by such percentage of claimant's misuse or alteration. The manufacturer's or product seller's liability shall not, however, be reduced by the percentage of responsibility for the harm attributable to the misuse or alteration of a product by the claimant's employer or co-employees, if the co-employees were immune from suit by the claimant pursuant to State law applicable to workplace injuries. These provisions only supersede State law to the extent that State laws are inconsistent.

Section 6. Statute of Repose.

This section bars liability for a product liability action unless the complaint is served and filed within 15 years of the time of first report of a defect. However, if the claimant is eligible for workers' compensation for the harm, if the harm did not cause a chronic illness, if the manufacturer or seller had an express written warranty as to the useful safe life of the product which was longer than 15 years, or if the product was sold in violation of a Federal safety standard, then the repose period shall not begin until five years after the discovery of the defect.

Section 7. Punitive Damages.

This section provides that where states allow punitive damages, such damages may be awarded where a claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by the product, that the conduct was reckless, that these persons would not have been able to serve process against the manufacturer if the State where the action is filed did not have jurisdiction over them, and that the claimant would be unable to enforce a judgment against the manufacturer. The awarding of punitive damages against the manufacturer would not be limited to suits brought in State court, but would be determined by the jury.

The trier of fact shall consider all relevant evidence in determining a punitive damage
award, including the severity of harm, the duration, concealment, or profitability of the defendant’s conduct, the number of products sold by the defendant which can cause such injury. A court may award the defendant compen-
satory damages and, in certain cases, punitive damages.

Section 11. Liability of Biomaterials Suppliers.

This section provides that a biomaterials supplier is liable to a medical device only if the claimant establishes that the biomaterials supplier’s failure to meet contract specifications as set forth below was a proximate cause of harm to the patient. The biomaterials supplier is deemed to have failed to meet contract specifications if the raw materials or component parts delivered by the biomaterials supplier did not constitute the product described in the contract between the biomaterials supplier and purchaser, or they fail to meet any specifications that were provided to the biomaterials supplier and not expressly repudiated prior to acceptance of delivery of the supplies, or that were provided to the manufacturer by the biomaterials supplier, or which are contained in a master file submitted by the biomaterials supplier to the Secretary of Health and Human Services (HHS) that is currently maintained by the biomaterials supplier for the purposes of premarket approval of medical devices, or specifications that were included in the submissions of the purposes of premarket approval or review by the Secretary of HHS and which have received such clearance and were not expressly repudiated by the biomaterials supplier prior to acceptance.

Section 12. Definitions.

This section provides definitions for the following terms: “biomaterials supplier,” “claimant,” “commercial loss,” “danger,” “defective,” “defective product,” “device,” “person,” “product liability action,” “product seller,” and “State.”

Section 13. Effective Date.

This section provides that the Act shall apply to actions which are commenced after the date of its enactment.

Mr. Speaker, I believe this information will help to establish the need for a number of the reforms contained in the pending conference report.

Mr. Speaker, we need commonsense legal reform that will put more power into the hands of the American people to make their own consumer choices, and bring some sanity back to our legal system. We need reforms that recognize responsible behavior, and put an end to the legal jackpot mentality. We need commonsense legal reforms today.

I urge support of this bill.

Mr. DINGELL. Mr. Speaker, I yield myself 4 minutes.

(Dr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, I voted for the conference report today for three reasons. First, the context is relatively balanced and sound. The second, it is consistent with similar legislation which I have supported over the years. Third, it represents a complete and utter repudiation of the extremist Republican agenda, which included tacking on to the original House bill a host of special interest amendments stripping average Americans of the constitutional right for the benefit of the wealthy and the powerful.

I take some measure of pride, Mr. Speaker, in having launched the original product liability reform movement in the House back in the late 1970s. So it is as one who is not John-Dingell-come-lately to this issue. I am pleased today for those people in America’s manufacturing community who have worked with me for many years on this issue. I particularly want to single out one individual for special thanks, Dr. Victor Schwarz, an attorney, professor, casebook editor, and nationally renowned expert on tort law who, for nearly 20 years has helped guide this movement and its supporters in the Congress with sound advice, good judgment, and personal integrity.

But I have trouble mustering any great enthusiasm for today’s events. The process has led up to our having this legislation on the floor today has been an utter disgrace. The conference on this bill was a complete sham. At the one and only meeting which the conference held in December, we were told that the conference would be open and bipartisan. Nothing was further from the truth. Instead, precisely the opposite occurred. The House Republicans proceeded to cut a secret deal in closed meetings with no participation by anyone else. There was no discussion, no consultation, and no conference meeting after that time.

Our staffs were presented with the final conference report on a take-it-or-leave-it basis late one evening after the Members had gone home. We were not even given the courtesy of being able to review the documents overnight. This is apparently the Republican definition of open and bipartisan. That amendment was adopted under the leadership of the disinguished gentleman from Michigan [Mr. CONyers]. The House recently reaffirmed that commonsense position by voting to instruct the House conferees to insist on this provision in the conference. Despite two overwhelming and bipartisan votes, I note, the Republican conferees dropped the provision in which Dr. Schwarz has been involved.

I take this opportunity to thank him and his colleagues for their hard work.
entirely. To my knowledge, the Republican Members never even raised this issue in the secret backroom discussions on this legislation.

I note that all eight House Republican conferees voted against the original amendment of the motion to restructure. Those few Members are entitled to their views, but those views get preferential treatment to foreign corporations to the disadvantages of American corporations. But that should not empower them to so brazenly disregard the expressed will of the House, the expressed will of the American people as clearly expressed by this House. The Republicans say they want to reduce Federal power, yet last year they were busy sticking the Federal snout into dog bite cases, accidents, and slip and fall disputes.

The bill that passed last year as part of the contract on America amounted to a wish list of all manner of scoundrels and wrongdoers. That legislation protected drunk drivers, sexual predators, scoundrels, and others who prey upon the weak, defenseless, and innocent, and those who intentionally inflict great harm and damage. They treated cases involving intentional and gross misconduct as though they were simple negligence cases.

Fortunately, they are not going to get their way. I do not believe that the Republican leadership ever wanted enactment of this bill as public law. If they did, they would not have allowed it to languish for the best part of a year before even asking for a conference. If they did, they would not have included in the process a system which systematically excluded House Democrats like me who have for years supported product liability reform, and they would not have conducted the overall matter in the way in which they did. Instead, this will get what they really want, not a law, but a campaign issue.

We have reached the bottom of the barrel when for pure partisan games, Republicans will not let Democrats who agree with them work with them or participate in the legislative process. Once again, we have seen, as it has happened so many times in this Republican Congress, the constituents who need real action are getting just promises and press conferences and not real action. They will be the losers.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. GeKas].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

I stand here today to plead for a special interest, I say to the gentleman from Michigan, who so quickly criticizes every manner and moment of special interest. The special interest for which I make a plea are some 8 million Americans who this day contain in their bodies medical devices that have been implanted, which have saved their lives in many cases, and the supplies for which are being threatened by the massive lawsuits that have caused the suppliers of raw materials to withhold those materials from future medical devices like coronary shunts, heart valves, knee replacements, hip replacements.

That is a special interest, I say to the gentleman from Michigan, where we ought to be doing everything we can to help those who need replacements, who need heart valves, who need all of these medical devices for the sake of their health and their lives, we ought to give them the opportunity to have future medical devices available, access to them. And what title II does, of this piece of legislation, is to release a little bit of the raw material suppliers from that type of massive liability that makes no sense, that keeps them from supplying the raw materials to the manufacturers of these lifesaving medical devices. When are we going to try to understand that special interests sometimes are those people who are victims of heart attacks, victims of disease that we can help if we can just relax a little bit on the restrictions on liability that some of the suppliers of these raw materials have to face.

I say it is time for us to encourage the President not to veto heart transplant implants, not to veto brain shunts, not to veto hip replacements, but rather to sign the bill into law that will acquire for the American people a balance and allow them to have access to all sorts of new and wonderful lifesaving medical devices.

Mr. CONYERS. Mr. Speaker, I yield myself 30 seconds to remind my friend from Pennsylvania, Mr. GeKas, that title II of the products liability conference report would prohibit most products liability cases, including those damages from the supplier of silicone gel, despite evidence that the supplier misled women and many of their doctors about the safety of that product. It would also prohibit suits against suppliers of biomaterials used in the manufacturing of medical implants.

Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. Scott], a distinguished member of the Committee on the Judiciary.

Mr. STEARNS. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. Stearns], a member of the committee.

Mr. STEARNS. Mr. Speaker, I thank my colleague for yielding time to me.

Mr. Speaker, I also rise in support of the conference report, and I was very glad to hear that the gentleman from Michigan [Mr. Dingell], who is the former chairman of the Committee on Commerce, supports the bill. Also I want to recognize Victor Schwarz for all his long-term work on this project.

For almost two decades, Congress has been struggling to interject common sense into our product liability laws. I want to commend the conferees for their success in bringing balance and reasonableness to our legal system. Everyone has heard justice delayed is justice denied. Well, this legislation ensures legitimate plaintiffs finally have their day in court by ending the frivolous lawsuits that needlessly tie up our judicial system.

Mr. Speaker, these lawsuits have effectively prohibited individuals from pursuing legitimate grievances through the judicial system due to the fact that the dockets are overcrowded with meritless lawsuits. There are studies that indicate that fully half of the costs of our tort system are consumed in legal fees and expenses, while only one quarter goes to compensate actual economic losses. Costs of personal injury lawsuits benefit the ones benefiting under the current system. This legislation encourages settlements outside the way, thereby getting lawyers out of the way.
I urge all of my colleagues to support this conference report that emphasizes fairness and individual accountability while maintaining an injured party's fundamental right to restitution.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding time to me.

In this very serious and weighty debate, I cannot help but be a little amused that so many of the same forces that come here and complain about the litigation explosion, about how our courts are too crowded are the same folks that I read about this week in USA Today who are going around the country making it against the law to speak ill of vegetables. Yes, if you bad mouth brussels sprouts, the USA Today reports, it could cost you, if you are opposed to onions, if you diss a kiwi. Now in 12 States, it is against the law to do that and you can be hauled into court.

So the same folks that come here and say there are too many lawsuits in our courts are going around the country, in fact they are trying to do it this week in Maryland, enacting laws to speak ill of vegetables. Yes, to speak ill of vegetables. But if they turn us into a vegetable because of their disregard for safety and health in this country, then our rights will be limited.

Mr. Speaker, this is not about the litigation explosion, it is about limiting the rights of individuals whose health and safety is affected. What about the effect on cost and on jobs that we have heard so much about? Well, the folks that put out Consumer Reports, that is the magazine that a lot of us turn to when we have got to buy a refrigerator or television or some kind of service and we want to find out what the most cost effective alternative is, they report that over 30 million Americans each year are injured by consumer products and 29,000 are killed. Only a small fraction of those result in lawsuits, but the total cost to us of having assurance that there is protection in the event that there is harm caused by a defective product comes to about one penny one of a $5 purchase.

That is a very small price to pay for the assurance that someone who is burned and who will face one painful skin graft after another, to a young child who is scarred for life, to a young child who is killed. Only a small fraction of those that are legitimately injured to recover, so I think it is important just to go through an example. Let us assume, as I did recently when I had an opportunity to discuss this bill at the Wilson Equities LLC in Spartanburg, SC, that one of their John Deere tractor injuries somebody.

Let us assume this scenario. Mr. Jones is cutting grass with a riding lawnmower. A rock is thrown out of the lawnmower and it hits Mr. Jones, who is nearby tending the flower garden or something. Mrs. Jones is hurt badly. Let us see what happens in this case. Well, of course the Jones are going to sue for the medical bills that Mrs. Jones incurred. They are also going to probably sue for pain and suffering, and they are going to sue for punitive damages, everybody does. So let us see what happens.

Economic damages, let us say she had medical bills of $200,000. Again, I assume that Mrs. Jones is really hurt. If she is really, really hurt, it is more than $200,000. But I am intentionally choosing a low number, $200,000 economic damages. Now, let us assume that the jury awards Mrs. Jones $200,000 for pain and suffering. Mind you, it is very important to note this is not limited in this bill. Pain and suffering will not be limited so the jury is free to decide whatever they want. Mrs. Jones is really hurt and they give her $200,000 pain and suffering. She has $200,000 economic damages, $200,000 pain and suffering.

Now we come to the only limit imposed in the bill and that is of course punitive damages. The jury is instructed and here is what they can do. They can give her 200 plus 200 times 2, would be the maximum that they could give in this case. So Mrs. Jones here will get $400,000 potentially in punitive damages. So she has gotten $200,000 economic damages, plus $200,000 pain and suffering, plus $400,000 punitive damages. I am sorry, plus $800,000. She has got $200,000, 2, so that is $900,000 punitive damage amount. So Mrs. Jones can recover 200 plus 200 plus 800, which is $1.2 million.

Now, that is a fair amount of money, but it does not really put Mrs. Jones back where she was, and we have to admit that. If she is really badly hurt, it is just a bad situation. She has gotten $1.2 million, but she would really rather not have the money. She would really rather have her health back. But if we cannot put her health back, so we give her $1.2 million. That is our system operating rationally, I believe; $1.2 million for this hurt Mrs. J ones.

Now mind you, there is still plenty of money for the trial lawyers to get. I real-ize a lot of people in this body defend trial lawyers as though they are the greatest folks in America. There is still one-third for them, so in this case the trial lawyers get $400,000. There is still plenty of money in the system for adequate recovery.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from California. [Mr. CAMPBELL].

Mr. CAMPBELL asked and was given permission to revise and extend his remarks.)

Mr. CAMPBELL. Mr. Speaker, I rise in support of this bill.

I would like to take this time to comment on the issue of tort reform, and its ramifications on our business community, and especially upon California's Silicon Valley.

For years, the debate has raged over whether our country engages in excessive litigation. Some have offered the argument that lawsuits are socially useful in defusing workplace tension, deterring dangerous means of production, and compensating those who have been harmed. Others have as strongly maintained that lawsuits have siphoned off scandalous amounts of time and energy, caused many good ideas never to be commercialized, dried up capital for investment, and crippled America in competition with the world. So, who is right? I have concluded that our civil liability laws are indeed in need of reform to stem the flood of frivolous strike suits, which allege fraud but have no merit, and to make lawsuits that have detrimentally affected productivity and overall employment not only in California but across the Nation. My position is based upon a study that I participated in, which showed conclusively that the more a State reformed its civil liability laws, the greater its productivity and employment increased.

Here are a few facts and statistics:

Frivolous strike suits, which allege fraud when stocks take inevitable dips, have hit every one of Silicon Valley's top 10 companies and more than 60 percent of the valley's high-technology firms.

According to one estimate, shareholder suits are a $1.4 billion a year business, with settlements averaging $11 million.

A suit brought against 60 computer monitor manufacturers alleges fraud on behalf of the manufacturers because monitors labeled as 15 inches have—due to the dark border characteristic of computer technology—an actual viewing space of 14¾ inches.

The accounting firm of Tillinghast-Towers Perrin reports that the tort portion of our legal system cost $152 billion in 1994—a sum and half times the industrialized world average.

What we need are reforms that will stem this explosion of tort litigation; reforms like...
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placing caps on contingent fees and pain and suffering awards; allowing defendants to pay damages over time; constraining punitive damages; and modifying the joint-and-several-liability rule where a party only partly at fault can end up paying the entire damage award if the fault of another could have been apportioned.

I want to make clear that I seek only to bar frivolous lawsuits and not block those that have merit. A step in this direction was taken when Congress over-rode a Presidential veto and enacted the Securities and Litigation Reform Act of 1996. It reigns in frivolous class-action suits by private employers and investors across State lines. It provides, for example, protection to companies with solid records of rapid growth from lawsuits over a minor loss in a single quarter. And when legal costs can easily rise to the millions of dollars, mostly new, startup entrepreneurial high-technology firms are at greatest risk. This is especially true for Silicon Valley.

The litigation mess is not only affecting big business. It also prevents small businesses from expanding, causes new drugs and new products to remain on the market, and results in charities running short of volunteers.

Everyone today is a potential hostage to capricious and expensive lawsuits. National civil liability reform is needed to correct this broken system. I do not seek to sanction corporate irresponsibility to obtain reforms necessary to obtain fairness and common sense; with the result being more jobs and greater productivity in every State.

Finally, I was disturbed to learn that there is now an Internet web site which invites the public to invest in shares of lawsuit stock. Essentially what this outfit wants to do is publicly sell and trade stock based not on the performance of a corporation, but on the outcome of a lawsuit. I cannot view this approach in any other light than as another example of how out of control our tort system has become and how essential it is that we institute systemic reforms like the ones I have mentioned.

Mr. CONYERS. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, I remind the distinguished gentleman from South Carolina [Mr. INGLIS] that in his hypothetical, he used up 1 of the 14 punitive damages cases that occur annually in the U.S. courts.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. BONIOR], the minority whip.

Mr. BONIOR. Mr. Speaker, I thank the gentleman from Michigan [Mr. CONYERS] for yielding me the time.

Let us be clear what this bill does. Let me give you perspective from the example that was just given by my friend from South Carolina. If you are a corporate CEO and you make $1 million a year and God forbid you should have an accident because of a product malfunction, this bill says that you can receive full recovery of your economic losses. But if you are a working mom and you make $15,000 a year and you are struggling to put a little away for your child’s education and you suffer a suit that is an accident and that accident involves more than one wrongdoer and God forbid you should lose your ability to have children, you may never be fully compensated for pain and loss. Now that is what this bill does.

This bill says the lives of corporate CEO’s and Wall Street bankers and the economic elite are more important and more valuable than the lives of the economic elite are more important and more valuable than the lives of the working mom.

Mr. Speaker, we do not need a bill that tilts the balance away from victims of defective products and toward the big corporations who make them.

We certainly do not need a bill that gives foreign manufacturers a leg up on American companies. Even though 82 of my Republican friends supported an amendment that put America first, it was dropped in the conference committee by the Republicans. That too is shameful.

Mr. Speaker, if we live in a country where 98 percent of the growth in income since 1979 has gone to the top 20 percent, the other 80 percent has gotten 2 percent of the income growth in this country. What is wrong on his? Mr. Speaker, yesterday the Republican leadership, in both this body and in the other body, blocked efforts to raise the minimum wage, and once again we are asked to write special rules for the wealthy one more time.

Mr. Speaker, enough is enough. It is a tragedy when anybody is injured for speculative noneconomic injuries. Damage awards might have hoped for just 2 years ago. We certainly do not need a bill that tilts the balance away from victims of defective products and toward the big corporations who make them.

The Speaker pro tempore [Mr. GUNDERSON]. The gentleman from Virginia [Mr. BLILEY] has 11 minutes remaining, the gentleman from Illinois [Mr. HYDE] has 8 minutes remaining, the gentleman from Michigan [Mr. CONYERS] has 1½ minutes remaining, and the gentleman from Michigan [Mr. DINGELL] has 7 minutes remaining.

Mr. BLILEY. Mr. Speaker, I yield ½ minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in support of the conference report.

For almost two decades now, the House Committee on Commerce has grappled with the issue of product liability reform. After developing an extensive record on the subject of product liability law, the committee concluded that the present system places an enormous burden on interstate commerce, impedes innovation, and subjects manufacturers and sellers to a capricious lottery where sanctions can exceed any found in criminal law.

Last year, we worked with the Judiciary Committee to draft a joint legal reform bill to bring some common sense back into our legal system. We then worked with our Senate counterparts to help them move this critical legislation forward. While the final conference agreement was short of the reforms passed in the House, it still represents a great achievement and far more than anyone might have hoped for just 2 years ago.

For the first time in our Nation’s history, we will create a new class action product liability statute. The new law will contain proportionality requirements for punitive damage awards. Damage awards for speculative noneconomic injuries will now be based directly on someone’s actual responsibility for the harm, not on the depth of a defendant’s financial pockets. Plaintiffs who harm themselves primarily through their own excessive use of drugs and alcohol will no longer be able to transfer the costs of their addiction to third parties, and frivolous claims against innovators and biotechnology suppliers will no longer be allowed.

These reforms will play a critical role in increasing the long-term competitiveness of American industry and thereby protecting American jobs. And they will create a renewed emphasis on fairness and accountability in our legal system, without undercutting the basic rights to restitution for consumers.

I recognize that the President has promised to veto this pro-jobs, pro-fairness bill. This is unfortunate. As Governor Clinton twice supported resolutions drafted and unanimously approved by the National Governors Association calling for Federal product liability reform.

Throughout the last year we have been working with Senator ROCKEFELLER to provide the House a chance to communicate with the President and modify the bill accordingly, deleting numerous stronger House reforms and adopting an extended additur provision for punitive damages which his own Cabinet helped to write. The administration’s last minute bait-and-switch was subsequently decried by Senator ROCKEFELLER, who noted that “Special interests and raw political considerations in the White House have overridden sound policy judgment.” This sort of trial lawyer protectionism and turnstile politics, revealed earlier on securities litigation reform, is beginning to ring very hollow.

Part of the premise of the Contract With America was to put an end to politics as usual in Washington. This legislation is a consensus solution, built on decades of bipartisan efforts by my Democratic colleagues and fellow Republicans, for bringing some balance and reasonableness back into our legal system. I ask your support in helping write this comprehensive reform back into our legal system.

Let us pass this with an overwhelming vote and send it to the President and hope he changes his mind.
Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York [Mrs. LOWEY].

(Mrs. LOWEY asked and was given permission to revise and extend her remarks.)

Mr. LOWEY. Mr. Speaker, I rise in opposition to the conference report on the product liability reform. This bill benefits those who place profits above the health and safety of the American public, and it should be defeated.

Let's look at some of the real-life consequences that this ill-considered legislation would have.

Currently, there are approximately 1 million women who have silicone breast implants. To date, 100,000 of them have suffered real harm from these devices. Although these women were told that the implants were safe, many began to leak and break—exposing the women to the silicone inside. If this bill is passed, implant manufacturers will be protected from liability. Thousands of the women who are ill will be prevented from recovering damages.

This bill will hurt American women in other ways. The legislation eliminates current liability for noneconomic losses—which means that if a housewife from my district and Donald Trump are both injured by the same defective product, Donald Trump will be able to recover much more money than the woman from my district. That's wrong.

Mr. Speaker—we must not make it more difficult for women to recover damages from the companies of defective products.

I would also like to bring to my colleagues' attention a very shocking unintended result of this bill. Mothers Against Drunk Driving opposes this bill because it will cap punitive damages that can be enforced against those who serve alcoholic beverages to obviously intoxicated persons and minors. And it's just another cost of doing business. Companies that making defective products will have to pay out of court before they go to trial. It affects very dramatically the cost of litigation. Cases that should be settled early should be settled quickly, that do not have to go through the long litigation tax on the average American citizen that is in the thousands of dollars each year that we spend for in some way or another in direct or indirect costs of product liability laws.

Every case that comes in that has punitive damages claims has to be assessed and has to be judged as to whether or not what that case is worth in terms of actual compensatory damages and what it is worth from a punitive damages standpoint. Many of these cases are settled before they even result in lawsuits. They are settled before a case is even filed. Those cases are not going to show up on this chart. And if it is an egregious case, the judge feels like awarding that day, its gets some correlation, some relevance to the average American citizen that is in the thousands of dollars each year that we spend for in some way or another in direct or indirect costs of product liability laws.

Mr. HYDE. Mr. Speaker, I yield myself 30 seconds simply to say I have heard far too many things about this bill that just are not so. There is nothing in the world inhibiting a woman who has a faulty breast implant from suing and getting full recovery, economic, noneconomic, and, if the case warrants, punitive damages, twice whatever the economic and noneconomic total up to. And if it is an egregious case, the judge can add more to it.

So I just do not know what I am hearing here. They are talking about some other bill that has not been written.

Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Tennessee [Mr. BRYANT].

(Mr. BRYANT of Tennessee asked and was given permission to revise and extend his remarks.)

Mr. BRYANT of Tennessee. Mr. Speaker, I thank the gentleman for yielding me this time.

I, too, rise in strong support of this bill, this conference report, and think it is a very modest bit of reform. As an attorney who practiced in the civil litigation area for a number of years, it is interesting to hear the debate on this very difficult business being in the courtroom where you can respond directly to statements that are made, sometimes outrageous statements that are made, sometimes misstatements that are made. And in the courtroom you are able to sit here and listen to some of these examples that are being thrown out as to why this very good reform should not occur.

Let me tell you what, let me respond, I guess, in the best way I can to the allegations being made about this bill. The chart goes up and says, well, punitive damages cases are not that significant in number, very few are filed in a year, even less awarded. Let me tell you in the real world how punitive damage cases affect you and I, that cause a huge litigation tax on the average American citizen that is in the thousands of dollars each year that we spend for in some way or another in direct or indirect costs of product liability laws.

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Nor is it the notion of uniform Federal law that this bill would have. We have heard about the special interest groups here, and we are not really, I guess I should say that this debate really may be more because we have already been told by the President that he is going to veto this bill. He says he is for small business and for doing things to stimulate the economy and helping out the small people. But yet he is already saying he is going to veto this very modest bill that is supported by people on both sides. This is not a Republican-Democrat issue.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN], a distinguished member of the Committee on the Judiciary.

(Mr. BERMAN asked and was given permission to revise and extend his remarks.)

Mr. BERMAN. Mr. Speaker, I rise in opposition to the conference report on what I would view as the Victim Compensation Deprivation and Deterrence With Defective Product Risk. I do not oppose this bill in the belief that American law on product liability is perfect. But like many other Members of this body, I found that my efforts, in committee and on the floor, to moderate the excesses of this legislation, and in so doing, to articulate the sorts of reforms I can support, were entirely shut out by a majority hell-bent on moving an industry agenda at the expense of American consumers.

Nor is it the notion of uniform Federal law on the subject of product liability which I oppose, even though this subject has traditionally been viewed as a matter for State law. States' rights is not my watchword, though I thought it was the operating principle for my colleagues in the majority, a principle they seem to set aside when expedience dictates. But what we find in this conference report is not uniformity. Instead, what we have is Federal standards except where a State's law is worse in terms of consumer protection. So let there be no mistake about what this bill is about. Uniform national standards? Hogwash. This is lowest common denominator justice for consumers.
I also want to express my very strong support for solving the problems faced by biomaterials suppliers. I am dismayed that their interests have been sacrificed to advance an extreme agenda I cannot support. If this bill is indeed vetoed, and that veto is sustained, I hope that we can move the biomaterials industry down the road to success reforms to solve that particular industry’s problems for the benefit of all Americans.

Mr. Speaker, I cannot support legislation that deprives injured victims of fair compensation, and eliminates important deterrents to the design of unsafe products in the first place. I oppose this conference report, and I urge my colleagues to do so as well.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from North Carolina [Mr. WATT], a member of the Committee on the Judiciary.

Mr. WATT of North Carolina, Mr. Speaker, I rise today in opposition to House conference bill H.R. 956, the conference report on the Products Liability Reform Act.

Folks are on the floor today blaming lawyers for all the problems that we face today. And this conference report is supposed to protect America from these greedy trial lawyers. Well, for the record I want you all to know that prior to coming to this place, I practiced law for 22 years and I’m proud of that and I’m proud of the contributions that I have made to the bar in shaping America and making it a better place for all of us.

People often quote the line from Shakespeare’s “Henry VI,” “First thing we do, let’s kill all the lawyers.” Sounds funny out of context. But they don’t tell you about the scene. It’s a scene with a bar in shape America and making it a better place for all of us.

Calling someone a hypocrite might be funny too, if it’s taken out of context. And yesterday, we spent an hour debating whether it was proper debate for one of my Republican colleagues to call Democrats hypocrites. Well, I want to call and say that the GOP is a party a hypocrite, even though the rules of the Chair yesterday confirmed that I would be within my rights to do so. I would, however, like to pose the question in the context of this debate on product liability reform: Exactly who is being hypocritical?

Who is being hypocritical when they claim they want to stop the explosion of individual product liability claims so that you can alleviate the backlog on civil court dockets when, in fact, the backlog has been caused by an explosion of lawsuits filed by big businesses against other big businesses over commercial disputes? My 22 years of practicing law showed me, and the statistics confirm it, that antitrust and commercial litigation is getting longer and longer, more and more complex and takes more and more money out of the pockets of businesses. At the same time, individuals are being squeezed out and priced out of courts. Courts are no longer for the people. They can’t afford them.

Who is being hypocritical when they preach about personal responsibility for individual citizens and demand that corporate citizens from responsibility for injuries they cause, even when the corporations make a calculated business decision to do so?

Who is being hypocritical when they claim to be champions of States’ rights and a limited Federal Government on one hand, but then fight for this legislation, which would preempt the laws of 50 States which have developed over hundreds of years on the other hand? Who is being hypocritical when they claim to support individual rights even though they’re supporting a bill that will severely limit an individual’s access to justice? That’s what this bill does.

I urge the President to sign this bill. This is a bipartisan bill. This should not be about politics. This bill is about providing products for people’s health and their lives.

Mr. FRANK of Massachusetts. Mr. Speaker, this do-something Congress is working hard for the American people. Yesterday, we passed legislation to make health insurance more affordable. We passed a bill to allow senior citizens to retain more of their earnings if they remain in the workforce. We passed a bill to give regulatory relief to businesses. We passed the line-item veto. And we gave final approval to legislation to modernize our Depression-era farm programs.

Today, we will send to the President product liability legislation to restore common sense in this area; to protect consumers and prevent abuse that unnecessarily raises the price of practically everything we buy. Amazingly, President Clinton has threatened to veto this modest bill that Mr. DINGELL supports. I urge the President to veto this bill, the losers will be the American people, victims of a hidden lawsuit tax. They pay more for goods and services because businesses are forced to spend hundreds of millions of dollars in defending frivolous lawsuits.

Mr. Speaker, this is not partisan politics. A leading Democrat in the other body said “Unfortunately, special interests and raw political considerations in the White House have overridden sound policy judgment.” That’s a Member of the President’s own party speaking.

I urge my colleagues to vote for this limited legal reform bill and to give it the votes necessary to override a threatened veto.

This bill isn’t everything I think is important, nor is it everything my colleague from Michigan wants. But in the spirit of cooperation in order to move to a better solution, we are both supporting this bill. I urge Members of both sides to put aside partisan politics and support this bill.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I rise in strenuous opposition to this conference report.
Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. Goodlatte], a distinguished member of the Committee on the Judiciary.

(Mr. Goodlatte asked and was given permission to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Speaker, I thank the chairman of the committee for yielding me this time.

Mr. Speaker, the other side and the President have a number of times said that this is an anticonsumer bill. Mr. Speaker, this is a proconsumer bill. This bill is very fair to those who may experience harm as a result of a defective product, but at the same time taking away from juries the opportunity to give unlimited amounts of awards that are not merited to every consumer in this country by taking product off the market, as the previous speaker, the gentleman from Iowa [Mr. Ganske], just indicated, and by increasing the cost of insurance and, as every corporation in this country does, spreading that increased cost to every consumer in this country with increased prices. This is a very fair bill. Juries should not be legislators. They are unelected. They should have the opportunity to determine the compensatory damages, to determine the pain and suffering award, and a reasonable amount of punitive damages in cases where they find it appropriate, but it should not be unlimited.

Mr. Speaker, I urge support of this report.

Mr. CONYERS. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Michigan [Mr. Dingell], the dean of the House, and ask unanimous consent that he be allowed to allocare that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. Becerra].

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, on balance, this conference report is transparently unbalanced. It is bad where State laws would otherwise benefit consumers and victims, and it is good where State laws would benefit manufacturers. The problems for States, this law preempts States that wish to take action at the State level against product liability abuse.

Who does this conference report exclude? The Conyers provision that would have held foreign manufacturers liable for damaging, injuring, killing American citizens?

Why does this conference report on the manufacturer of a defective elevator that might be 14 years, 364 days old, let that victim sue that manufacturer of that elevator but the next day that same victim would not be able to sue because of a statute of limitations that would not allow that to occur?

Why does a victim of a manufacturer's product have to prove, through a higher burden of proof, the damage occurred or the injury occurred?

This is an unbalanced conference report. It does not deserve the support of this conference, because it does not support the American consumer. I urge a "no" vote.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. White], a member of the committee.

Mr. WHITE. Mr. Speaker, until about a year and a half ago, for 15 years I practiced law in the city of Seattle. I have to tell you that anybody who has been involved in our legal system and has taken a fair and objective look at it knows that, unfortunately, our legal system is broken and badly needs to be fixed.

It does not have so much to do with the number of cases that are filed, the number of product liability cases that we have. Every time a court rules that every week we hear a new ruling that offends our fundamental sense of justice about what our system is supposed to produce. Every week we hear about the cup of coffee is spilled on someone when they are driving in their car and all of a sudden they can collect $2 or $3 million for that. We hear about the paint job that was not quite right on the BMW, and somehow that results in a judgment of multimillions of dollars. Ordinary people and lawyers and all of us who hear these things get the impression that, unfortunately, it is becoming true that our legal system has turned into an elaborate game of chance, where if you play the game right, you have the right lawyers, you can hit the jackpot and make a lot of money.

That is the most pernicious thing about the developments we have seen with our legal system in the last several years. It is a tragedy when a child is killed or someone is injured because of using a product. But the fact is, no matter how much money we compensate that person for, we cannot bring back the child, we cannot bring back that arm that is cut off, or we cannot fully solve the damages. Unfortunately, our system seems to equate paying money to solving that problem. It is something we just cannot do.

This bill is a modest bill. This bill does not go far enough. There are many additional things that we should do to solve the problems in our legal system. But it is a modest step that we need to take.

Mr. Speaker, I urge my colleagues to vote for this, and I hope very much the White House will change its mind and sign this bill when we pass it in this Congress.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri [Mr. Skelton], a member of the committee.

Mr. SKELTON. Mr. Speaker, the sad part of this whole debate is the fact that it attacks the confidence and credibility of an institution that has served Great Britain and the United States and our various States for some 700 years, and that is the jury trial. Sure, juries are composed of humans, and you are going to find some cases that many people will disagree with the outcome of. Jessie James' brother, Frank James, for instance, was acquitted, even though there was hard evidence that he held up those banks. Many people disagreed with the outcome of the O.J. Simpson case. But overall, Mr. Speaker, the jury trial is a very international institution. This does not mean it is out of balance.

I had the opportunity through the years to participate in the American justice system by trying cases, by defending people accused in civil cases, by representing others. So I think we should do our very best maybe to look at this again in light of the fact that we have a very sound institution called the jury system.

Mr. HYDE. Mr. Speaker, I yield my time to the gentleman from Louisiana [Mr. Tauzin], a member of the committee.

Mr. TAUZIN. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I was shocked to learn that the jury system is somehow no longer applicable. That is news to me. Mr. Bliley. Mr. Speaker, it gives me pleasure to yield 2 minutes to the gentleman from Louisiana [Mr. Tauzin], a member of the committee.

Mr. TAUZIN. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, let me first make a confession: I am a former trial lawyer. I still know how a law degree can be used.

Let me also disabuse you all of a notion: This House is not composed of a majority of lawyers. Only 170 Members of this House admit or believe they

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today, in 1996, product liability unquestionably has become a fact of American life. Too often bringing people to court has taken the place of personal responsibility. People treat liability damages like a lottery. Urged on by attorneys with huge financial stakes, many people no longer live lives in search of blame, but instead search out the easiest way for a big court settlement.

Frivolous suits cost our economy up to $50 billion every year. Thus, American companies have become hesitant to pursue technological innovation and product development for fear that their actions may result in never-ending court battles and financial ruin. This well-founded fear is costing jobs, consumer benefits and, if continued unchecked, will cost America its competitive edge.

I would like to address one particular section, the biomaterials access provision. One of America’s leading industries is the biomaterial device field. These products literally save and enhance lives every day. From pacemakers to artificial heart valves to cataract replacements, the products afford miraculous opportunities for recovery, allowing people to continue their lives.

The suppliers of base materials often-times provide the manufacturer with elements of the device that are too costly to produce except in mass quantities, but alone have no implant value or purpose. Unfortunately, in recent years, these suppliers have been named as codefendants in lawsuits against actual device manufacturers. In almost every case, they are cleared of any wrong-doing or negligence. Nevertheless, in the process, they are forced to spend vast financial resources to achieve exoneration.

This litigation risk has caused many supply companies to, quite simply, stop providing base materials for these life-saving devices. Consequently, the inability of device manufacturers to obtain the needed base supplies is causing the death of the biomaterials industry in America.

The biomaterials section addresses this tragic consequence of overzealous litigation. This language will assure that, quite simply, unless the supplier is negligent in the design specifications requested by the device manufacturer, the supplier is also a party in the overall manufacture or marketing of the device, the supplier is cleared from liability.

This commonsense legal reform bill goes a long way toward ending this litigation madness, while preserving each individual’s right to pursue just compensation for actual harm. I urge my colleagues to support this long overdue reform.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas, Mr. PETE GEREN.

(Mr. PETE GEREN of Texas asked and was given permission to revise and extend his remarks.)

Mr. PETE GEREN of Texas. Mr. Speaker, I rise in support of this conference report. I believe the Commonsense Product Liability Act has become necessary to deal with our increasingly litigious society and the arbitrary and capricious nature of many punitive damage awards.

Today, in 1996, product liability unquestionably has become a major factor in interstate commerce. Less so 20 years ago, but today product liability determines what goods are available in what States and at what price. Further, liability laws have had the impact of sending the manufacture of goods overseas, taking American jobs with them, for example, as we have seen in the private aircraft industry.

There can be no doubt that the measures in this legislation—punitive damage reform, joint and several liability revision similar to an amendment that I offered to the original House bill—that limits the liability of rental and leasing agencies for the tortuous acts of another—fall well within this category of appropriate and much needed reform. The changes proposed in this bill will change the legal landscape, but they will further the cause of commerce and competitiveness, reduce costs for consumers and create jobs across America.

The problems we address in this bill are national problems. American citizens, businesses, municipalities, and other charities across our Nation pay $80 billion a year as a litigation tax. And these costs are paid by all of us through increased costs in our goods and services. Today 30 percent of the price of a private jet and over 95 percent of the price of childhood vaccines go to cover the costs of tort liability. Each new private aircraft made by American workers has a $100,000 litigation tax added to its cost. The present system costs jobs, costs lives, and burdens every citizen of America with a litigation tax that is unaffordable.

The time has come for sensible product liability reform. This legislation will strengthen the economy and the free market by removing the impediments to interstate commerce and encouraging innovation. His legislation provides a national solution to this national problem, and I hope my colleagues will join me in supporting it.

Mr. DINGELL. Mr. Speaker, I yield the balance of my time to the gentleman from Texas [Ms. JACKSON-LEE].

The SPEAKER pro tempore (Mr. GUNDERSON). The gentleman from Texas [Ms. JACKSON-LEE] is recognized for 2 minutes and 10 seconds.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am here to talk about people. I think that is what we have missed in this whole debate. Thirty million Americans are injured by consumer products, not including automobiles; 29,000 people are killed in tragedies that involve everything from medical devices to chain saws. It is important that my colleagues realize that we should draw the line in the sand amongst ourselves. This is in fact the people’s House. Most do not care what side we are on. They only ask that we remedy a problem that exists for the American people.

I have heard my colleagues talk about frivolous lawsuits and moneys that are expended. Mr. Speaker, may I share with my colleagues that the Department of Justice said that product liability cases represent only 14 percent of all civil cases. May I say to my colleagues that we have only had 14 injury awards of punitive damages annually for the last 2 years. But allow me to tell Members...
insurance premiums have dropped by 1 percent of most businesses' gross annual costs to businesses represent less than 1 percent of most businesses' gross annual receipts. Moreover, the National Association of Insurance Commissioners indicate that product liability insurance premiums have dropped by nearly 30 percent over the last 6 years. President Clinton has already announced that he will veto this bill because it preempts State law when such law favor consumers and defers to State law in several provisions affecting the manufacturers. I am surprised that many members of the majority party in the House support this bill's uniform, Federal product liability standard since these Members strongly favor granting more authority to State governments.

Specifically, I am concerned about the elimination of joint and several liability for noneconomic losses because of its potentially disproportionate impact on women and the elderly. The bill retains joint and several liability for economic losses such as lost wages. Noneconomic losses such as disfigurement or loss of fertility deserve similar treatment by the legal system because of lost earnings. This particularly impacts the number of breast implant cases affecting women across America.

The provisions of the bill relating to punitive damages must be carefully examined because punitive damages provide a powerful incentive for manufacturers to make strong efforts to ensure that their products are safe. A cap of $250,000 on punitive damages would mean that some large companies may incorporate this figure as a "cost of doing business," as they implement their quality control procedures for manufacturing products. Moreover, a provision in the bill permits judges to award punitive damages exceeding $250,000 in egregious circumstances. The intent of the bill however, is that a judge would rarely exercise this discretion.

Additionally, I am concerned about the statute of repose provision that prohibits suits from awarding damages for injuries caused by durable goods that are 15 years or older. The definition of durable goods is narrow and excludes various consumer products. During the recent elections in California, the voter of that State rejected various referenda that would have changed the tort liability system by restricting the rights of consumers.

Mr. Speaker, I urge the Members of the House to carefully review the provisions of this bill and consider its potential impact on millions of America's consumers. Mr. HYDE. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois (Mr. MANZULLO).

The SPEAKER pro tempore. The gentleman from Illinois (Mr. MANZULLO) is recognized for 3 minutes.

Mr. MANZULLO. Mr. Speaker, today we have a great opportunity to move America forward by passing this conference report on products liability reform. This is not a perfect bill, but it is a fair bill. It is fair to the consumers in America, and it is fair to the companies that make the products.

One of the companies is Mattison Technologies of Rockford, IL. This is a company facing liability lawsuits involving products that are as old as the company itself. Mattison is celebrating its 100th year of operation. That is correct. Mr. Speaker, Mattison Technologies have been manufacturing tools for one century.

Recently they were sued by a plaintiff in Ohio for a machine that was built in 1917. That is right, 1917, the same year Americans went to fight in the First World War, the same year the Bolsheviks were turning out Czar Nicholas II. It is a long time for a machine to be functioning too long for a company to be held liable for one of its products. Mattison has 150 employees and yet every 3 months the sheriff shows up with a brandnew summons bringing a brandnew lawsuit against the company.

I have a letter from Robert J. Jennings, the general manager. Listen to what he said: "The present product liability situation in this country has had a tremendous impact on our ability to successfully compete in the marketplace." We are continuously defending lawsuits concerning machines built 30, 60, and even 70 years ago. "We are being penalized for building quality and longevity into our equipment, yet we believe this is what made in America is all about."

And what a bitter irony it is that current law keeps manufacturers from making better equipment or modifying it because that modification could be proven the cause of a defect in the original design may not have been safe enough.

This bill would help rectify the problem. A 15-year statute of repose would stop such lawsuits on old products.

Mr. Speaker, a company being sued for a machine they manufactured in 1917. This is outrageous. This bill provides a balance. It protects the consumers. It protects the employers. And it also protects employees. Why are the 150 employees of Mattison Technologies the beneficiaries of this legislation? It is easy. Because if Mattison did not have to defend against these lawsuits, they could pour more into productivity, more into investment, more employees would be hired. They would become more competitive overseas.

Mr. Speaker, this is a good bill. It is a tough bill. It is a bill that is good for the economy of America. It is a bill that relates to one of the 1,800 companies in the district that I represent. I would encourage the Members of this body to vote in favor of the conference report.

MATTISON TECHNOLOGIES INC., Rockford, IL, March 28, 1996.

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Re Common Sense Product Liability Legal Reform Act.

Hon. DONALD MANZULLO, House of Representatives, Washington, DC.

Dear CONGRESSMAN MANZULLO: On behalf of Mattison Technologies, Inc. and its 150 employees, I ask that you support the above referenced legislation.

The present product liability situation in this country has had a tremendous impact on our ability to successfully compete in the marketplace. We are required to defend product liability claims against equipment that we built 50, 60, and yes, even 70 years ago.

Recently we received a complaint on a woodworking machine we built and shipped in 1917; that's 79 years ago!
We are being penalized for building quality and longevity into our equipment, yet we believe this is what “Made In America” is all about. Among other sensible uniform product liability changes, this Act addresses the “forever liability problem” with a 15 year Statute of Repose. The medical device manufacturing community, so vital to Illinois and the nation’s economy, needs this reform. Thank you for your support.

Sincerely yours,

ROBERT K. JENNINGS.

Mrs. CARDIN. Mr. Speaker, I rise to express my disappointment with the conference report on H.R. 956, the Product Liability Reform Act. I have long been a supporter of legal reform and in particular, product liability tort reform. Unfortunately, some of the measures in this bill are too extreme and therefore, I must vote “no” on final passage.

I support a number of the provisions in the conference report including the abolishment of joint and several liability for noneconomic damages and the encouragement of alternative dispute resolution. In addition, the FDA defense proposed in the original House-passed bill was lifted in conference. Under the House bill, plaintiffs would have been barred from winning punitive damages for harm caused by a product approved by the Food and Drug Administration.

The conference agreement also contains a more workable legal standard for punitive damages. Under the House bill, plaintiffs would be required to prove that a product was specifically intended to cause harm. The conference language, which sets a standard of clear and convincing evidence for punitive damages, is a much more reasonable standard.

While the conference report improves on the House-passed legislation on punitive damages restrictions, I believe the language is still unacceptable. I support reasonable caps on punitive damages. However, the conference report allows a large number of businesses to be subject to an unreasonably low cap on punitive damages. By imposing an overall limit on $250,000, or two times compensatory damages, is also too low. I and many of my colleagues had suggested a cap of $500,000. I regret that the Conference Committee did not accept that recommendation.

The additur language was a good attempt to ease the impact of the punitive damage cap. It would allow a judge to award punitive damages above the cap if the judge determines the defendant’s conduct was egregious. Although this provision is an improvement, it is subject to constitutional challenge, and would not apply to small businesses.

As I have indicated, I support many provisions in the conference report. However, there is much that I cannot support, including the preemption of States’ rights, the statute of limitations, and lawsuit limits placed on victims of firework accidents.

I find particularly offensive the inclusion of negligent entrustment cases under the limits of this legislation. Sensible product liability reform should not subject cases involving gun or alcohol sales to minors to these new punitive damage limits or higher standards of proof.

Mr. Speaker, we can reform the legal system while still ensuring consumer protection. As a supporter of legal reform, I urge a “no” vote on this conference report so that it can be sent back to conference for further consideration.

Mr. BILBRAY. Mr. Speaker, I rise in strong support of H.R. 956.

Because of unwarranted product litigation, medical device manufacturers are in danger of being denied access to essential raw materials for the production of life-saving technologies. An alarming number of suppliers are refusing to sell these raw products to the manufacturers, for fear of being joined in a liability suit against the manufacturer.

Mr. Speaker, a full 32 percent of the Nation’s medical device manufacturers are headquartered in California. A great number of these are in my San Diego district. These companies make pacemakers, heart valves, and other implantable medical devices which improve the quality of life and ease the suffering of innumerable patients. These companies depend on patented alloys and synthetics, such as Teflon and synthetic polymers, to ensure package design, and I will be compatible with the patients who need them.

Under current law, the suppliers of these raw materials can be liable in product liability actions brought against device manufacturers, even though they have no role in the production or sale of the finished devices. As a result, many suppliers have announced plans to limit or discontinue sales of these raw biomaterials to device companies. This would drastically restrict the ability to provide these innovative devices to people who desperately need them.

This bipartisan conference report will reform this tragic situation, by allowing suppliers to resume sales to cutting-edge California device manufacturers, and in turn ensure that patients nationwide continue to access to state-of-the-art technologies. This is about people, Mr. Chairman, and doing what we can to make sure patients in need are provided relief from their afflictions and suffering.

Mr. Speaker, this is a fair and bipartisan reform package, and I urge my colleagues to support it. Let us send H.R. 956 to the President, with the knowledge that Californians who need this reform are watching, as is the entire Nation. A veto of this bill, as promised by the President and supported by the Trial Lawyers Association, would, however, it would clearly demonstrate to the American people where the priorities of this administration truly lie.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in opposition to the conference report on H.R. 956, the so-called Commonsense Product Liability Legal Reform Act. The only relation this bill has to common sense is that it takes just a little common sense to see that it is designed to protect big business at the expense of U.S. consumers.

It pulls the rug out from under U.S. consumers by applying unfair limitations on the means through which they can seek relief if hurt by a faulty product. It is puzzling that the party who has screamed about States’ rights for the last two years chooses to impose a Federal standard when it comes to limiting the rights of consumers. While this bill sets a Federal standard for product liability cases it allows States to retain their own laws only when it benefits big business. Specifically it requires States to adhere to the cap placed on punitive damages by this bill, but it does not require punitive damages in States that currently do not have punitive damages.

The arbitrary cap on punitive damages at $250,000 or two times actual damages, which ever is greater, is based on highly inflammatory rhetoric about the explosion of unreasonable jury awards in product liability cases. Product liability cases make up less than 0.5 percent of all lawsuits in the Nation. Cases in which punitive damages are awarded are even fewer. In 1994, punitive damages were awarded in only 15 cases nationwide. And nearly 80 percent of these cases resulted in the withdrawal of the product, improved product design, or strengthened warnings. Punitive damages are meant to punish wrongful actions of manufacturers and to deter the future production of similar faulty products. A cap of $250,000 is hardly a deterrent for a mega-corporation. For smaller businesses the cap is the lesser of $250,000 or two times actual damages. Utilizing a different standard for small business establishes a precedent that a person harmed by a small business is entitled to less, even though the loss, disfigurement, or pain is equal to or greater than an injury incurred by a product of a larger business.

Furthermore, the bill imposes a more difficult burden of proof in order for punitive damages to be awarded, further reducing the effectiveness of punitive damages as a deterrent. Punitive damages are allowed to be awarded only if the plaintiff proves clear and convincing evidence that the conduct of the defendant was a conscious flagrant indifference to the rights and safety.

The most offensive provision to me personally is the provision which discriminates against women, children, and the elderly by barring joint and several liability for non-economic damages. Treating economic and noneconomic damages differently establishes a two-tiered system which hurts women, children and the elderly, who typically have damages not related to lost wages. Their damages are not normalized and go untold and suffering, disability and physical losses. Under this bill a high-paid corporate executive would recoup all of his economic, income, damages while a woman who stays home with her children, a person with little or no economic loss, would not. Equal justice should not be dependent on age, sex, employment, and economic status.

The intent of this bill is to discriminate against women, children, and the elderly. Since women have been subject to so many faulty products and drugs, like DES, silicone breast implants, IUD’s, and the Dalkon Shield, it is grossly unfair.

I am a DES mother who took this harmful drug. If this law had been in effect at the time of my lawsuit, it would have been very upsetting. My losses would not have qualified for access to joint and several liability. Such a bar to fair and equitable recovery is unconscionable. This bill must be defeated.

If we are going to move toward a national standard on product liability, let it be a fair standard. One that treats men and women the same, one that recognizes the value of noneconomic damages, one that applies fairly to all businesses, and one that does not arbitrarily limit punitive measures needed to curb the production of faulty products.

Mr. Speaker, I urge my colleagues to vote down this conference report.
Mr. BEREUTER. Mr. Speaker, this Member rises in support of this measure and to express his pleasure that this legislation has advanced to this stage and is one step closer to becoming law.

This Member introduced the first product liability legislation in the Nebraskan unicameral Legislature in 1977. During this process the Member realized that this issue must be dealt with on the Federal level, because the vast majority of products and services move through interstate commerce. Addressing product liability at the State level is like patching holes with 50 holes. The State of Nebraska is still facing supplier dismissals against biomaterials supplier unless the component specifications for the raw materials, certified by the FDA, are violated. This is no longer to be liable when materials or components do not meet the specifications.

But suppliers will not be responsible when their products meet the manufacturer's specifications. In these circumstances, the manufacturer is responsible for the product defect. This commonsense approach protects the rights of injured plaintiffs, but at the same time prevents a biomaterials shortage our country just cannot afford.

I urge my colleagues to support this important bill.

Mr. BUYER. Mr. Speaker, I am pleased to support this legislation which will return common sense to our legal system as it applies to products. While these reforms do not go as far as I would like, they are essential to restoring balance to the system as we seek to protect consumers while providing predictability to manufacturers.

The bill establishes a 15-year limit on when a manufacturer may be held liable for its products. Product sellers will not be liable in cases involving government and government or alcohol contributed more than 50 percent toward the harm. In addition, producers will not be liable for the percentage of blame attributed to product misuse or alteration.

This measure makes clear that punitive damages should be awarded only in the most serious cases of egregious conduct. Punitive damage awards will be linked to the actual harm caused by allowing punitive damage awards of up to two times the compensatory damages of $250,000, whichever is greater. There are special rules for individuals of limited net worth and to small businesses.

Liability for noneconomic damages will be several, rather than joint, making defendants liable only for their proportionate share of the fault. This addresses the deep pocket syndrome.

The bill also addresses the unique difficulty faced by biomedical device manufacturers. Medical device manufacturers are quickly losing suppliers of materials due to litigation. Huge awards are often sought from suppliers even though they had no role in the design, manufacture, or sale of a device. The courts are not finding suppliers liable, yet millions of dollars and countless hours are spent on defense in court. This bill will provide expedited dismissal against suppliers in court and they cannot be sued unless they are a manufacturer or a seller of devices and as long as they have abided by the contract and supply specifications of the manufacturer. Biomedical device manufacturers in Warsaw, IN, BIOMET, Zimmer, DePuy, and Danek, are producing the needed devices, pacemakers, heart valves, artificial blood vessels, hip and knee joints, that add so much to the quality of life for countless individuals.

There are so many small businesses in the Fifth District of Indiana that will be helped by this legislation. These businesses will be able to concentrate on product development and expansion rather than fighting lawsuits. One such company is Whallon Machinery of Royal Center, IN, which manufacturers industrial material handling machines. In nearly 30 years of business, over 83 percent of all machines built are still in use. Prior to 1993, Whallon had no product liability claims. One customer had modified a Whallon machine. Had this legislation been in place then, Whallon Machinery may not have faced a fourfold increase in insurance premiums.

It is time to return a sense of reasonableness to ensure that injured parties are compensated in a manner that protects all consumers and America's competitiveness. This legislation is a very good start.

Mr. COSTELLO. Mr. Speaker, I rise today in strong opposition to the product liability conference report. This bill effectively condones egregious misconduct, carelessness, and greed of manufacturers which produce and sell defective products. This bill makes it cost-effective for some companies to put profits ahead of safe products. In my opinion, Mr. Speaker, this is wrong. The unfortunate victims of the repercussions of this legislation are the American consumers.

I object to the provisions in this bill which arbitrarily limit the amount of punitive damages injured person may recoup when harmed by faulty or dangerous products. Punitive damages should serve as a deterrent to manufacturers who knowingly build and sell dangerous products. Punitive damages force companies to design safer products. For example, punitive damages have been effective in making safer children's pajamas and baby cribs, automobiles, and medical devices. Without the threat of these large damage awards, manufacturers have an incentive to settle with individuals who have been injured by dangerous products rather than correcting their wrongs. We cannot actively condone and promote such unconscionable business practice.

Proponents of this legislation argue for the need to limit punitive damages to $250,000 because without such caps juries have awarded ridiculously high punitive damage awards. This is simply not true. The National Center for State Courts reports that only 600 of the 1 million tort actions filed each year result in punitive damages. It should further be noted that most of those are reduced on appeal. It is easy to talk about the outrageous $2.7 million award to the woman who was burned by the hot coffee at McDonald's. However, let us examine the facts. This grandmother had to undergo extensive skin grafts for her burns. McDonald's had ignored 700 prior complaints about too-hot coffee and, in fact, the judge reduced the punitive damage award to $400,000. How many burns must it take to have a company change its harmful ways? The unfortunate fact remains that business usually comes down to dollars. Mr. Speaker, it cannot pay to make dangerous products. I urge my colleagues to defeat this bill.

Mrs. MEEK of Florida. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I strongly oppose the so-called Common Sense Product Liability Legal Reform Act.

There is no common sense in it. What is the common sense of having Washington dictate to juries in each of the 50 States how to decide a case where someone has been injured by a dangerous product? What is the common sense of having Washington dictate to the voters and State legislatures in each of the 50 States?
acting. For example, in 1988 Florida’s voters rejected, by a vote of 57 percent to 43 percent, an amendment to the constitution that would have arbitrarily capped noneconomic damages in all tort cases at $100,000. Since 1986, 31 State legislatures have altered their product liability laws.

The Republican majority preaches federalism and returning power to the people. But its actions speak louder than its words. The Republican leadership wants to override what the States are doing because it does not like what the citizens of each State are deciding. The Republican majority preaches that individuals should be accountable for their actions. Why not apply the same standard to corporations that make and sell dangerous products?

Title II of this bill will prevent women who needlessly suffered from faulty breast implants from suing the company that negligently supplied the silicone gel. That is wrong.

Mr. Speaker, President Clinton is right when he said he will veto this bill. This conference report favors corporate profits over the health and safety of citizens, and I urge my colleagues to vote against it.

Mr. KLECZKA. Mr. Speaker, I rise in opposition to the conference report on H.R. 956, product liability reform. Last March, I voted in favor of this legislation because I believed there were problems in our product liability system which needed to be addressed. We have all heard stories of excessive awards, or juries granting vastly different awards for similar injuries. However, the conference report before us today and recent deregulatory efforts, and the 2-year statute of repose, pre-empts State laws more favorable to plain-
vendors. The purpose of the bill is to prevent individuals and corporations from limiting the ability of the individual to collect compensation for injuries caused by faulty products. Taken together, these provisions cause the product liability system to tilt dramatically against consumers.

The bill establishes a false and unfair distinction between individuals and corporations by limiting the ability of the individual to collect damages in product liability cases. For example, there is a set at 15 years for durable products like heavy machinery and elevators. If a defective product is more than 15 years old, an individual may not sue the manufacturer for injuries caused by faulty products. Taken together, these provisions cause the product liability system to tilt dramatically against consumers.

The establishment of a false and unfair distinction between individuals and corporations by limiting the ability of the individual to collect damages in product liability cases. For example, there is a set at 15 years for dura-

だけど精算のための補償を求めるために市場に出回っている危険な製品に影響を及ぼすことがないように、企業が注意を払うことが必要です。したがって、この法律は違法な製品を市場から取り除くために企業がより気をつけるようにすることを強制します。さらに、この法律は公共の安全を保護するための立法を妨げることがないでしょう。
ordered.

For these reasons, I urge you to veto H.R. 956. Sincerely, FRANK PALLONE, Jr., Member of Congress.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

Mr. HYDE. Mr. Speaker, I object to the vote because the ground that a quorum is not present and make the point of order that a quorum is not present. The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 259, nays 158, not voting 14, as follows:

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[Roll No. 110]
YEAS—259

Yeates

NAYS—158

Kildee

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 104-94 is further amended by striking out “March 29, 1996” in section 106(c), 112, 126(c), 202(c) and 214 and inserting in lieu thereof “April 24, 1996”; and that Public Law 104-92 is further amended by striking out “April 3, 1996” in section 106(c) and inserting in lieu thereof “April 24, 1996” and by inserting in Title IV in the matter before section 401 “out of any money in the Treasury not otherwise appropriated,” and before “out of the general fund”; and that section 347(b)(3) of Public Law 104-50 is amended to read as follows:

“(3) chapter 71, relating to labor-management relations;” and that section 204(a) of the Auburn Indian Restoration Act (25 U.S.C. 1200±1205) is amended by striking “global” in the first sentence and inserting in lieu thereof “may”;

Sec. 2. That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, and for other purposes, namely:

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

Funds appropriated to the President, Agency for International Development Assistance for Eastern Europe and the Baltic States (Including Transfers of Funds)

For an additional amount for “Assistance for Europe and Countries of Eastern Europe” for Bosnia and Herzegovina, including demining assistance, $198,000,000: Provided,