

too concerned about the lawyers. Lawyers can generally take care of themselves.

But, Mr. President, I think what we have to look at when we look at some of these limitations on fees is what impact it will have on the market, what impact it will have on poor people's ability to get into the ball game. And in this case, getting into the ball game means getting into court.

If some of these well-intentioned, well-sounding amendments do in fact hinder poorer people from having access to the courthouse door, then I think the right thing to do would be to oppose them. We need to preserve access to the courtroom for people who have been harmed. We should do this to their benefit, not for the benefit of the lawyers.

Last week, Mr. President, I voted for an amendment that would force lawyers to disclose their fees. I think that is a good idea. I voted for another amendment that would make sanctions mandatory in cases when lawyers bring lawsuits that are legally determined to be frivolous by a trial judge. I think that is a good idea, too.

But I do part company with the proponents of this legislation when they do things that would limit the legal rights of indigent plaintiffs. I believe that that is precisely what some of these amendments would have the effect of doing.

Mr. President, over the last 4 months, I have had more than 55 meetings with concerned Ohioans and others about the faults and merits of this legislation. I intend, Mr. President, to be working over the next couple of days and probably weeks to improve the system—to improve the system, but also to make sure we do not abandon some of the extremely positive effects of the legal system we have built up over the last 200 years.

Mr. President, that concludes my statement this evening on this issue.

Mr. President, at this point, on behalf of the leader, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 616 TO AMENDMENT NO. 603

(Purpose: To provide for uniform standards for the awarding of punitive damages)

Mr. DEWINE. Mr. President, I send an amendment to the desk on behalf of Senator DODD.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for Mr. DODD, proposes an amendment numbered 616 to amendment No. 603.

Mr. DEWINE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 15 of the amendment and insert the following new section:

SEC. 15. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) GENERAL RULE.—Notwithstanding any other provision of law, punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant in an action that is subject to this Act if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct that was carried out by the defendant with a conscious, flagrant indifference to the safety of others.

(b) BIFURCATION AND JUDICIAL DETERMINATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in an action that is subject to this Act in which punitive damages are sought, the trier of fact shall determine, concurrent with all other issues presented, whether such damages shall be allowed. If such damages are allowed, a separate proceeding shall be conducted by the court to determine the amount of such damages to be awarded.

(2) ADMISSIBLE EVIDENCE.—

(A) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A BIFURCATED PROCEEDING.—Notwithstanding any other provision of law, in any proceeding to determine whether the claimant in an action that is subject to this Act may be awarded compensatory damages and punitive damages, evidence of the defendant's financial condition and other evidence bearing on the amount of punitive damages shall not be admissible unless the evidence is admissible for a purpose other than for determining the amount of punitive damages.

(B) PROCEEDING WITH RESPECT TO PUNITIVE DAMAGES.—Evidence that is admissible in a separate proceeding conducted under paragraph (1) shall include evidence that bears on the factors listed in paragraph (3).

(3) FACTORS.—Notwithstanding any other provision of law, in determining the amount of punitive damages awarded in an action that is subject to this Act, the court shall consider the following factors:

(A) The likelihood that serious harm would arise from the misconduct of the defendant in question.

(B) The degree of the awareness of the defendant in question of that likelihood.

(C) The profitability of the misconduct to the defendant in question.

(D) The duration of the misconduct and any concealment of the conduct by the defendant in question.

(E) The attitude and conduct of the defendant in question upon the discovery of the misconduct and whether the misconduct has terminated.

(F) The financial condition of the defendant in question.

(G) The total effect of other punishment imposed or likely to be imposed upon the defendant in question as a result of the misconduct, including any awards of punitive or exemplary damages to persons similarly situated to the claimant and the severity of criminal penalties to which the defendant in question has been or is likely to be subjected.

(H) Any other factor that the court determines to be appropriate.

(4) REASONS FOR SETTING AWARD AMOUNT.—

(A) IN GENERAL.—Notwithstanding any other provision of law, with respect to an award of punitive damages in an action that is subject to this Act, in findings of fact and conclusions of law issued by the court, the court shall clearly state the reasons of the court for setting the amount of the award. The statements referred to in the preceding sentence shall demonstrate the consideration of the factors listed in subparagraphs (A) through (G) of paragraph (3). If the court considers a factor under subparagraph (H) of

paragraph (3), the court shall state the effect of the consideration of the factor on setting the amount of the award.

(B) REVIEW OF DETERMINATION OF AWARD AMOUNT.—The determination of the amount of the award shall only be reviewed by a court as a factual finding and shall not be set aside by a court unless the court determines that the amount of the award is clearly erroneous.

Mr. DEWINE. Mr. President, I have only offered this amendment for Senator DODD so that it would qualify under the consent agreement, in that Senator DODD, at this point, is unable to be on the floor.

MORNING BUSINESS

Mr. DEWINE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

S. 735. A bill to prevent and punish acts of terrorism, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-746. A communication from the Assistant Secretary of Defense (Economic Security), transmitting, pursuant to law, the report on the Metric Transition Program; to the Committee on Commerce, Science, and Transportation.

EC-747. A communication from the Secretary of Transportation, transmitting, a draft proposed legislation entitled "The Commercial Space Launch Act Amendments of 1995"; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THOMAS (for himself, Mr. MURKOWSKI, Mr. HELMS, Mr. LAUTENBERG, Mr. GRAMS, and Mr. CRAIG):

S. 738. A bill to amend the Helium Act to prohibit the Bureau of Mines from refining helium and selling refined helium, to dispose of the United States helium reserve, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PACKWOOD:

S. 739. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel SISU, and for other purposes; to the Committee on Commerce, Science, and Transportation.