

[Rollcall Vote No. 150 Leg.]

YEAS—56

Abraham	Exon	McCain
Ashcroft	Faircloth	McConnell
Baucus	Frist	Moseley-Braun
Bennett	Gorton	Murkowski
Bond	Gramm	Nickles
Brown	Grams	Pressler
Burns	Grassley	Pryor
Campbell	Gregg	Robb
Chafee	Heflin	Rockefeller
Coats	Helms	Roth
Cochran	Hutchison	Santorum
Coverdell	Inhofe	Smith
Craig	Jeffords	Snowe
D'Amato	Kassebaum	Specter
DeWine	Kempthorne	Stevens
Dodd	Kyl	Thomas
Dole	Lott	Thompson
Domenici	Lugar	Thompson
Dorgan	Mack	Warner

NAYS—43

Akaka	Glenn	Lieberman
Biden	Graham	Mikulski
Bingaman	Harkin	Moynihan
Boxer	Hatch	Murray
Bradley	Hatfield	Nunn
Breaux	Hollings	Packwood
Bryan	Inouye	Reid
Bumpers	Johnston	Sarbanes
Byrd	Kennedy	Shelby
Cohen	Kerrey	Simon
Conrad	Kerry	Simon
Daschle	Kohl	Simpson
Feingold	Lautenberg	Thurmond
Feinstein	Leahy	Wellstone
Ford	Levin	

NOT VOTING—1

Pell

So, the motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. KYL). Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on the Gorton Amendment No. 596 to H.R. 956, the Product Liability bill.

Bob Dole, Slade Gorton, Rick Santorum, Jim Inhofe, Conrad Burns, Pete V. Domenici, Hank Brown, Spencer Abraham, Paul D. Coverdell, Larry E. Craig, Dirk Kempthorne, Bob Smith, Trent Lott, Chuck Grassley, Judd Gregg, Mitch McConnell.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the call of the roll has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Gorton amendment numbered 596 to H.R. 956, the product liability bill, shall be brought

to a close? The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 46, nays 53, as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—46

Abraham	Frist	Lott
Ashcroft	Gorton	Lugar
Bennett	Gramm	Mack
Bond	Grams	McCain
Brown	Grassley	McConnell
Burns	Gregg	Murkowski
Campbell	Hatch	Nickles
Chafee	Hatfield	Pressler
Coats	Helms	Santorum
Coverdell	Hutchison	Smith
Craig	Inhofe	Snowe
DeWine	Jeffords	Stevens
Dole	Kassebaum	Thomas
Domenici	Kempthorne	Warner
Exon	Kyl	
Faircloth	Lieberman	

NAYS—53

Akaka	Feinstein	Moynihan
Baucus	Ford	Murray
Biden	Glenn	Nunn
Bingaman	Graham	Packwood
Boxer	Harkin	Pryor
Bradley	Heflin	Reid
Breaux	Hollings	Robb
Bryan	Inouye	Rockefeller
Bumpers	Johnston	Roth
Byrd	Kennedy	Sarbanes
Cochran	Kerrey	Shelby
Cohen	Kerry	Simon
Conrad	Kohl	Simpson
D'Amato	Lautenberg	Specter
Daschle	Leahy	Thompson
Dodd	Levin	Thurmond
Dorgan	Mikulski	Wellstone
Feingold	Moseley-Braun	

NOT VOTING—1

Pell

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 53. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, assuming that this is free time, I ask unanimous consent that the Senator from California, Senator FEINSTEIN, be allowed to speak for 10 minutes.

The PRESIDING OFFICER. Time is controlled and equally divided. Without objection, the Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair and I thank the Senator from West Virginia.

Mr. President, I have listened carefully over the past weeks of this debate—pro and con—on product liability. I am not an attorney, so I have tried hard to work through what is fair and what is not. While I would like to have an opportunity to vote for cloture on a more narrowly crafted bill, I cannot vote for this bill with the Dole

amendment included. To do so, I believe, would extend the impact of the bill far beyond the limited field of product liability, and impose major limitations to redress of grievances across the board in all civil actions, without the opportunity of Committee hearings in the Senate and consideration of how the bill would impact other specific areas of the law.

Anyone who has read "The Rainmaker," the newest best seller, can see what impact the Dole amendment would have, for example, in insurance cases. Insurance companies would be able to do exactly what was done in that book, act in bad faith. And I simply cannot support this.

I believe that Senators GORTON and ROCKEFELLER have worked hard to craft a bill with reasonable reforms that could pass this body. I was particularly pleased with the compromise reached with the Snowe amendment to limit punitive damages to two times compensatory, which is now part of this bill. This replaces the original fixed cap of \$250,000, or three times economic damages, whichever is greater. I believe this would be a fair model which takes into consideration both women and children whose earnings may be limited or nonexistent.

I find myself in strong support of other major provisions of this bill, as well. Specifically, I support the imposition of a 2-year statute of limitations from the time the injury and its cause are discovered for a plaintiff to bring a lawsuit. This provision is actually more permissive than that in many States, and California. This provision is actually victim and plaintiff friendly.

Two, the imposition of a 20-year statute of repose, an outer time limit on litigation involving workplace durable and capital goods. This is a fair standard of repose.

The bill would eliminate product seller's liability—including that against wholesalers, distributors, and retailers—for a manufacturer's errors. Sellers would remain liable in cases of their own negligence. For example, if a seller removed the manufacturer's label from a toy that said it is not appropriate for children under 6 years of age, and a child was subsequently injured, the seller would be liable.

The bill would preserve a plaintiff's power to sue one defendant, theoretically the deep pocket, for the full amount of economic damages, but eliminate such joint and several liability for noneconomic damages, such as pain and suffering.

It would allow either party to offer to participate in alternative dispute resolution—something that I very much thought and hoped would be part of this bill, and which I believe is an important part, especially for the plaintiffs who have small claims.

The bill would bar recovery of a plaintiff who is more than 50 percent responsible for causing their accident