

against the claimant by the claimant's coemployees or for acts committed by coemployees outside the scope of normal work practices.

(4) If the verdict shall be that the claimant's harm was not caused by the fault of the claimant's employer or coemployees, then the manufacturer or product seller shall reimburse the employer or workers' compensation insurer of the employer for reasonable attorney's fees and court costs incurred in the resolution of the subrogation claim, as determined by the court.

(b) EFFECT ON CERTAIN CIVIL ACTIONS.—(1) In any civil action subject to this Act in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third party tortfeasor may maintain any action for implied indemnity or contribution against the employer, any coemployee, or the exclusive representative of the person who was injured.

(2) Nothing in this Act shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm caused by a product in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer, any coemployee, or the exclusive representative of the person who was injured.

(3) Nothing in this Act shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee, where the claimant's harm was caused by such an intentional tort.

**SEC. 206. SEVERAL LIABILITY FOR NONECONOMIC LOSS.**

(a) IN GENERAL.—Except as provided in subsection (b), in any civil action subject to this Act, the liability of each defendant for noneconomic loss shall be joint and several.

(b) DE MINIMIS EXCEPTION.—Notwithstanding subsection (a), in any civil action subject to this Act, the liability for noneconomic loss of each defendant found to be less than 15% at fault shall be several only and shall not be joint. Each defendant shall be liable only for the amount of noneconomic loss allocated to such defendant in direct proportion to such defendant's percentage of responsibility as determined under subsection (c). A separate judgment shall be rendered against such defendant for that amount.

(c) PROPORTION OF RESPONSIBILITY.—For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

(b) OTHER CIVIL ACTIONS.—In any civil action subject to this Act in which not all defendants are manufacturers or product sellers and the trier of fact determines that no liability exists against those defendants who are not manufacturers or product sellers, the court shall enter a judgment notwithstanding the verdict in favor of any defendant which is a manufacturer or product seller if it is proved that the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug and that as a proximate cause of such intoxication or the influence of the alcohol or drug the claimant was more than 50 percent responsible for the accident or event which resulted in such claimant's harm.

(c) INTOXICATION DETERMINATION TO BE MADE UNDER STATE LAW.—For purposes of this section, the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug

shall be made pursuant to applicable State law.

(d) DEFINITION.—As used in this section, the term "drug" means any non-over-the-counter drug which has not been prescribed by a physician for use by the claimant.

**MCCONNELL AMENDMENT NO. 748**

(Ordered to lie on the table.)

Mr. BREAUX submitted an amendment intended to be proposed by him to amendment No. 690, proposed by Mr. COVERDELL to amendment No. 596, proposed by Mr. GORTON, to the bill, H.R. 956, supra; as follows:

In amendment No. 655, add the following new subsection (c):

(c) This Section shall not apply to foreign manufacturers located in a country:

(i) with which the United States has an Agreement of Friendship, Commerce and Navigation, or the equivalent, which provides for nationals of that country to receive national treatment with respect to access to the courts of justice within the territory of the United States;

(ii) with that is a signatory to the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters;

(iii) with that is a signatory to the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters; or

(iv) with which the United States has a Consular Agreement, or the equivalent, permitting consular service of process within that country;

at the time a relevant product liability action is initiated.

**HARKIN AMENDMENT NO. 749**

Mr. HARKIN proposed an amendment to amendment No. 690 proposed by Mr. COVERDELL to amendment No. 596 proposed by Mr. GORTON to the bill H.R. 956, supra; as follows:

In section 107(b) of the amendment as amended by amendment No. 709, insert the following:

(6)(i) Notwithstanding paragraph (1), the amount of punitive damages that may be awarded in any product liability action that is subject to this title against an owner of an unincorporated business, or any partnership, corporation, unit of local government, or organization that has 25 or more full-time employees shall be the greater of—

(I) an amount determined under paragraph (1); or

(II) 2 times the average value of the annual compensation of the chief executive officer (or the equivalent employee) of such entity during the 3 full fiscal years of the entity immediately preceding the date on which the award of punitive damages is made.

(ii) For the purposes of this subparagraph, the term 'compensation' includes the value of any salary, benefit, bonus, grant, stock option, insurance policy, club membership, or any other matter having pecuniary value."

**NOTICES OF HEARINGS**

**COMMITTEE ON RULES AND ADMINISTRATION**

Mr. STEVENS, Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SD-106, Dirksen Senate Office Building, on Thursday, May 11, 1995, at 9:30 a.m., to receive testimony on the Smithsonian Institution: Management Guidelines for the Future.

For further information concerning this hearing, please contact Christine Ciccone of the committee staff on 224-5647.

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. MURKOWSKI, Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to review Nuclear Regulatory Commission licensing activities with regard to the Department of Energy's civilian nuclear waste disposal program and other matters within the jurisdiction of the Nuclear Regulatory Commission.

The hearing will take place Tuesday, May 16, 1995, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Witnesses may testify by invitation only. For further information, please call Karen Hunsicker at (202) 224-4971.

**SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION AND RECREATION**

Mr. CAMPBELL, Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Subcommittee on Parks, Historic Preservation and Recreation.

The hearing will take place Tuesday, May 23, 1995, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this oversight hearing is to review the Department of the Interior's programs, policies, and budget implications on the reintroduction of wolves in and around Yellowstone National Park.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 304 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224-5161.

**SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS**

Mr. CRAIG, Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Forests and Public Lands to receive testimony on the property line disputes within the Nez Perce Indian Reservation in Idaho.

The hearing will take place on May 25, 1995, at 9:30 a.m. in room SD 366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Andrew Lundquist at (202) 224-6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. ROTH. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Tuesday, May 9, 1995, beginning at 9:30 a.m. in room SD-215, to conduct a hearing on Medicare solvency.

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

SUBCOMMITTEE ON DISABILITY POLICY

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Labor and Human Resources, be authorized to meet during the session of the Senate on Tuesday, May 9, at 9 a.m., to conduct a hearing on "Part B of the Individuals with Disabilities Education Act."

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

SUBCOMMITTEE ON PERSONNEL

Mr. ROTH. Mr. President, I ask unanimous consent that the subcommittee on personnel and the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 9 a.m. on Tuesday, May 9, 1995, in open session, to receive testimony regarding military family housing issues in review of S. 727, the national defense authorization bill for fiscal year 1996, and the Future Years Defense Program.

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

SUBCOMMITTEE ON SEAPOWER

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Tuesday, May 9, 1995, in open session, to receive testimony on the Department of the Navy's implementation of its strategy for littoral warfare in review of S. 727, the Defense Authorization Act for fiscal year 1996 and the Future Years Defense Program.

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

SUBCOMMITTEE ON SUPERFUND, WASTE CONTROL, AND RISK ASSESSMENT

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Waste Control, and Risk Assessment be granted permission to conduct an oversight hearing Tuesday, May 9, at 9 a.m., regarding the Comprehensive Environmental Response, Compensation, and Liability Act.

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

ADDITIONAL STATEMENTS

REGARDING IRAN

• Mr. D'AMATO. Mr. President, I rise today to discuss the ongoing situation in Iran.

Clearly, the situation in Iran today is one of desperation. The Iranian people, suffering the depredations of 16 years of rule by a corrupt, terrorist, regime,

deserve better. They deserve to have a government that respects the rich and dignified history of the Iranian people. Unfortunately, what they have gotten is a government that violates their human rights and has brought a formerly rich and varied economy down upon the shoulders of the people, suffocating them.

While we know that the regime in Teheran practices terrorism with great frequency throughout the world, most people forget that they also inflict terror against their own people. If they will torture and execute their own people, what respect will they have for those of other nations?

Mr. President, today we must understand one simple fact: the terrorist regime in Iran does not represent the Iranian people. It represents murder, terror, and destruction, nothing more and nothing less. The Iranian people deserve better, and they deserve freedom from the corrupt rule of the terrorist regime that calls itself the Government of Iran. •

GOVERNOR EDWARDS ON THE CONTRACT WITH AMERICA

• Mr. BREAU. Mr. President, I ask unanimous consent that a speech by Louisiana Gov. Edwin Edwards be printed in the CONGRESSIONAL RECORD. Governor Edwards recently made remarks concerning the House-passed Contract With America and its effect on Louisiana. I found Governor Edward's remarks very informative, and I wanted to share them with my colleagues.

The speech follows:

SPEECH BY GOVERNOR EDWARDS

I have said repeatedly that I do not believe the actions of American voters last fall were an endorsement of the so-called Republican "Contract with America" so much as a general dissatisfaction with the status quo and a desire for new faces.

National surveys indicate that few voters knew anything about the contents of the so-called contract when they went to the polls, and still fewer based their votes on support for its provisions.

As the Republican Congressional leaders continue to act upon what they claim is a mandate for their so-called contract, however, it has been necessary for me as a responsible Governor of a small state (1.7 percent of U.S. population) with a large percentage of poor people to take a closer look at just what the provisions mean to the people of Louisiana.

I don't like what I see. I am convinced that Louisianians, at least, would not have voted for the contract. I am alarmed because it appears that the end result effectively will be a contract "on" the children of Louisiana and, ultimately, on the well-being of the entire state.

Neither Louisiana nor our nation can afford to balance the federal budget on the backs of its most vulnerable and its most precious resources—its children. But what makes these particular efforts even more onerous is that the cuts will not be applied to reduce the federal deficit and, thus, reduce the price these same children will be paying on behalf of the nation in the future. Rather, the cuts will be used to compensate for tax breaks to wealthy individuals and corporations.

This "contract on Louisiana children" means that while families with incomes of \$200,000 a year get tax breaks that will put cash in their pockets, many of our poor children will have food taken out of their mouths. Literally, 59,000 of Louisiana's poor children will lose school lunches; 28,500 poor children will lose meals and snacks in child-care and Head Start programs, and about 410,000 children will lose 10 percent of their food stamp benefits.

Under the welfare block grant proposal of House Speaker Newt Gingrich, Louisiana will lose about \$1.68 billion over the next five years that otherwise would be used for our children—especially those who are poor, hungry, disabled, abused or neglected, or sick.

Even setting aside the devastating human effect, the state would suffer economically. The \$1.68 billion potentially lost to the state's economy represents almost twice as much as Louisiana's annual, net income-tax revenues. The ripple effect throughout our business community—whether it be "Mom and Pop" service stations, shoe shops or grocery chains would be a disaster that would have a ruinous "trickle down" effect on our parishes and towns.

Louisiana already is struggling to meet its obligations to serve the health-care needs of our poor people under new federal Medicaid requirements that have reduced federal aid to the state and threaten to wipe out new economic gains the state is making. We cannot afford this contract on our state's economy.

And that would only be the start. Louisiana would get a smaller share of federal dollars that it does today, despite having a larger proportion of poor people than most other states and an average per-capita income that is only 80 percent of the U.S. average. History shows that block grants tend to shrink over years as the spotlight fades away from them. Further, if the national economy fell into a decline, there would be no strengthening of the assistance safety net.

And there is more. The contract threatens the 433,958 children under age 21 who received Medicaid-covered services in 1993 in Louisiana at a cost of about \$1,928 per child.

In 1991, 31,420 births were financed by Medicaid, and payments for maternity and newborn care were 4.5 percent of total Medicaid expenditures in the state. Meanwhile the infant mortality rate decreased by 22 percent between 1984 and 1992—from 12.1 to 9.4 per 1,000 live births—obviously a result of better access to health care, among other factors.

What will happen to the birth rate, to the pregnant mothers, the infants, and to our children if that access is reduced because of budget cuts? That is a campaign "contract" victory I for one would not care to claim.

I am the very embodiment of the difference a good education can make in the future of a poor child. However, if Republicans succeed with their stated intentions: 101,621 Louisiana college students—who already pay more than the Southern states' average in tuition—will pay more for student loans; 670 of Louisiana's young people will not participate in national service jobs that allow them to earn college tuition; 62 of our state's 66 school districts will lose money now available to help them make their schools safe and drug-free; 2,400 Louisiana students with special needs will lose extra help they need to learn and to succeed, and 27,000 teenagers in Louisiana will lose summer jobs.

Our young people cannot afford this "contract on their future."

And there is more: 7,460 Louisiana children are at risk of losing access to safe, affordable child care—a move which not only threatens the well-being of the children but also the