RESIGNATION AS MEMBER OF COMMITTEE ON THE BUDGET

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on the Budget:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 22, 2014.

Hon. JOHN A. BOEHNER,
Speaker of the House,
Washington, DC.

DEAR SPEAKER BOEHNER, Due to my recent appointment to the House Judiciary Committee, I hereby resign from the House Committee on the Budget.

Sincerely,

DAVID N. CICILLINE,
Member of Congress.

The SPEAKER pro tempore (Mr. HOLDING). Without objection, the resignation is accepted.

There was no objection.

MEDICAL CERTIFICATION REQUIREMENTS FOR AIRMEN AND AIR TRAFFIC CONTROLLERS RELATING TO SLEEP DISORDERS

Mr. LOBIONDO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3578) to ensure that any new or revised requirement providing for the screening, testing, or treatment of an airman or an air traffic controller for a sleep disorder is adopted pursuant to a rulemaking proceeding, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3578

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

[SECTION 1. MEDICAL CERTIFICATION REQUIREMENTS FOR AIRMEN AND AIR TRAFFIC CONTROLLERS RELATING TO SLEEP DISORDERS.

[(a) IN GENERAL.—The Secretary of Transportation may implement or enforce a requirement providing for the screening, testing, or treatment (including consideration of all possible treatment alternatives) of an airman or an air traffic controller for a sleep disorder only if the requirement is adopted pursuant to a rulemaking proceeding.

[(b) APPLICABILITY.—Subsection (a) shall not apply to a requirement that was in force before November 1, 2013.

[(c) DEFINITIONS.—In this section, the following definitions apply:

[(1) AIRMAN.—The term ''airman'' has the meaning given that term in section 40102(a) of title 49, United States Code.

[(2) AIR TRAFFIC CONTROLLER.—The term ''air traffic controller'' means a civilian employee of the Department of Transportation described in section 2109 of title 5, United States Code.

[(3) SLEEP DISORDER.—The term ''sleep disorder'' includes obstructive sleep apnea.]

SECTION 1. MEDICAL CERTIFICATION REQUIREMENTS FOR AIRMEN AND AIR TRAFFIC CONTROLLERS RELATING TO SLEEP DISORDERS.

(a) IN GENERAL.—The Secretary of Transportation may, consistent with accepted medical standards and practices, implement or enforce a requirement providing for the screening, testing, or treatment (including consideration of all possible treatment alternatives) of an airman or an air traffic controller for a sleep disorder—

(1) in the case of an airman, only if the requirement is adopted pursuant to a rulemaking proceeding; and

(2) in the case of an air traffic controller, only if the Federal Aviation Administration meets its obligations pursuant to chapter 71 of title 5, United States Code.

(b) APPLICABILITY.—Subsection (a) shall not apply to a requirement that was in force before November 1, 2013.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) AIRMAN.—The term ''airman'' has the meaning given that term in section 40102(a) of title 49, United States Code.

(2) AIR TRAFFIC CONTROLLER.—The term ''air traffic controller'' means a civilian employee of the Department of Transportation described in section 2109 of title 5, United States Code.

(3) SLEEP DISORDER.—The term ''sleep disorder'' includes obstructive sleep apnea.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. LOBIONDO) and the gentleman from Washington (Mr. LARSEN) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

□ 1515

GENERAL LEAVE

Mr. LOBIONDO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous materials for the RECORD on H.R. 3578.

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

There was no objection.

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

I rise today in support of H.R. 3578.

Let me begin by thanking some of my colleagues—first and foremost, Congressman LARSEN, also Congressmen BUCSHON, LIPINSKI, and GRAVES—for their help and support in introducing this very important bill.

Before I explain the bill, I would like to enter into the RECORD letters of support for H.R. 3578.

Mr. Speaker, H.R. 3578 addresses the medical certification process for pilots and air traffic controllers as it relates only to sleep disorders.

Currently, pilots and controllers are required to be medically certificated by the FAA at varying intervals. The duration, as well as the type of medical certification, depends on the type of activity they are seeking to perform—airline pilot, private pilot, et cetera—and all other factors, such as age. Regardless, pilots and controllers undergo a thorough medical review process, and the FAA ultimately decides whether or not to issue them a medical certification. Further, there are no certain medical conditions that the FAA automatically deems as disqualifying. Currently, pilots with one or more of those conditions, including sleep apnea, are required to seek a special certificate, which is issued at the sole discretion of the FAA and only if the applicants can prove they will not endanger public safety. Neither process is perfect, but it is a process that works.

In November of 2013, the FAA announced a proposal to significantly and arbitrarily modify the medical requirements for airmen who might be at risk of having a sleep disorder, such as sleep apnea, even in the absence of any clinical evidence. The FAA's proposal would effectively assume overweight pilots have a sleep disorder based solely on their body mass index and would require them to prove otherwise at their own expense. It is a scenario of being guilty before proven innocent. The potential cost to these pilots could be thousands of dollars.

The FAA proposal, announced without any input from the stakeholders, is neither reasonable nor effective. However, health issues can arise unexpectedly, which is why I have always supported reasonable, effective, and proactive efforts to improve aviation safety; but the FAA's action related to sleep disorders was carried out behind closed doors, with no input from stakeholders, and based upon controversial assumptions. While I applaud the FAA for seeking stakeholder input recently, it is too little, too late.

Safety is my top priority as chairman of the Aviation Subcommittee. That is why the legislation we are considering today, H.R. 3578, does not prohibit the FAA from implementing new medical certification requirements for sleep disorders, but it does require the FAA, in the case of pilots, to conduct an open rulemaking process and, in the case of air traffic controllers, to use a process established under current Federal employment law.

Finally, it is important to note that H.R. 3578 does not change the FAA's medical certification process or otherwise prevent the agency from responding to new medical issues in a timely manner. This legislation applies only to proposed changes to the medical certification process for sleep disorders. In addition, the rulemaking process required by this legislation does not apply to the enforcement of requirements providing for the screening, testing, or treatment of pilots and controllers for sleep disorders in force prior to November 1, 2013.

H.R. 3578 is a bipartisan bill that is supported by a wide range of stakeholders, and I urge my colleagues to support it.

With that, I reserve the balance of my time.

H.R. 3578
Industry Supporters:
Air Line Pilots Association
Aircraft Owners and Pilots Association
Airlines for America
Allied Pilots Association
Coalition of Airline Pilots Association
Experimental Aircraft Association
Federal Aviation Administration Managers Association
General Aviation Manufacturers Association
Helicopter Association International
National Agricultural Aviation Association
National Air Traffic Controllers Association
National Air Transportation Association
National Business Aviation Association
NetJets Association of Shared Aircraft Pilots

Recreational Aviation Foundation
Southwest Airlines Pilots Association

Mr. LARSEN of Washington. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 3578.

I want to thank Chairman LoBIONDO for bringing this issue to the attention of the committee and for working hard to bring it to the floor so quickly.

This bill would require the Federal Aviation Administration to go through a rulemaking process if it chooses to propose and implement new pilot medical certification requirements for sleep apnea.

Under current law, in order for a pilot to be certificated, every pilot is screened by an aviation medical examiner to ensure he is safe and capable of piloting an aircraft. If a pilot is diagnosed with obstructive sleep apnea or with any other disqualifying medical condition, that pilot must obtain a ''special issuance'' medical certificate from the FAA to keep flying.

Last November, the FAA abruptly announced changes to the medical certification process as it pertains only to sleep apnea. The new policy would require all airmen with a body mass index, or BMI, of 40 or more to undergo new testing and evaluation requirements for obstructive sleep apnea in order to maintain their medical certificates.

General aviation groups and pilot unions have raised concerns that the FAA's proposed policy changes could impose significant undue costs on thousands of airmen without an adequate opportunity for the public to comment on the relative safety merits of these new requirements.

H.R. 3578 would ensure transparency and would require the FAA to initiate a rulemaking if it chooses to implement a new pilot medical certification requirement for sleep apnea. This bill would not prohibit the FAA from implementing new medical certification requirements, but the rulemaking process will provide the opportunity for all interested parties to comment on any proposed changes. So I urge my colleagues to support H.R. 3578.

With that, I reserve the balance of my time.

Mr. LoBIONDO. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. GRAVES), who has been a big help on this issue.

Mr. GRAVES of Missouri. Mr. Speaker, as a general aviation pilot myself, I was shocked when the FAA Air Surgeon, Dr. Fred Tilton, announced a forthcoming guidance to require additional testing for pilots, as was mentioned, with the arbitrary numbers of a BMI of 40 and a neck size of 17 inches. Not only did he indicate in December that the FAA would move forward with this new guidance on sleep apnea, but that it would challenge Congress by saying:

If Congress passes a law to force industry consultation, we will be compliant; but until they do so, we will move forward with our guidance.

Today, Congress is acting against the FAA's egregious assumption that these pilots pose a safety risk if untreated. When it comes to the general aviation community's safety record, there is simply no data or evidence to suggest that sleep apnea—or any other medical issue for that matter—is the cause behind general aviation accidents. In fact, most of these accidents happen as a result of weather. GA pilots know that, every time they get into a plane, they are taking their own lives into their hands as well as the lives of others. So, naturally, pilots are not going to knowingly put themselves into an unsafe situation.

What is so absurd about this process is just the medical certification in general. The FAA requires GA pilots—or any pilot for that matter—to go through certification every 2 years for a third-class medical and certification every year for a first- or a second-class medical, but there is nothing in that process that guarantees a pilot's fitness to fly within that time period. It is up to the pilot to determine his fitness to fly himself or herself, and he or she knows best.

General aviation supports 1.2 million jobs, and it contributes $150 billion annually to the GDP. There are 223,000 general aviation aircraft out there serving 19,000 small and regional airports. It accounts for 27 million flight-hours, and it serves 166 million passengers every year. It is more important than most people realize, and adding burdensome regulations like the FAA is proposing on sleep apnea do nothing but discourage further participation, at least in general aviation.

This rule would also have some dramatic effects on commercial aviation, which is also facing a pilot shortage in and of itself. Based on these arbitrary benchmarks, a pilot is going to be required, as was pointed out, to get further examinations and sleep tests, which is going to slow the process down that much more.

The outcry from the pilot community, both in general aviation and in commercial, has led to the introduction of this bill, H.R. 3578. It requires the FAA to go through the normal rulemaking process, which allows for public comment and requires them to analyze the impact of the regulation. The FAA should follow the rules, plain and simple. That is all we are asking. They should listen to pilots and take their viewpoints into account.

I want to thank Chairman LoBIONDO and all of the others for sponsoring this piece of legislation and for joining me to make sure the FAA goes through the proper channels in issuing this regulation.

Similar legislation addressing sleep apnea for truckers was passed by both the House and Senate last fall, and it was signed by the President. I hope my House colleagues will join me in supporting this similarly commonsense piece of legislation.

Mr. LARSEN of Washington. Mr. Speaker, I continue to reserve the balance of my time.

Mr. LoBIONDO. Mr. Speaker, I would like to yield 3 minutes to the gentleman from New York (Mr. HANNA).

Mr. HANNA. I thank the gentleman from New Jersey.

Mr. Speaker, I rise today in support of H.R. 3578, which would require the FAA to conduct a formal rulemaking process for sleep apnea certifications for pilots and air traffic controllers.

As a member of both the Small Business Committee and the Transportation Committee and as a pilot, I am deeply concerned that complex Federal regulations and bureaucracy are hurting America's aviation industry.

When deemed absolutely necessary, new FAA rules should follow a transparent and open process that includes strong oversight and input from all stakeholders. The proposed sleep apnea regulation was a broad administration guidance with no oversight or input. Furthermore, this is yet another example of the administration's regulating in search of a problem.

According to the Civil Aviation Medical Association, there is no scientific evidence that sleep apnea has compromised aviation safety. According to yesterday's Washington Post, the number of small planes flying across this country has fallen by nearly 200,000 since 1980. The production of single-engine airplanes has fallen twentyfold to below 700 per year.

We need to ensure that any regulations help, not hinder, the aviation industry in growing and prospering. Across the Nation, nearly 1.2 million workers depend on the general aviation industry. This is especially true in rural upstate New York. I encourage the FAA to ensure that we promote safety in a way that is consistent with growing our vital aviation industry and so that it makes sense in the real world.

H.R. 3578 would require the FAA to follow a proven and transparent process when issuing rules, so I urge my colleagues to support this bill.

Mr. LARSEN of Washington. Mr. Speaker, I continue to reserve the balance of my time.

Mr. LoBIONDO. Mr. Speaker, how much time remains?

The SPEAKER pro tempore. The gentleman from New Jersey has 11 minutes remaining.

Mr. LoBIONDO. Mr. Speaker, I now yield 3 minutes to the gentleman from Indiana (Mr. BUCSHON). I thank him for his help on this issue.

Mr. BUCSHON. Mr. Speaker, I rise today in support of this bill.

Less than 6 months ago, the House passed my bill, which requires the Department of Transportation to address the issue of sleep apnea for truck drivers through a rule and not guidance, potentially saving the industry $1 billion. Unfortunately, our Nation's pilots and air traffic controllers are facing a similar arbitrary guidance issued by

the FAA, and we have brought a bill to the floor to protect them.

As a doctor, I know firsthand that sleeping disorders are incredibly serious and can be very dangerous. However, I also know that you can't diagnose any patient by a set of arbitrary guidelines and stereotypes. Like any major disease, it can only be diagnosed through proper testing and conversation with a doctor. Issuing guidance based on nonmedical factors on this issue for pilots and air traffic controllers will cause doctors to order unnecessary tests, driving up the costs of health care and potentially affecting our Nation's airline travelers.

I urge all of my colleagues to vote ''yes'' on this piece of legislation.

Mr. LARSEN of Washington. Mr. Speaker, I continue to reserve the balance of my time.

Mr. LOBIONDO. Mr. Speaker, I do not have any more speakers, and I am prepared to close when Mr. LARSEN is finished.

Mr. LARSEN of Washington. Mr. Speaker, in closing, I would like to again ask my colleagues to support this legislation. It is bipartisan. We have worked hard to get it here quickly, and we appreciate people supporting this.

With that, I yield back the balance of my time.

Mr. LOBIONDO. Mr. Speaker, in closing, I again thank my colleague Mr. LARSEN and colleagues who were interested in this issue.

I would like to reiterate that this bill is about transparency and about working with stakeholders, two areas in which the Federal Government desperately needs to improve. I strongly urge all of my colleagues to support the bill.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. LOBIONDO) that the House suspend the rules and pass the bill, H.R. 3578, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. LOBIONDO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

□ 1530

SMALL CAP LIQUIDITY REFORM ACT OF 2013

Mr. GARRETT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3448) to amend the Securities Exchange Act of 1934 to provide for an optional pilot program allowing certain emerging growth companies to increase the tick sizes of their stocks, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3448

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Cap Liquidity Reform Act of 2014''.

SEC. 2. LIQUIDITY PILOT PROGRAM FOR SECURITIES OF CERTAIN EMERGING GROWTH COMPANIES.

(a) IN GENERAL.—Section 11A(c)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78k–1(c)(6)) is amended to read as follows:

''(6) LIQUIDITY PILOT PROGRAM FOR SECURITIES OF CERTAIN EMERGING GROWTH COMPANIES.—

''(A) QUOTING INCREMENT.—Beginning on the date that is 90 days after the date of the enactment of the Small Cap Liquidity Reform Act of 2014, the securities of a covered emerging growth company shall be quoted using—

''(i) a minimum increment of $0.05; or

''(ii) if, not later than 60 days after such date of enactment, the company so elects in the manner described in subparagraph (D)—

''(I) a minimum increment of $0.10; or

''(II) the increment at which such securities would be quoted without regard to the minimum increments established under this paragraph.

''(B) TRADING INCREMENT.—In the case of a covered emerging growth company the securities of which are quoted at a minimum increment of $0.05 or $0.10 under this paragraph, the Commission shall determine the increment at which the securities of such company are traded.

''(C) FUTURE RIGHT TO OPT OUT OR CHANGE MINIMUM INCREMENT.—

''(i) IN GENERAL.—At any time beginning on the date that is 90 days after the date of the enactment of the Small Cap Liquidity Reform Act of 2014, a covered emerging growth company the securities of which are quoted at a minimum increment of $0.05 or $0.10 under this paragraph may elect in the manner described in subparagraph (D)—

''(I) for the securities of such company to be quoted at the increment at which such securities would be quoted without regard to the minimum increments established under this paragraph; or

''(II) to change the minimum increment at which the securities of such company are quoted from $0.05 to $0.10 or from $0.10 to $0.05.

''(ii) WHEN ELECTION EFFECTIVE.—An election under this subparagraph shall take effect on the date that is 30 days after such election is made.

''(iii) SINGLE ELECTION TO CHANGE MINIMUM INCREMENT.—A covered emerging growth company may not make more than one election under clause (i)(II).

''(D) MANNER OF ELECTION.—

''(i) IN GENERAL.—An election is made in the manner described in this subparagraph by informing the Commission of such election.

''(ii) NOTIFICATION OF EXCHANGES AND OTHER TRADING VENUES.—Upon being informed of an election under clause (i), the Commission shall notify each exchange or other trading venue where the securities of the covered emerging growth company are quoted or traded.

''(E) ISSUERS CEASING TO BE COVERED EMERGING GROWTH COMPANIES.—

''(i) IN GENERAL.—If an issuer the securities of which are quoted at a minimum increment of $0.05 or $0.10 under this paragraph ceases to be a covered emerging growth company, the securities of such issuer shall be quoted at the increment at which such securities would be quoted without regard to the minimum increments established under this paragraph.

''(ii) EXCEPTIONS.—The Commission may by regulation, as the Commission considers appropriate, specify any circumstances under which an issuer shall continue to be considered a covered emerging growth company for purposes of this paragraph after the issuer ceases to meet the requirements of subparagraph (L)(i).

''(F) SECURITIES TRADING BELOW $1.—

''(i) INITIAL PRICE.—

''(I) AT EFFECTIVE DATE.—If the trading price of the securities of a covered emerging growth company is below $1 at the close of the last trading day before the date that is 90 days after the date of the enactment of the Small Cap Liquidity Reform Act of 2014, the securities of such company shall be quoted using the increment at which such securities would be quoted without regard to the minimum increments established under this paragraph.

''(II) AT IPO.—If a covered emerging growth company makes an initial public offering after the day described in subclause (I) and the first share of the securities of such company is offered to the public at a price below $1, the securities of such company shall be quoted using the increment at which such securities would be quoted without regard to the minimum increments established under this paragraph.

''(ii) AVERAGE TRADING PRICE.—If the average trading price of the securities of a covered emerging growth company falls below $1 for any 90-day period beginning on or after the day before the date of the enactment of the Small Cap Liquidity Reform Act of 2014, the securities of such company shall, after the end of such period, be quoted using the increment at which such securities would be quoted without regard to the minimum increments established under this paragraph.

''(G) FRAUD OR MANIPULATION.—If the Commission determines that a covered emerging growth company has violated any provision of the securities laws prohibiting fraudulent, manipulative, or deceptive acts or practices, the securities of such company shall, after the date of the determination, be quoted using the increment at which such securities would be quoted without regard to the minimum increments established under this paragraph.

''(H) INELIGIBILITY FOR INCREASED MINIMUM INCREMENT PERMANENT.—The securities of an issuer may not be quoted at a minimum increment of $0.05 or $0.10 under this paragraph at any time after—

''(i) such issuer makes an election under subparagraph (A)(ii)(II);

''(ii) such issuer makes an election under subparagraph (C)(i)(I), except during the period before such election takes effect; or

''(iii) the securities of such issuer are required by this paragraph to be quoted using the increment at which such securities would be quoted without regard to the minimum increments established under this paragraph.

''(I) ADDITIONAL REPORTS AND DISCLOSURES.—The Commission shall require a covered emerging growth company the securities of which are quoted at a minimum increment of $0.05 or $0.10 under this paragraph to make such reports and disclosures as the Commission considers necessary or appropriate in the public interest or for the protection of investors.

''(J) LIMITATION OF LIABILITY.—An issuer (or any officer, director, manager, or other agent of such issuer) shall not be liable to