

NATIONAL NURSES WEEK

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 10, 2001

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in celebrating National Nurses Week. This week is an important reminder of nurses and their continued dedication and concern for their patients every day.

Well trained nurses are the cornerstone of our nation's health system. Currently, hospitals and other health care employers are faced with an emerging nurse shortage. After meeting with several nursing and health care organizations in my district, I believe increased funding of existing nurse education programs and new programs to recruit and retain nurses are desperately needed to provide advanced training and to build the faculty workforce. I am actively working with my colleagues to pursue these goals.

It is important to support the goals and ideas of National Nurses Week, because their impressive level of achievement and accomplishment are a milestone for the nursing profession as a whole. Mr. Speaker, I know my colleagues join me in support and appreciation of these extraordinary individuals.

TRIBUTE TO CHIEF OF POLICE
DENNIS MINNICH**HON. JAMES P. McGOVERN**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 10, 2001

Mr. McGOVERN. Mr. Speaker, I rise today to recognize Dennis Minnich, who was recently appointed the new Chief of Police of West Boylston, Massachusetts.

Chief Minnich brings a wealth of knowledge and experience to this important post. He began as a full time Patrolman with the West Boylston Police Department in 1992 and was promoted to Sergeant in 1977 and has also served as Interim Police Chief. Previously, for several years, he was a member of the Police Department of the neighboring town of Boylston. Chief Minnich has expressed a commitment to lead a visible, active police department and to remain fully accessible to the public. He recently stated "I really care about the community—I plan on raising a family here and want it to be a safe town for my kids and all the children of the town to grow up in."

Mr. Speaker, it is my great pleasure to congratulate Chief Minnich on his appointment and for his distinguished law enforcement career. I offer my best wishes and support to him and the members of his department in their service to the citizens of West Boylston.

INTRODUCTION OF THE SMALL
BUSINESS LIABILITY REFORM
ACT OF 2001**HON. ASA HUTCHINSON**

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 10, 2001

Mr. HUTCHINSON. Mr. Speaker, I am pleased to be joined by my colleagues, the

gentleman from Pennsylvania, Mr. HOLDEN; the gentleman from North Carolina, Mr. BURR; and the gentleman from Virginia, Mr. MORAN in introducing the Small Business Liability Reform Act of 2001.

Members will recall the House's consideration and passage of similar legislation during the last session of Congress. Following legislative hearings in the Fall of 1999, that bill (H.R. 2366, 106th Congress) was the subject of three days of markup in the Judiciary Committee, during which the Committee considered 21 amendments and adopted five. On February 16, 2000, the full House took up H.R. 2366 and adopted three of the four amendments considered before passing the bill on a bipartisan vote of 221-193.

Like its predecessor, Title I of the bill we are introducing today proposes three basic reforms to our civil justice system for defendants with fewer than 25 full time employees—the smallest of America's small businesses. Section 103 of the bill establishes fair standards of evidence and liability for the award of punitive damages, and establishes proportionality in the awarding of punitive damages against America's small businesses. Section 104 establishes a fair share rule for the payment of non-economic awards. This reform in effect abolishes so-called "joint and several liability" for damages for pain and suffering, ensuring that only those defendants who are truly guilty of inflicting such harm will be held financially responsible.

Title II of the bill contains two important reforms to the product liability system and is applicable to all who sell, rent or lease products. First, Sections 204(a) and (b) establish a fault-based standard of liability for non-manufacturer product sellers in product liability cases, while preserving a strict liability standard for breach of the seller's own express warranty and where an otherwise culpable manufacturer is beyond the court's reach. Section 204(c) appropriately protects those who merely rent and lease products from being held vicariously liable for the wrongful conduct of someone else (a customer for example) simply due to product ownership.

Mr. Speaker, the reforms proposed in the Small Business Liability Reform Act are both modest and fair and will improve the administration of civil justice in the United States by reducing needless litigation and the wasteful legal costs associated with it. Most important, the bill will advance the core purposes of our civil justice system: to prevent harm through the deterrence of careless or wrongful conduct; to assign responsibility for harm to the party in the best position to avoid it; and to require those whose careless or wrongful conduct cause harm to pay.

I urge my colleagues on both sides of the aisle to join in supporting this important legislation, the enactment of which is long overdue.

Mr. Speaker, I submit a section-by-section summary of the Small Business Liability Reform Act of 2001 for the RECORD.

The Small Business Liability Reform Act of 2001—Section-by-Section Summary

A bill to offer small businesses and product sellers protection from litigation excesses.

TITLE I: SMALL BUSINESS LAWSUIT ABUSE
PROTECTION

SECTION 101: FINDINGS

This section sets out congressional findings concerning the litigation excesses facing small businesses, and the need for re-

forms to protect small businesses from abusive litigation.

SECTION 102: DEFINITIONS

This section defines various terms used in the bill. A small business is defined as any business or organization with fewer than 25 full time employees. Punitive damages are defined to exclude civil penalties, civil fines, or treble damages assessed or enforced by a government agency under federal or state statute.

SECTION 103: LIMITATION ON PUNITIVE DAMAGES
FOR SMALL BUSINESSES

This section provides that punitive damages may, to the extent permitted by applicable state law, be awarded against a small business only if the claimant establishes by clear and convincing evidence that the defendant acted with a conscious, flagrant indifference to the rights or safety of others, and that the conduct was the proximate cause of the harm that is the subject of the action.

This section also limits the amount of punitive damages that may be awarded against a small business. In any civil action against a small business, punitive damages may not exceed the lesser of three times the amount awarded to the claimant for economic and noneconomic losses, or \$250,000. However, a court is permitted to exceed the punitive damages cap in the event it finds by clear and convincing evidence that the defendant acted with specific intent to cause the type of harm for which the action was brought.

SECTION 104: LIMITATION ON JOINT AND SEVERAL
LIABILITY FOR NONECONOMIC LOSS FOR SMALL
BUSINESSES

This section provides that in any civil action against a small business, each small business defendant will be liable for non-economic loss only in proportion to its responsibility for causing the harm.

SECTION 105: EXCEPTIONS TO LIMITATIONS ON
LIABILITY

This section ensures that the benefits of this legislation are not available to any defendant whose misconduct (1) constitutes a crime of violence or an act of international terrorism; (2) results in certain natural resource damages; (3) involves a sexual offense or a violation of civil rights law; (4) occurs while the defendant is under the influence of an intoxicating alcohol or a drug; (5) is prosecuted under the Federal False Claims Act; or (6) is prosecuted under fraud or false statement laws.

SECTION 106: PREEMPTION AND ELECTION OF
STATE NONAPPLICABILITY

This section provides for uniform rules with regard to small business liability. The bill preempts state laws to the extent that any such laws are inconsistent with the provisions of Title I. However, the bill includes an opt-out provision for the states. A state may opt out of the provisions of this title for actions in state court against a small business in which all parties are citizens of the state. In order to opt out, the state must enact a statute citing the authority in this section and declaring its intention to opt out.

TITLE II: PRODUCT SELLER FAIR TREATMENT
SECTION 201: FINDINGS

This section sets out congressional findings concerning the effect on interstate commerce of damage awards in product liability cases; the present inequities resulting from inconsistent product liability laws within and among the states; and the need for national, uniform federal product liability laws.

SECTION 202: DEFINITIONS

This section defines various terms and phrases used in this title.

SECTION 203: APPLICABILITY; PREEMPTION

This section applies to any product liability action brought in federal or state court. Civil actions for commercial loss are excluded from the applicability of this title.

In addition, this section clarifies that the preemption of state law by this title is limited to only those issues specifically addressed by the legislation and not other unrelated liability laws.

SECTION 204: LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS AND LESSORS

This section provides that product sellers other than the manufacturer (such as wholesaler distributors and retailers) may be held liable only if they are directly at fault for the harm; if the harm was caused by the failure of the product to conform to the product seller's own, independent express warranty; or if the harm was the result of the product seller's intentional wrongdoing.

However, the provision ensures that product sellers will "stand in the shoes" of a culpable manufacturer when the manufacturer is judgment-proof. In addition, the statute of limitations in such cases is tolled.

Finally, this section specifies that product renters and lessors will not be liable for the tortious acts of another solely by reason of product ownership.

SECTION 205: FEDERAL CAUSE OF ACTION PRECLUDED

This section clarifies that the bill does not create federal district court jurisdiction pursuant to Section 1331 or Section 1337 of Title 28, United States Code.

TITLE III: EFFECTIVE DATE

SECTION 301: EFFECTIVE DATE

This section provides that the bill's provisions will apply to any civil action commenced after the date of enactment of the legislation.

RECOGNIZING THE YMCA COMMUNITY SERVICES NEW MILLENNIUM PROGRAM GRADUATION

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 10, 2001

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to recognize a group of citizens in Northern Virginia who will be celebrating their graduation from the YMCA Community Service New Millennium Program on Friday, May 11, 2001. Forty-eight people will be receiving their certificates for completing this challenging program.

The New Millennium Program is a joint, after-school effort run by Arlington Public Schools, Arlington Community Television and YMCA Community Services Department. It is also the only television program exclusively for youth in this area. It has been in existence for two years and has been extremely successful. The goal of the Program is to teach volunteer secondary school students the field of video production. After receiving instruction from the staff of Channel 33, the students pick a subject, and then write, film and edit their work.

The Metropolitan YMCA Community Services Office and its predecessor, The Refugee Services Office, based in Arlington, have been providing multi-cultural programs for our ever-more-diverse and dynamic population for over twenty years.

The YMCA Community Services Office has been instrumental in opening doors for people

who have come here from all over the world. Among the many services provided are:

English as a Second Language classes for adults during the evening hours.

After-school tutorials for students so that they keep pace with their peers.

Multi-cultural and adaptation workshops for adults and teens and their families to ease "culture shock."

Millennium Youth Program designed to focus on technology, its impact on youth, and approaches for positive influence on the target audience.

Interpreting and translating services.

Job placement and housing referral service.

The above programs, staffed and executed almost entirely by volunteers, are an admirable example of how a few people can make a positive difference in the lives of many.

Mr. Speaker, in closing, I would like to extend my congratulations to the individuals who have completed this program. It is truly an honor to have individuals like this in our community.

I ask that all of my colleagues join me in commending this hardworking group.

TRIBUTE TO DR. JOHN LANDIS RUTH

HON. JOSEPH M. HOFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 10, 2001

Mr. HOFFEL. Mr. Speaker, I rise today to honor Dr. John Landis Ruth. Dr. Ruth compiled an exhibit, part of the Smithsonian Traveling Exhibit, which illustrates the "Route 113 Corridor" in Montgomery County, Pennsylvania. Route 113 winds its way through central Montgomery County and is arguably one of the most historic roads in the county.

Dr. Ruth was born on his family's eight-generation homestead in Lower Salford, Montgomery County. He is a graduate of Eastern College and Harvard University where he earned his Ph.D. in English and American Literature. He later returned to Eastern College as a teacher, and also taught at the University of Hamburg in Germany.

Dr. Ruth has authored numerous books and articles on the Mennonite people and their way of life and produced films about the Mennonites and the Amish. He served as the Associate Minister of the Salford Mennonite congregation for twenty years. Following his retirement from the ministry in 1993, Dr. Ruth has continued to serve on the Board of the Mennonite Historians of Eastern Pennsylvania. He currently is working on a multi-volume narrative interpretation of Mennonite life in the Lower Salford/Franconia area.

Dr. John Landis Ruth's photographic expertise and work have been invaluable in helping to preserve the history of our community. It is an honor and a privilege to recognize him as his works are showcased at the Smithsonian Traveling Exhibit and the outstanding contributions he has made.

HONORING JUDGE ELDON B. MAHON

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 10, 2001

Ms. GRANGER. Mr. Speaker, I rise today to recognize a great citizen, Federal Judge Eldon B. Mahon from the Northern District of Texas. Judge Mahon has dedicated his life to public service and justice. For these reasons, I have introduced legislation that will designate the United States courthouse located at 501 West 10th Street in Fort Worth, Texas, as the "Eldon B. Mahon United States Courthouse."

Judge Mahon was born and raised in the west Texas town of Loraine. He went on to earn his Bachelor of Arts Degree in history and government from McMurry University in Abilene, Texas. Judge Mahon then attended the University of Texas Law School where he graduated in 1942. He has three children with his wife, Nova Lee: Jana Cobb of Lubbock, Texas; Martha Haag of The Woodlands, Texas; and Brad Mahon of Fort Worth, Texas.

Like so many from America's "greatest generation", he enlisted in the United States Army Air Corps to fight overseas during World War II. He left the military after 40 months of dedicated service, including one year in the South Pacific with the 5th Bomber Wing, as a captain.

Judge Mahon carried this same dedication and strength of character into his career as an attorney and judge. From 1945-46, he served as the briefing attorney for the Supreme Court of Texas. From 1948-60, Judge Mahon served as district attorney for the 32nd Judicial District of Texas, covering Nolan, Mitchell, Scurry, and Borden counties. After his years as district attorney, Judge Mahon became a district judge for the 32nd Judicial District, presiding over that court from 1961-63. He then moved to Fort Worth to take a position as vice president of Texas Electric Service Company. After one year in the corporate world, the law called him back; and he became a partner in the Abilene, Texas, law firm of Mahon, Pope & Gladdon.

Judge Mahon entered public service at the federal level when President Lyndon B. Johnson appointed him U.S. Attorney for the Northern District of Texas. Judge Mahon is a life long Democrat, but President Richard M. Nixon appointed him to the Federal Court for the Northern District of Texas in 1972. He reached senior status in 1989 and continues to be an active member of the federal bench today at the young age of 83.

During his years on the federal bench, Judge Mahon presided over the racial integration of the Fort Worth School District. Judge Mahon considers this as the greatest accomplishment of his court.

Judge Mahon has tirelessly served every community of which he has been a part. He is a lifelong member of the United Methodist Church, serving in most lay positions in Westcliff United Methodist Church in Fort Worth. He is a past president of the West Texas Girl Scout Council in Abilene and of the Colorado City, Texas, Lions Club. Judge Mahon is a past member of the Board of Trustees at McMurry University in Abilene and served on the Board of Trustees for Harris Methodist Health System in Fort Worth. Currently, he serves on the Board of Trustees at